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LEGAL PRINCIPLES OF PREVENTION OF CORRUPTION OFFENSES BY MEANS OF PRIVATE DETECTIVE ACTIVITY IN UKRAINE: ADMINISTRATIVE AND LEGAL ASPECT

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The monograph is a completed scientific work, performed in Ukraine at a new theoretical level, and is a study of the legal basis of prevention of administrative offenses related to corruption, carried out by subjects of private detective activity.

The monograph is intended for legal scholars, specialists in information and administrative law, civil servants, graduate students and students of legal higher education institutions and all those interested in the problems of preventing administrative offenses related to corruption.

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CONTENT

INTRODUCTION

In this work, the task of combining two relatively independent areas of scientific research within the framework of administrative law was put in the foreground - the study of the anti-corruption institute and fitting into domestic legal practice of the possibilities of introducing the institute of a private detective.

The present dictates a new way of interaction between private and public law, the distance between the private and public spheres of life is becoming smaller, there is an increasing convergence between private and public law mechanisms of legal regulation.

This is most clearly observed when the focus of public attention is directed to what could previously be attributed to the "private" life of officials - expenses, property, lifestyle, use of goods that do not formally belong to a person, but do not exclude the possibility of non-useless interest of individuals , which these benefits provide. Many of the mentioned issues, especially if it concerns marriage and family relations, cohabitation, are a traditional area of private law and are protected by our society. However, not in the case of an official of public law, since family relations, long and stable ties between close people are often used for formal distancing, hiding wealth, either earned directly in the form of "black cash" or in the form of legal taxable income from business activities, however, earned solely as a result of proximity to an influential public figure using his influence, insider information, or in exchange for illegal assistance to third parties.

Of course, such facts cannot be the subject of legal protection by legislation and must be exposed with further prosecution for corruption offenses and the confiscation of everything obtained illegally.

It is clear that exposing and combating such crimes is in the public interest and is carried out in the interests of the entire society.

As a result, we have a system of specialized bodies created in response to a global social demand, which are authorized to prosecute corrupt activities. However, a rhetorical question will be whether a public initiative alone, which is implemented on the basis of the imperative method and the principle of official investigation of the

circumstances of the case, is sufficient for effective activities related to the detection and suppression of corruption offenses. Of course not enough.

Until such a level of legal culture and legal awareness is established in society, at which the majority of citizens will show zero tolerance for corruption manifestations, and even more, be interested and actively contribute to the detection and disclosure of such offenses, we will not be able to talk about the success of anti-corruption activities.

The subject of authority in the anti-corruption sphere, as well as in the sphere of the exercise of state power in general, is bound to a certain extent in a good sense by the constitutional provisions regarding the need to act exclusively on the basis, within the limits of the powers and in the manner provided for by the Constitution and laws of Ukraine .

In no way encroaching on this fundamental principle, we only want to note that in a confrontation with a corrupt person in a state body, one hand is always, if one may say so, tied behind his back: a state body can interact with a potential corrupt person only in the public sphere of relations, demanding official reporting from him, observing the secrecy of private life, the presumption of innocence and other legal guarantees of the inviolability of the rights of a private person. At the same time, the anti-corruption body itself cannot show additional interest in the person of the corruptor, acting exclusively in the system of the imperative method, allowing everything that is directly provided for by law. This is the strength and value of the liberal teaching about the state and its organs, and this is also its certain weakness, since the violator, using the benefits of his public status, receiving a salary from the budget, using the authority and power of the position, leaving the workplace outside of his public activity at the end of the working day, he seems to close the door of his private life.

All declarations have been filled out, all checks have been passed, legal property has been presented, the grounds for acquisition are transparent - and this is where the state body should stop, there are no additional questions for the person and it would be a violation of the person's rights to waste his time and want something more than what is indicated in the documents. And the state body puts an end to this.

And only society, in the person of individual citizens or institutions of civil society, can say, no, we do not have enough information, we will continue to monitor this person, because the dispositive method of legal regulation gives us such authority as a legally protected interest in what this person has nothing to do with corruption, and this interest cannot be exhausted by any deadlines, any documentary evidence, and will continue in fact until society, in the form of its institutions, finds it necessary.

We tend to include individual citizens, journalists and mass media, public organizations in the field of fighting corruption, etc. among such subjects of interest. Due to the above-mentioned limitations, such evaluation judgments as integrity, which has entered into modern legal practice, is the subject of evaluation of public institutions based on the study of information about a person from open sources and which is an important characteristic, in particular, when holding competitions for individual positions, are not available to the authority.

The concept of integrity lies on the surface and in a certain way marks a block of other related issues of public interest implementation. Being not an accusation of a specific offense, not a direct consequence of an outstanding penalty, the concept of dishonesty characterizes a person as legally not involved in any specific offense, but recognized by a decision of a certain public institution as not to hold a particular position, by the way, in the advisory form, and not in the form of an imperative decision.

Very close to the indicated situation is the above-described public interest in the life of a public law official, which is not exhausted or stopped by the presence of official information that does not indicate the person's potential involvement in a corrupt act. The state's interest in such a person ceases, and the public's interest continues to extend to him, and the person will be in the public eye, and in the event of discovery of facts indicating corruption, official interest in him will be restored as a result of a public notification of the offense.

A controversial and debatable question is the question of the limits of such an interest and its relationship with the same secret of private life and the possibility of collecting information about a person in a private manner, monitoring the actions and

movements, being in different places and communicating with different persons of that official of public law , which is the focus of potential whistleblowers.

This subject is similar in its construction to another well-known problem in administrative law of a private person having grounds for an administrative claim in the field of improper governance if such improper governance did not specifically violate his rights. Here we are talking about the availability and effectiveness of legal mechanisms for citizens to exercise their right to control the appropriateness of governance.

Both problems are limited to the distinction between private and public interest - to what extent private interest, private initiative is allowed to interfere in the sphere of realization of public interest, supplement, correct or replace the public interest itself. It seems to us that every single person, group of persons or institution, no matter how large-scale it is and no matter what socially important goals it sets before itself, cannot take over the right to exclusive understanding of the public interest, but such a person, group whether the institution should be able to freely declare its vision of the public interest, and defend its vision by legal means, since the public interest itself is a certain co-effect of a large number of such separate private opinions and views on the social order, the propriety of governance, the integrity of individuals, etc. And this interaction is realized both as a result of the law-making process and as a result of the work of representative democracy. In a significant number of individual disputes that form the modern practice of law enforcement.

Both problems should be solved in a similar way - everything that a private person can learn about a potential subject of a corruption offense without breaking the law (which means according to the law, and for a private person it literally means "without conflict of law", provided it is for a legitimate purpose, taking into account the mandatory observance of the balance of interests between public and private) should be interpreted as the implementation of the public interest protected by law in the prevention of corruption, the subject of which can be an individual private person or a public institution, just as the plaintiff in the field of improper governance should have the opportunity to be any citizen who considers such governance inappropriate. In our opinion, the balance should be understood in such a way that the interests of

such private or public whistleblowers do not prevent the official from at least performing his official duties and do not turn his private life into a continuous confrontation with aggressive citizens in search of signs of obvious or imagined corruption.

This short excursion in the form of theoretical reflections represents the theoretical basis of our idea of the role and place of a private detective as a derivative subject of anti-corruption activity, in the event that he acts on the order of a person who shows a legally protected interest in preventing corruption in society, and the activity of a private detective can and should be regulated as one of the means of legal realization of such an interest, which is the subject of this monograph.

This publication is aimed at popularizing the results of a monographic study and inviting a wide range of our colleagues and citizens who are interested in the fight against corruption in Ukraine to a scientific discussion.

SECTION I

GENERAL CHARACTERISTICS OF THE INSTITUTE OF PREVENTION OF ADMINISTRATIVE OFFENSES RELATED TO CORRUPTION

1.1. The essence, formation and development of the institute of prevention and countermeasures against administrative offenses related to corruption

The Institute of prevention and counteraction of administrative offenses related to corruption has its own history of formation and development. Therefore, for a deeper understanding of it, it is necessary to investigate its essence, main elements, as well as to determine when it arose and how its gradual renewal took place during the time of Ukraine's independence.

The essence, as a philosophical category, expresses the main, basic, defining thing in the subject, which is determined by deep, necessary, internal connections and development trends and is known at the level of theoretical thinking [115, p. 657]. Some philosophers define the category of essence from ontological and logical positions. The ontological approach in this case means that the essence should be considered as an objective regularity, which is reflected in this category and taken independently of it, appears in the form of certain stable connections, aspects and relations of being. A logical approach to the entity category means that it must be considered as an ideal reflection of the objective laws of reality, in which it appears in the form of certain stable connections, sides and relations between subjective images of consciousness [116, p. 81 - 82].

In other words, the essence should be understood first of all as the inner side, the inner connection that constitutes the common genetic basis of objects, the "element" to which we will arrive if we abstract from all differences and retain what is common in all these objects [117, p. 70].

Currently, there is no unequivocal point of view among scholars studying corruption regarding the terminological definition of anti-corruption activities. Such activities are called "fighting corruption", "control over corruption", "anti-

corruption", "offensive against corruption", "prevention of corruption", "prevention of corruption", etc. [71, p. 22]. The legal nature of the content of the concepts "counteraction" and "prevention" is actually identified with the fight against administrative offenses related to corruption. In our opinion, the very concept of "the fight against corruption" includes a complex of relevant actions, measures - "prevention" and "counteraction".

Therefore, before moving on to further consideration of the issue, it is necessary to pay attention to the two main components of the fight against corruption - prevention and countermeasures, which are often considered synonymous or, on the contrary, opposed to each other.

In the Great Explanatory Dictionary of the Modern Ukrainian Language, "to prevent" means "to avoid, to avert in advance something unpleasant, undesirable" [70, p. 207], in turn, "to counteract" means "to direct an action against someone, something, to act contrary to someone, something" [70, p. 770].

We agree with the opinion of M.I. Melnyk that the terms "prevention" and "counteraction" cover the entire complex of measures to influence corruption, including its social prerequisites, the causes and conditions of corruption offenses, law enforcement activities related to the detection and investigation of such acts, the prosecution of those responsible for their making persons liable. The concept of "fighting corruption" is mainly associated with the moment of active attack on the latter with the use of repressive measures of an administrative, legal and other nature, with the fight against specific manifestations of corruption and the persons who committed them, and is usually not identified with anti-corruption measures of a preventive nature [72, with. 231, 232].

In other words, prevention is primary to counteraction. In the first case, this or that negative action has not yet occurred, but there is a real threat of its occurrence, and therefore the main goal of "prevention" is to forecast all possible cases of the occurrence of this negative action, as well as the development and implementation of preventive measures to prevent the corresponding undesirable phenomenon (actions). In the second case, a certain negative action has already taken place or is happening in real time and the main task is to eliminate this negative phenomenon (action) by

introducing organizational complex actions or individual tactical actions (countermeasures, obstacles) aimed at overcoming a specific phenomenon. As a rule, the experience gained as a result of countermeasures is subsequently laid as a basis for prevention measures.

In this case, the opinion of O. V. Klok appears to be correct, which means that combating administrative offenses, related to corruption is a set of interrelated actions of the competent state bodies and their officials, which is regulated by the rules of law, which ensure the fight against corruption and which have a powerful and administrative nature. In addition, the concept of "combating administrative offenses related to corruption" is not the same as "measures of administrative coercion", but includes the latter [18, p. 57].

Thus, there is a close relationship between the concept of "prevention" and the concept of "countermeasure", although they are completely different in nature.

In the aspect of our scientific research, an "action" or a negative phenomenon should be understood as an administrative corruption act (for example, administrative offenses related to the violation of the requirements for notification of a conflict of interest, violation of restrictions on co-operation and combination with other types of activities, violation of legal restrictions regarding the receipt of a gift and others), which countermeasures are aimed at averting and overcoming.

In turn, to prevent this corrupt act in the future, there are prevention measures, the essence of which is to identify possible components of corruption or corruption manifestations, which, although they do not contain a high level of public danger (a real threat), but are "catalysts" or a foundation for a future administratively or criminally punishable act of corruption. According to the Presidential Decree No. 742/2006 of September 11, 2006, which approved the Concept of Combating Corruption in Ukraine "On the Way to Integrity", the most common latent forms of corruption include, in particular: 1) performance by civil servants of illegal, corrupt in content intermediary functions in the relations of third parties with state authorities; 2) facilitating the employment of one's relatives, acquaintances, receiving "commissions" from participants in public procurement procedures; 3) informal "communication" with representatives of enterprises, organizations belonging to the

sphere of management or having contractual relations with state authorities; 4) conducting business activities through fictitious persons or relatives; 5) receiving benefits, privileges and gifts not provided for by law on personal and public, religious holidays.

In our opinion, the primary element of prevention of administrative offenses related to corruption is the normative legal act on the prevention of corruption itself, developed on the basis of previously gained experience in fighting corruption, as well as as a result of a thorough study of this negative phenomenon. Today, such a regulatory legal act is the Law of Ukraine "On Prevention of Corruption". In turn, the main element of combating administrative offenses related to corruption is the Code of Ukraine on Administrative Offenses (Chapter 13-A), the norms of which are implemented by: 1) the National Agency for the Prevention of Corruption and 2) the courts.

Therefore, the prevention and counteraction of corruption are mutually conditioning and closely related concepts, which together form the concept of "fighting corruption". In turn, a full-fledged fight against corruption in any civilized state in the absence of at least one of these elements is impossible, as it will be ineffective.

Most of the 158 specialists in the field of law and security activities interviewed by us - 89 (56%) agree that prevention is primary to countermeasures, as it is, in its essence, a preventive measure, the purpose of which is to prevent the occurrence of a negative phenomenon (event) in the future and only 19 (12%) respondents consider these two concepts to be synonymous, between which there is no difference [Appendix A].

The process of formulating the category "corruption offense" has its origins in the times of Ancient Rome. The use of the term "corruption" in relation to the political sphere is attributed to Aristotle, who defined tyranny as an incorrect, corrupted form of monarchy in Ancient Rome and Ancient Athens. We find references to corrupt acts with the establishment of their subject composition and subjective side in the largest monument of Roman law - in the Laws of the XXII Tables: "Would you think it harsh to decree a law that punishes with death that judge

or mediator who was appointed in the trial and who was exposed for having accepted money in a case?" (Table IX. 3. Aul. Gellius, Attic Nights, XX. 17).

The historical and legal studies of scientists prove beyond doubt that corruption, as a negative phenomenon, has always existed in society and is connected with the emergence of the administrative apparatus. Sh. L. Montesquieu also wrote: "...It is already known from the experience of centuries that every person who has power tends to abuse it and goes in this direction until he reaches the limit set for him" [4, p. 289].

After the declaration of Ukraine's independence, corruption began to develop rapidly and to this day has reached shameful, unacceptable limits for a democratic state.

The process of formation and development of the institution of prevention and countermeasures against administrative offenses related to corruption after Ukraine gained independence can be conventionally divided into several periods:

The 1st period - starts from November 16, 1995 to June 30, 2011, i.e. from the date of entry into force of the Law of Ukraine "On Combating Corruption" of October 5, 1995 to the moment it expires;

2nd period - from July 1, 2011, that is, from the moment the Law of Ukraine "On Principles of Prevention and Combating Corruption" enters into force, until the adoption of the Law of Ukraine "On Prevention of Corruption";

The 3rd period - from the moment of entry into force of the Law of Ukraine "On Prevention of Corruption" to the present.

The study of the specified historical periods will be based on the known information about the legal framework and scientific theoretical developments.

So, the first period (November 16, 1995 to June 30, 2011). This period is characterized by the adoption of the Law of Ukraine of October 5, 1995 "On Combating Corruption" - the first legislative act in Ukraine, which defined the legal and organizational principles of prevention and counteraction to corruption, identifying and stopping its manifestations, restoring the legal rights and interests of physical and legal persons, elimination of the consequences of corrupt acts.

The preamble to this legislative act stated that "the fight against corruption is carried out on the basis of clear legal regulation of the activities of state bodies, services and persons authorized to perform the functions of the state, guaranteeing the rights and interests of individuals and legal entities" [5].

This law defined the concept of corruption for the first time at the legislative level, as well as established which actions are corrupt actions.

According to Art. 1 of the Law of Ukraine "On Combating Corruption", corruption is understood as the activity of persons authorized to perform state functions aimed at the illegal use of the powers granted to them to obtain material benefits, services or other advantages, including the acceptance or receipt of items (services) by purchasing them at a price (tariff) that is significantly lower than their actual (valid) value.

In turn, corruption acts were defined as:

a) illegal receipt by a person authorized to perform state functions in connection with the performance of such functions of material goods, services or other benefits, including acceptance or receipt of items (services) by purchasing them at a price (tariff) that is significantly lower than their actual (valid) value;

b) receipt by a person authorized to perform the functions of the state, credits or loans, acquisition of securities, real estate or other property with the use of benefits or advantages not provided for by the current legislation.

The gift (reward) received by the specified persons under the circumstances provided for in point "a", including the one received without their knowledge, as well as the value of illegally received services are subject to recovery (reimbursement) from state income [5].

In addition, the Law of Ukraine "On Combating Corruption" for the first time provided for administrative responsibility for corruption offenses. A feature of this legislative act was the establishment of not only anti-corruption restrictions and prohibitions, but also administrative penalties for their violation [6, p. 34].

So, for example, administrative responsibility was established for: a) unlawful receipt by persons authorized to perform state functions of material goods, services, benefits, etc. (Article 7); b) violation of special restrictions established for persons

authorized to perform state functions (Article 8); c) violation of financial control requirements (Article 9); d) failure of managers to take measures to fight corruption (Article 10); e) intentional failure to fulfill one's duties to fight corruption (Article 11).

The first period is also characterized by the adoption of a number of legislative acts aimed at defining and improving the state's anti-corruption policy.

On June 28, 1997, the Cabinet of Ministers of Ukraine adopted Resolution No. 616 "On the procedure for reporting by executive authorities on compliance with the requirements of the Law of Ukraine "On Combating Corruption" [7]. Thus, the first reporting forms of central and local executive authorities on the state of compliance with anti-corruption legislation were introduced in Ukraine, which were submitted quarterly to the Main Directorate of the State Information Service and which contained the first official data on the number of corrupt acts committed by officials. Subsequently, the reporting forms were improved in the government resolution of September 27, 1999 under No. 1785 "On submission by executive authorities of analytical information on the fulfillment of the requirements of the Law of Ukraine "On Combating Corruption". However, the information contained in the reports submitted between 1995 and 2006 was incomplete and contained partial data on persons who committed administrative corruption offenses.

On September 11, 2006, the Presidential Decree No. 742/2006 approved the Concept of overcoming corruption in Ukraine "On the way to integrity" (hereinafter - the Concept) [8].

The descriptive part of the Concept referred to the commission of approximately three to five thousand annually registered corruption offenses, for which administrative protocols were drawn up. Bribery was one of the most widespread acts of corruption. According to the statistics of that time, about 3,000 cases of bribery were registered by law enforcement agencies every year.

An important element of the Concept turned out to be the definition of the characteristic features of corruption in Ukraine, namely:

1) dependence of the level and forms of corruption on the general state of formation of democratic institutions;

2) non-systematic, often unscientifically based reformation of the main institutions (administrative procedures, tax system, regulatory activities of the state, solving social problems, etc.);

3) acquisition of corruption as a systemic phenomenon due to the destruction of vital institutions of society and its transformation into a functionally important way of their existence;

4) ineffectiveness of political initiatives in the field of fighting corruption;

5) strengthening in society of stereotypes of a tolerant attitude towards corruption, a combination in the mass consciousness of recognition of the public harm of corruption and readiness to choose corrupt ways of solving problems, which led to the inability of citizens to take an active part in anti-corruption actions;

6) affected by corruption of state authorities, local authorities

municipality;

7) weakness of civil society institutions. Mass media, often dependent on the owners and state authorities, mostly avoid objective coverage of these problems. Civic initiatives are not supported due to the despair and public apathy of the majority of the population. Non-governmental organizations are mostly weakened, dependent on individuals who provide them with financial support [8].

In addition, the document indicated that latent manifestations of corruption have become widespread, in particular: 1) bribery of persons authorized to perform state functions ("corruption lobbying"); 2) performance by civil servants of illegal, corrupt in nature intermediary functions in the relations of third parties with state authorities; 3) facilitating the employment of one's relatives, relatives, acquaintances, receiving "commissions" from participants in public procurement procedures; 4) informal "communication" with representatives of enterprises, organizations belonging to the sphere of management or having contractual relations with state authorities; 5) conducting business activities through fictitious persons or relatives or relatives; 6) receiving benefits, privileges and gifts not provided for by law on personal and public, religious holidays.

In this document, it was noted, in particular, that corruption has acquired the characteristics of a systemic phenomenon through the destruction of vital institutions

of society and its transformation into a functionally important way of their existence, as well as the corruption of state authorities, local self-government bodies, and courts.

One of the priority tasks set by the concept was the introduction of a unified system of interdepartmental statistics regarding cases of corruption and other offenses related to corruption, and ensuring the formation of public court statistics in cases of corruption offenses in accordance with the Law of Ukraine "On access to court records solutions" [8].

On October 29, 2008, the General Prosecutor's Office of Ukraine, the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine, the State Tax Administration of Ukraine and the State Judicial Administration of Ukraine issued a joint order No. 58/560/795/679/99 "On approval of the procedure for accounting for corrupt acts and other offenses, related to corruption". In accordance with the order, the bodies fighting corruption (prosecutor's offices, internal affairs bodies, the Security Service of Ukraine, the State Tax Administration of Ukraine) were given the task of organizing the formation of information records on corrupt acts and other offenses related to corruption by the bodies subordinate to them.

The accounting of acts of corruption began to be carried out in internal affairs bodies on the basis of information cards on acts of corruption of form 1-K (to be filled out by the employee who drew up the administrative protocol on the act of corruption on the basis of this protocol) and form 2-K (to be filled out by the employee of the court apparatus based on the results of the case about a corrupt act and is checked by the judge who considered it) [9].

In fact, it was from this time that a single database of public statistical information on corruption and persons guilty of acts related to it began to form in Ukraine.

However, despite the considerable number of developed and adopted normative acts aimed at prevention and counteraction of administrative corruption, the state observed a gradual increase in the number of administrative offenses related to corruption. In fact, during the years 2006 - 2011, every fourth person, in respect of whom a report on the commission of a corrupt act was drawn up, avoided administrative responsibility. The majority of those brought to administrative

responsibility were civil servants of the lowest sixth-seventh categories. In fact, 70% of the administrative cases on the commission of the first and second categories of corruption violations by civil servants, which were submitted for consideration to judicial authorities, were closed, that is, only every fourth of the offenders of this category was brought to justice [10]. It seemed that there was no corruption among the highest representatives of the state authorities. Such a state could hardly be considered satisfactory. In addition, among the persons brought to administrative responsibility during the considered period (2006 - 2011), there was a tendency to decrease the number of offenses committed by civil servants, while simultaneously increasing the number of corrupt acts by officials of local self-government bodies.

On April 7, 2011, in the course of the reform of anti-corruption legislation, the Verkhovna Rada of Ukraine adopted the Law "On Principles of Prevention and Counteraction of Corruption" [11]. It should be noted that with the adoption of this law, significant changes were made to the Code of Ukraine on Administrative Offenses (hereinafter referred to as the Code of Administrative Offenses). A new Chapter 13-A has appeared in the Special Part of the Code of Administrative Offenses, within which it is directly stipulated which actions are recognized as administrative corruption offenses and which sanctions may be applied to persons guilty of them.

Thus, persons were brought to administrative responsibility for committing such offenses as: 1) violation of restrictions on the use of an official position (Article 172-2 of the Code of Administrative Offenses); 2) receiving an unlawful benefit (Article 172-3 of the Code of Administrative Offenses); 3) violation of restrictions on co-operation with other types of activities (Article 172-4 of the Code of Administrative Offenses); 4) violation of legal restrictions on receiving gifts (Article 172-5 of the Code of Administrative Offenses); 5) violation of financial control requirements (Article 172-6); 6) violation of requirements for the prevention and settlement of conflicts of interest (Article 172-7); illegal use of information that has become known to a person in connection with the performance of official powers (Article 172-8 of the Code of Administrative Offenses); failure to take measures to combat corruption (Article 172-9 of the Code of Administrative Offenses of Ukraine)

and violation of the ban on placing bets on sports related to the manipulation of official sports competitions (Article 172-9-1) [12].

The second period of further development of the institution of prevention and counteraction of administrative offenses related to corruption begins on July 1, 2011, i.e., from the moment the Law of Ukraine "On Principles of Prevention and Counteraction of Corruption" comes into force.

On October 5, 2011, the Decree of the President of Ukraine No. 964 "On priority measures for the implementation of the Law of Ukraine "On the Principles of Prevention and Counteraction of Corruption" was issued, according to the provisions of which the functions of the specially authorized anti-corruption policy body were temporarily assigned to the Ministry of Justice of Ukraine [13]. Accordingly, it is responsible for preparing an annual report on the implementation of measures to prevent and combat corruption. Official statistical information on the results of the anti-corruption bodies' activities obtained for July - December 2011 indicate a gradual improvement in the quality of the work of these bodies. At the same time, with a general decrease in the number of cases of administrative offenses, the percentage of persons actually brought to administrative responsibility remains practically unchanged.

The most significant step in the fight against corruption during this period was the adoption of the Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Informing the National Agency for Civil Service about Persons Authorized to Perform the Functions of the State or Local Self-government, who are Dismissed in Connection with Being Held Accountable for Corruption Offense" of October 12, 2011 No. 1072 [14], "On the Approval of the Procedure for the Preparation and Publication of a Report on the Results of Measures to Prevent and Combat Corruption" of October 20, 2011 No. 1094 [15], "On the Approval of the Procedure for the Transfer of Gifts Received as Gifts to the State, the Autonomous Republic of Crimea, the Territorial Community, State or Communal Institutions or Organizations" of November 16, 2011 No. 1195 [16].

On April 18, 2013, Law of Ukraine No. 221-VII "On Amendments to Certain Legislative Acts of Ukraine on Bringing National Legislation into Compliance with

the Standards of the Criminal Convention on Combating Corruption" was adopted. In accordance with the provisions of this legislative act, administrative liability for actions provided for in Articles 172-2 and 172-3 of the Code of Administrative Offenses was abolished, and the specified actions were transferred from the category of administrative offenses to the category of crimes [17].

We agree with the position of scientists who believe that the withdrawal of Art. 172-2 and 172-3 of the Code of Administrative Offenses, although capable of resolving the issue of separating these acts from the crimes provided for in Articles 368, 368-2, 368-3, 369 of the Criminal Code of Ukraine, may in fact lead to: 1) significant expanding the use of criminal repression in relation to actions that, although socially harmful, do not appear to be considered socially dangerous; 2) a significant increase in spending of state resources on the fight against petty corruption; 3) neutralization of the importance of measures of administrative responsibility to combat corruption offenses that did not cause and did not create a threat of causing significant damage [18, p. 94].

Frequent changes that the domestic legislation undergoes have different effects on the results of practical activities. Thus, our survey of 158 specialists in the field of law (investigators, lawyers, prosecutors, etc.) and employees of private security agencies established that only 63 (40%) respondents under administrative offenses related to corruption understand the offenses provided for articles 172-4 - 172-9-1 of the Code of Administrative Offenses, 54 (34%) are sure that such offenses are regulated by the rules provided for in articles 172-2 - 172-9-1 of the Code of Administrative Offenses, and 14 (9%) respondents generally refer to administrative offenses norms stipulated by articles 368-369 of the Criminal Code [Appendix A].

Similar difficulties with answers arose among the respondents when they were asked to provide an answer to a question about the normative and legal regulation of the system of preventing corruption in Ukraine. Only 76 (48%) specialists out of 158 gave the correct answer, indicating that the legal and organizational principles of the functioning of the corruption prevention system in Ukraine, the content and procedure for applying preventive anti-corruption mechanisms, as well as the rules for eliminating the consequences of corruption offenses are currently determined by

the Law of Ukraine "On Prevention of Corruption". All other respondents gave incorrect answers, indicating that the relevant regulatory act is the Law of Ukraine "On Principles of Prevention and Combating Corruption" - 41 (26%), as well as the totality of the Law of Ukraine "On Prevention of Corruption", the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine ” and the Law of Ukraine “On the Organizational and Legal Basis of Combating Organized Crime” – 15 (9%). As you can see, some generally refer to normative acts that became invalid several years ago [Appendix A].

On October 14, 2014, the Law of Ukraine "On the Basics of State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for 2014 - 2017" was adopted. This anti-corruption strategy is aimed directly at achieving certain goals, in particular: 1) introduction of a decision-making system regarding anti-corruption policy in the state based on the analysis of reliable data on corruption, monitoring of the implementation of these decisions and their impact on the state of affairs with corruption by an independent specially authorized anti-corruption body politicians in partnership with civil society, as well as the formation of public support in overcoming this phenomenon; 2) creation of a system of honest and professional public service in accordance with international standards and taking into account world experience; 3) implementation of effective anti-corruption programs in central executive bodies; 4) elimination of corruption risks and introduction of a transparent system of public procurement; 5) overcoming corruption in the judiciary; 6) elimination of corruption prerequisites; 7) creation of a system of tools that would allow effective detection and investigation of corruption crimes, confiscation of property that was the subject of criminal activity or obtained as a result of it, prosecution of persons involved in the commission of corruption crimes, etc. [19].

Positive changes in the state took place after the adoption of the Law of Ukraine "On Principles of Prevention and Counteraction of Corruption" and the approval of the National Anti-Corruption Strategy for 2011-2015. Finally, state policy was aimed at preventing administrative offenses related to corruption. Along with this, the state mechanism of preventive measures and methods of preventing corruption risks in the public service has significantly increased, in particular: 1) a

division has been created for the prevention and detection of corruption in state and local authorities; 2) the prevention and detection of conflicts of interest has been introduced, since in most cases the cause of the latter is the violation of restrictions on the work of close relatives, the units for the prevention and counteraction of corruption should focus on the detection and elimination of cases of direct subordination between close relatives; 3) created a list of positions where there are high risks of corruption; 4) the maximum time of stay in positions, the activities of which are associated with increased corruption risks; 5) improved measures to improve the quality of the selection of candidates for public positions, created with the help of stricter conditions for conducting a special audit; 6) the operation of the Unified State Register of persons who have committed corruption offenses has been improved; 7) effective cooperation mechanisms of various state bodies have been implemented during the special review of candidates for positions in state authorities and local self-government bodies; 8) involved in public enterprises for the systematic control of corruption in the public service; 9) apply systematic public awareness of discovered corruption offenses, establish "hot lines" for constant feedback from the population [18, p. 96].

A significant number of changes in national legislation in the field of prevention and countering corruption took place during the third period. During this period, the Laws of Ukraine were adopted: "On Prevention of Corruption" and "On the National Anti-Corruption Bureau of Ukraine" of October 14, 2014, "On Prevention of the Influence of Corruption Offenses on the Results of Official Sports Competitions" of November 3, 2015.

The event that took place on June 2, 2016, when the legislator simultaneously introduced a number of significant changes to Chapter VIII of the "Justice" of the Constitution of Ukraine [1], and also adopted a new Law of Ukraine "On the Judicial System and the Status of Judges" should not be overlooked. Thanks to this, new mechanisms were introduced to prevent corruption in the judiciary, in particular: in-depth monitoring of judges' lifestyles, mandatory declarations of income, family ties, etc. [20].

A significant event was the adoption of the Law of Ukraine "On Prevention of Corruption" on October 14, 2014, the purpose of which was to comprehensively reform the corruption prevention system in accordance with international standards and successful practices of foreign countries and in connection with the country's targeted course towards European integration. Among the main components of the preventive anti-corruption system, the following should be highlighted: 1) the existence of a specialized body for the prevention of corruption, a body for the formation and implementation of anti-corruption policy; 2) the implementation of anti-corruption restrictions regarding the use of an official position, receiving gifts, co-operation and combination with other types of activities, joint work of close persons, after termination of activities related to the performance of functions of the state or local self-government; 3) prevention and settlement of conflict of interests; 4) protection of whistleblowers - persons who report facts of corruption against illegal dismissal, transfer, change of essential terms of the employment contract, etc.; 5) responsibility for corruption and corruption-related offenses: criminal - for direct corruption (abuse of authority, illegal enrichment, etc.); administrative - for those related to corruption (violation of restrictions on co-operation and combination with other types of activities, on receiving a gift (donation), financial control requirements, etc.); disciplinary and civil law (for both types of violations), etc. [21].

Within the limits of this Law, a central body of the executive power of Ukraine with a special status was created, which ensures the formation and implementation of the state anti-corruption policy - the National Agency for the Prevention of Corruption, which is entrusted with the following functions: 1) ensuring the formation and implementation of the anti-corruption policy with the involvement of the public; 2) analysis and research of the situation related to corruption; 3) development, monitoring and coordination of the implementation of the Anti-Corruption Strategy and the state program for its implementation; 4) monitoring and control over the implementation of legal acts on professional ethics and conflict of interests; 5) coordination and methodical assistance in identifying and eliminating corruption risks by bodies; 6) carrying out financial control (verification of declarations, monitoring of lifestyle); 7) approval of the rules of ethical behavior of

civil servants and officials of local self-government; 8) cooperation with whistleblowers, taking measures for their legal protection; 9) clarification of methodical and advisory assistance regarding the application of anti-corruption legislation and 10) implementation of international cooperation in the field of anti-corruption policy [21].

In addition, the adoption of the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine" on October 14, 2014 was an innovation of modern legislation aimed at combating corruption offenses in state bodies. This state law enforcement body (hereinafter - the National Bureau) is entrusted with the prevention, detection, termination, investigation and disclosure of corruption offenses assigned to its jurisdiction. Its task is to combat criminal corruption offenses committed by high-ranking officials authorized to perform the functions of the state or local self-government, which pose a threat to national security [22].

In our opinion, the creation of the above-mentioned autonomous anti-corruption bodies has a number of advantages, among which we should note the fact that they provide a new chance to move away from the previous practice of ineffective counteraction to administrative offenses related to corruption and achieve qualitatively new results.

Thus, the conducted analysis demonstrates that the institution of preventing and countering administrative offenses related to corruption did not appear in Ukrainian legislation suddenly and is currently in the stage of formation and development. Despite the significant updating of the legislation in the field of combating corruption offenses that took place in recent years, the administrative and legal mechanisms for preventing this phenomenon are only beginning to be developed and used.

1.2. Concepts, signs and types of administrative offenses related to corruption

The last decade in Ukraine has seen a significant transformation of the political and legal culture of society, the strengthening of its national self-awareness and the desire to modernize its own state and legal institutions according to Western

European standards. The anti-corruption legislation was also significantly updated. With the adoption of new anti-corruption laws and the improvement of legislation in the field of the judiciary, a fundamentally new system of preventing and countering corruption began to operate in Ukraine.

Today, the spread of corruption offenses occupies a special place among a number of other deep and difficult problems in Ukrainian society. In order to overcome this problem, in October 2014, the President of Ukraine adopted an anti-corruption package of laws. At the same time, the legislator noted that the National Anti-corruption Strategy for 2011-2015, approved by the Decree of the President of Ukraine of October 21, 2011 No. 1001, did not become an effective tool of anti-corruption policy, and previous attempts to legislatively regulate the mechanism for preventing and overcoming this phenomenon turned out to be ineffective and fruitless

Progress in democratic transformations in the country is slowing down due to the presence of corruption, which is the main obstacle to the development and economic growth of the state, as well as due to the lack of an independent judiciary [23, p. 66]. From year to year, the statistics published by the international organization Transparency International are disappointing. Thus, according to the results of the new Corruption Perceptions Index in 2016, Ukraine did not overcome the threshold of "corruption shame", taking 131st place among 176 countries, scoring 29 points out of a possible 100, in 2015 - 130 place out of 168 possible, while in 2014 it took 142nd place out of 175 possible [3]. As you can see, Ukraine continues to occupy one of the lowest places in the rating, remaining steadily in the club of totally corrupt states such as Cameroon, Iran, Uganda, Nigeria, Nepal, the Comoros Islands, the Central African Republic, Kazakhstan and Russia.

The consequences of corruption spread to all spheres of social life, creating social tension, generating public distrust in the ability of the government to overcome a systemic crisis, undermining public trust and the rule of law, which provokes the creation of an abnormal economy in which fundamental economic laws cease to apply [24, p. 83]. The prevalence of corruption in state authorities is emphasized by G.V. Malyar, who suggests that it exists in all public institutions, including law

enforcement agencies, the prosecutor's office and judicial authorities, as well as local authorities [25, p. 80].

So, in our opinion, for a more complete understanding of the concept of "administrative offenses related to corruption", it is necessary to first examine the term "corruption" itself, determine its essence, causes and main features.

The large explanatory dictionary of the Ukrainian language defines corruption as the use by an official of his official position for the purpose of personal enrichment; bribery, venality of government officials and public figures [26]. In turn, in the Legal Encyclopedia, the term "corruption" (lat. corruptio - corruption, bribery) is defined as the activity of persons authorized to perform the functions of the state, aimed at the illegal use of the powers granted to them to obtain material benefits, services, benefits or other benefits [27, p. 600].

The destructive function of corruption in the state in his time was noted by the philosopher T. Hobbes, who saw in it the roots from which "contempt for all laws sprouts" [29, p. 442].

According to V. V. Stashis, corruption is an extremely dangerous negative social and legal phenomenon for the state, because it undermines the authority of the state apparatus, discredits its activities, causes economic and political damage, slows down the development of reforms, and practically reduces the effectiveness of developed programs [28, p. 167].

The most dangerous thing is that, being the most widespread and stable phenomenon in society, corruption affects the interests of all social groups and strata of society, affects politics, economy, social sphere, culture [30, p. 30], Therefore, it can be confidently stated that corruption "became the main political problem of the end of the 20th - beginning of the 21st century" [31, p. 191].

The first feature of corruption is its conditioning. As Sar J. Pundea rightly points out, corruption is a consequence of the phenomena and trends of politics, economy, and the development of the state in general [32, p. 17]. The phenomenon we are considering cannot exist in society by itself, it is exclusively the result of a number of reasons, among which the moral, degradation and economic processes in society should be highlighted.

M. I. Mykhailyshyn notes that the main reasons and conditions for the spread of corruption in Ukraine were strategic miscalculations in the reform of society. In her opinion, this process was largely spontaneous, which led to the formation of a new political and economic elite based not on the increase of the social product as a result of entrepreneurial activity, but on the clear redistribution of state property. The researcher calls the sphere of privatization of state property, implementation of the budget and distribution of budget funds the most corrupt. From the research of this scientist, the following causes of corruption in the system of state authorities can be identified: 1) a combination of business and commercial structures that form their business relations outside the legal field with the state apparatus; 2) the public's attitude towards corruption and promoting its development; 3) lobbying for the adoption and introduction of changes to normative legal acts related to this phenomenon; 4) the complexity of the governmental structure of bureaucratic procedures; 5) lack of a proper personnel rotation mechanism; 6) low level of wages and provision of social services to the population [33, p. 12, 13].

So, for example, V.V. Lysenko, P.I. Zaruba, and S.I. Fedorchuk consider imperfect financial and tax conditions, privatization, investment, industrial, economic, customs and tariff policy to be the main preconditions affecting the spread of corruption [34, p. 7].

On the territory of Ukraine, the term "corruption" as a negative social phenomenon in society began to be studied most deeply precisely during the time of independence, that is, after 1991. The scientific works of scientists of this period provide an opportunity to reveal in more depth the question of the causality of corrupt acts, to consider the composition of an administrative offense related to corruption as such, which is an "almost incurable disease of all time."

For the first time, at the legislative, mandatory level, the interpretation of the corruption offense as an intentional act containing signs of corruption committed by a person was provided in Part 1 of Art. 4 of this Law of Ukraine "On Principles of Prevention and Counteraction of Corruption" in 2011 (persons authorized to perform the functions of the state or local self-government, as well as persons who according to this Law are equated to persons authorized to perform the functions of the state or

local self-government). In turn, corruption was defined by this Law as the use by a person of official powers and related opportunities for the purpose of receiving an unlawful benefit or accepting a promise/offer of such benefit for oneself or other persons, or, accordingly, a promise/offer or granting of an unlawful benefit to a person, or at her request to other natural or legal persons with the aim of inciting this person to unlawfully use the official powers granted to her and related opportunities [11].

The most modern normative interpretation of corruption is the concept provided in the Law of Ukraine "On Prevention of Corruption", according to which corruption should be understood as "the use by a person, provided for by the relevant provision of the Law, of official powers and related opportunities for the purpose of obtaining an improper benefit or accepting promises/offers of such a benefit for oneself or other persons, or, accordingly, a promise/offer or provision of an unlawful benefit to a person, or at his request, to other natural or legal persons with the aim of inducing this person to unlawfully use the official powers granted to him and related opportunities.

A corruption offense itself is an act that contains signs of corruption or otherwise violates the requirements and restrictions established by law, committed by the relevant person, for which criminal, civil or disciplinary liability is established by law" [21].

Another feature of the term corruption, which affects the problem of defining corruption, is the complexity and inconsistency of the doctrinal vision of this phenomenon [18, p. 20]. Having conducted an in-depth study of the scientific achievements of modern scientists, we conclude that the vast majority of scientists interpret corruption as a factor that: a) destabilizes and hinders economic, social and societal development as a whole [35, p. 10]; b) undermines budget policy, reducing the effectiveness of budget expenditures [36, p. 72]; c) is a real threat to the security of the state [37, p. 123], [38, p. 34]; d) is one of the main real threats to the national security of Ukraine, and the eradication of corruption is a long-term task of state authorities [39].

I.I. Yatskiv also points out the difficulty of defining this phenomenon in view of its coverage by a set of various interrelated offenses (criminal, administrative, disciplinary) [40, p. 89]. A. Chaillot and S. Kotkin hold categorical views on spending time trying to interpret the phenomenon of corruption, since, in their opinion, no definition will be achieved [41, p. 11]. Like any complex socio-economic and political-legal phenomenon, as emphasized by O. V. Dlukhopolskyi, there is no unambiguous canonical definition of corruption [42, p. 16].

According to L. I. Arkusha, corruption appears as an illegal activity of the relevant persons, aimed at using their official and social status for personal enrichment, enrichment of their relatives and supporters, obtaining advantages and benefits contrary to the interests of society [43, p. 42]. A similar position is followed in his research by N. G. Kalugina [44, p. 57]. In our opinion, the use of public status is not a manifestation of a corrupt act, because in this case the sphere of public administration is completely absent, and therefore the person's use of his official position [18, p. 22].

In our opinion, the very fact that the objective side has a mandatory element of constant contact with organized criminals narrows the concept of the corruption offense itself to a minimum, makes the process of qualifying the act complicated, and in many in some cases makes it impossible at all. And this, in turn, can exclude any other responsibility for committing a corruption offense, except criminal [18, p. 22].

As V. Konovalov rightly points out, under modern conditions, the paradigm of the "corruption" phenomenon should be based primarily on its definition as a phenomenon, and not as a crime [45, p.147]. In this regard, we agree with the opinion of V. D. Gvozdetskyi, who considers corruption as a legal phenomenon that manifests itself in various official violations recognized as illegal by law. The scientist defines corruption offenses as a product of people's social activity, as a result of the functioning of society [46, p. 123].

Thus, we are gradually moving to the definition of the term "corruption offenses", which brings us significantly closer to the understanding of the concept of "administrative offenses, associated with corruption".

In M. I. Melnyk's monograph "Corruption: Essence, Concept, Counter-measures" the content of the corrupt act is revealed quite deeply, which the author recognizes as a social, psychological and moral phenomenon, a form of thinking that determines the way of life [47, p. 27]. A similar opinion is held by O. V. Klok, who defines a corrupt act as the deliberate activity or inaction of a person with a deformed state of consciousness (legal nihilism), namely by deliberately ignoring the value of the law and neglecting legal principles and traditions [18, p. 24].

Having analyzed the research of domestic and foreign scientists in the anti-corruption field, we came to the conclusion that the definition given by O. V. Klock, which suggests considering this phenomenon in a broad and narrow sense, most fully reflects the essence of the concept of "administrative offense related to corruption": in a broad sense, as directly culpable, illegal behavior of an entity that violates the established management procedure and for which administrative legislation provides responsibility; in a narrow way - as the action of a person with a deformed state of consciousness, whose activity is related to the sphere of public administration, by taking actions or, on the contrary, inaction, related to the use by a person of his position during his stay in public service [18, p. 26].

Let's highlight the main signs of an administrative offense related to corruption in more detail, taking into account both its legislative definitions and doctrinal attempts to interpret this phenomenon.

So, the main signs of an administrative offense related to corruption are:

1. Public harm, which consists in causing or threatening to cause damage to the interests and security of the state.

2. Taking active actions or inaction with selfish goals, namely obtaining an unlawful benefit of both a property and non-property nature, i.e. "the presence of a selfish purpose aimed at achieving material or other benefit is mandatory [48, p. 243].

The presence of such a mandatory feature of administrative offenses related to corruption as a self-interested goal is highlighted by a significant number of foreign scientists. J. Nye interprets this phenomenon as the behavior of state officials aimed at evading compliance with the norms and rules established by the state in order to achieve private (family, group) material or status benefit [49, p. 414].

3. Actions or inaction of the subject of responsibility for administrative offenses related to corruption are carried out by non-compliance with the requirements of regulatory legal acts, which outline the range of rights and responsibilities of a person in a particular position.

The fact of corruption in the activity of the subject of responsibility for such violations will occur if the relevant official deliberately does not follow the procedure (rules) for the performance of his powers, not taking the risks of liability in case of detection of these violations. At the same time, a characteristic feature of such an act (or inaction) is that it is committed by the subject of responsibility for corruption offenses, who receives benefits not provided for by law, contrary to the interests of the service and the scope of rights, competence and powers.

4. The fact of an act related to the use of official powers and the opportunities arising from it, the authority of the position held, which does not relate to the person's performance of his official duties, but is directly related to the fact of their abuse.

5. Direct intention – action or inaction of an official, aimed at obtaining certain benefits, done intentionally. At the same time, the official who committed this offense was aware of the illegal nature of his actions. The actions of such a person are carried out by agreement or consent of the parties. The absence of this feature makes it impossible for the subjective side to exist - a self-interested goal, because there is no fact of agreement regarding the latter.

Speaking about the construction of an "administrative offense related to corruption", we consider it impossible to bypass the question of the composition of such an offense as a set of objective and subjective signs established by law that characterize this act as an administrative offense related to corruption.

The legal structure of an administrative offense related to corruption refers to the set of subjective and objective components (elements) prescribed by law, the presence of which allows to qualify a certain act (action, inaction) as corrupt. Such a totality is formed by such interrelated and interconnected components as the object, the objective side (external to the offense); subject, subjective side (internal side of misdemeanors) [50, p. 52].

Obviously, the object can be only those social relations that are protected by an administrative sanction. This thesis directly follows from the content of Art. 1 of the Code of Administrative Offenses, which states that the task of the legislation on administrative offenses is to protect property, socio-economic, political and personal rights and legitimate interests of enterprises, institutions and organizations, the established management procedure, the state of public order [12].

As for the question about the object of administrative offenses related to corruption, note its direct direction of attack, while highlighting general, general and direct objects. In our opinion, the general object of this offense is a set of public relations protected by administrative law, which consists in the proper functioning of the system of state authorities and local self-government bodies. As G.I. Melnyk mentioned, corruption involves the exploitation of public power in private interests. The state actually loses that part of the power that used corruption in its own selfish interests [47, p. 62].

The general object of administrative offenses related to corruption is social relations, which determine the content and order of legal activity of authorities, which are established by the legislator.

The immediate object is a specific social relationship subject to the protection of the law, which is damaged by the violation, taking into account the features characteristic of the composition of test acts. Such objects are separate areas of state administration and local self-government, such as conscientious civil service in a certain state authority, therefore specific relations related to the service.

An obligatory element of administrative offenses related to corruption is the objective side of the latter - the external manifestation of a socially dangerous encroachment on an object protected by legal and administrative sanctions. According to this objective aspect of this crime, the signs characterizing the symptoms of the offense, namely the actions, time, and manner of committing the offense, constitute the signs.

The required component is action, action or omission. The activity (action or inaction) of persons authorized to perform state functions refers to the activity of persons - subjects of administrative offenses related to corruption, which takes place

within the limits of competences defined by them and focuses on the performance tasks and functions assigned directly to the authorities where you work on these individuals. The powers granted to persons performing the functions of the state or local self-government and to equal persons represent those specific duties that must comply with the provisions of legislation and other regulatory legal acts of the specified person, as well as the rights granted for the full and effective performance of duties . In other words, the action must be contrary to the official interests of the service of these persons, that is, it is used with the intention of providing a certain advantage that does not correspond to the duties of officials and the rights of other persons [47, p. 105].

In the monographic study of V. M. Graschuk and A. A. Mukhataev, the concept of "administrative corruption offense" is reflected in more detail, it is noted that it cannot contain a crime [51, p. 48]. We are quite critical of the theses of B. Romanyuk and A. Yu. Busol regarding the type of corruption act, which consists in unethical (immoral) actions [52, p. 15], since the category of morality as such is generally subjective and does not clearly coincide with legal teachings. Immoral actions in the aspect of corruption only violate the professional ethics of civil servants and local authorities.

Note that the onset of the consequences of corruption acts is not necessarily a component of the objective side of the considered offense. As E. V. Tkachenko testifies, an important feature of administrative corruption is the presence of a causal relationship between illegal actions and consequences [53, p. 9]. We cannot agree with this statement, since the occurrence of consequences is not required if the direct qualification of the offense is corruption.

The main thing is to perform actions related to exceeding his official powers, that is, as already mentioned, active actions or inaction. Because, firstly, the consequences may occur after a certain period of time, secondly, they may not occur. For example, when the illegal use of information that becomes known to the subject in connection with the performance of his official duties (through, for example, disclosure), it is problematic to establish the fact of the consequences and determine what restrictions the employee, whose details were disclosed for conditions of their

real absence. All this greatly hindered the characterization of the act as an administrative offense related to corruption, and in some cases would generally exclude the responsibility of employees.

This approach was highlighted by the dissertation student when she studied the specifics of corruption offenses in the information sphere [54, p. 113]. It was emphasized the existence of rare cases in court practice, when the employees of the state tax service for the purpose of obtaining a benefit disseminated the client's confidential information about his property status and income. At the same time, the fact of carrying out the mentioned actions was emphasized as a basis for bringing a person to administrative responsibility for the commission of a corruption offense, and the proof of the beneficial purpose of these actions was included.

It should be noted that the occurrence of consequences in connection with the use of one's official position constitute the subjective side of the actions provided for by the Criminal Code of Ukraine. That is why, in our opinion, the occurrence of consequences is not taken into account for the qualification of an administrative offense related to corruption.

The method and time of committing an administrative offense related to corruption serve as qualifying features of the latter.

As for the subject of an administrative offense related to corruption, let us emphasize that this person must perform the functions of the state by completing public service and service in local self-government bodies and must be classified by the Law of Ukraine "On Prevention of Corruption" among the subjects of responsibility for corruption offenses [18, p. 32].

To establish the subject structure of an administrative offense related to corruption, it is necessary to proceed from 2 aspects. The first consists in action (inaction) and is exclusively a voluntary action of only a natural person. The majority of scientists are in the position of singling out the subject of such an offense exclusively to a natural person - an official of the state apparatus or another person who has administrative powers [55, p. 23]. However, in the legal doctrine, there are ambiguous views regarding the possibility of considering the legal entity of an administrative offense related to corruption.

The unreality of considering a legal entity as a subject of an administrative corruption offense is noted by V. M. Harashchuk, who emphasizes the difficulties of establishing the composition of the offense in the latter, emphasizing at the same time the impossibility of finding an objective and subjective side in its actions [56, p. 121].

The second aspect consists in the professional activity of such natural persons, which includes only persons who:

- authorized to perform the functions of the state or local self-government;

- equated to persons authorized to perform the functions of the state or local self-government;

- permanently or temporarily occupying positions related to the performance of organizational-administrative or administrative-economic duties, or specially authorized to perform such duties in legal entities of private law, regardless of their organizational and legal form in accordance with the law;

- by officials of legal entities, as well as natural persons - in case of receiving from them by persons or with the participation of the latter by other persons, for which criminal, administrative, civil or disciplinary liability is established by law.

Therefore, the list of persons subject to administrative liability for corruption offenses is exhaustive.

The subjective side of an administrative offense related to corruption is expressed in guilt - the internal mental attitude of a criminally competent subject to the committed actions and their harmful consequences. The basis of the subjective side of this act is guilt, which manifests itself in the form of intent or carelessness. The subjective side finds its manifestation exclusively in the form of direct intention. In other words, the person who committed them was aware of the illegal nature of his actions or inaction, anticipated harmful consequences and knew about their occurrence.

Attention should be paid to the fact that no administrative corruption offense is committed out of carelessness. The signs characterizing the subjective side include the guilt, motive and purpose of such an act.

We emphasize that the determining component of the qualification of an act as an administrative offense related to corruption is its proof and the establishment of

such a mandatory element of the subjective side as the purpose of the act. As mentioned earlier, the legal nature of corruption is inextricably linked to self-interest. Under such circumstances, a mandatory component of the subjective side is the presence of a self-interested goal aimed at achieving material or other benefits. This point of view of ours also coincides with the opinion of P. P. Andrushko that a mandatory element of the subjective side of corruption offenses is the purpose of their commission, namely: (a) to receive an unlawful benefit in connection with the use by a person (subject corruption offense) of the official powers granted to him and related opportunities and (b) to induce a person to whom (or at his request - other natural or legal persons) is promised, offered or given an unlawful benefit, to unlawfully use the official powers granted to him and related possibilities [57, p. 145].

So, we came to the conclusion that it is inadmissible to consider a legal entity as a subject of an administrative offense related to corruption, given the unreality of establishing objective and subjective parties in such an act, which, in turn, will lead to the impossibility of qualifying the latter.

Corruption acts are considered completed from the moment the person illegally or unlawfully receives material benefits, violation of special restrictions from the moment the actions or inactions specified in the disposition of the article are committed, and responsibility for them arises regardless of the person receiving material and immaterial benefits, services, benefits or other benefits.

Today, the types of corruption offenses are fixed at the legislative level by the Code of Ukraine on Administrative Offenses [12].

Anti-corruption offences, liability can be conditionally divided into the following three groups:

1) Violation of special restrictions aimed at preventing and combating corruption.

Characterizing the first group of administrative offenses that contain signs of corruption, it should be noted that they specify the provisions of the Law of Ukraine "On Prevention of Corruption", which establish special restrictions for the subjects of responsibility for corruption offenses.

Yes, in Art. 172-4 of the Code of Administrative Offenses of Ukraine established a violation of the restrictions on the combination and combination of public service with other types of activity. Its disposition contains the establishment of this type of offense as a violation by a person of the restrictions established by law (a) regarding engaging in entrepreneurial or other paid activities (except for teaching, scientific, creative and medical activities, refereeing and instructor practice in sports) and (b) regarding joining a body the management or supervisory board of an enterprise or organization that aims to make a profit (except when a person performs the functions of managing shares, shares or units belonging to the state and represents the interests of the state in the board of the company (supervisory board), the audit commission of the business company).

In accordance with Art. 42 of the Economic Code of Ukraine, entrepreneurship is an independent, initiative, systematic, at one's own risk, economic activity carried out by economic entities (entrepreneurs) with the aim of achieving economic and social results and obtaining profit [91].

Part-time work should be understood as the performance by an employee, in addition to the main one, of other paid work, regardless of the conclusion of an employment contract. Under the terms of co-employment, employees can work at the same or another enterprise, institution, organization or citizen in their free time from their main job. In accordance with Article 19 of the Law "On Remuneration" [92], the conditions of part-time work of employees of state enterprises are determined by the Cabinet of Ministers of Ukraine. When clarifying the question of whether the performed work is part-time, it is necessary to be guided by the resolution of the Cabinet of Ministers of Ukraine dated April 3, 1993. No. 245 "On Part-time Work of Employees of State Enterprises, Institutions and Organizations", Regulations on the conditions of part-time work of employees of state enterprises, institutions and organizations (approved by order of the Ministry of Labor, Ministry of Justice and Ministry of Finance of June 28, 1993 No. 43) and attached hereto Regulations List of jobs that are not part-time.

In accordance with the requirements of Art. 105 of the Labor Code provides that employees who, in the same enterprise, institution, organization, in addition to

their main work stipulated by the employment contract, perform additional work in another profession (position) or the duties of a temporarily absent employee without release from their main job, additional payment is made for combining professions (positions) or performing the duties of a temporarily absent employee. The amounts of additional payments for combining professions (positions) or fulfilling the duties of a temporarily absent employee are established on the terms stipulated in the collective agreement [93].

In accordance with the provisions of the Law of Ukraine "On the Prevention of Corruption", scientific, teaching, creative activities, as well as medical and judicial practice, sports instructor practice are not defined as part-time.

Scientific activity is an intellectual creative activity aimed at obtaining and using new knowledge. Its main forms are fundamental and applied scientific research. Fundamental scientific research is a scientific theoretical and (or) experimental activity aimed at obtaining new knowledge about the patterns of development of nature, society, man, and their interrelationship. Applied scientific research is a scientific and scientific-technical activity aimed at obtaining and using knowledge for practical purposes (Article 1 of the Law of Ukraine "On Scientific and Scientific-Technical Activities") [94].

Teaching activity is the process of imparting knowledge, forming abilities and skills from various areas of education, developing intellectual and creative abilities, physical qualities in accordance with the aptitudes and requests of a person - pupils, students, cadets, trainees, interns, clinical residents, graduate students, adjuncts , doctoral students, etc.; activities for them to obtain a profession, increase their production qualifications, provide fundamental scientific, general cultural, special practical training and retraining.

Creative activity is the individual or collective creativity of professional creative workers, the result of which is a work or its interpretation that has cultural and artistic value. A professional creative worker is a natural person whose creative activity constitutes his main occupation, which culminates in the creation and publication of works or their interpretation in the field of culture and art and is the main source of his income, whether or not he has any legal formalized labor relations

(Article 1 of the Law of Ukraine "On Professional Creative Workers and Creative Unions").

In accordance with Article 54 of the Constitution of Ukraine, citizens are guaranteed freedom of literary, artistic, scientific and technical creativity; every citizen has the right to the results of his creative activity [1].

Medical practice is an activity related to a set of special measures aimed at promoting health improvement, improving sanitary culture, preventing diseases and disabilities, diagnosing, helping people with acute chronic diseases and rehabilitation of the sick and disabled, which is carried out by persons who have a special education (clause 1.3. Licensing conditions for carrying out economic activity in medical practice, approved by the order of the Ministry of Health of Ukraine dated February 2, 2011 No. 49) [95].

According to Art. 9 of the Law of Ukraine "On Licensing of Certain Types of Economic Activity", medical practice as a type of economic activity is subject to licensing [96].

From the subjective side, the offense is characterized by an intentional form of guilt - the desire to receive profit or a monetary reward for performing part-time work.

For the qualification of the act, it is important to establish that: 1) the subject is part of the management body or the supervisory board of the enterprise or organization; 2) this enterprise or organization was created for the purpose of making a profit (i.e. it carries out entrepreneurial activity); 3) the entity does not perform the functions of managing shares belonging to the state, and does not represent the interests of the state in the board of the company (supervisory board) or the audit commission of the business company.

Participation in the board or other executive bodies of enterprises and organizations that do not carry out entrepreneurial activity gives grounds for recognizing the activity of a person authorized to perform the functions of the state or local self-government bodies as a corruption offense.

A person's membership in editorial boards of periodicals (newspapers, magazines), various types of juries, consiliums cannot be recognized as an offense

related to corruption, even if he/she receives remuneration for the work performed, since these bodies are created for the purpose of developing science, culture, art, improvement of medical practice.

The subjects of the offense are the persons authorized to perform the functions of the state or local self-government bodies, the subjects of the offenses in this article are the persons specified in Clause 1 of Part 1 of Article 3 of the Law of Ukraine "On Prevention of Corruption", with the exception of deputies of the Verkhovna Rada of the Crimean Autonomous Republic, deputies local councils (except those who exercise their powers in the relevant council on a permanent basis), members of the High Council of Justice (except those who work in the High Council of Justice on a permanent basis), jurors [97, p. 487].

Article 172-5 of the Code of Administrative Offenses of Ukraine establishes such a type of corruption offense as violation of legal restrictions on receiving gifts.

In accordance with Part 1 of Art. 23 of the Law "On the Prevention of Corruption", the persons specified in clauses 1, 2 of the first part of Article 3 of this Law are prohibited from directly or through other persons to demand, ask for, receive gifts for themselves or persons close to them from legal entities or individuals: 1) in connection connection with the performance by such persons of activities related to the performance of functions of the state or local self-government; 2) if the donor is subordinate to such a person.

According to Art. 718 of the Civil Code of Ukraine (hereinafter referred to as the Civil Code) a gift is movable property, including money and securities, immovable property and property rights that the donor owns or that may arise in the future [98].

The indicated persons may accept gifts that correspond to generally recognized notions of hospitality, and donations, except for the cases provided for in part 1 of this article, if the value of such gifts (donations) does not exceed 50 percent of the minimum wage established on the day of acceptance of the gift, one time, and the total value of such of gifts received from one source during the year.

At the same time, the formal and dogmatic analysis of the provisions of Art. 8 of the Law regarding the fact that a subordinate employee receives a gift from his

supervisor says the following. In accordance with Art. 6 of the Constitution of Ukraine "Legislative, executive and judicial bodies exercise their powers within the limits established by this Constitution and in accordance with the laws of Ukraine", in other words, they can act exclusively in the second way of legal regulation "everything is frozen, except what is expressly allowed by law". Thus, the receipt of gifts by subordinates from superiors will be legal only if it is expressly provided for by law. For example, allowed in the code of ethical behavior of a civil servant. In other cases, such actions should be recognized as illegal, but until the specified actions are defined as an offense in accordance with the law, it is not possible to bring such persons to administrative responsibility. In accordance with this issue, it will be necessary to return after making the appropriate additions to the Code of Administrative Offenses.

I would like to note that the concept of "hospitality" is currently not a legal, but a historical and social category. According to the regulation specified in the legislation, there will always be a different interpretation of its boundaries. In our opinion, the list of gifts that are considered hospitable can include expenses for food and accommodation, provision of primary medical care, transportation expenses, small repairs of clothes, shoes, small advertising and historical and local history guides (calendars, notebooks, booklets, etc.) .

On the objective side, offenses are actions in the form of taking ownership (accepting ownership) of things or property rights in violation of the requirements of the Law. In particular, such a violation will occur in the case of receiving a gift in connection with the performance by the person of the functions of the state or local self-government bodies, that is, it is determined by the official status of the recipient, the position he holds. Therefore, for the existence of a corruption offense, a causal connection must be established between the act (receiving a gift) and the performance of the functions of the state or local self-government bodies by the person who committed it. If such a connection is not proven in a specific case or it is established that such receipt did not occur in connection with the person's performance of functions of the state or local self-government bodies.

Thus, in order to establish the legality/illegality of a person's receipt of a gift, it is necessary to establish whether the proposed gift is related to his performance of his official duties.

Gifts related to the performance of official duties are gifts given as thanks for previously performed actions (inaction) by the official or decisions made by him in favor of the donor or third parties, or are given in anticipation of the previously unpromised performance of actions (inaction) by the public official or acceptance decisions in favor of the donor or third parties. The same category includes gifts given by an employee to subordinates.

The composition of the corruption offense will also be when a person who receives a gift during official events does not hand it over within a three-day period to a body of state power, local self-government, or another organization where he works, in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

At the same time, it should be borne in mind that there are situations in which gifts, although not motivated by the performance of the employee's duties, do not go beyond the law. These are cases when a gift is given to an employee by an executive authority or a local self-government body as a reward or encouragement for success in professional activities. Obviously, such gifts cannot come from private institutions (companies, banks, public organizations, foundations, etc.) [97].

In Art. 172-8. the Code of Administrative Offenses of Ukraine provides for such a corruption offense as the illegal use of information that has become known to a person in connection with the performance of his official powers, which consists in the illegal disclosure or use in another way by this person in his own interests of such information.

The subject of an administrative offense is special. The subjects of offenses in this article are the persons specified in paragraph 1 of the first part of article 3 of the Law of Ukraine "On Prevention of Corruption".

It can be persons authorized to perform state functions or

Local Government:

a) President of Ukraine, Chairman of the Verkhovna Rada of Ukraine, his First Deputy and Deputy, Prime Minister of Ukraine, First Deputy Prime Minister of Ukraine, Deputy Prime Ministers of Ukraine, Ministers, other heads of central executive bodies , who are not part of the Cabinet of Ministers of Ukraine, and their deputies, the Chairman of the Security Service of Ukraine, the Prosecutor General, the Chairman of the National Bank of Ukraine, the Chairman and other members of the Accounting Chamber, the Human Rights Commissioner of the Verkhovna Rada of Ukraine, the Chairman of the Verkhovna Rada of the Autonomous Republic of Crimea, the Chairman Council of Ministers of the Autonomous Republic of Crimea;

b) people's deputies of Ukraine, deputies of the Verkhovna Rada of the Autonomous Republic of Crimea, deputies of local councils, village, settlement, city mayors;

c) civil servants, officials of local self-government;

d) military officials of the Armed Forces of Ukraine, the State Service of Special Communications and Information Protection of Ukraine and other military formations formed in accordance with the laws, except for conscripts, cadets of higher military educational institutions, cadets of higher educational institutions that have military institutes, cadets of faculties, departments and departments of military training;

e) judges, judges of the Constitutional Court of Ukraine, Chairman, Deputy Chairman, members, inspectors of the High Council of Justice, officials of the Secretariat of the High Council of Justice, Chairman, Deputy Chairman, members, inspectors of the High Qualification Commission of Judges of Ukraine, officials of the secretariat of this Commission, officials of the State Judicial Administration of Ukraine, jurors (while performing their duties in court);

e) members of the rank-and-file and senior staff of the state criminal enforcement service, tax police, senior staff of civil defense bodies and units, the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine;

e) officials and employees of the prosecutor's office, the Security Service of Ukraine, the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine, the diplomatic service, the state forest protection, the state protection of the

nature reserve fund, the central executive body that ensures the formation and implementation of the state tax policy and state policy in the field of state customs affairs;

g) members of the National Agency for the Prevention of Corruption;

g) members of the Central Election Commission;

h) police officers;

i) officials and employees of other state bodies, authorities of the Autonomous Republic of Crimea;

i) members of state collegial bodies.

The subjective side of the offense is determined by the attitude to the consequences and is characterized by the presence of guilt in the form of direct or indirect intent.

The object of this administrative offense is public relations in the sphere of public administration, as well as in the sphere of prevention and counteraction of corruption (see the Law of Ukraine "On Principles of Prevention and Counteraction of Corruption").

The objective side of the offense is expressed in illegal disclosure or use in another way by a person in his own interests information that became known to her in connection with the performance of official powers (formal composition).

In accordance with Article 26 of the Law of Ukraine "On Prevention of Corruption", persons authorized to perform the functions of the state or local self-government, specified in paragraph 1 of the first part of Article 3 of this Law, who have resigned from their position or otherwise ceased activities related to the performance of functions of the state or local self-government, to disclose or use in another way in their interests the information that became known to them in connection with the performance of their official powers, except for cases established by law.

2) Violation of financial control requirements.

The legislator in Art. 172-6 of Code of Administrative Offenses of Ukraine establishes such a type of corruption offense as violation of the requirements of financial control, which consists in late submission of a declaration or in the

submission of knowingly inaccurate information about property, income, expenses and obligations of a financial nature, as well as in non-notification or untimely notification on opening a currency account in a non-resident bank institution.

We perceive this provision of the legislation critically. As you can see, in the considered article, the legislator calls the fact of untimely submission of the declaration on property, income, expenses and financial obligations a corruption offense. Therefore, as an administrative offense related to corruption, a person's missing the submission deadline and generally not submitting the necessary documentation is legislated. However, in this case, it is not clear whether the legislator took into account the purpose of committing such an act (omission) by the relevant subject.

Based on the fact that self-interest, improper investigation of the purpose of a person's act (inaction), consisting in failure to submit or late submission of a declaration on property, income, expenses and obligations of a financial nature, is a mandatory component of an administrative offense related to corruption , makes it impossible to classify such an act as an administrative offense related to corruption.

Non-submission or untimely submission of the declaration on property, income, expenses and obligations of a financial nature, provided for by the Law of Ukraine "On Prevention of Corruption", entails the imposition of a fine from ten to twenty-five non-taxable minimum incomes of citizens.

The subject of an administrative offense is a special one (clause 1, part 1, article 3 of the Law on Prevention of Corruption).

The object of this administrative offense is public relations in the field of public administration, as well as in the field of corruption prevention.

The objective side of the offense is expressed in the following forms:

1) non-submission or untimely submission of the declaration on property, income, expenses and obligations of a financial nature, provided for by the Law of Ukraine "On Prevention of Corruption");

2) non-notification or untimely notification of the opening of a currency account in a non-resident bank institution.

Both compositions are formal [97].

3) clause 5 of the first part of article 3 of this Law, are obliged to submit annually by April 1, by filling in the official website of the National Agency, the declaration of the person authorized to perform the functions of the state or local self-government (hereinafter - the declaration) for the previous year in the form , determined by the National Agency.

Persons who did not have the opportunity to submit a declaration of property, income, winnings and obligations of a financial nature for the past year at their place of work (service) by April 1 due to being on leave due to pregnancy and childbirth or to care for a child, due to temporary incapacity for work, stay outside Ukraine, in custody, submit such a declaration for the reporting year by December 31. Persons who did not submit a declaration of property, income, expenses and financial obligations for the past year for the specified reasons and are dismissed from this place of work, are obliged to submit such a declaration before the termination of the employment contract.

In the event that the subject of declaration is held liable for failure to submit, untimely submission of the declaration, or in the event that inaccurate information is found in it, the subject of declaration is obliged to submit a corresponding declaration with reliable information.

Declaring subjects who did not have the opportunity to submit a declaration of persons authorized to perform the functions of the state or local self-government by April 1 at the place of military service for the past year in connection with the performance of tasks in the interests of the defense of Ukraine during the special period, direct participation in military (combat) operations, including on the territory of an anti-terrorist operation, sending to other states to participate in international operations to maintain peace and security as part of national contingents or national personnel, submit such a declaration for the reporting year within 90 calendar days from the day of arrival at the place of military service or the day of completion of military service, defined by the second part of Article 24 of the Law of Ukraine "On Military Duty and Military Service" [21].

3) Failure to take measures to prevent and combat corruption.

Another legally defined type of corruption offense, enshrined in Article 172-7 of the Administrative Code of Administrative Offenses, is a violation of the requirements for notification of a conflict of interest. This type of administrative corruption offense consists in a person's failure to notify his immediate supervisor of the existence of a conflict of interests in cases established by law. In the considered article, a conflict of interests is understood as a contradiction between a person's personal interests and his official powers, the presence of which can affect the objectivity or impartiality of decision-making, as well as the performance or non-performance of actions during the performance of the official powers granted to him.

The second part of this article provides for responsibility for taking actions or making decisions in conditions of a real conflict of interests. This means that even if the official informs his direct supervisor or a higher-level manager about the existence of an obvious conflict, if he has made any decisions in this situation, it entails administrative responsibility for him. It is important to note that in such a case, prosecution does not require evidence of improper gain or other abuse of office. Only the fact of taking actions or making a certain decision in the conditions of a conflict of interests is sufficient.

Separate attention should be paid to the relationship between conflict of interest settlement and other anti-corruption restrictions established by the Law. After all, by their content, actions such as the acceptance of gifts by officials, their combination of public service with the performance of other paid work, joint work in a state body of relatives subordinate to the official objectively contain a conflict of interests. It is obvious that in these situations there is a conflict between the private interests of the official (receiving gifts without restrictions, combining public service with work in a controlled company, employing his relatives, etc.) and the interests of the state, which imposes on the official the duty to be honest and objective and conscientiously perform their work [58].

Responsibility in accordance with the requirements of Art. 172-7 of the Administrative Code of Administrative Offenses occurs in the event that the subject of the offense did not directly notify the manager of the existence of a conflict of interests.

A conflict of interest should be understood as a contradiction between a person's personal interests and his official powers, the presence of which can affect the objectivity or impartiality of decision-making, as well as the performance or non-performance of actions during the performance of the official powers granted to him.

The persons specified in clause 1 and clause "a", "b" p. 2, part 1, art. 3 of the Law, are obliged to: 1) take measures to prevent any possibility of a conflict of interests; 2) to immediately inform the immediate supervisor about the existence of a conflict of interests.

Therefore, the subject of an administrative offense is special.

The object of this administrative offense is public relations in the sphere of public administration, as well as in the sphere of prevention and counteraction of corruption (see the Law of Ukraine "On Prevention of Corruption").

The objective side of the offense is expressed in the failure to notify the direct manager in the cases provided for by law of the existence of a conflict of interests (formal composition).

Article 1 of the Law of Ukraine "On Prevention of Corruption" identifies potential and real conflicts of interest.

A potential conflict of interest is the presence of a person's private interest in the field in which he performs his official or representative powers, which may affect the objectivity or impartiality of his decision-making, or the performance or non-performance of actions during the performance of these powers.

A real conflict of interest is a contradiction between a person's private interest and his official or representative powers, which affects the objectivity or impartiality of decision-making, or the performance or non-performance of actions during the performance of said powers [21].

As stated in Art. 28 of the Law of Ukraine "On Prevention of Corruption", the persons specified in clauses 1, 2 of the first part of article 3 of this Law are obliged to:

1) take measures to prevent the occurrence of a real, potential conflict of interests;

2) to report no later than the next working day from the moment when the person learned or should have learned about the existence of a real or potential conflict of interests of the direct supervisor, and in the case of a person holding a position that does not involve the presence of a direct supervisor, or in a collegial body - a national agency or other body defined by law or a collegial body in which a conflict of interest arose during the performance of its powers, respectively;

3) not to take actions and not to make decisions in conditions of a real conflict of interests;

4) take measures to resolve a real or potential conflict of interest.

Finally, Article 172-9 defines as a corruption offense the failure to take measures to combat corruption, which directly consists in the failure to take measures established by law by an official or official of a state authority, an official of local self-government, a legal entity, or structural subdivisions of these bodies in case of detection of a corruption offense.

Officials and employees of public authorities, in the case of detecting a corruption offense or receiving information about its commission, are obliged to take measures to prevent such an offense and to urgently notify a specially authorized body in the field of anti-corruption in writing. Liability for violation of this provision is provided for in Art. 172-9 of the of the Administrative Code of Administrative Offenses.

The object of this administrative offense is public relations in the sphere of public administration, as well as in the sphere of prevention and counteraction of corruption (see the Law of Ukraine "On Principles of Prevention and Counteraction of Corruption").

The objective side of the offense is expressed in the failure to take measures provided for by law in case of detection of a corruption offense (formal structure).

According to Art. 1 of the Law of Ukraine of the Law of Ukraine "On the Prevention of Corruption", to persons, an offense related to corruption - an act that does not contain signs of corruption, but violates the requirements, prohibitions and restrictions established by this Law, committed by a person specified in the first part

of Article 3 of this The law for which criminal, administrative, disciplinary and/or civil liability is established by law [21].

State authorities carry out measures to prevent and counter corruption or participate in their implementation within the limits of powers defined by laws and other normative legal acts issued on their basis.

The coordination of the implementation of the anti-corruption strategy determined by the President of Ukraine by the bodies of the executive power is carried out by a specially authorized body on anti-corruption policy, which is established by the President of Ukraine and acts in accordance with the requirements established by law (the National Agency for the Prevention of Corruption).

Specially authorized entities directly carry out measures within their competence to detect, stop and investigate corruption offenses. Specially authorized entities in the field of anti-corruption are the prosecutor's office, the National Police, the National Anti-Corruption Bureau of Ukraine, the National Agency for the Prevention of Corruption.

The subject of an administrative offense is a special one (officials and employees of a state authority, local self-government, a legal entity, their structural divisions).

The subjective side of the offense is determined by the attitude to the consequences and is characterized by the presence of guilt in the form of direct or indirect intent.

An administrative offense related to corruption, provided for in Art. 172-9-1 of the Administrative Code of Administrative Offenses of the prohibition of placing bets on sports related to the manipulation of an official sports competition, which differs from other corruption offenses provided for by the Administrative Code of Administrative Offenses, as it is not directly covered by the Law of Ukraine "On Prevention of Corruption". There are no references to this administrative-legal prescription in the Law. Accordingly, the subject of this offense also differs.

By the way, let's emphasize that not all official offenses are acts of corruption. The criteria for distinguishing them are the motive and purpose of committing such an offense. We emphasize that any corruption offense presupposes the presence, so to

speak, of a corrupt motive, a corrupt goal. The motive for the corrupt behavior of a representative of the authorities is the desire to satisfy one's needs and (or) the interests of other persons at the expense of the interests of society. Corruption purpose refers to the desire of a powerful official to obtain property or non-property benefit for himself and (or) other persons to the detriment of the interests of society.

If the category of "self-interest" is included in other types of corruption offenses established by the current Code of Ukraine on Administrative Offences (i.e., the commission of corrupt actions by persons for selfish motives is assumed), then the provisions of part 1 of Art. 172-6 of this Code establishes only improper fulfillment by a person of the prescribed rules of public service.

So, as we can see, the legislator did not properly disclose the issue of the mechanism of bringing a person to the administrative responsibility for violation of financial control requirements. And that is why the problem arises of the validity of bringing a person to justice for the fact of missing the deadline for submitting financial reporting documentation, failing to submit it on time in the presence of a possible valid reason for such an act, and what is more, in the absence of any selfish motive in general.

In connection with the above considerations, we believe that the fact of untimely submission of financial reporting documentation by an official cannot be considered as provided by the provisions of Art. 172-6 of the Code, i.e. in the context of committing a corrupt act.

Therefore, it is expedient to consider the existence of actions endowed with all the signs of corruption, but which, due to a minor public danger for the state and society, are not subject to the effect of national legislation and are limited only to moral condemnation by the public.

In this case, it is more about nepotism, which consists in nominating persons to managerial positions on the basis of blood relations, and protectionism as patronage on the part of officials towards their subordinates, as well as subjects of entrepreneurial activity in exchange for remuneration [59, p. 18]. Based on the research of V. S. Komisarov, L. V. Bilinska names the following types of corruption:

− abuse of power or official position, excess of power or official authority, other official crimes committed to satisfy selfish or other personal interests or the interests of other persons;

− embezzlement of state, collective or private property using official position;

- illegal receipt of material or other goods, benefits or other advantages;

- receiving credits, loans, assistance;

- acquisition of securities; real estate or other property using benefits or advantages not provided for by law, or to which a person is not entitled;

- bribery;

- carrying out business activities directly or through intermediaries or proxy persons using power or official powers, as well as opportunities related to them;

- assisting individuals and legal entities with the use of their official position in carrying out entrepreneurial or other activities with the aim of illegally obtaining material or other benefits, benefits or advantages for this;

− illegal interference using official position in the activities of other state bodies or officials with the aim of preventing them from fulfilling their powers or demanding the adoption of an illegal decision;

- use of information obtained during the performance of official duties for selfish or other personal interests;

- unjustified refusal to provide relevant information or late provision of it; provision of unreliable or incomplete official information;

- providing unjustified advantages to individuals or legal entities through the preparation and adoption of certain normative legal acts or management decisions;

- patronage due to selfish or other personal interests in the appointment of a person who, in terms of business and professional qualities, has no advantages over other candidates [60, p. 126].

At the same time, the authors do not distinguish the specified acts of corruption depending on their purpose, subject composition and other criteria, which, in turn, complicates their qualification and, as a result, makes it impossible to apply the necessary responsibility in the form of appropriate sanctions to such persons.

1.3 The current state of judicial practice in handling cases of administrative offenses related to corruption

Over the past few years, significant changes have taken place in the political, economic and legal spheres of public life in Ukraine. The level of national self-awareness of the population has increased significantly. In the end, the Ukrainian people finally made their choice in favor of integration into the European Community. It was European values that became the foundation for further reforms in various spheres of the country's social life. In a certain way, the level of legal culture and legal awareness of the population - integral attributes of a democratic legal state - has changed. For the first time in many years, Ukraine took significant steps to meet its citizens, having carried out a number of democratic reforms in the system of national legislation.

Along with the decriminalization and humanization of criminal legislation, the adoption of new criminal procedural legislation, corresponding changes were also made in the legislation in the field of the judicial system and judicial activity, the constant and priority tasks of which are to raise the authority of the court in society and restore public trust. It is possible to implement the set tasks only under the conditions of overcoming the problem of "selective justice" and destroying the corruption component in the middle of the judicial system. Corruption of judges has a negative impact, including on the dynamics of committing criminal and administrative offenses related to corruption in Ukraine.

Before starting a study of the effectiveness of consideration of cases of administrative offenses related to corruption by the courts of Ukraine, as well as proceeding to an analysis of the current state of judicial practice in the consideration of cases of this category, it is necessary to pay some attention to the changes that have taken place in Ukrainian legislation, in particular, in the sphere of the judiciary and judicial activity. Consideration of cases of corruption offenses within the framework of administrative proceedings at the proper level today would be impossible without the renewal of the judicial system, on the one hand, and the adoption of new legislative acts in the field of combating corruption offenses, on the other hand.

For quite a long time, Ukraine lacked proper legislation in the field of prevention and countermeasures against administrative offenses related to corruption. The Law of Ukraine "On Combating Corruption" dated October 5, 1995 and some provisions of the Code of Ukraine on Administrative Offenses of December 7, 1984 (hereinafter referred to as the Code of Administrative Offenses) no longer meet the requirements of modern times. The same can be said about Resolution No. 13 "On the practice of court consideration of cases of corruption and other offenses related to corruption" adopted by the Plenum of the Supreme Court of Ukraine on May 25, 1998, which is still in force today.

Thus, the analysis of the data of the Supreme Court of Ukraine for the years 2000 - 2005 shows that the largest number of corruption offenses during this time period was registered in 2001. Courts considered cases against 8,692 persons. In 2000, the number of persons whose cases were considered by the courts was 6,653, in 2002 – 6,983, in 2003 – about 5,700, in 2004 – 5,700, in 2005 – 5,900. The number of persons who were actually prosecuted for the specified violations with the application of fines in 2000 was 2,514 (37.7% of all persons whose cases were considered by the courts), in 2001 – 3,123 (35.92%) , in 2002 – 3093 (44.29%), in 2003 – 3033 (53.21%), in 2004 – 3000 (52.63%), in 2005 – 3900 (66.1 %) [61, p. 5]. The given dynamics show that the number of persons responsible for committing corrupt acts is gradually increasing, and their number is growing significantly. If in 2000 - 2001 only one out of three persons was brought to justice, the reports on which were sent to the court, then in 2003 - 2004 - every second, and in 2005 - two out of three. However, despite the positive developments, such a situation could still not be considered satisfactory.

In the period from 2006 to 2011, the courts received approximately the same number of cases of administrative corruption offenses annually (in 2006 – 6,632, in 2007 – 6,881, in 2008 – 7,167, in 2009 – 6,067 , in 2010 - 6039). Using the basic method of determining the dynamics of committed offenses, we can state that the number of corruption offenses in 2010 compared to 2006 decreased by 8.9%. In 2011, local courts of general jurisdiction received 686 cases of corruption, directed in accordance with the Law of Ukraine "On Combating Corruption". The decrease in

the number of cases in 2011 does not indicate a decrease in the level of corruption offenses, but is explained primarily by the fact that on April 7, 2011, the new Law of Ukraine "On the Principles of Prevention and Counteraction of Corruption" was adopted.

At the same time, the courts of Ukraine considered cases with the issuance of a resolution: in 2006 – 5,590 people, in 2007 – 6,478, in 2008 – 6,478, in 2009 – 5,503, in 2010 – 5,535, in 2011 – 568. Among them, the following were brought to administrative responsibility through the application of fines: in 2006 – 4095 people (68.4%), in 2007 – 4567 (72.7%), in 2008 – 4735 (73%), in 2009 – 4147 (75.4%), in 2010 - 4430 (80%), in 2011 - 382 (67.3%). In fact, during the years 2006 - 2011, every fourth person, in respect of whom a report on the commission of a corrupt act was drawn up, escaped administrative responsibility. The majority of those brought to administrative responsibility are civil servants of the sixth-seventh categories. In fact, 70% of the administrative cases on the commission of the first and second categories of corruption violations by civil servants, which were submitted for consideration to judicial authorities, were closed, that is, only every fourth of the offenders of this category was brought to justice [10]. One gets the impression that there is no corruption among the highest representatives of state power. Such a state can hardly be considered satisfactory.

In the absence of an administrative offense, in 2006 cases were closed against 1,037 persons (54.72% of all closed cases), in 2007 – 1,045 (60.96%), in 2008 – 1,208 (69.3%), in 2009 – 970 (71.69%), in 2010 – 775 (70.39%), in 2011 – 94 (50.53%). The given statistics indicate insufficient effectiveness of anti-corruption agencies, rare cases of wrongly drawing up protocols on the commission of an offense and insufficiently high level of training of employees of anti-corruption units, low quality of drawing up administrative protocols, superficiality of conducted inspections, without investigating all the circumstances of the offense committed.

Among the persons brought to administrative responsibility during the considered period (2006 - 2011), there is a tendency to decrease the number of offenses committed by civil servants, while simultaneously increasing the number of corrupt acts by officials of local self-government bodies. If in 2006, the share of civil

servants in the total number of persons brought to administrative responsibility for corruption offenses was 52.5%, then in 2010-2011 it was 34.1% and 35.6%, respectively. Instead, officials of local self-government bodies in 2006 accounted for 26.8% of the persons to whom administrative fines were applied, and in 2010 - 2011, respectively, 48.2% and 46.6%. Such a trend is definitely a consequence of the ill-considered state policy of combating corruption, which for many years was aimed at overcoming this phenomenon among civil servants, without paying the necessary attention to the elimination of corruption risks in local self-government bodies.

Information about the real amount of damage caused to the state by the commission of corruption offenses is also important. In 2007, the material damage from their commission was UAH 69,807, in 2008 – UAH 116,371, in 2009 – UAH 394,594, in 2010 – UAH 315,595, in 2011 – UAH 6,184. And although the size of these losses is relatively small (in particular, compared to corruption crimes), this does not at all indicate that the specified category of offenses does not cause significant damage, but, on the contrary, confirms that the consequences of the specified actions are mostly immaterial and that social their harmfulness is manifested not so much in specific losses, but in causing damage to the authority of state authorities and local self-government bodies, as well as to relations that ensure normal official activity.

Of the losses incurred, the following were compensated: in 2007 – 12,634 UAH (18.09%), in 2008 – 1,843 UAH (1.58%), in 2009 – 751 UAH (0.19%), in 2010 – UAH 17,168 (97.46%). Statistics clearly show that until 2010, compensation for the damage caused to the state by administrative corruption offenses was not a priority task of anti-corruption bodies. In fact, during the years 2006 - 2011, every fourth person, in respect of whom a report on the commission of a corrupt act was drawn up, escaped administrative responsibility. The majority of those brought to administrative responsibility are civil servants of the sixth-seventh categories. In fact, 70% of administrative cases on the commission of first- and second-category corruption violations by civil servants, which were submitted for consideration to judicial bodies, were closed, that is, only one in four of the offenders of this category was brought to justice. One got the impression that corruption among the highest

representatives of state power was completely absent. Such a state could hardly be considered satisfactory [10].

An important event in the field of prevention and counteraction of corruption offenses was the adoption by the legislator on April 7, 2011 of the Law of Ukraine "On Principles of Prevention and Counteraction of Corruption", as well as the addition of Chapter 13-A "Administrative offenses related to corruption", within the scope of which it is directly stipulated which actions are recognized as administrative corruption offenses and which sanctions may be applied to persons guilty of them.

Thus, already in 2012, the following were brought to administrative responsibility: 1,150 people (57.87%) – for violation of restrictions on the use of an official position (Article 172-2 of the Code of Administrative Offenses), 330 (16.6%) – for violation of financial control requirements (art. 172-6), 207 persons (10.41%) – for violation of restrictions on co-operation and combination with other types of activities (art. 172-4), 109 (5.48%) – for offering or providing an illegal benefit (art. 172-3), 83 (4.17%) – for violation of the requirements for reporting conflicts of interest (art. 172-7), 51 persons (2.5%) – for committing other corruption offenses [62, p. 3-5].

On April 18, 2013, Law of Ukraine No. 221-VII "On Amendments to Certain Legislative Acts of Ukraine on Bringing National Legislation into Compliance with the Standards of the Criminal Convention on Combating Corruption" was adopted. In accordance with the provisions of this legislative act, administrative responsibility for the actions provided for in Articles 172-2 and 172-3 of the Administrative Code of Administrative Offenses were canceled, and the specified actions were transferred from the category of administrative offenses to the category of crimes.

As O. V. Klock rightly points out, the exclusion of Art. 172-2 and 172-3 of the Code of Administrative Offenses, although it resolved the issue of distinguishing these acts from the types of crimes provided for in Articles 368, 368-2, 368-3, 369 of the Criminal Code of Ukraine, however, in fact, it may lead to: 1) wide application measures against criminal repression against such actions, which, although socially harmful, but obviously do not reach such a level that they are considered socially dangerous; 2) a significant increase in spending of state resources on the fight against

petty corruption; 3) neutralization of the importance of measures of administrative responsibility to combat corruption offenses that did not cause and did not create a threat of causing significant damage [18, p. 94].

The largest number of changes in national legislation in the field of judiciary and corruption prevention took place during 2014-2016. During this period, the following Laws of Ukraine were adopted: "On Purification of Power" of September 16, 2014, "On Prevention of Corruption" and "On the National Anti-Corruption Bureau of Ukraine" dated October 14, 2014, "On Ensuring the Right to a Fair Trial" of February 12. 2015, "On Preventing the Influence of Corruption Offenses on the Results of Official Sports Competitions" of November 3, 2015. At the same time, a separate, independent system of executive authorities was introduced in the country for the first time, which are engaged in the prevention, detection, termination and disclosure of corruption crimes, as well as ensure the formation and implementation of the state anti-corruption policy - the National Anti-Corruption Bureau of Ukraine and the National Agency for the Prevention of Corruption .

Finally, on June 2, 2016, the legislator simultaneously introduced a number of significant changes to Chapter VIII "Justice" of the Constitution of Ukraine, as well as adopted a new Law of Ukraine "On the Judiciary and the Status of Judges", which turned out to be the peak of judicial reform in the country.

Yes, according to Art. 124 of the Constitution of Ukraine "justice in Ukraine shall be exercised exclusively by courts." Delegation of the functions of courts, as well as appropriation of these functions by other bodies or officials is not allowed... The people directly participate in the administration of justice through juries" [1, p. 50]. Thus, the institution of people's assessors, which existed both in the previous edition of the Basic Law and in the Law of Ukraine "On the Judiciary and the Status of Judges" in the edition of 07.07.2010, was finally abolished.

In part 6 of Art. 124 of the Constitution of Ukraine also states that "Ukraine may recognize the jurisdiction of the International Criminal Court under the conditions specified by the Rome Statute of the International Criminal Court." Enshrining this provision in the Basic Law is an extremely important achievement and another step on the way to building a civil society in our country and raising its

authority in the international arena. Thus, according to Part 1 of Art. 27 of the Rome Statute of the International Criminal Court "the provisions of the Statute apply equally to all persons, regardless of the official status of one or another person. In particular, such official statuses as head of state or government, member of government or parliament, elected representative or government official in no case exempt a person from criminal responsibility and are not in themselves grounds for mitigating a court sentence" [90].

When considering the provisions of the updated Basic Law of Ukraine, one should pay attention to those of them that relate to the depoliticization of the judicial system.

So, for example, today political structures do not have the opportunity to influence the promotion of judges. According to the current constitutional norms, a judge holds office for an indefinite period (Article 126), and the appointment of a judge is carried out by the President of Ukraine at the request of the High Council of Justice (Article 128) [1].

Also worthy of attention is the list of new processes to prevent corruption in the judiciary: in-depth monitoring of judges' lifestyles, mandatory declarations of income, family ties, etc. Thus, according to the Law of Ukraine "On the Judiciary and the Status of Judges", a candidate for the position of a judge must submit to the High Qualification Commission of Judges, among other documents: 1) a declaration of the judge's integrity, which, in particular, contains a statement about the correspondence of the judge's standard of living to the one he has and members of his family to the property and income received by them, non-commitment of corruption offenses, non-interference in justice administered by other judges, etc. (Article 62); 2) the declaration of the person authorized to perform the functions of the state or local self-government, which is carefully checked by the National Agency and consists in clarifying the reliability of the declared information, the accuracy of the assessment of the declared assets, checking for the presence of a conflict of interests and signs of illegal enrichment (Article 75) and 3) declaration of family ties of a candidate for the position of judge (Article 76) [20].

In the future, the fight against corruption in the judiciary should also be facilitated by a significant increase in the salaries of judges who pass all qualification tests. Thus, in accordance with Clause 24 of the Final and Transitional Provisions of the Law of Ukraine "On the Judiciary and the Status of Judges", the amount of the official salary of a judge, in addition to that specified in Clause 23 of this section, is:

1) from January 1, 2017:

a) for a judge of a local court - 15 subsistence minimums for able-bodied persons, the amount of which is set on January 1 of the calendar year;

b) for a judge of the appellate court and a higher specialized court - 25 subsistence minimums for able-bodied persons, the amount of which is set on January 1 of the calendar year;

c) for a judge of the Supreme Court - 75 subsistence minimums for able-bodied persons, the amount of which is set on January 1 of the calendar year;

2) from January 1, 2018:

a) for a judge of a local court - 20 subsistence minimums for able-bodied persons, the amount of which is set on January 1 of the calendar year;

b) for a judge of the appellate court and a higher specialized court - 30 subsistence minimums for able-bodied persons, the amount of which is set on January 1 of the calendar year;

3) from January 1, 2019:

a) for a judge of a local court - 25 subsistence minimums for able-bodied persons, the amount of which is set on January 1 of the calendar year;

b) for a judge of the appellate court and a higher specialized court - 40 subsistence minimums for able-bodied persons, the amount of which is set on January 1 of the calendar year;

4) from January 1, 2020:

a) for a judge of a local court - 30 subsistence minimums for able-bodied persons, the amount of which is set on January 1 of the calendar year;

b) for a judge of the appellate court and a higher specialized court - 50 subsistence minimums for able-bodied persons, the amount of which is set on January 1 of the calendar year [20].

In our opinion, the decent salary of the "employees" is one of the determining factors in the fight against corruption in the justice system, since a judge with a low salary is unlikely to be able to make fair, objective decisions.

About the effectiveness of the latest changes that took place in national legislation in the field of combating offenses related to corruption, as well as in the field of the judicial system and judicial activity can be judged from the analysis of the results of the activities of anti-corruption and judicial bodies.

Thus, in 2014, the court received 2,424 cases of administrative offenses related to corruption, in 2015 – 2,147 cases, in 2016 – 2,994 cases. At the same time, the courts of Ukraine considered administrative cases with a ruling: in 2014 – 2,304 (95.0%), in 2015 – 2,066 (96.2%), in 2016 – 2,665 (89%). Of these, 1,914 (83.0%) people were brought to administrative responsibility in 2014, 1,720 (83.2%) people in 2015, and 1,900 (71.2%) people in 2016. At the same time, in the absence of an administrative offense or event, in 2014, cases were closed against 232 persons (59.4% of all closed cases), in 2015 – 211 persons (60.9%), in 2016 – 393 (51.3%) [63].

The analysis of the structure of administrative offenses related to corruption, committed during 2014-2016, allows us to conclude that most of them are administrative offenses related to the violation of the requirements for notification of a conflict of interest (Article 172-7 of the Code of Administrative Offenses), for which 2,911 (52.6%) persons were held responsible, and 1,947 (35.2%) persons were charged with violation of financial control requirements (Article 172-6 of the Code of Administrative Offenses of Ukraine). This is followed by administrative offenses related to violation of restrictions on co-operation and co-operation with other types of activities (Article 172-4 of the Code of Administrative Offenses of Ukraine) – 376 (6.8%) persons; violation of legal restrictions on receiving a gift (Article 172-5 of the Code of Administrative Offenses of Ukraine) – 166 (3%) persons; failure to take anti-corruption measures (172-9 of the Code of Administrative Offenses of Ukraine) – 91 (1.6%) persons and illegal use of information that became known to the person in connection with the performance of official powers – 38 (0.7%) persons [63].

Comparing the statistics of prosecution of persons for administrative corruption offenses for 2006 - 2011 with similar information for 2014 - 2016, it should be noted

that with a general decrease in the number of cases of administrative offenses, the percentage of persons who were prosecuted for administrative offenses increased significantly. Such a situation indicates an increase in the effectiveness of anti-corruption agencies and a relatively high level of training of employees of anti-corruption units, as well as a high quality of drawing up administrative protocols and high-quality inspections, with a proper investigation of all the circumstances of the offense committed.

A positive role in overcoming corruption and in improving the judicial system was played by the introduction of new administrative and legal prescriptions into the legislation of Ukraine, in particular, Articles 172-4 and 172-9 of the Code of Administrative Offenses, which provide for administrative liability for administrative offenses related to the violation of restrictions on co-operation and combination with other types of activity (Article 172-4 of the Administrative Code of Administrative Offenses) and offenses related to failure to take measures to combat corruption (Article 172-9 of the Administrative Code of Administrative Offenses). In our opinion, the presence of precisely these normative prescriptions in the Administrative Code of Administrative Offenses should contribute to strengthening the legality of the activities of judicial and law enforcement bodies, as well as encourage judges to make fair, objective decisions, gradually destroying "circular bail", "nepotism" and other corrupt manifestations of the activities of these bodies

On July 20, 2016, in the premises of the Marinsky district court of Donetsk region, a court hearing was held on the administrative claim of citizen K. against the deputy head of the Volnovasky local prosecutor's office and an official of the Marinsky VP of the Volnovasky VP of the GUNP in Donetsk region for refusing to draw up an administrative protocol for an offense related to corruption.

In his application, citizen K. asks the court to satisfy a number of claims, in particular, to recognize as illegal the inaction of the deputy head of the Volnovasky local prosecutor's office and an official of the Marinsky VP of the Volnovasky VP of the GUNP in the Donetsk region in the case of bringing to administrative responsibility for the commission of an offense related to with corruption of officials of the executive committee of the Kurakhiv city council.

After listening to the explanations, arguments and objections of the parties, the court decided to recognize as illegal the inaction of the deputy head of the Volnovasky local prosecutor's office and the head of the Marinsky VP of the Volnovasky VP of the GUNP in Donetsk region for refusing to draw up an administrative protocol for an offense related to corruption, provided for in Article 172-4 of the Code of Administrative Offenses in relation to the persons indicated by the citizen K. [64].

On the other hand, as before, civil servants of the 4-5 (lowest) categories are in most cases brought to administrative responsibility for committing offenses related to corruption: in 2014 – 195 people (80% of the total number of civil servants, brought to administrative responsibility), in 2015 – 105 people (81.4%) and in 2016 – 62 people (85%) [63].

Among the persons brought to administrative responsibility during the considered period (2014 - 2016), there is a tendency to decrease the number of offenses committed by civil servants, while the number of corrupt acts by officials of local self-government bodies simultaneously increases. If in 2014 the specific weight of civil servants in the total number of persons brought to administrative responsibility for corruption offenses was 10.1%, then in 2015-2016 it was already 7.5% and 4.47%, respectively. Instead, in 2014, officials of local self-government bodies made up 16.8% of the persons to whom administrative sanctions were applied, and in 2015 - 2016, respectively, 18.4% and 28.2% [63]. At the same time, such a trend has remained unchanged for almost a decade, which is definitely a consequence of the ill-considered state anti-corruption policy, which for many years was aimed at overcoming this phenomenon among civil servants, without paying the necessary attention to the elimination of corruption risks in local self-government bodies.

Thus, we can conclude that with the adoption of new anti-corruption laws and the improvement of legislation in the field of the judiciary in the period from 2011 to 2016, a fundamentally new system of preventing and countering corruption began to operate in Ukraine, which is mainly preventive in nature, aimed, on the one hand, to create conditions that make corruption manifestations impossible or as difficult as possible, and from the second - to strengthen responsibility for corruption offenses that have already taken place, to counter them with traditional legal methods [65, p.

124]. Updating the mechanism of preventing and countering corruption by improving the innovative Laws of Ukraine "On the National Anti-Corruption Bureau", "On the Prevention of Corruption" and "On the Judiciary and the Status of Judges" had, in general, a positive effect, as evidenced by the results of the work of anti-corruption and judicial bodies of Ukraine today.

Conclusions to the first chapter

1. The fight against corruption includes such basic components as prevention and countermeasures. Quite often in legal science, these terms are considered synonymous or, on the contrary, opposed to each other, but there is a close relationship between the concept of "prevention" and the concept of "countermeasure", although they are completely different in nature.

Prevention is primary before countermeasures. In the first case, this or that negative action has not yet occurred, but there is a real threat of its occurrence, and therefore the main goal of "prevention" is to forecast all possible cases of the occurrence of this negative action, as well as the development and implementation of preventive measures to prevent the corresponding undesirable phenomenon (actions). In the second case, a certain negative action has already taken place or is happening in real time and the main task is to eliminate this negative phenomenon (action) by introducing an appropriate set of measures (countermeasures, obstacles). As a rule, the experience gained as a result of countermeasures is subsequently laid as a basis for prevention measures.

Thus, there is a close relationship between the concept of "prevention" and the concept of "countermeasure", although they are completely different in nature.

2. The Institute for the Prevention and Counteraction of Administrative Offenses Related to Corruption has its own history of formation and development. It is proposed to conditionally divide the process of formation and development of the institution of prevention and countermeasures against administrative offenses related to corruption into three periods. The conducted analysis demonstrates that the institution of preventing and countering administrative offenses related to corruption

did not appear suddenly in Ukrainian legislation and is currently in the stage of formation and development.

3. A significant update of the legislation in the field of prevention and counteraction of corruption offenses, which took place in recent years, generally had a positive effect on the development of the relevant institute. Emphasis of state policy has gradually shifted from combating administrative offenses related to corruption as a relatively massive phenomenon to their prevention. The toolkit of preventive means and methods of preventing corruption risks in the public service has expanded significantly. In addition, new mechanisms were introduced to prevent corruption in the judiciary, in particular: in-depth monitoring of judges' lifestyles, mandatory declarations of income, family ties, etc.

4. The last decade in Ukraine has seen a significant transformation of the political and legal culture of society, the strengthening of its national self-awareness and the desire to modernize its own state and legal institutions according to Western European standards. The anti-corruption legislation was also significantly updated. With the adoption of new anti-corruption laws and the improvement of legislation in the field of the judiciary, a fundamentally new system of preventing and countering corruption began to operate in Ukraine.

5. Corruption as a legal phenomenon is manifested in various official violations recognized by law as illegal. In turn, corruption offenses are a product of people's social activity, as a result of society's functioning.

6. The term "administrative offense related to corruption" should be considered in a broad and narrow sense: in a broad sense - as directly culpable, illegal behavior of an entity that encroaches on the established management procedure and for which administrative legislation provides for responsibility; in a narrow way - as the actions of a person with a deforming state of legal consciousness, whose activity is related to the sphere of public administration, through the implementation of actions or, on the contrary, inaction, which is connected with the use of the official position by the person during his public service.

7. Today, types of corruption offenses are enshrined at the legislative level by the Code of Ukraine on Administrative Offenses (Articles 172-4 - 172-9 of the

Administrative Code of Administrative Offenses). This list is exhaustive. At the same time, corrupt activity is not always subject to the rules of criminal or administrative law. There may be cases when it is only immoral and does not require a legal response from the state.

8. For quite a long time, proper legislation in the field of prevention and countermeasures against administrative offenses related to corruption was absent in Ukraine. For many years, the state anti-corruption policy was aimed at overcoming this phenomenon among civil servants, without paying the necessary attention to the elimination of corruption risks in local self-government bodies.

9. A positive role in overcoming corruption and in improving the judicial system was played by the introduction of new administrative and legal prescriptions into the legislation of Ukraine, in particular, articles 172-4 - 172-9 of the Administrative Code of Administrative Offenses, which provide for administrative liability for administrative offenses related to corruption. The presence of these regulations in the Code of Administrative Offenses of Ukraine should contribute to the strengthening of legality in the activities of judicial and law enforcement bodies, as well as encourage judges to make fair, objective decisions, gradually destroying the "circular guarantee", "nepotism" and other corrupt manifestations of the activities of these bodies.

10. The largest number of changes in national legislation in the field of the judiciary and corruption prevention took place during 2014-2016 with the adoption of new anti-corruption laws and the improvement of legislation in the field of the judiciary, a fundamentally new system of combating corruption began to operate in Ukraine, which is mainly preventive in nature, aimed, on the one hand, at creating conditions that make corruption impossible or as difficult as possible, and on the other - on strengthening responsibility for corruption offenses that have already taken place, on countering them with traditional legal methods.

11. Updating the mechanism of preventing and countering corruption by improving the innovative Laws of Ukraine "On the National Anti-Corruption Bureau", "On the Prevention of Corruption" and "On the Judiciary and the Status of Judges" had, in general, a positive effect, as evidenced today by the results of the anti-corruption and judicial bodies of Ukraine.

CHAPTER II

REGULATORY PROVISION OF PREVENTING AND COMBATING ADMINISTRATIVE OFFENSES RELATED TO CORRUPTION

2.1. Normative and legal regulation of the prevention and counteraction of administrative offenses related to corruption

The process of integration into the European Community remains an unchanged and determining vector in the domestic and foreign policy of Ukraine. According to Art. 11 of the Law of Ukraine "On the Principles of Internal and Foreign Policy", the main principles of foreign policy are, in particular, ensuring Ukraine's integration into the European political, economic, and legal space with the aim of gaining membership in the European Union (hereinafter - the EU) [68]. In view of this, taking into account the rather fast pace of European integration that has been taking place in the last few years, the need for the development and adoption by the Ukrainian legislator of a number of normative legal acts for the implementation of a considerable number of conditions defined by the EU has become urgent. In particular, it is about solving the problem of selective justice, fighting corruption, improving the investment and business climate, etc.

As mentioned earlier, corruption is currently one of the main obstacles to Ukraine's accession to the EU. The quantitative indicator of administrative offenses in the field of corruption, which is growing rapidly every year, is especially impressive.

The results of various sociological studies, conducted by both Ukrainian and international institutions, testify that the citizens of Ukraine also mention the problem of corruption in all branches of government, especially the executive and judicial branches, among the primary problems, along with the low level of wages and the low level of social security. For them, corruption is a limiting factor in ensuring the rights and freedoms guaranteed to them by the Constitution of Ukraine, violates the principles of equality of all before the law and social justice, is a factor that replaces the law and establishes its own rules in society. Under such conditions, one loses faith in the power of the law, the state and the authorities that act on behalf of this state and must ensure the legal rights of its citizens [69, p. 66].

When developing an anti-corruption policy in Ukraine, it is important to define the strategy, tactics and specific measures of anti-corruption activities. Accordingly, the basis of such a policy is the development and adoption of anti-corruption legislation. The concept of "anti-corruption legislation" is a collective one and refers to acts of different legal force, which are aimed at preventing and countering corrupt acts by public officials. It covers normative legal acts of different legal force, which include: laws, resolutions of the Verkhovna Rada of Ukraine, acts of the President and the Cabinet of Ministers of Ukraine, acts of a departmental nature.

Anti-corruption legislation should be understood as laws and other normative legal acts, which establish special legislative provisions on the prevention of corruption, detection and cessation of its manifestations, determine the signs of corruption offenses and responsibility for their commission, regulate the activities of state bodies or their special divisions, under the competence of which includes combating corruption, coordinating such activity or controlling and supervising it.

The essence of anti-corruption legislation is to: 1) limit, neutralize or eliminate factors of corruption, prevent conflicts of interests (personal and official), normatively define the framework of legal and ethical behavior of subjects responsible for corruption offenses, make the commission of corruption offenses an unprofitable matter and risky, and in the end achieve that such a person honestly and conscientiously fulfills his official duties; 2) to clearly define the signs of corruption offenses, to provide for adequate measures of responsibility for their commission, to properly regulate the activities of state authorities and their individual divisions that directly combat corruption.

The current anti-corruption legislation of Ukraine, depending on its direction and the subject of regulation, can be conditionally divided into three groups:

1) normative legal acts, which provide provisions on general social and special criminological prevention of corruption;

2) regulatory legal acts that determine the signs of corruption offenses and establish responsibility for them;

3) regulatory legal acts that regulate the activities of state bodies and their separate divisions regarding direct law enforcement activities in the field of

prevention and counteraction of corruption, its coordination, implementation of control and supervision over it [69, p. 81, 82].

If we characterize the first group of such legislative acts, it should be noted that the provisions of the preventive anti-corruption direction are concentrated in many normative legal acts, both basic for all spheres of social life and those whose subject of regulation is a separate branch of the national economy or a certain sphere social relations.

The Constitution of Ukraine contains a number of provisions that can be classified as anti-corruption. The key of them is the provision recorded in Art. 19, which states: "Bodies of state power and local self-government bodies, their officials are obliged to act only on the basis, within the limits of authority and in the manner provided by the Constitution and laws of Ukraine" [1]. This article basically defines the framework of lawful behavior of officials of state authorities and local self-government bodies. It fixes several important points in terms of anti-corruption: 1) determines that the specified persons can act only in the manner determined for them; 2) the grounds, method of their actions, as well as their powers are determined by the law, and not by any other normative legal act. In essence, Art. 19 of the Constitution of Ukraine can be defined as a fundamental anti-corruption legal norm of our state, since it does not allow any deviations in the activities of the officials of the specified bodies from their behavior determined by law.

A number of other articles of the Constitution of Ukraine establish restrictions on certain categories of persons authorized to perform state functions, aimed at preventing conflicts of interest (Articles 42, 78, 103, 120, 127), or requirements for their behavior (this, in particular, concerns the declaration of income and property (Article 67), the procedure for using funds from the state budget of Ukraine (Article 95) [1]. The Constitution of Ukraine contains a number of other provisions that can be considered anti-corruption.

Relevant provisions of an anti-corruption nature, which refer to certain requirements and restrictions related to the status of a person (provisions regarding incompatibility) authorized to perform state functions, are contained, in particular, in the Laws of Ukraine "On the Status of a People's Deputy of Ukraine" (Article 3) [73

], "On the High Council of Justice" (Article 6) [74], "On the National Bank of Ukraine" (Article 65) [75], "On the Constitutional Court of Ukraine" (Article 16) [76], "On the Judiciary and the Status of Judges" (Article 5) [20], "On the Prosecutor's Office" (Article 46) [77], "On the National Police" (Article 61) [78], "On Local State Administrations" (Article 12) [79], "On Service in Local Self-government Bodies" (Articles 8, 12) [80], "On Diplomatic Service" (Articles 31, 32) [81], "On Entrepreneurship" (Article 2) [82] , "On the National Anti-Corruption Bureau of Ukraine" (Article 6) [22], "On Social and Legal Protection of Military Personnel and Members of their Families" (Article 8) [83], "On Audit Activity" (Article 19) [84], "About the Central Election Commission" (Article 7) [85], "On the Commissioner of the Verkhovna Rada of Ukraine for Human Rights" (Article 8) [86], Customs Code of Ukraine (Article 153) [87].

The Law of Ukraine "On Civil Service" of December 10, 2015 No. 889-VIII provided for some preventive anti-corruption measures, defining, in particular, certain restrictions related to the completion of civil service, ethical obstacles to being in civil service, the inadmissibility of abuse of one's official position position, violation of the Constitution and laws of Ukraine (Articles 31, 32, 44).

The main legal act, which contains special anti-corruption provisions of a preventive nature, is the Law of Ukraine "On Prevention of Corruption" of 10.14.2014 No. 1700-VII [21]. The existence of such a law makes Ukraine one of the few countries created in the post-Soviet space, in which a special anti-corruption law is in force, which provides for special restrictions for persons authorized to perform state functions, other requirements for them, defines the signs of corruption offenses and responsibility for their commission (the so-called law of direct action), and also establishes the procedural features of consideration of cases of such offenses.

The anti-corruption essence of the Law of Ukraine "On Prevention of Corruption" consists in the fact that it defines the legal and organizational principles of the functioning of the system of prevention of corruption in Ukraine, the content and procedure of application of preventive anti-corruption mechanisms, rules for eliminating the consequences of corruption offenses. Its preventive nature is determined by two main points: 1) it defines certain limitations for the subjects of

responsibility for corruption offenses, thus preventing the emergence of corrupt relations; 2) it establishes criminal, administrative, civil and disciplinary liability for violation of restrictions aimed at preventing and combating corruption.

The main purpose of the prohibitions and restrictions specified in the provisions of the Law of Ukraine "On Prevention of Corruption" is to prevent the use by subjects of responsibility for corruption offenses of their official powers and other opportunities provided by their official status for illegal personal enrichment or the enrichment of other persons.

The second group of anti-corruption legislation, depending on the nature of the committed corruption offense, provides for criminal, administrative, disciplinary and civil liability.

Criminal responsibility for the commission of corruption crimes arises in the cases provided for by the Criminal Code of Ukraine.

Administrative responsibility arises, in particular, for the commission of all offenses provided for by the Laws of Ukraine "On Prevention of Corruption" and "On Amendments to Certain Legislative Acts of Ukraine on Bringing National Legislation into Compliance with the Standards of the Criminal Convention on Combating Corruption" of April 18, 2013 No. 221 - VII. Administrative responsibility for committing corruption offenses is also provided for in the Code of Ukraine on Administrative Offenses (Articles 172-4 – 172-9).

Disciplinary responsibility for corruption offenses is established, in particular, by the Laws of Ukraine "On Civil Service" of December 10, 2015 (Articles 64 - 67), "On Service in Local Self-Government Bodies" of June 7, 2001 No. 2493-III (Article 20) etc.

The third group of anti-corruption legislation includes normative legal acts that regulate the activities of state bodies and their separate divisions in the prevention and counteraction of corruption, its coordination, control and supervision. The laws containing the norms regulating the above-mentioned aspects of law enforcement activities in the field of anti-corruption include the laws of Ukraine "On Prevention of Corruption", "On Organizational and Legal Basis of Combating Organized Crime", "On the Prosecutor's Office", "On the National Police", "About the Security Service

of Ukraine". Among the relevant international treaties of Ukraine, whose binding consent was given by the Verkhovna Rada of Ukraine, the following should be mentioned: the UN Convention against Corruption of December 11, 2003 (ratified with declarations by Law 251-U of October 18, 2006); The Criminal Convention of the Council of Europe on Combating Corruption of January 27, 1999 (ratified with a declaration by Law No. 252-U dated October 18, 2006); Additional Protocol to the Criminal Convention of the Council of Europe on Combating Corruption of May 15, 2003 (ratified by Law No. 253-U dated October 18, 2006); Civil Convention of the Council of Europe on Combating Corruption of November 4, 1999 (ratified by Law No. 2476-IU dated March 16, 2005) [69, p. 84-85].

We propose to focus on the consideration of the main regulatory legal acts, which contain provisions on the prevention of corruption, detection and cessation of its manifestations, determine the signs of corruption offenses and establish administrative responsibility for their commission, namely: the Law of Ukraine "On Prevention of Corruption" of 14.10.2014 No. 1700–VII and the Code of Ukraine on Administrative Offenses of 07.12.1984 No. 8073-X in the latest edition (Chapter 13-A "Administrative Offenses Related to Corruption").

From July 1, 2011, reform processes in the field of prevention and combating corruption began in Ukraine after the entry into force of new anti-corruption laws, in particular the Law of Ukraine "On Principles of Prevention and Combating Corruption" of April 7, 2011 No. 3206-VI and the Law of Ukraine "On Amending Some Legislative Acts of Ukraine Regarding Liability for Corruption Offenses" of April 7, 2011 No. 3207-VI. Along with this, significant changes were made to the Code of Ukraine on Administrative Offenses. A new Chapter 13-A has appeared in the Special Part of the Code of Administrative Offenses, within which it is directly stipulated which actions are recognized as administrative corruption offenses and which sanctions may be applied to persons guilty of them.

These laws fundamentally change the national approach to understanding corruption and anti-corruption measures, contain a number of novelties, legal institutions, and therefore require additional explanation [69, p. 86].

As already mentioned in the first chapter of our study, on April 18, 2013, Law of Ukraine No. 221-VII "On Amendments to Certain Legislative Acts of Ukraine on Bringing National Legislation into Compliance with the Standards of the Criminal Convention on Combating Corruption" was adopted. In accordance with the provisions of this legislative act, administrative responsibility for actions provided for in Articles 172-2 and 172-3 of the Administrative Code of Administrative Offenses was abolished, and the specified actions were transferred from the category of administrative offenses to the category of crimes.

A significant event was the adoption of the Law of Ukraine "On Prevention of Corruption" on October 14, 2014, the purpose of which was to comprehensively reform the corruption prevention system in accordance with international standards and successful practices of foreign countries and in connection with the country's targeted course towards European integration.

The purpose of the Law of Ukraine "On Principles of Prevention and Counteraction of Corruption" is to define the legal and organizational principles of the functioning of the corruption prevention system in Ukraine, the content and procedure for applying preventive anti-corruption mechanisms, rules for eliminating the consequences of corruption offenses.

Relations arising in the field of corruption prevention are regulated by the Constitution of Ukraine, international treaties approved by the Verkhovna Rada of Ukraine, this and other laws, as well as other normative legal acts adopted for their implementation.

The effect of this Law and the restrictions provided for by it apply to all persons identified as subjects of responsibility for corruption offenses, within the limits established by this Law.

The main provisions of the Law:

1) The general provisions of the Law of Ukraine "On Prevention of Corruption" define the terms corruption and corruption offense, as well as such concepts as undue advantage, conflict of interests, direct subordination, close persons, family members.

It should be noted that the new anti-corruption legislation does not include terms that were in the Law "On Combating Corruption", namely: direct subordination, corruption offense, corruption, improper benefit, potential conflict of interest, offense related to corruption, gift, real conflict of interest, private interest, etc. All these concepts are currently covered by the term corruption offence, under which the legislator understands an act that does not contain signs of corruption, but violates the requirements, prohibitions and restrictions established by this Law, committed by a person specified in the first part of Article 3 of this Law, for which the law establishes criminal, administrative, disciplinary and/or civil liability.

In the law, the definitions of the main terms are coordinated with the UN Convention against Corruption and the Criminal and Civil Conventions of the Council of Europe against Corruption (in particular, the concepts of corruption, corruption offense, conflict of interests, etc.). Analyzing the term "corruption", it should be noted that the specified definition of the term calls on citizens not to enter into corrupt relations with officials and officials, because the subjects of responsibility for corruption offenses will not only be officials and officials who perform the functions of the state or local self-government , but also persons who enter into corrupt relations with them.

2) The law not only clearly defines the list of subjects responsible for corruption offenses, but also expands the circle of these persons in accordance with the norms of international standards. These norms derive from the provisions of the UN Convention against Corruption (Article 2), the Criminal Convention of the Council of Europe against Corruption (Article 1) and the Additional Protocol to it (Articles 2 and 3).

This normative act clearly defines the concepts of state body, elected officials, subjects of declaration, as well as defined subjects to which this Law applies.

Thus, according to Art. 1 of the Law, a state body is a body of state power, including a collegial state body, another subject of public law, regardless of whether it has the status of a legal entity, which, according to the law, is empowered to perform authoritative management functions on behalf of the state, the jurisdiction of which

extends to the entire the territory of Ukraine or to a separate administrative-territorial unit.

3) The law defines specially authorized subjects in the field of prevention and counteraction of corruption, as well as a system of bodies engaged in the formation and implementation of anti-corruption policy.

Specially authorized subjects in the field of prevention and counteraction of corruption are the prosecutor's office, the National Police and the National Anti-Corruption Bureau of Ukraine and the National Agency for the Prevention of Corruption.

The principles of anti-corruption policy (Anti-corruption Strategy) are determined by the Verkhovna Rada of Ukraine. In turn, the Anti-corruption Strategy is developed by the National Agency based on the analysis of the corruption situation, as well as the results of the previous anti-corruption strategy. The Anti-corruption Strategy is being implemented through the implementation of the state program, which is developed by the National Agency and approved by the Cabinet of Ministers of Ukraine. The heads of state bodies bear personal responsibility for ensuring the implementation of the state program for the implementation of the Anti-corruption Strategy (Article 18) [21].

4) The law clearly establishes a list of restrictions (prohibitions) aimed at preventing corruption for persons authorized to perform the functions of the state or local self-government during their tenure in office (Articles 22, 23, 25, 26 and 27).

Such restrictions are, in particular: restrictions on the use of official powers or one's position; restrictions on receiving gifts; restrictions on coexistence and combination with other types of activities; restrictions after the termination of activities related to the performance of functions of the state, local self-government; limitation of joint work of close persons.

5) The law provides for the status, powers and structure of the National Agency for the Prevention of Corruption - a central executive body with a special status that ensures the formation and implementation of the state anti-corruption policy.

The National Agency for the Prevention of Corruption (hereinafter - the National Agency) is a central body of the executive power with a special status,

which ensures the formation and implementation of the state anti-corruption policy. The National Agency is established by the Cabinet of Ministers of Ukraine in accordance with the Constitution of Ukraine, this and other laws of Ukraine and is responsible to and under the control of the Verkhovna Rada of Ukraine and accountable to the Cabinet of Ministers of Ukraine.

The issue of the National Agency's activities is presented to the Cabinet of Ministers of Ukraine by the Head of the National Agency. The national agency is authorized from the moment of appointment of more than half of its total quantitative composition (Article 4) [21].

6) The law introduced a special check for persons applying for positions related to the performance of functions of the state or local self-government, defined the basic provisions of its organization, the term of conducting it (it is carried out within a fifteen-day period with the written consent of the person applying for the position), a list of information that is subject to special verification.

7) The law establishes requirements for financial control over property, income, expenses and obligations of a financial nature of persons authorized to perform the functions of the state or local self-government, the deadline for submitting a declaration on property, income, expenses and obligations of a financial nature is determined (every year by April 1), its form was approved (the declaration form is given in the Addition to the Law).

8) The law provides for state protection of whistleblowers who provide assistance in preventing and countering corruption.

A person who provides assistance in preventing and countering corruption (whistleblower) is a person who, in the presence of a well-founded belief that the information is reliable, reports a violation of the requirements of this Law by another person.

Persons who provide preventive assistance in preventing and countering corruption are under the protection of the state. In the presence of a threat to the life, housing, health and property of persons who provide assistance in preventing and combating corruption, or their relatives, in connection with the notification of violation of the requirements of this Law, law enforcement agencies may apply legal,

organizational and technical and other measures aimed at protection against illegal encroachments, provided for by the Law of Ukraine "On ensuring the safety of persons participating in criminal proceedings" (Article 53) [21].

9) The law stipulates the duty of persons authorized to perform the functions of the state or local self-government: to take measures to prevent any possibility of a conflict of interests; immediately notify the immediate supervisor of the presence of a conflict of interest. It should be noted that the implementation of this norm requires the adoption of special laws and other normative legal acts that would provide for the procedure and ways of resolving conflicts of interest, as well as the mechanism of monitoring compliance with these rules by persons authorized to perform the functions of the state or local self-government.

In addition, Art. 24 of the Law provides for the prevention of receiving an unlawful benefit or a gift and dealing with them.

Persons authorized to perform the functions of the state or local self-government, persons equated to them, in case of receipt of an offer regarding an undue benefit or a gift, regardless of private interests, are obliged to immediately take the following measures:

1) refuse the offer;

2) if possible, identify the person who made the offer;

3) attract witnesses, if possible, including from among employees;

4) to notify in writing about the proposal of the direct manager (if available) or the manager of the relevant body, enterprise, institution, organization, specially authorized subjects in the field of anti-corruption.

10) The implementation by the Ministry of Justice of Ukraine of mandatory anti-corruption examination of draft laws of Ukraine, acts of the President of Ukraine, other normative legal acts developed by the Cabinet of Ministers of Ukraine, ministries, other central bodies of executive power with the aim of identifying norms in them that can contribute to committing corruption offenses and developing recommendations for their elimination. In order to ensure transparency in the activities of persons authorized to perform the functions of the state or local self-government, they are prohibited from: denying individuals or legal entities

information, the provision of which to these individuals or legal entities is provided for by law; provide untimely, inaccurate or incomplete information that is required to be provided in accordance with the law. It is legislated that information on the amounts and types of charitable and other aid provided to individuals and legal entities or received from them by persons authorized to perform the functions of the state or local self-government, the amounts and types of remuneration of these persons, as well as received by these persons under transactions , which are subject to mandatory state registration, gifts (donations) cannot be classified as information with limited access.

11) The law enshrines the prevention of corruption in the activities of legal entities.

Legal entities ensure the development and implementation of measures that are necessary and justified for the prevention and counteraction of corruption in the activity of a legal entity. The head, founders (participants) of the legal entity ensure a regular assessment of corruption risks in its activities and carry out appropriate anti-corruption measures. In order to identify and eliminate corruption risks in the activities of a legal entity, independent experts may be engaged, in particular, to conduct an audit (Article 61).

12) The law enshrines the right of the public to participate in measures to prevent and combat corruption (except when this is assigned by law to the exclusive competence of specially authorized entities in the field of combating corruption), to conduct, to order public anti-corruption examination of draft legal acts, to carry out public control over the implementation of laws in the field of preventing and combating corruption, using at the same time such forms of control that do not contradict the legislation.

State protection of persons who provide assistance in preventing and countering corruption is provided for.

13) Mandatory public information on measures to prevent and combat corruption is established by law. Specially authorized entities in the field of anti-corruption are obliged to publish information about the measures taken to combat

corruption and about persons prosecuted for committing corruption offenses every year no later than February 10.

14) The law establishes the types of liability for corruption offenses. Persons authorized to perform the functions of the state or local self-government shall be subject to criminal, administrative, civil and disciplinary liability in accordance with the procedure established by law for the commission of corruption offenses. Information about persons who have been prosecuted for committing corruption offenses shall be entered into the Unified State Register of Persons Who Committed Corruption Offenses within three days from the date of entry into force of the relevant court decision, civil liability, imposition of disciplinary penalty, which is being formed and conducted by the Ministry of Justice of Ukraine.

15) The law introduces a procedure for removing from office and dismissing persons authorized to perform the functions of the state or local self-government who have committed corruption offenses, conducting an official investigation in order to identify the reasons and conditions that contributed to the commission of a corruption offense.

16) The law stipulates that losses and damage caused to the state, individuals or legal entities by corruption offenses are subject to compensation in accordance with the procedure established by law.

15) The law establishes that normative legal acts, decisions issued (adopted) as a result of the commission of a corruption offense can be canceled by a body or official authorized to adopt or cancel the relevant acts, decisions, or be recognized as illegal in a court of law at the request of an interested physical person, association of citizens, legal entity, prosecutor, state authority, local authority, and the deed concluded as a result of a corruption offense is considered null and void.

17) The right to restoration of rights, compensation for losses, damage to individuals and legal entities, whose rights have been violated as a result of committing a corruption offense and who have suffered moral or property damage, damages in accordance with the procedure established by law, is enshrined in law.

18) The law stipulates that funds and other property obtained as a result of the commission of a corruption offense are subject to confiscation by a court decision in

accordance with the procedure established by law, and funds in the amount determined by the court in the amount of the value of illegally obtained services or benefits are subject to recovery in favor of the state. The law introduced parliamentary control in the field of prevention and combating corruption, public control over the implementation of laws in the field of prevention and combating corruption, and prosecutorial supervision of compliance with laws in the field of prevention and combating corruption.

20) The law provides for Ukraine's international cooperation with foreign countries, international organizations that carry out measures to prevent and combat corruption in accordance with the international treaties concluded by it, international legal assistance and other types of international cooperation in cases of corruption offenses in accordance with the legislation and international treaties of Ukraine, consent to the binding nature of which has been granted by the Verkhovna Rada of Ukraine.

Therefore, based on the above, it can be concluded that the Law of Ukraine "On Prevention of Corruption" is more progressive than the Law of Ukraine "On Principles of Prevention and Counteraction of Corruption" and brings positive developments in the fight against corruption [21]. However, the Law of Ukraine "On Prevention of Corruption" has its shortcomings, which should be emphasized. The new Law does not define the concept of "official", which leads to the difficulty of its implementation in practice.

In the Criminal Code of Ukraine from September 1, 2001, there is a concept of "official" - this is a person who permanently, temporarily or with special powers performs the functions of a representative of the government or local self-government, and also holds permanent or temporary positions in state authorities, local self-government, on in enterprises, institutions or organizations, regardless of the form of ownership, positions related to the performance of organizational and managerial or administrative and economic functions or perform such functions under special powers, with which a person is granted by an authorized body of state power, local self-government, a central body of state administration with a special status, authorized body or authorized official of an enterprise, institution,

organization, court or law. Officials are also defined as officials of foreign states, as well as officials of international organizations [88, p. 516].

According to the Law of Ukraine "On Civil Service" of December 10, 2015, officials are heads and deputy heads of state bodies and their apparatus, other civil servants who are entrusted with the implementation of organizational-administrative and consultative-advisory functions by laws or other normative acts.

That is, the law applies to civil servants and persons who permanently or temporarily hold positions related to the performance of organizational-administrative or administrative-economic duties in legal entities under private law. The law in clause 3 of article 4 equates civil servants with officials, but does not give a clearly defined concept of the category "official", which falls under this law.

Also, the Law gives the right to establish codes of ethical behavior in various areas, but they are not mandatory for all subjects, as for civil servants [89].

The next codified legal act is the Code of Ukraine on Administrative Offenses supplemented by Chapter 13-A "Administrative Corruption Violations", which includes 6 new articles on administrative corruption offenses for which administrative liability is provided, namely:

1) Article 172-4 violation of restrictions on co-operation and combination with other types of activities (violation by a person of restrictions established by law on employment in other paid activities (except teaching, scientific and creative activities, medical and judicial practice, sports instructor practice) or entrepreneurial activity) ;

2) Article 172-5 violation of legal restrictions on receiving gifts (violation of legal restrictions on receiving gifts);

3) Article 172-6 violation of financial control requirements (untimely submission without valid reasons of the declaration of a person authorized to perform the functions of the state or local self-government / submission of knowingly inaccurate information in the declaration of a person authorized to perform the functions of the state or local self-government);

4) Article 172-7 violation of the requirements for the prevention and settlement of conflicts of interest (failure to notify by a person in the cases and procedures established by law that he has a real conflict of interests);

5) Article 172-8 illegal use of information that became known to a person in connection with the performance of official powers (illegal disclosure or use in another way by a person in his own interests of information that became known to him in connection with the performance of official powers);

6) Article 172-9 failure to take measures to combat corruption (Failure to take measures provided for by law by an official or official of a state authority, an official of local self-government, a legal entity, or their structural subdivisions in case of detection of a corruption offense);

7) Article 172-9-1 violation of the ban on placing bets on sports related to the manipulation of an official sports competition (violation of the ban on placing bets on sports by interested parties of an official sports competition in which they participate, with the receipt of an illegal benefit in the amount, which does not exceed twenty subsistence minimums for able-bodied persons).

We have already examined in detail each of the above types of administrative offenses related to corruption in the first section of our study, so we consider it inappropriate to dwell on this issue again.

It should be noted that for all these new types of offenses, the legislator provides significant amounts of fines.

The amendments made to the article "Terms for the imposition of an administrative penalty" clearly define the terms of imposing a penalty for the commission of an administrative corruption offense (an administrative penalty for the commission of a corruption offense can be imposed within three months from the date of detection, but no later than one year from the date of its commission).

Summing up, it should be noted that despite the presence of errors in law-making activity and the imperfection of some normative legal acts, positive developments in the field of prevention and counteraction of administrative offenses related to corruption have taken place in our country in a relatively short period of time.

Along with this, the anti-corruption legislation must first of all be of high quality, that is, such that it has passed a thorough examination in the expert environment, having undergone the necessary changes and additions, and must also be as close as possible to generally recognized world standards.

2.2. Administrative and legal mechanisms for prevention and counteraction of administrative offenses related to corruption in the national legislation of Ukraine

At the current stage, European integration is the main and constant foreign policy priority for Ukraine, the basis of the economic and social development strategy. For the successful integration of Ukraine, it is necessary to approach and adapt socio-economic aspects to the common standards of European countries [99, p. 62]. However, the majority of Ukrainian and foreign experts are convinced that corruption and the slow pace of reforms hinder Ukraine's EU membership more than anything else. Therefore, corruption is considered today to be almost the main obstacle to Ukraine's integration with the European economic and legal space.

According to the latest international assessments, our state is considered totally corrupt. European colleagues are particularly concerned about the low level of overcoming corruption in the system of state authorities and local self-government bodies. Today, it is difficult to find a department unaffected by corruption. Therefore, it would be quite logical and justified in this situation to introduce in the state at the central level a specific body of executive power, which would implement state policy specifically in the field of preventing manifestations of corruption in state authorities and local self-government bodies. In addition, the launch of the corresponding anti-corruption body is one of the requirements of the EU regarding the visa-free regime with Ukraine.

In our opinion, the study of the issue of definition, implementation and improvement of means of prevention of administrative offenses related to corruption should be preceded by the definition of the general legal concept of prevention and countermeasures against the latter. This mechanism for preventing and combating corrupt administrative offenses is a system of means of protection that is integrated and organized to ensure consistent and effective legal regulation of social relations through the application of administrative law [18, p. 102].

In legal doctrine, there are different points of view on the components of such a mechanism of prevention and countermeasures. Thus, Z. S. Gladun. considers that the

administrative-legal mechanism for combating corruption (prevention and countermeasures. - author) includes the establishment of legal norms prohibiting the commission of corruption offenses, the introduction of measures of administrative-legal responsibility in the event of such acts, as well as the list of powers of law enforcement agencies, which fight against corruption [100, p. 5].

The given definition of the administrative-legal mechanism for preventing and countering administrative offenses related to corruption is almost entirely consistent with our statement regarding a comprehensive approach to combating corruption through a system of interrelated measures to prevent and counter administrative offenses related to corruption.

O. F. Vishnevskyi, N. O. Horbatok and V. O. Kuchynskyi emphasize that various legal measures of influence on legal subjects, their consciousness and will play an important role in the mechanism of legal regulation [101, p. 534].

Therefore, the means included in the mechanism of preventing and countering administrative offenses related to corruption should be understood as a targeted set of actions. These means are: 1) organizational and legal measures (prevention measures) and 2) administrative influence (counteraction measures). The latter are coercive measures applied to individuals and legal entities by authorized state bodies and their officials for the purpose of prevention and termination of rules and regulations established by law or other normative legal act in various spheres of life.

The administrative-legal mechanism for preventing and countering administrative offenses related to corruption is a system of legal means, the integration and organization of which enables authorized subjects to consistently and effectively carry out activities to counter such offenses in state authorities and local self-government bodies with the help of measures of an organizational and legal nature and administrative coercion. At the same time, it should be noted that the specified measures should be applied by representatives of individual associations of citizens, endowed with certain administrative and power powers [102, p. 41].

Distinguishing administrative coercion measures and organizational-legal measures in the administrative-legal mechanism of combating corruption, S. S. Rogulsky believes that the main influencing organizational-legal measure is the

creation of an effective system of bodies for this fight. He proposes to create a single central body of the executive power to fight corruption, to which other bodies will be subordinated.

The scientist divides all other organizational and legal measures to combat corruption into 2 groups: (a) measures of an organizational nature aimed at the behavior of persons authorized to perform the functions of the state and persons equated to them, and (b) measures aimed at the behavior of legal and natural persons. He includes the following in the first group of measures: improvement of the work of the state administration apparatus, staff rotation, elimination of discrimination during recruitment to the state service, increase in wages for employees of state administration bodies, etc. To the second group - conducting explanatory work among citizens with the aim of increasing their legal awareness; encouraging citizens who report the commission of a corruption offense, etc. [103, p. 16].

Thus, organizational and legal measures to combat administrative offenses related to corruption are similar to such a measure of administrative coercion as prevention. Thus, their goal seems to be similar - the prevention and prevention of corruption offenses. Both prevention (warning) and organizational-legal measures are applied to the commission of the offense and are not related to it, in contrast to the measures to stop the offense and responsibility for it.

It is this nature of these 2 types of measures that caused the fact that in the studies of scientists, it is not always about organizational and legal measures, but only measures of administrative coercion are considered; preventive measures include organizational and legal measures.

So, let's conclude that the investigated measures constitute a system (complex) of actions of authorized bodies or officials aimed at prevention (prevention and prevention) of the commission of offenses by certain subjects provided for by Chapter 13-A of the Administrative Code of Administrative Offenses.

There are numerous interpretations of the category "administrative coercion" in the scientific literature. For example, in the administrative-legal theory, administrative coercion is understood as a special type of state coercion, which consists in the application of coercive measures established by the norms of

administrative law by subjects of functional power in connection with their unlawful actions by these subjects. Administrative coercion, according to the authors of one of the textbooks on administrative law, is a system of means of psychological or physical influence on the consciousness and behavior of people in order to achieve the clear fulfillment of their duties, the proper development of social relations within the limits of the law, ensuring law and order and legality [104, p. 178].

H. G. Zabarny, R. A. Kalyuzhny, V. O. Tereshchuk and V. K. Shkarupa interpret administrative coercion as a measure to ensure and protect law and order in the sphere of public administration, which performs a punitive role and consists of psychological, material or physical influence on people's consciousness and behavior [105, p. 90].

I. V. Melnyk understands administrative coercion to be the use by state administration bodies (as well as courts and judges), and in cases of delegation of relevant state powers, by public organizations of measures established by law, which consist in encouraging citizens and officials to fulfill their legal obligations relations for the purpose of stopping illegal actions, prosecution for administrative offenses or in the name of ensuring public safety [72, p. 9].

Some scientists emphasize the existence of three levels of administrative coercion measures - prevention, termination and responsibility; we will consider the measures proposed above as a variety of one or another of the above-mentioned measures [18, p. 105].

Most often, administrative warning measures are understood as the actions of authorized bodies or officials aimed at forcibly preventing citizens from fulfilling their obligations to society, ensuring public safety and public order, preventing and combating natural disasters, epidemics, and epizootics and eliminating their consequences [2, p.179].

We propose to divide all administrative and preventive measures into 2 groups: a) measures that are regulated or should be regulated at the regulatory level (for example, prohibitions, permits established to prevent the commission of corrupt acts, an example of which is the prohibition to occupy certain positions during the relevant

period); b) measures that are not regulated and cannot be regulated at the regulatory level, which include, for example, anti-corruption education and upbringing.

According to O. V. Klock, special attention should be paid to considering and defining administrative preventive measures that are regulated or should be regulated at the normative level of prevention of administrative corruption offenses in state authorities and local self-government bodies. The researcher proposes to divide all administrative and preventive measures into 2 groups: a) measures that are regulated or should be regulated at the regulatory level (for example, prohibitions, permits established to prevent corruption, for example, the prohibition to occupy certain positions during the relevant period); b) measures that are not regulated and cannot be regulated at the level of regulation, which include, for example, anti-corruption education and training [18, p. 106].

Today, in the national legislation of Ukraine, the legislator has clearly divided the administrative and legal mechanisms for preventing and countering administrative offenses related to corruption into the following groups:

1) Formation and implementation of anti-corruption policy (development and implementation of an anti-corruption strategy; adoption and approval of anti-corruption programs; annual national report on the implementation of the principles of anti-corruption policy; involvement of the public in activities related to the prevention of corruption).

According to Art. 18 of the Law of Ukraine "On Prevention of Corruption", the principles of anti-corruption policy (anti-corruption strategy) are determined by the Verkhovna Rada of Ukraine, which every year no later than June 1 holds parliamentary hearings on the situation regarding corruption, approves and publishes the annual national report on the implementation of the principles of anti-corruption policy.

In turn, the anti-corruption strategy is developed by the National Agency based on the analysis of the corruption situation, as well as the results of the previous anti-corruption strategy.

The anti-corruption strategy is implemented through the implementation of the state program, which is developed by the National Agency and approved by the Cabinet of Ministers of Ukraine.

The heads of state bodies bear personal responsibility for ensuring the implementation of the state program for the implementation of the anti-corruption strategy.

The state program for the implementation of the anti-corruption strategy is subject to annual review, taking into account the results of the implementation of the specified measures, conclusions and recommendations of the parliamentary hearings on the situation regarding corruption.

In Art. 19 of the Law states that anti-corruption programs are adopted in:

The Administration of the President of Ukraine, the Apparatus of the Verkhovna Rada of Ukraine, the Secretariat of the Cabinet of Ministers of Ukraine, the Secretariat of the Human Rights Commissioner of the Verkhovna Rada of Ukraine, the General Prosecutor's Office of Ukraine, the Security Service of Ukraine, ministries, other central bodies of executive power, other state bodies whose jurisdiction extends to the entire territory of Ukraine , regional, Kyiv and Sevastopol city state administrations, state trust funds - by approval of their heads;

- Apparatus of the National Security and Defense Council of Ukraine - through approval by the Secretary of the National Security and Defense Council of Ukraine;

- to the National Bank of Ukraine - through approval by the Bank's Management Board;

- to the Accounting Chamber, the Central Election Commission, the Supreme Council of Justice, the Verkhovna Rada of the Autonomous Republic of Crimea, regional councils, Kyiv and Sevastopol city councils, the Council of Ministers of the Autonomous Republic of Crimea - by approving their decisions.

Anti-corruption programs are subject to approval by the National Agency.

Anti-corruption programs should include:

1) determination of the principles of the general departmental policy regarding the prevention and counteraction of corruption in the relevant field, measures for their implementation, as well as for the implementation of the anti-corruption strategy and the state anti-corruption program;

2) assessment of corruption risks in the activities of the body, institution, organization, the causes that give rise to them and the conditions that contribute to them;

3) measures to eliminate identified corruption risks, persons responsible for their implementation, deadlines and necessary resources;

4) training and information dissemination activities regarding anti-corruption programs;

5) procedures for monitoring, evaluation of implementation and periodic review of programs;

6) other measures aimed at preventing corruption and corruption-related offenses.

At the current level of state anti-corruption policy in Ukraine, it should be based on the fact that it is impossible to completely overcome corruption - it is only possible to minimize its impact on the life of society. In the conditions of an insufficient level of public trust in state authorities, it is the institutions of civil society that should popularize the idea of active opposition to manifestations of corruption. The state should help them in this. Anti-corruption non-governmental organizations should create an effective coalition that would become a full partner of the state [69, p. 168].

Public associations, their members or authorized representatives, as well as individual citizens in activities related to the prevention of corruption have the right:

1) report the discovered facts of corruption or corruption-related offenses, real, potential conflict of interests to specially authorized entities in the field of anti-corruption, the National Agency, management or other representatives of the body, enterprise, institution or organization in which they were committed these offenses or whose employees have a conflict of interest, as well as the public;

2) to request and receive from state bodies, authorities of the Autonomous Republic of Crimea, local self-government bodies in accordance with the procedure provided by the Law of Ukraine "On Access to Public Information", information on activities related to the prevention of corruption;

3) to conduct, to order public anti-corruption examination of normative legal acts and drafts of normative legal acts, to submit according to the results of the examination proposals to the relevant bodies, receive information from the relevant bodies about the consideration of submitted proposals;

4) participate in parliamentary hearings and other events on the prevention of corruption;

5) submit proposals to the subjects of the law of legislative initiative regarding the improvement of the legislative regulation of relations arising in the field of corruption prevention;

6) conduct, commission research, including scientific, sociological, etc., on corruption prevention issues;

7) carry out measures to inform the population on the prevention of corruption;

8) to carry out public control over the implementation of laws in the field of corruption prevention, using at the same time such forms of control that do not contradict the legislation;

9) take other measures not prohibited by law to prevent corruption.

The real participation of civil society in anti-corruption measures in accordance with normative prescriptions is not fully realized today. According to the conclusions of the Anti-Corruption Network of the Organization for Economic Cooperation and Development regarding Ukraine, "the problem is the lack of a strong non-governmental organization that would deal with the problems of fighting corruption, could concentrate the efforts of other public associations around it, and would serve as an influential partner of state authorities" [106].

2) Prevention of corruption and corruption-related offenses (restrictions on the use of official powers or one's position; restrictions on the receipt of gifts; prevention of the receipt of an unlawful benefit or a gift and their handling; restrictions on the combination and combination with other types of activities; restrictions after termination activities related to the performance of the functions of the state, local self-government; restrictions on the joint work of close persons).

Depending on the specific range of subjects responsible for committing corruption offenses, the Law of Ukraine "On Prevention of Corruption" establishes certain restrictions on their actions while performing their official duties.

According to its construction, Section IV of the Law of Ukraine "On Prevention of Corruption" contains six special forms of restrictions (prohibitions) for the persons specified in Clauses 1-3 of Part 1 of Art. 3 of the Law. According to them, it is prohibited to:

1) use one's official powers or one's position and related opportunities in order to obtain an unlawful benefit for oneself or other persons, including using any state or communal property or funds in private interests;

2) directly or through other persons to demand, request, receive gifts for themselves or persons close to them from legal entities or individuals: 1) in connection with the performance by such persons of activities related to the performance of functions of the state or local self-government; 2) if the donor is subordinate to such a person;

3) engage in other paid (except for teaching, scientific and creative activities, medical practice, instructor and referee practice in sports) or entrepreneurial activity, unless otherwise provided for by the Constitution or laws of Ukraine;

3-1) to be a member of the board, other executive or control bodies, the supervisory board of an enterprise or organization that aims to make a profit (except for cases when individuals perform functions of managing shares (parts, shares) belonging to the state or territorial community , and represent the interests of the state or territorial community in the board (supervisory board), audit commission of an economic organization), unless otherwise provided by the Constitution or laws of Ukraine;

In addition, the persons authorized to perform the functions of the state or local self-government, specified in paragraph 1 of the first part of Article 3 of this Law, who have resigned or otherwise ceased activities related to the performance of the functions of the state or local self-government, are prohibited from:

1) within a year from the date of termination of the relevant activity, enter into employment contracts or carry out transactions in the field of entrepreneurial activity

with legal entities under private law or natural persons - entrepreneurs, if the persons specified in the first paragraph of this part, within a year until the date of termination of the performance of functions the state or local self-government exercised the authority to control, supervise or prepare or make relevant decisions regarding the activities of these legal entities or natural persons - entrepreneurs;

2) divulge or use in another way in their own interests the information that became known to them in connection with the performance of their official powers, except for cases established by law;

3) within a year from the date of termination of the relevant activity, to represent the interests of any person in cases (including those pending in court), in which the other party is the body, enterprise, institution, organization in which they worked at the time of termination of the specified activity (Article 26).

According to Art. 24 of the Law, persons authorized to perform the functions of the state or local self-government, persons equated to them in case of receipt of an offer of undue benefit or a gift, regardless of private interests, must immediately take the following measures:

1) refuse the offer;

2) if possible, identify the person who made the offer;

3) attract witnesses, if possible, including from among employees;

4) to notify in writing about the proposal of the direct manager (if available) or the manager of the relevant body, enterprise, institution, organization, specially authorized subjects in the field of anti-corruption.

Also, in accordance with Art. 27 of the Law, persons specified in subparagraphs "a", "c"-"z" of clause 1 of the first part of article 3 of this Law cannot have persons close to them under direct supervision or be directly subordinated in connection with the performance of powers to persons close to them .

Persons applying for the positions specified in subparagraphs "a", "c"-"z" of paragraph 1 of the first part of article 3 of this Law are obliged to inform the management of the body for which they are applying for the position, about the employees of this body persons close to them.

The provisions of the first and second paragraphs of this part do not apply to:

1) people's assessors and jurors;

2) close persons who are directly subordinate to each other in connection with the acquisition of the status of an elected person by one of them;

3) persons working in rural settlements (except those that are district centers), as well as mountain settlements.

3) prevention and settlement of conflicts of interest (measures for external and independent settlement of conflicts of interests; removal from performing a task, taking actions, making a decision or participating in its adoption; limiting access to information; reviewing the scope of official powers; exercising powers under external control; transfer, dismissal of a person in connection with the existence of a conflict of interests).

In modern Ukrainian legislation, the concept of conflict of interest appeared quite recently. At the level of the legislative act, legislators began to pay attention to the problem related to the conflict of interests in June 2009 - in the Law of Ukraine "On the Principles of Prevention and Counteraction to Corruption", later - in the 2011 Law "On the Principles of Prevention and Counteraction to Corruption". Today, the Law of Ukraine "On Prevention of Corruption" (hereinafter referred to as the Law), which came into effect on April 26, 2015, provides more detailed rules for the prevention, detection and settlement of conflicts of interest compared to the aforementioned legislative acts. If in previous laws only the concept of "conflict of interests" was mentioned, now this concept is divided into two terms in the Law: "real conflict of interests" and "potential conflict of interests".

As stated in Article 1 of the Law, a real conflict of interest is a contradiction between a person's private interest and his official or representative powers, which affects the objectivity or impartiality of decision-making, or the performance or non-performance of actions during the performance of said powers;

potential conflict of interest - the presence of a person's private interest in the field in which he performs his official or representative powers, which may affect the objectivity or impartiality of his decision-making, or the performance or non-performance of actions during the performance of these powers, while the private interest is considered any property or non-property interest of a person, including

those caused by personal, family, friendship or other extra-professional relations with natural or legal persons, including those arising in connection with membership or activity in public, political, religious or other organizations. The field for the concept of "potential conflict of interest" is quite broad.

As we can see, the concepts of "potential conflict of interest" and "real conflict of interest" were distinguished depending on the stage of influence of the contradiction that arose in decision-making or actions by the official.

Such a distinction within the framework of a general concept is fully consistent with the approach that exists in international practice. An apparent (real) conflict of interest refers to situations where there is a personal interest that can reasonably be considered to influence the official's performance of his duties, even if such a negative influence is actually absent.

Instead, a potential conflict of interest may occur in cases where the official has private interests that may lead to a conflict at some point in the future. The possibility of the potential influence of private interests on the performance of official duties by an official is determined to be extremely important, primarily for the purpose of preventing corrupt behavior. Given that in the vast majority of cases, only the official himself knows that he is in a situation of conflict of interest, the latter is obliged to carefully consider any real or potential conflict of interest, taking measures to prevent such a conflict.

In order to classify the conflict of interests as "real", it should be proven that the private interest already affects or has affected the objectivity and impartiality of decision-making in a certain way.

An example of a real conflict of interests can be the fact of a positive decision of the police commission on the competitive selection and appointment to the position of police chief, in the case when the said commission included a person close to him.

In general, conflict of interests cannot be equated with corruption, as this is determined by the very essence of these concepts. However, the absence or improper settlement of conflicts between the official's private interests and his duties related to

the performance of state functions inevitably entails the commission of corruption (receiving an illegal benefit, abuse of official position, etc.).

Entities subject to the requirements for the prevention and settlement of conflicts of interest are obliged to:

1) take measures to prevent the occurrence of a real, potential conflict of interests. That is, the employee must not only settle the conflicts that have arisen, but also act on prejudice, doing everything possible so that such conflicts do not arise;

2) notify the immediate supervisor no later than the next working day from the moment when the person learned or should have learned about the existence of a potential or real conflict of interest. The law stipulates that officials who do not have a direct manager, as well as those who head collegial bodies, must report such situations National Agency for the Prevention of Corruption or other bodies defined by law, or a collegial body in which a conflict arose during the exercise of powers. Article 28 of the Law does not clearly define the form of a manager's notification of a conflict of interest (written, oral or otherwise). However, given the persuasiveness of written documents as evidence, it is preferable to do this in writing. Registration of a notification of a conflict of interest must be made in the general department (office) of a state body or enterprise, and a copy of such notification with the date and entry number should be kept for oneself.

Separately, the Law defines the situation when an official has doubts about the existence of a conflict of interests. In such a case, the Law obliged the official to seek clarification from the territorial body of the National Agency.

It is obvious that such an appeal should describe in detail the possible conflict with options for actions, adding a copy of job duties. It follows from the content of the Law that the body of the National Agency must provide an answer in which to confirm or deny the existence of a conflict of interests.

If the official has not received confirmation of the absence of a conflict of interest, he must act in accordance with the requirements specified in the Law. When confirmation of the absence of a conflict of interest has been received, the official is released from responsibility if a conflict of interest is later revealed in his actions, regarding which he applied;

2) not to take actions and not to make decisions in conditions of a real conflict of interests. At the same time, managers are forbidden to directly or indirectly encourage their subordinates in any way to make decisions, take actions or inaction in violation of the law in favor of their own or other private interests. This prohibition corresponds to Part 2 of Art. 172-7 of the Administrative Code of Administrative Offenses, which provides for responsibility for taking actions or making decisions in conditions of a real conflict of interests.

Separately, the Law (Part 1, Article 35) specifies that in the event of a real or potential conflict of interest for a public official who is a member of a collegial body (committee, commission, collegium), he has no right to participate in decision-making by this body . The existence of such a conflict can be declared not only by the official himself, but also by other members of the relevant collegial body or a participant in the meeting, which is directly related to the issue under consideration. A statement to this effect is entered in the minutes of the meeting of the collegial body;

3) take measures to resolve a real or potential conflict of interest.

The immediate manager (the head of the body that makes the decision on dismissal from the position), who became aware of the presence of a conflict of interest in a subordinate, is obliged to take the measures provided by the Law for the prevention and settlement of the conflict of interest. In addition, further steps of the direct manager (the head of the body that makes the decision on dismissal) and the National Agency in case of receipt of the mentioned notification are determined by law.

The manager is obliged: upon receiving a notification from a subordinate about a potential or real conflict of interests within two working days, to make a decision to resolve the conflict in the manner determined by the Law, which should be notified to the subordinate. The national agency, in turn, is obliged: upon receiving a notification from a public official about a potential or real conflict of interest, within seven working days to provide an explanation to such a person about the procedure for his actions regarding conflict resolution.

In addition, the National Agency is legally entrusted with the provision of methodical and advisory assistance to state bodies and legal entities not only in

relation to the settlement of conflicts of interest, but also in relation to the application of acts of legislation on ethical behavior. In cases of detection of violations of the requirements of the Law, which relate to the conflict of interests in the activities of public and equivalent officials, the National Agency may issue an order to the head of the relevant body, enterprise, institution or organization to eliminate the violation of the law, initiate an official investigation, and bring the guilty parties to justice.

Mechanisms for conflict of interest settlement.

The law divided all conflict of interest settlement measures into two categories, depending on the subject of their resolution: external settlement and independent settlement.

The external settlement of the conflict of interests always takes place with the knowledge and decision of the head of the body, enterprise, institution or unit.

Independent settlement of both potential and real conflict of interests can be carried out by officials in only one way: by depriving the corresponding private interest. In this case, it is mandatory to provide documents confirming the fact of deprivation of private interest. At the same time, the Law declares that deprivation of a private interest should exclude any possibility of its concealment. This can be interpreted as follows: if there is at least some possibility of concealing a private interest in case of independent settlement of the conflict of interests by subordinates (for example, fictitious divorce), his immediate supervisor is obliged to take measures of external settlement. An example of independent settlement of a conflict of interests can be considered the duty of public officials, which is separately defined in the new anti-corruption legislation, after being appointed (elected) to a position, to hand over their enterprises and corporate rights to the management of another person. An independent resolution of a conflict situation can also be considered the self-recusal of a police officer who was assigned to consider a case of violation of rules, norms, standards of road traffic safety in relation to his relative.

Regarding the external settlement of the conflict of interests, Art. 29 of the Law stipulates six main ways by which conflicts in the activities of public servants should be settled.

1. Removal of a person from performing a task, taking actions, making a decision or participating in its making in conditions of real or potential conflict of interests (Article 30 of the Law). This measure is applied under the following conditions:

- when the conflict of interests is not permanent;

- it is possible to involve other employees of the relevant body, enterprise, institution or unit in making such a decision/taking actions.

In addition to the head of the body or enterprise, the head of the structural unit where the official works can make a decision on such a measure.

2. Application of external control over the person's performance of the relevant task, the performance of certain actions or decision-making by the person (Article 33 of the Law).

Such a measure is applied under the conditions if it turns out to be impossible to carry out other settlement measures, namely: remove the official in conditions of real or potential conflict of interests; restrict access to information; review authority; there are no grounds for its transfer; there are no grounds for his dismissal.

The manager must make a decision about the implementation of external control, where to specify the form of external control, determine the authorized employee who is responsible for conducting such control, and also provide for his duties in connection with the exercise of such powers.

The law defines the following forms of external control:

a) verification by an authorized employee of the status and results of the official's performance of the task, actions taken by him, the content of decisions or draft decisions made or developed by a person or a relevant collegial body on issues related to the subject of a conflict of interests;

b) performance of the task by the official, execution of actions by him, consideration of cases, preparation and decision-making by him in the presence of an authorized employee;

c) participation of an authorized person of the National Agency in the work of a collegial body in the status of an observer without the right to vote.

3. Limiting a person's access to certain information (Article 31 of the Law).

Such a measure is applied under the following conditions: if the conflict of interest associated with such access is permanent; if it is possible to continue the proper performance of the official's powers in the position, subject to such a restriction; if possible, entrust the work with the relevant information to another employee of the state body or enterprise.

4. Revision of the scope of a person's official powers (Article 32 of the Law).

Such a measure is applied under the following conditions: if the conflict of interests in the official's activity is of a permanent nature; it is related to specific powers of the person; if it is possible to continue the official's proper performance of official tasks in the event of such a review; if it is possible to grant such powers to another employee.

5. Transfer of a person to another position (Part 1 of Article 34 of the Law).

Transfer to another position here should be understood as an assignment to an employee at the initiative of the employer to perform permanent work within one enterprise that corresponds to his specialty, qualifications, during the performance of which the scope or nature of duties may change, which was carried out in order to eliminate a conflict of interests. This measure is applied under the following conditions:

- if the conflict of interest in the official's activity is permanent;

- only with the consent of the employee;

- if there is a vacant position, which according to its characteristics corresponds to the personal and professional qualities of the person;

- the conflict cannot be resolved by the following measures: a) removal of such a person from performing tasks or actions, making a decision; b) restricting a person's access to certain information; c) revision of the scope of official powers and functions; d) deprivation of private interest.

6. Dismissal of a person (Part 2 of Article 34 of the Law). Applies under the following conditions:

- if the real or potential conflict of interest in the official's activity is permanent;

- he cannot be regulated in another way, including due to the lack of his consent to transfer to another job or deprivation of private interest.

The legislator provided for a separate mechanism for conflict of interest settlement for civil servants, officials of state enterprises who own enterprises or corporate rights (Article 36 of the Law). The specified officials are obliged to hand over enterprises and corporate rights to other persons (except for their family members) within 30 days after being appointed to their positions. The National Agency must be notified in writing about the transfer of enterprises and corporate rights within one day, along with a notarized copy of the concluded contract.

Currently, the transfer of unitary enterprises must be carried out by concluding a property management agreement with the subject of business activity. For the transfer of corporate rights, the current law offers three methods, which are implemented through the conclusion of appropriate agreements:

- a property management agreement with a business entity;

- contract for the management of securities, other financial instruments and funds intended for investment in securities;

- an agreement on the creation of a venture capital investment company fund for management of transferred corporate rights with an asset management company [3].

4) Rules of ethical behavior (The central executive body, which ensures the formation and implementation of state policy in the field of public service, approves the general rules of ethical behavior of civil servants and officials of local self-government, the main principles of which are compliance with the requirements of the law and ethical norms of conduct, priority interests, political neutrality, impartiality, non-disclosure of information, etc.).

One of the main components and a guarantee of effective implementation of the principles and standards of good governance is the adoption and observance of ethical codes of civil servants.

The modern approach of the European community to the ethics of civil servants is determined by two main circumstances: the introduction of new models of

public administration and the development of the European Union as a union of democratic independent states.

The ideal structure of administrative and state management should be based on a model of social organization as a holistic mechanism that meets the following requirements: the ability to adapt, cooperation with civil society, participation of civil servants in planning and managing changes, creating conditions for creative work and self-realization, mutual trust and open communications.

The transition to "new management", which was accompanied by the deployment of decentralization processes, the introduction of market regulation mechanisms, such as contract management, autonomous agencies, etc., as well as the development of business management, shifted the emphasis in the activities of civil servants to the results and efficiency of serving certain groups of consumers. The traditional approach to management activity has changed to the mode of operation of a transparent and open public service, informationally connected with civil society. This created additional risks and provocative conditions for the moral and ethical norms of civil servants. The deepening of the connection between the public and private sectors led to the threat of abuses by public officials, external pressure on them by private structures. Therefore, in the best modern European examples of ethical codes, the emphasis is on the "ethics of responsibility", which realizes the objective needs of a person in self-respect, a sense of significance, professional self-realization in work for the common good.

The expansion of part of the powers of civil servants, as a result of decentralization and delegation, stimulates the growth of self-esteem and the degree of responsibility for the decisions made, their compliance with state policy. The acquisition of greater independence and responsibility ensures the proper behavior of civil servants, which to a greater extent than in the past is based on a personal position, and not on the instructions of their managers. A new approach to the ethics of civil servants requires an organic combination of traditional ethics, which is regulated by legal means, and ethics of responsibility, which includes self-regulatory mechanisms of the individual.

One of the effective measures to combat corruption in the public service and the formation of a professional apparatus of civil servants is the legislative regulation of issues of professional ethics of public service, which will contribute to the improvement of the professional level and competence of public servants, and ensure the adoption of well-founded and fair decisions. The Law of Ukraine "On Civil Service" of December 10, 2015 and the Law of Ukraine "On Rules of Ethical Behavior" of May 17, 2012 No. 4722-VI are intended to contribute to this.

The Law of Ukraine "On the Rules of Ethical Conduct" defines the guiding norms of behavior of persons authorized to perform the functions of the state or local self-government, during the performance of their official powers, and the procedure for bringing them to justice for violations of such norms.

This law establishes the rules of ethical behavior and the legal basis of codes or standards of conduct for persons authorized to perform the functions of the state or local self-government, according to which these persons:

during the performance of their official powers, are obliged to strictly comply with the requirements of the specified law and generally recognized ethical norms of conduct;

representing the interests of the state or territorial community in relations with other persons, act exclusively in their interests;

perform their official powers in a politically impartial manner, avoid demonstrating their own political beliefs or views in any way, do not use official powers in the interests of political parties or their branches or individual politicians (except for persons holding political or elected positions);

are tolerant and respectful of other people's political views, ideological and religious beliefs;

act objectively, in particular in relations with the public, regardless of personal interests, personal attitude towards any persons, their political views, ideological, religious or other personal views or beliefs;

faithfully, competently, timely, effectively and responsibly perform official duties, decisions and delegation of bodies, persons to whom they are subordinate,

accountable or under control, do not allow abuse and inefficient use of state and communal property;

ensure a positive reputation of state authorities, local self-government bodies, contribute in every possible way to the strengthening of citizens' trust in the authorities, confirm the honesty, impartiality and efficiency of the authorities;

do not disclose or otherwise use confidential information that has become known to them in connection with the performance of their official powers, except for cases established by law;

regardless of personal interests, refrain from implementing decisions or orders of the management, if they contradict the legislation or pose a threat to the rights, freedoms or interests of individual citizens, legal entities, state or public interests protected by law;

independently evaluate the legality of decisions or instructions given by the management and the possible damage that will be caused in the event of the implementation of such decisions or instructions;

in the case of receiving for execution a decision or order that, in their opinion, is illegal or that poses a threat to the rights, freedoms or interests of individual citizens, legal entities, state or public interests protected by law, they must immediately notify the head of the state body in writing authority or local self-government body in which they work;

regardless of personal interests, take comprehensive measures to prevent a conflict of interest, and also do not allow actions or omissions that may cause a conflict of interest to arise or create the impression of its existence;

cannot directly or indirectly induce subordinates in any way to make decisions, take actions or inaction for the benefit of their personal interests and/or the interests of third parties;

in case of receipt of an offer regarding an illegal benefit or a gift (donation), regardless of personal interests, the following measures are immediately taken:

1) refuse the offer;

2) if possible, identify the person who made the offer;

3) attract witnesses, if possible, including from colleagues at work;

4) notify in writing about the proposal of the direct manager (if available) or the relevant elected or collegial body and/or one of the specially authorized entities in the field of anti-corruption defined by the Law of Ukraine "On Prevention of Corruption" and are obliged not to accept an unlawful benefit or a gift (donation) for future use as evidence;

in case of discovery of an illegal benefit or gift (donation) in their office premises or transferred in another way, they are obliged to immediately, but no later than one working day, notify their immediate supervisor in writing about this fact;

in accordance with the procedure established by the Law of Ukraine "On Prevention of Corruption", a declaration of property, income, expenses and financial obligations is submitted at the place of work (service) every year.

Violation of the rules of ethical behavior by persons authorized to perform the functions of the state or local self-government entails disciplinary, administrative, criminal and material liability, taking into account the peculiarities of the legal status of such persons, defined by the Constitution and laws of Ukraine [107].

Article 37 of the Law of Ukraine "On Prevention of Corruption" contains requirements for the behavior of individuals. The central body of executive power, which ensures the formation and implementation of state policy in the field of public service, approves the general rules of ethical behavior of civil servants and officials of local self-government.

State bodies, authorities of the Autonomous Republic of Crimea, local self-government bodies, if necessary, develop and ensure the implementation of industry codes or standards of ethical behavior of their employees, as well as other persons authorized to perform the functions of the state or local self-government, persons equated to them, who carry out activities in the field of their management [21].

The persons specified in clause 1, sub-clause "a" of clause 2 of the first part of Article 3 of the Law are obliged in their activities to comply with relevant ethical norms (standards) in their professional activities, in particular, to be politically neutral and impartial, to demonstrate competence and efficiency in their activities, not to divulge or use in any other way confidential and other information with limited access that became known to them in connection with the performance of their

official powers and professional duties, to refrain from the implementation of illegal decisions or assignments.

5) Financial control (declaration of persons authorized to perform the functions of the state or local self-government; monitoring of the lifestyle of the subjects of declaration; additional measures of financial control).

The importance of implementing anti-corruption measures is emphasized in the works of O. Busol and M. A. Pohoretskyi [108, p. 85]. Establishing such an obligation to declare income, from the point of view of Yu. A. Dorogova, Ye. G. Lotkova, at the same time, aims to prevent the employment of civil servants in entrepreneurial and other activities incompatible with civil service. The state is obliged to know about the income of its officials. If these incomes do not correspond to the real earnings of a civil servant, there is every reason to assume their illegal income declarations, in addition, contribute to timely and correct taxation of civil servants [109, p. 210, 211]. In addition, the declaration should be considered a necessary element of government publicity, which should ensure transparency, honesty and compliance of the declared income with moral and ethical principles, will contribute to the prevention of manifestations of corruption and abuse of official position, conflict of official and personal interests [108, p.85, 86]. It acts as a reflection and implementation of the principle of transparency of public service, a measure aimed not only at preventing manifestations of administrative corruption offenses, but also a significant factor in the detection of already existing manifestations of corruption.

The International Code of Conduct for Public Officials (United Nations General Assembly Resolution 51/59 of December 12, 1996) is one of the first global anti-corruption standards. It provides that a public official, in accordance with the position held and as permitted or required by law and administrative regulations, must declare or inform about personal assets and liabilities, as well as (if possible) information about assets and liabilities, belonging to the husband (or wife) and dependents" [110].

According to Art. 45 of the Law "On the Prevention of Corruption", the persons specified in Clause 1, subparagraphs "a" and "c" of Clause 2, Clause 5 of the

first part of Article 3 of this Law are obliged to submit annually by April 1 by filling in the official website of the National the agency's declaration of the person authorized to perform the functions of the state or local self-government for the past year in the form determined by the National Agency.

6) Protection of whistleblowers (state protection of persons who provide assistance in preventing and combating corruption).

For Ukraine, the development of the whistleblower institute, including corruption whistleblowers, is a very important preventive measure against the emergence and spread of corruption in society. If ordinary citizens who are witnesses of corruption at work, at school, hospital, etc., stop being silent about corrupt acts, then a potential corruptor will think three times before receiving an undue benefit or committing an illegal act. Although these circumstances seem to be clear to everyone, the public attitude towards corruption whistleblowers in our country remains negative. Information is the simplest and most effective way to fight corruption. But today it is considered unacceptable for the majority of Ukrainian citizens.

The very concept of "whistleblower" today causes many discussions in many countries of the world, which provide for it in their own legislation. Such a situation is due to the complexity and inconsistency of the process of accurately determining the scope and status of persons covered by this concept, the presence of exposed information in the private or public sectors of the state (corruption crimes, crimes against state security, the legal sphere that regulates responsibility for whether other offense of violation of labor legislation, etc.) and many other issues [111].

As for the Ukrainian experience in identifying whistleblowers, such information is contained in the Law of Ukraine "On Information", the Law of Ukraine "On Access to Public Information", the recently adopted Law of Ukraine "On Prevention of Corruption". Having analyzed these definitions, Dmytro Kotlyar, an expert on media law, in his commentary to the Law "On Access to Public Information" notes that all these laws have significant differences in the definition of a whistleblower, which means the absence of a unified approach to defining the scope of sub entities, grounds and procedure for exemption from responsibility for disclosing information [112, p. 194]. These differences, in our opinion, may lead to

legal conflicts. In Ukraine, the state protection of whistleblowers was regulated by the Law of Ukraine "On Principles of Prevention and Counteraction of Corruption", which was replaced by the Law of Ukraine "On Prevention of Corruption", which entered into force on 04/26/2015. In the new law, the requirement that the whistleblower does not have selfish motives, hostile relationships, revenge, other personal motives. Another change is that the ban on dismissal or forced dismissal due to whistleblowing, disciplinary action or other adverse influence measures by a supervisor or employer will now extend not only to the whistleblower, but also to a family member of the whistleblower. In addition, now information about the whistleblower can be disclosed only with his consent (with the exception of cases established by law), and officials and employees of state and local self-government bodies, legal entities under public law must, in the event of discovering or receiving information about a corrupt act, immediately in writing report it and take measures within the scope of authority. The newly created National Agency for the Prevention of Corruption will constantly monitor the implementation of the law in the field of whistleblower protection and conduct an annual analysis and review of state policy in this area [113].

7) Other mechanisms for preventing and countering corruption (establishing a ban on the receipt of benefits, services and property by state authorities and local self-government bodies, anti-corruption expertise; special inspection).

Regarding the opinion of practical workers (specialists in the field of law and security), the vast majority of them - 81 (51%), understand the administrative-legal mechanism for preventing and countering administrative offenses related to corruption as a set of regulations contained in Chapter 13-A of the Code of Administrative Offenses of Ukraine and the normative provisions of the Law of Ukraine "On Prevention of Corruption", 28 (18%) understand this mechanism exclusively as a set of normative provisions of the Law of Ukraine "On Prevention of Corruption", 24 (15%) prefer the normative prescriptions of the Code of Administrative Offenses, contained in Chapter 13-A, and 9 (6%) of the respondents in general understand such a mechanism as the set of regulations contained in Chapter 13-A of the Code of Administrative Offenses and the normative provisions of

the Law of Ukraine "On Prevention of Corruption", as well as the set of regulations of the Criminal Code of Ukraine, contained in Chapter XVII, as well as the system of state executive bodies implementing state policy in the field of prevention and countering corruption in Ukraine. 26 (16%) respondents could not answer this question [Appendix A].

On March 18, 2015, within the framework of the Law of Ukraine "On Prevention of Corruption" of October 14, 2014, the National Agency for the Prevention of Corruption was established - the central body of the executive power of Ukraine with a special status, which ensures the formation and implementation of the state anti-corruption policy [21]. The national agency has an exclusively preventive function, in particular with regard to checking the declarations of civil servants and their way of life, disclosing any information about facts of corruption or abuse of power or official position.

Among the powers of the National Agency, defined by law, is, in particular, the right to take measures to prosecute persons guilty of corruption or corruption-related offenses, as well as to send to other specially authorized entities in the field of anti-corruption materials that testify to the facts of such offenses.

In the case of detection of signs of an administrative offense related to corruption, authorized persons of the National Agency draw up a report on such offense, which is sent to the court in accordance with the decision of the National Agency. If signs of other corruption or corruption-related offenses are detected, the National Agency approves a substantiated conclusion and sends it to other specially authorized entities in the field of anti-corruption. The conclusion of the National Agency is mandatory for consideration, the results of which are reported no later than five days after receiving notification of the committed offense [21]

It should be noted that, being essentially a preventive body, the National Agency is deprived of the right to use investigative measures of a covert nature in its work, such as surveillance of a person, thing or place; intelligence survey using cover documents; audio and video control of a person, etc. Only operational divisions of the National Police, the National Anti-Corruption Bureau, and the Security Service of Ukraine are empowered to combat corruption offenses.

The fact is that, according to the current legislation, secret investigative (research) activities can only be carried out within the framework of criminal proceedings. In other words, covert recording (documentation) of manifestations of corruption in bodies of state power or local self-government, which contain signs of administrative offenses, is prohibited.

In our opinion, in this case it would be quite effective and expedient to involve subjects of private detective activity in cooperation with the National Agency. However, as indicated above, there is still no legislative act in Ukraine that would regulate the organization and procedure of activities of private detectives and private detective agencies (enterprises).

It should also be remembered that one of the characteristic features of corruption offenses is their extremely high level of latency. A significant part of such offenses goes undetected precisely due to the reluctance of the population to contact law enforcement agencies with a report on the relevant facts of corruption, as well as due to the partial inaction of anti-corruption entities in the areas of prevention, detection and documentation of corruption actions, especially in cases of administrative corruption offenses.

Therefore, the public plays a major role in the fight against administrative offenses related to corruption. Thus, in clause 13 of Art. 11 of the Law states that the National Agency cooperates with persons who, in good faith, report possible facts of corruption or corruption-related offenses, other violations of this Law (whistleblowers), take measures for their legal and other protection, bring to justice persons guilty in violation of their rights, in connection with such information.

Finally, we note that the main goal of the anti-corruption policy is the gradual formation of each official at any level and in any department of their own anti-corruption behavior and combating corruption in the unit, body or department where the official works. In turn, effective counteraction to administrative offenses related to corruption, in our opinion, is possible only in complex application along with the anti-corruption mechanisms defined in the Law, as well as measures of a secret nature, by involving subjects of private detective activity.

Conclusions to the second chapter

1. When developing an anti-corruption policy in Ukraine, it is important to define the strategy, tactics and specific measures of anti-corruption activities. Accordingly, the basis of such a policy is the development and adoption of anti-corruption legislation. The concept of "anti-corruption legislation" is a collective one and refers to acts of different legal force, which are aimed at preventing and countering corrupt acts by public officials. It covers normative legal acts of different legal force, which include: laws, resolutions of the Verkhovna Rada of Ukraine, acts of the President and the Cabinet of Ministers of Ukraine, acts of a departmental nature.

2. Current anti-corruption legislation of Ukraine, depending on its direction and the subject of regulation, can be conditionally divided into three groups:

1) normative legal acts, which provide provisions on general social and special criminological prevention of corruption;

2) regulatory legal acts that determine the signs of corruption offenses and establish responsibility for them;

3) regulatory legal acts that regulate the activities of state bodies and their individual divisions regarding direct law enforcement activities in the field of anti-corruption, its coordination, control and supervision.

3. The Law of Ukraine "On Prevention of Corruption" is more progressive than the Law of Ukraine "On Principles of Prevention and Counteraction of Corruption" and brings positive developments in the fight against corruption. However, the Law of Ukraine "On Prevention of Corruption" has its shortcomings, which should be emphasized. The new Law does not define the concept of "official", which leads to the difficulty of its implementation in practice.

4. Despite the presence of errors in law-making activity and the imperfection of some normative legal acts, positive developments in the field of prevention and counteraction of administrative offenses related to corruption have occurred in a relatively short period of time in our state. Along with this, the anti-corruption legislation must first of all be of high quality, that is, such that it has passed a thorough examination in the expert environment, having undergone the necessary

changes and additions, and must also be as close as possible to generally recognized world standards.

5. The means included in the mechanism of combating administrative offenses related to corruption should be understood as a targeted set of actions. Such means are measures of organizational and legal nature and administrative influence. The latter are coercive measures applied to individuals and legal entities by authorized state bodies and their officials for the purpose of prevention and termination of rules and regulations established by law or other normative legal act in various spheres of life.

Thus, it can be argued that there is a comprehensive approach to fighting corruption through a system of interrelated measures to prevent and counter administrative offenses related to corruption.

6. The administrative-legal mechanism for preventing and countering administrative offenses related to corruption is a system of legal means, the integration and organization of which enables authorized subjects to consistently and effectively carry out activities to counter such offenses in state authorities and local self-government bodies with the help of organizational and legal measures and administrative coercion.

7. The legislator clearly divided the administrative and legal mechanisms for preventing and countering administrative offenses related to corruption into the following groups:

1) formation and implementation of anti-corruption policy (development and implementation of an anti-corruption strategy; adoption and approval of anti-corruption programs; annual national report on the implementation of the principles of anti-corruption policy; public involvement in corruption prevention activities);

2) prevention of corruption and corruption-related offenses (restrictions on the use of official powers or one's position; restrictions on the receipt of gifts; prevention of receipt of an unlawful benefit or a gift and their handling; restrictions on coexistence and combination with other types of activities; restrictions after termination activities related to the performance of functions of the state, local self-government; restriction of joint work of close persons);

3) prevention and settlement of conflicts of interest (measures for external and independent settlement of conflicts of interests; removal from performing a task, taking actions, making a decision or participating in its adoption; limiting access to information; reviewing the scope of official powers; exercising powers under external control; transfer, dismissal of a person in connection with the presence of a conflict of interests);

4) rules of ethical behavior (the central body of executive power, which ensures the formation and implementation of state policy in the field of public service, approves the general rules of ethical behavior of civil servants and officials of local self-government, the main ones the bases of whose activities are compliance with the requirements of the law and ethical norms of behavior, priority of interests, political neutrality, impartiality, non-disclosure of information, etc.);

5) financial control (declaration of persons authorized to perform the functions of the state or local self-government; monitoring of the lifestyle of the subjects of declaration; additional measures of financial control);

6) protection of whistleblowers (state protection of persons who provide assistance in preventing and combating corruption);

7) Other mechanisms for preventing and countering corruption (establishing a ban on the receipt of benefits, services and property by state authorities and local self-government bodies, anti-corruption expertise; special inspection).

9. The National Agency for the Prevention of Corruption is deprived of the right to check the way of life of civil servants using investigative measures of a secret nature, such as surveillance of a person, thing or place; intelligence survey using cover documents; audio and video control of a person, etc. Covert recording (documentation) of manifestations of corruption in bodies of state power or local self-government, which contain signs of administrative offenses, is prohibited. It would be quite effective and expedient to involve subjects of private detective activity in cooperation with the National Agency.

10. One of the characteristic features of corruption offenses is their extremely high level of latency. A significant part of such offenses goes undetected precisely due to the reluctance of the population to contact law enforcement agencies with a

report on the relevant facts of corruption, as well as due to the partial inaction of anti-corruption entities in the areas of prevention, detection and documentation of corruption actions, especially in cases of administrative corruption offenses. The public plays a major role in the fight against administrative offenses related to corruption, and therefore it is extremely important and necessary to further improve and stimulate the institution of whistleblowers in the state.

11. Effective countermeasures against administrative offenses related to corruption are possible only in the complex application, along with the anti-corruption mechanisms defined in the Law, as well as measures of a covert nature, by involving subjects of private detective activity.

CHAPTER III

PROCEDURE AND DIRECTIONS FOR COMBATING ADMINISTRATIVE OFFENSES RELATED TO CORRUPTION BY SUBJECTS OF PRIVATE DETECTIVE ACTIVITIES

3.1. Prerequisites and grounds for carrying out private detective activities during the prevention of administrative offenses related to corruption

Determining the prerequisites and grounds for conducting private detective work has important theoretical and practical significance, as it allows to clarify the legal nature of this activity and correctly apply its methods and means in practice.

Before proceeding directly to the consideration of the main issue of our unit, it should be explained why it is possible to involve subjects of private detective activity during the prevention of administrative offenses related to corruption.

As previously emphasized, prevention is primary before countermeasures. Prevention takes place when this or that negative action has not yet occurred, but there is a real threat of its occurrence, and therefore the main goal of "prevention" is to predict all possible cases of the occurrence of this negative action, as well as the development and implementation of preventive measures to prevent the corresponding undesirable phenomena (actions).

Therefore, the involvement of subjects of private detective activity in cooperation on a contractual basis with the central body of the executive power, which ensures the formation and implementation of the state anti-corruption policy (the National Agency), is possible only within the limits of the prevention of administrative offenses related to corruption in the form of documenting corruption manifestations (until the moment when the authorized officials of the state authority draw up the administrative protocol).

Quite often, different scientists attach different meanings to the concepts of "prerequisite" and "ground", sometimes they are identified or contrasted. One gets the impression that some authors do not attach any significant importance to the difference between them at all [119, p. 88].

Thus, in the Great Explanatory Dictionary of the Ukrainian Language, "foundation" is understood as "the main thing on which something is based; what explains, justifies actions, behavior, etc." [120, p. 478]. Instead, "condition" is defined as a necessary circumstance that enables implementation, [120, p. 694]. In turn, "precondition" is interpreted as "precondition for existence, occurrence, action of something" [120, p. 464].

The prerequisites and grounds for the possible participation of subjects of private detective activity in the prevention of administrative offenses related to corruption are contained in national legislation, which, in turn, is the main prerequisite for the implementation of private detective activity in this area.

Undoubtedly, prerequisites precede the occurrence of certain grounds, that is, they are primary in relation to the latter, as they determine certain circumstances under which the occurrence of relevant legal facts is possible.

Thus, in our opinion, the main prerequisite for the implementation of private detective activity within the framework of prevention and counteraction of administrative offenses related to corruption is, in addition to the legislation itself, which determines the procedure for the organization and implementation of private detective activity, as well as legislation on the prevention of corruption and legislation, which establishes administrative responsibility for committing offenses in the field of corruption.

Today, such normative legal acts are the draft Law of Ukraine "On Private Detective (Investigation) Activity" No. 3726 of December 28, 2015, adopted by the Verkhovna Rada of Ukraine on April 13, 2014, which was submitted to the President of Ukraine for signature today, the Law of Ukraine "On Prevention of Corruption" and the Code of Ukraine on Administrative Offenses, in particular Chapter 13-A "Administrative Corruption Offenses" of this Code.

In accordance with Part 1 of Art. 12 of the specified draft law, private detective (investigative) activities are carried out for the purpose of searching, collecting and recording information, searching for objects, property, people and animals, establishing facts and clarifying various circumstances at the request of the customer

and in accordance with the contract on the provision of private detective (investigative) services.

In Part 3 of Art. 12 of the draft law defines the types of private detective (search) services that can be provided by subjects of private detective activity, in particular:

1) collection, recording and research of information necessary for consideration of cases in administrative proceedings, on a contractual basis with the parties to the court process;

2) search and collection of data that may be a reason or basis for the customer of private detective services to apply to law enforcement agencies or to the court in order to protect his legal rights and interests and

3) detection of facts of illegal (unauthorized) collection for the purpose of using information constituting the customer's commercial secret, or their disclosure, as well as facts of illegal (unauthorized) collection of confidential information about individuals.

Subjects of private detective (research) activity may provide other detective services not prohibited by law (Part 4, Article 12 of the Draft Law) [115].

Thus, the implementation of private detective activities within the scope of prevention of administrative offenses related to corruption is possible, in particular, in the presence of the following circumstances:

1) judicial review of administrative cases on administrative offenses related to corruption (Articles 172-4 - 172-9-1 of the Administrative Code of Administrative Offenses);

2) the presence of well-founded suspicion (unconfirmed information) among customers regarding the possibility of committing or committing at enterprises, institutions, organizations of various forms of ownership corrupt acts, provided for in Art. Art. 172-4 – 172-9-1 of the Administrative Code of Administrative Offenses;

3) the presence of suspicion (unconfirmed information) on the part of the customer regarding the possibility of illegal (unauthorized) collection by third parties of information constituting his commercial secret (Article 172-8 of the Code of Administrative Offenses);

4) the presence of suspicion (unconfirmed information) on the part of the customer regarding the violation by third parties of the requirements of the legislation on the prevention of corruption (Articles 22 - 27 of the Law on Prevention of Corruption).

In accordance with Part 4 of Art. 12 of the draft law, the list of circumstances under which it is possible to carry out private detective activity is not exhaustive, and therefore subjects of private detective activity can provide the customer with other services within the scope of countering administrative offenses related to corruption [121].

In addition to the specified prerequisites, combating administrative offenses related to corruption is not possible without establishing the basis for its implementation.

In philosophy, "ground" is a phenomenon that acts as a necessary condition, a prerequisite for the existence of some other phenomenon (consequence), which serves as an explanation of the latter [115, p. 298].

Therefore, the basis for carrying out private detective activity within the framework of combating administrative offenses related to corruption is the legal fact that changes the social relations existing before that between the subject of private detective activity and the person who intends to contact such a subject object for obtaining relevant services, for exclusively legal relations. Such a legal fact is the contract on the provision of private detective (search) services.

As indicated above, private detective (investigative) activities are carried out in accordance with the contract on the provision of private detective (investigative) services (Part 1, Article 12 of the Draft Law). Therefore, it is the contract on the provision of private detective (investigative) services that is the basis for carrying out private detective activities within the framework of combating administrative offenses related to corruption.

The contract for the provision of private detective (investigative) services, like any other contract, in its essence refers to civil legal transactions.

In accordance with Part 1 of Art. 626 of the Civil Code of Ukraine, a contract is an agreement between two or more parties aimed at establishing, changing or terminating civil rights and obligations[98].

The contract can be concluded in any form, if the requirements regarding the form of the contract are not established by law (Article 639 of the Civil Code of Ukraine). If the parties have agreed to conclude a contract in writing, for which the law does not establish a written form, such a contract is concluded from the moment of its signing by the parties. According to Part 2 of Art. 16 of the Draft Law, the subject of private detective (investigative) activity can provide its customers with detective services provided for by the Draft Law, only after concluding a written contract with them on the provision of private detective (investigative) services [121]. As you can see, the legislator clearly establishes the written form of the contract on the provision of private detective (investigative) services as a basis for conducting private detective (investigative) activities.

In turn, the current civil legislation does not prohibit the notarization of the contract. Yes, in Part 4 of Art. 639 of the Civil Code states that in the case when the parties agreed on the notarization of a contract for which the law does not require notarization, such a contract is concluded from the moment of its notarization.

Based on the provisions of Art. 16 of the draft law, the basis for conducting private detective (investigative) activities is a special type of bilateral obligations, namely, a contract for the provision of services.

In accordance with Part 1 of Art. 901 of the Civil Code of Ukraine under a contract for the provision of services, one party (the contractor) undertakes to provide a service at the request of the other party (the customer), which is consumed in the process of performing a certain action or carrying out a certain activity, and the customer undertakes to pay the contractor for the specified service, if otherwise not established by the contract.

Let's consider some general features that are characteristic of a contract for the provision of private detective (investigative) services:

1. When concluding a contract for the provision of private detective (search) services, the customer cannot claim in advance that he is completely satisfied with

the quality of the service, since the latter can be properly evaluated only after the fulfillment of the main condition specified in the contract - transfer by one party (the subject of private detective activity) to the other party (customer) of information (information) that is of interest to the latter.

2. When performing a contract for the provision of private detective (investigative) services, the subject of evaluation and sale is not only information (information transmitted orally or recorded on a suitable information medium), but also a set of actions performed by the subject of private detective activity, thanks to by which the required result was obtained. In the event that the set of actions performed by a private detective is recorded on a physical medium (camera, video camera, hard disk, portable flash drive, optical disc, cassette, photograph, sheet of paper with written or printed information, etc.), the performed actions will mediated by a corresponding material thing - an information carrier. However, in the case when obtaining the appropriate result is impossible without the use of a certain material thing (a camera, a digital recorder) necessary to perform one or another action (method, reception) for obtaining and recording information, such relations (actions of a private detective for obtaining information) is also the subject of the contract for the provision of services. In other words, the activity of a private detective during the execution of the task is an integral part of the result recorded on the physical medium of information, and constitutes a separate subject of the contract and is subject to consideration when forming the cost of the services provided to the customer.

3. The provision of a certain service within the scope of the contract on the provision of private detective (investigative) services is considered as an independent object.

4. The contract for the provision of private detective (investigative) services is bilateral, i.e. one party (the subject of private detective activity) undertakes to provide a service that is consumed in the process of committing a certain action or carrying out a certain activity at the request of the other party (the customer) and the customer undertakes to pay for the provided service.

5. The contract for the provision of private detective (investigative) services is consensual, that is, it is considered concluded from the moment of reaching agreement on all essential conditions.

6. The form of the contract for the provision of private detective (investigative) services is usually in writing.

7. The parties to the contract on the provision of private detective (search) services are the subject of private detective activity (a natural person – a private detective or a legal entity – an association of private detectives) and the customer [128].

In accordance with Part 1 of Art. 4 of the draft law, the subjects of private detective (investigative) activity in accordance with this Law are: 1) a private detective and 2) an association of private detectives.

A private detective can be a citizen of Ukraine who has reached the age of 21, speaks the state language, has a higher legal education or experience of working in operative units or pre-trial investigation bodies for at least three years, has undergone appropriate training for the purpose of private detective (investigative) activities and received in according to the procedure established by law, a certificate of the right to engage in private detective (investigative) activities (Part 1, Article 5 of the Draft Law).

The association of private detectives is a legal entity created by the union of two or more private detectives in accordance with the requirements of the legislation of Ukraine, which conducts exclusively private detective (investigative) activities on the basis of the statute. State registration of the association of private detectives is carried out in accordance with the procedure established by the Law of Ukraine "On State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations" (Part 2, Article 6 of the Draft Law) [121].

The customer of private detective (investigative) services is a natural or legal person, state authority, local self-government body, in whose interests private detective (investigative) activities are carried out (clause 1, article 1 of the Draft Law).

8. Private detective (search) services are subject to mandatory certification.

Private detective (investigative) services may be provided only by subjects of private detective (investigative) activity in the manner and under the conditions determined by this Law (Part 2, Article 4 of the Draft Law).

The certificate of the right to engage in private detective (search) activities is issued by the Ministry of Justice of Ukraine, taking into account the requirements established by this Law. Along with the certificate of the right to engage in private detective (investigative) activities, the applicant is issued a private detective certificate, the sample of which is approved by the Ministry of Justice of Ukraine (Part 1 and Part 3 of Article 8 of the Draft Law).

In addition, the Ministry of Justice of Ukraine ensures the maintenance of the Unified Register of Subjects of Private Detective (Investigation) Activity (hereinafter - the Register) for the purpose of collecting, storing, accounting and providing reliable information about the number and their personal composition, which in accordance with this Law have acquired the right to employment private detective (investigative) activity in Ukraine, about the organizational forms of activity chosen by subjects of private detective (investigative) activity. The entry of information into the Register is carried out by the Ministry of Justice of Ukraine (Part 1, Article 7 of the Draft Law) [121].

9. The subject of the contract on the provision of private detective (investigative) services is the performance by the subject of private detective (investigative) activity of certain investigative actions (for example, finding out the biographical data of the relevant person) or the implementation of certain activities (for example, collecting, recording and researching information), necessary for consideration of cases in administrative proceedings).

The specific characteristics of a service distinguish it from a product. The service is characterized by invisibility (it cannot be handled, stored, transported, stored); the service is inexhaustible (regardless of the number of times it is provided, its own quantitative characteristics do not change).

Services also differ from works, but this difference is no longer so clear. The beneficial effect of the activity of providing a service does not appear in the form of a

certain measurable material result, as is the case when performing work, but consists in the very process of providing a service [128].

According to Art. 902 of the Civil Code of Ukraine, the performer must provide the service personally. In the cases established by the contract, the executor has the right to entrust the execution of the contract for the provision of services to another person, remaining fully responsible to the customer for the breach of the contract.

One of the features of the contract on the provision of private detective (investigative) services is the obligation of the subject of private detective activity to provide the service personally, since taking into account its legal nature, consumption of the service is possible only in direct contact of the customer with the executor (private detective). At the same time, obligations to provide private detective (investigative) services do not acquire a personal fiduciary character, since there is no personal connection in the relationship between the customer and the executor (private detective). The main thing is that the customer is not interested in the service as such, but the service provided by a specific specialist.

At the same time, there are conditions permitted by law under which it is possible to transfer the execution of the contract for the provision of services to a third party. Article 903 of the Civil Code of Ukraine does not specify cases in which it is possible to do this. And only if the contract expressly provides for the possibility of assigning performance to a third party, then such assignment will be possible. By transferring the performance of its own contractual obligation to a third party, the primary executor does not drop out of the legal relationship and remains obligated to the customer until the obligation is fully fulfilled. The third person does not become the subject of the main obligation and does not bear any obligations directly to the customer [128].

Thus, in Part 5 of Art. 6 of the draft law indicates that in the cases established by the contract on the provision of private detective (investigative) services, associations of private detectives may involve private detectives who are not their participants in the execution of the contracts concluded by them, remaining fully

responsible to the customer for breach of contract on the provision of private detective (investigative) services [121].

According to Clause 4 of Art. 1 of the draft law, private detective (investigative) activity is the entrepreneurial activity of private detectives or associations of private detectives regarding the provision of detective services to customers on a paid contractual basis. Therefore, the customer is obliged to pay for the service provided to him in the amount, within the terms and in the manner established by the contract (Part 1 of Article 903 of the Civil Code of Ukraine).

Civil legislation is based on the principle of payment of the contract, unless otherwise established by the contract, the law or does not follow from the essence of the contract (Part 5 of Article 626 of the Civil Code of Ukraine). Taking into account that the contract for the provision of private detective (investigative) services provides for a fee, the customer is obliged to pay for the service provided to him in the amount, in the terms and in the manner established by this contract.

The price of the contract must be indicated in hryvnias according to Art. 533 of the Civil Code of Ukraine and Art. 3 of the Decree of the Cabinet of Ministers of Ukraine "On the System of Currency Regulation and Control" [128].

Payment for the services provided by subjects of private detective activity should be made at the expense of the State Budget of Ukraine, since the current legislation does not provide for the implementation of the National Agency's activities on the basis of self-financing. According to Part 1 of Art. 17 of the Law of Ukraine "On Prevention of Corruption", the financial support of the National Agency is carried out at the expense of the State Budget of Ukraine. Funding of the National Agency from any other sources is prohibited. In the State Budget of Ukraine, expenditures for the financing of the National Agency are determined by a separate line at the level that ensures proper performance of the National Agency's powers. At the same time, according to Clause 6 Part 2 of Art. 6 decisions on the distribution of budget funds, which are managed by the National Agency, are made by the Head of the National Agency [21]. By the way, the majority of the experts we interviewed in the field of law and security activities - 65% - also support this position [Appendix A].

In turn, it should be noted that the legislator clearly defined cases when the subject of private detective (investigative) activity does not have the right to enter into an agreement on the provision of private detective (investigative) services, namely:

1) in cases where the subject of private detective (investigative) activity provided similar private detective services to persons whose interests conflict with the interests of the customer and a conflict of interests is created;

2) in cases where the investigation involves a person with whom the private detective and/or an employee of the association of private detectives is in a family relationship;

3) in cases where during the provision of private detective (investigative) services, the rights and legally protected interests of other citizens, state or national interests may be violated (Part 4, Article 16 of the Draft Law).

Thus, after considering the approximate content of the contract on the provision of private detective (investigative) services and taking into account the fact that the current draft law does not provide for its official form (sample), we developed our own version of the bilateral agreement between the subject of private detective activity and the state executive body, which ensures the formation and implementation of the state anti-corruption policy.

Being an inherently new phenomenon in domestic legal science, private detective activity has been researched quite little at the scientific level, and therefore in the available legal literature today it is difficult to find provisions that would explain the difference between the definition of the prerequisites, grounds and conditions for the implementation of private detective activity. Meanwhile, the resolution of this issue is important for the development of the conceptual apparatus of the institute of private detective activity and a guarantee of compliance with the law when the subjects of this activity exercise their powers.

The opinion of specialists in the field of law and security activities on this matter seems interesting. Thus, a survey conducted among lawyers, employees of operative units and investigative bodies of pre-trial investigation of the Ukrainian Armed Forces, prosecutors, lawyers and employees of private security structures,

including those engaged in private investigative activities - a total of 158 people, found that 82 (52%) of the respondents under the premise of conducting private detective activities within the framework of preventing and countering administrative offenses related to corruption understand the relevant legislation, namely the Laws of Ukraine "On Private Detective (Investigation) Activities", "On Prevention of Corruption" and the Code of Criminal Procedure , and the basis is a contract for the provision of private detective (search) services, 20 (13%) understand the conclusion of a contract for the provision of private detective (investigative) services as a prerequisite, and the basis is a certificate of the right to engage in private detective (investigative) activities, 7 (4%) of respondents believe that the prerequisite for the implementation of private detective activity within the framework of preventing and countering administrative offenses related to corruption are social relations that have arisen between the customer and the subject of private detective activity, and the basis is the direct implementation by a private detective of the complex of private detective (search) actions, 25 (16%) of the interviewees identify the specified concepts in general and 24 (15%) of the interviewees find it difficult to answer the question [Appendix A].

As we can see, the answers of the majority of respondents - 52% - confirm the author's understanding of the prerequisites and grounds for conducting private detective (investigative) activities. In turn, the entire set of phenomena of objective reality, under which private detective (investigative) activity is possible and directly carried out, can be defined by the unifying term "circumstances". In turn, in the Great explanatory dictionary of the Ukrainian language, "circumstance" is a set of conditions under which something happens [120, p. 422].

So, the main circumstances (prerequisites and grounds) under which subjects of private detective activity can take actions (document facts) to prevent administrative offenses related to corruption include:

1) Law of Ukraine "On Prevention of Corruption";

2) Law of Ukraine "On Private Detective (Investigative) Activity";

3) Code of Ukraine on Administrative Offenses (Chapter 13-A);

3) contract on the provision of private detective services.

Thus, the main prerequisite for the implementation of private detective activity within the framework of combating administrative offenses related to corruption is, along with the legislation that determines the order of organization and implementation of private detective activity - the draft Law of Ukraine "On Private Detective (Investigative) Activity" as well as legislation on the prevention of corruption - the Law of Ukraine "On the Prevention of Corruption" and the legislation establishing administrative responsibility for committing offenses in the field of corruption - the Administrative Code of Administrative Offenses. In turn, the grounds for carrying out private detective activity in the relevant field are the conclusion of a written contract on the provision of private detective (investigative) services between subjects of private detective activity and customers of these services, which can be natural or legal entities, a state authority, a local authority self-government, in the interests of which private detective (investigative) activities are carried out (Part 1, Article 16 of the Draft Law).

3.2. Methods of identifying and recording corruption manifestations and facts of administrative corruption by subjects of private detective activity

Today, corruption is one of the biggest internal threats to Ukraine, which in today's conditions slows down the development of the economy and civil society, and even more so - poses a threat to the very national security of our state. "The level of corruption is a peculiar indicator of the moral state of society as a whole and of each person in particular. An illusion may appear that corruption makes life easier, but it slowly destroys the social organism and people's hearts" [122].

As indicated above, the most widespread negative phenomenon in Ukrainian society is administrative corruption. Such well-known concepts as "swindle", "bribe", "resolution of the issue", "nepotism" have, unfortunately, become an integral part of the daily life of our society and are perceived by citizens as an effective and efficient tool for a quick and convenient solution to the or another question. From the point of view of the vast majority of the country's population, the above-mentioned manifestations of corruption do not contain anything illegal at all. This attitude of citizens to the existing problem significantly complicates the possibility of

identifying and recording the manifestations and facts of administrative corruption in society.

One of the ways to overcome administrative corruption in Ukraine could be the involvement of subjects of private detective activity on a contractual basis to cooperate with the National Agency for the Prevention of Corruption. In other words, there is an urgent need to create a new effective mechanism in the fight against administrative offenses related to corruption, based on the interaction of the state executive body and a non-state (private) entity endowed with certain investigative functions.

A similar point of view is also supported by the majority of interviewed experts in the field of law and employees of private security companies, the majority of whom - 95 (60%) spoke in favor of the interaction of the National Agency with subjects of private detective activity, since administrative offenses related to corruption are mainly have a latent nature, which makes it much more difficult to expose them by open (public) methods [Appendix A].

In this subsection, we will try to determine the methods of detection and the procedure for recording corruption manifestations and facts of administrative corruption by subjects of private detective activity within the framework of interaction with the National Agency in the field of prevention of administrative offenses related to corruption.

It is proposed to conditionally divide the study of this issue into two stages:

1) to establish possible methods and techniques for detecting corruption manifestations and facts of administrative corruption by subjects of private detective activity, provided for by the current legislation;

2) determine the procedure for recording the facts of administrative corruption and its manifestations by subjects of private detective activity within the framework of interaction with the National Agency for the Prevention of Administrative Offenses Related to Corruption.

The initial moment, the starting point before the start of private detective (investigative) activities, as in any other activity for the provision of certain services,

is a conversation with the customer and the conclusion of a bilateral written contract on the provision of private detective (investigative) services.

Together with the customer, the private detective should discuss a number of specific and practical issues of the future task. Already from this moment you should take care of the conspiracy. All meetings with the customer should be held in such places that would minimize the possibility of the private detective and the customer's client meeting with unwanted witnesses from among work colleagues, neighbors, relatives or just acquaintances. In this case, the old saying is apt: "Where three know, everyone knows!"

During the meeting, it is advisable to carefully discuss the following issues:

1. The essence of the customer's problem and his task.

At the beginning of the conversation, it is necessary to find out what exactly is of interest to the customer, in particular, the collection, recording and research of information necessary to verify unconfirmed information regarding: 1) violation of restrictions on co-operation and co-operation with other types of activities by an official; 2) violation of legal restrictions on receiving gifts by an official; 3) violation of financial control requirements by an official; 4) violation of requirements for the prevention and settlement of conflicts of interest; 5) illegal use of information that became known to a person in connection with the performance of official powers; 6) failure to take measures to combat corruption. But at the same time, the private detective should not draw conclusions in advance based only on the assumptions (suspicions) of the customer, giving preference only to verified specific facts and evidence. Quite often, customers evaluate certain events or suspect a person solely for subjective reasons.

2. Analysis of the situation at the facility, personnel characteristics, identification of suspects.

Together with the customer, it is advisable to analyze the general personnel situation at the facility (enterprise, institution, organization), if the latter has this information, as well as identify persons who may be of operational interest.

3. How does the customer plan to respond to detected administrative or criminal offenses.

It is necessary to find out whether the customer plans to apply to law enforcement agencies (National anti-corruption bureau of Ukraine, Security service of Ukraine, Ministry of Internal Affairs, Prosecutor's Office, etc.) in case of detection and recording by the subject of private detective activity during the performance of the task of facts of offenses that, according to the level of public danger and objective party are not related to the administrative and legal sphere. But in any case, the information obtained by the private detective must be prepared in such a way that it can be presented to the court. That is, we are talking about the legalization of information obtained by conducting secret investigative activities.

4. The most acceptable (rational) method and time frame for completing the task.

During the discussion, it is necessary to determine the most rational ways of performing the task, taking into account the specific situation that has developed at the relevant object, the specifics of this task, as well as the approximate terms of its completion. On the one hand, the customer can set a certain deadline, and on the other hand, he can not limit the private detective in time. In any case, the main thing for the customer is to obtain the necessary information, and therefore, in our opinion, the second option - without a time limit - is the most widespread in the field of providing private detective (search) services.

5. Composition of participants.

Depending on the nature and complexity of the task, the specifics of the location of the object (office, public place, residential building, etc.), weather conditions, the presence of obstacles on the object or next to it (security or concierge at the entrance to the building, the presence of an intercom or video surveillance cameras, the presence of a guard dog, etc.) the private detective must decide on the quantitative and professional composition of the participants.

6. Methods of implementation (arrangement) of a trusted private detective (assistant or confidant).

Together with the customer, the issue of the method of introducing a trusted private detective to the facility, as well as the form of covering up his activities, is discussed. At the same time, the following should be taken into account:

1) the introduction (placement) of a trusted person at an object (enterprise, institution, organization) must comply as much as possible with the established order and procedure of employment;

2) it is desirable to register the candidate together with other persons applying for the vacant position;

3) if the authorized person gets a job on his own (in the absence of a competition to fill a vacant position), it is necessary to prepare in advance a plausible and convincing explanation (legend) regarding his employment;

4) the position for which the authorized person is registered should, as much as possible, ensure the possibility of permanent contacts with the personnel of the enterprise, institution, organization;

5) the authorized person should not attract a lot of attention to himself or cause dissatisfaction on the part of the personnel of the enterprise, institution, organization;

6) the circle of persons who know the essence of the relevant task should be limited to only one customer. In the extreme case, it is possible to partially tell about some details of the future task of an employee of the HR department, who will directly issue a proxy for work. It is desirable that the head of this department (management, department) deals directly with the employment procedure. Otherwise, if an employee of the human resources department is not involved in the task and does not know about the "placement" of a trusted person, the latter goes through the entire employment procedure as a "person from the street", that is, together with other persons who apply for a vacant position [124, p. 172].

7. Material and financial costs.

Be sure to clearly consider the financial aspects of the future task. It is necessary to discuss with the customer in advance the list of possible material and financial costs in the process of performing the task, as well as the amount of remuneration for the work performed by the task performers.

8. Security measures and conspiracies.

Security measures and conspiracies are one of the most important points that must be discussed and agreed with the customer and the trustee.

Therefore, in order to prevent a possible leakage of information during the execution of the task and the exposure of its participants, it is necessary to jointly agree on the following points:

1. To ensure reliable communication between the participants of the operation - the customer, the private detective and the trusted person (confidant).

The relationship between a private investigator and a confidant is the most vulnerable aspect of the job. The information received by the confidant must be transferred in a timely manner. And this is possible only if there is a reliable connection between them. The method and means of communication are chosen in each specific case separately, depending on the nature and complexity of the task. Thus, a private detective can communicate with a trusted person using the following means: 1) during personal meetings; 2) using technical means (telephone, mobile phone, e-mail); 3) with the help of couriers; 4) using hiding places; 5) during instant contacts.

2. Determine the options (methods) of "emergency communication" in the event that it will not be possible to use the previously agreed means of communication for one reason or another.

In the event that it is necessary to avoid exposure, which became possible as a result of a partial leak of information or as a result of the suspicion of the object (a person who is being checked for involvement in administrative offenses related to corruption) due to unprofessional actions of one of the task participants , it is necessary to abandon all previous means of primary communication, which were stipulated before the start of the task. In this case, "emergency" communication is used to notify other participants (a private detective or a customer) about an existing threat. The means of such communication can be: 1) messages of participants using "in the dark" of third parties; 2) with the help of postal items (for example, a greeting card); 3) using hiding places; 4) replacement of e-mail technical means as a last resort (replacement of mobile phone and subscriber number or deletion of the old e-mail box and creation of a new one with a new IP address).

3. Determine methods of "signal" communication.

Sometimes, communication can have a "signal" nature (notification of danger, of sending - receiving, readiness - not ready, etc.)

The forms and methods of "signal" communication depend on the ingenuity and cleverness of the private detective or trusted person, taking into account the specific circumstances. It can be some sign (for example, a chalk line in a predetermined place), an open-closed window or blinds, a light in the room suddenly turned off and on, a conditional code word or number sent using a mobile phone or electronic communication, "false" phone call etc. The main thing is that the given signal has a natural, not an artificial appearance, so as not to cause surprise in others.

4. Take care of conspiracy and security measures at meetings in premises, public places, etc.

In this case, it is possible to apply two of the most common techniques: 1) meetings at a specified time in a specified place (for example, a specially rented apartment or a city square) and 2) "instant" contact (meeting) in a public place, during which one participant transmits to another information (for example, both participants "accidentally" bumped into each other on the street or on the subway platform).

It should be noted that an important condition for achieving a positive result and fulfilling the terms of the contract concluded with the client is the observance by the subjects of private detective activity of strict conspiracy, both in the direct execution of tasks (conducting private investigative activities) and in everyday life (everyday life - family, circle of friends and acquaintances, etc.).

Conspiracy should be understood as the actions or inaction of one person or a group of persons aimed at concealing the true goals or other activities, activities, ideas, or group of persons. This is a complex of measures connected with one goal [125, p. 12].

Yes, if an official (object) regarding whom an employee of the National Agency has a suspicion of the possibility of systematically committing administrative offenses provided for by Art. 172-4 (violation of restrictions on co-operation and co-operation with other types of activities) and Art. 172-5 (violation of legal restrictions on receiving gifts) of the Code of Ukraine on administrative offenses is an employee

of a law enforcement agency, then there is a risk of exposing the participants of the task, since the subject may have certain knowledge in the field of operational and investigative activities, successfully apply them in practice and easily be able to to reveal the appropriate measures of an undisclosed nature carried out in relation to him (for example, external surveillance in public places or undisclosed audio and video control of a person in an official premises, etc.). As a rule, this category of persons (objects) behaves very cautiously, adheres to the rules of conspiracy, and every time he insures himself before committing the next corruption offense. That is why open conversations on the phone with the participants of the task in the presence of the object, following the latter at the workplace or persistently offering their friendship can lead to the instant exposure of a private investigator or confidant, which will result in the exposure of the task as a whole and all its participants.

9. Form and frequency of reporting.

It is necessary to discuss with the customer the periodicity and form of reporting on the work performed and its results. The periodicity of the private detective's reporting to the customer depends on the complexity of the task, which is of two types: 1) one-time (separate) task and 2) complex task (operation).

A one-time (separate) task is a task defined by the customer (the central body of the executive power that ensures the formation and implementation of the state anti-corruption policy) in the contract for the provision of private detective (investigative) services is obtaining and recording information about a separate fact (episode) of committing an administrative offense related to corruption, without further identification, establishment and documentation of other facts (episodes) and officials who may be involved in illegal activities in the field of corruption.

A complex task (operation) is a system of coordinated, clearly planned, overt and covert private investigative actions using technical means, involving trusted persons (assistants or confidants), carried out by a private detective within the framework of a contract for the provision of private detective (investigative) services concluded with the central body of executive power, which ensures the formation and implementation of the state anti-corruption policy, with the aim of obtaining and recording both a separate fact (episode) of an official's commission of an

administrative offense related to corruption, and further identification and documentation of other facts (episodes) of administrative offenses in the field of corruption committed by this person, with mandatory identification of all persons involved in such illegal activity.

Carrying out complex tasks (operations), in our opinion, is appropriate only in those cases when the National Agency has reliable information (suspicion), received, for example, from whistleblowers, about the systematic commission of administrative offenses related to corruption by a certain official, but it is impossible to document the relevant activity without carrying out a set of activities of both an overt and undercover nature with the involvement of subjects of private detective activity.

As for the periodicity and form of reporting, in the case of carrying out a separate task, the private detective reports only once - after obtaining a specific result and fulfilling the terms of the contract by transmitting information of interest to the customer orally or on a suitable media (as agreed by the parties). In turn, in the case of a complex operation, the private detective can report both in stages during the execution of the task (for example, after documenting each individual episode) and after the completion of the entire complex of tasks (contract conditions). In the event of step-by-step informing the customer, a strict conspiracy should be followed, as well as take care in advance of the means of communication (channel) for the transmission of information, which we mentioned above. In this case, it is possible to transmit information both verbally and on any media (as agreed by the parties).

In our opinion, the act of acceptance and transfer of the provided services, drawn up in accordance with the requirements defined by civil legislation, should be considered a documentary basis that would confirm the full fulfillment of the terms of the contract with the subsequent termination of the provision of private detective (investigative) services. A similar point of view is supported by the absolute majority of respondents 102 (65%) [Appendix A].

Finally, the private detective's meeting and negotiations with the client (customer) end with the conclusion of a written contract on the provision of private detective services.

Having concluded a written contract, the subject of private detective activity receives all legal grounds for searching, collecting, recording information about the presence of corruption manifestations and clarifying various circumstances related to them, in particular: 1) establishes the reasons that led to the presence manifestations of corruption; 2) establishes eyewitnesses who may become witnesses in the future (when drawing up an administrative protocol by authorized persons or in court); 3) identifies other persons who may be involved in the relevant illegal activity (close relatives, friends, etc.); 4) ascertains the legality of the audited person's sources of income, if the customer has doubts about the authenticity of the data of the persons authorized to perform the functions of the state or local self-government (hereinafter referred to as the Declaration); 5) the presence of movable/immovable property in the inspected person, if the customer has doubts about the reliability of the data specified in the Declaration.

Therefore, after the private detective has found out the nature of the services that the customer wants to receive from him, and having concluded an agreement on the provision of private detective (investigative) services, he must develop a plan of private detective (investigative) activities. The planning of such tasks, the solution of which contradicts the current legislation, should be excluded. The success of the future task largely depends on how carefully planned and organized the task is.

The plan of a complex task (operation) includes all the points listed above and considered by us, which must be determined during the discussion of the future task with the customer.

First of all, the goals and tasks of the future operation must be clearly defined, as well as the terms of its implementation, as well as the prescribed procedure for the actions of the participants at all stages of the implementation of the complex task in various situations. First of all, the actions of the two key participants - the private detective and the executor (trustee) - must be clearly planned and worked out.

A private detective must foresee possible freelance and emergency situations, the order of his actions in the event of their occurrence. At the same time, it should be clarified what exactly is the difference between the two basic concepts on which any task or complex operation is based: 1) setting and 2) situation.

The situation should be understood as the conditions that have developed at the moment and were known in advance to the private detective, and he specifically knows what needs to be done to obtain the required result [125, p. 15]. It is considered that a private detective acts within a certain situation only when he has carefully planned and agreed with the client (customer) and the confidant all the stages, elements and possible "force majeure" circumstances that may arise during the execution of the future task.

In turn, improperly planned actions, the lack of reliable communication between the private detective and the client (customer) or confidant, lead to the frequent occurrence of freelance, unforeseen situations during the execution of the task.

The situation is the circumstances under which the subject of activity (private detective or confidant. - author) does not have the necessary information and experience in the conditions that have developed and in order to obtain a specific result must make a decision based on intuition, other experience, own thinking, techniques of logic, but in any case with a large degree of approximation and a small degree of substantiation of both a separate decision and the result of the task as a whole [125, p. 14].

Therefore, a private detective should minimize the possibility of out-of-office situations during the planning of private investigative activities for a future task, and therefore an important element of task planning and preparation is thorough briefing of the executor (confidant) on the entire complex of issues that he will have to face during practical work .

First of all, the executor (confidant) must clearly understand what is required of him, what information, in what time frame and in what form he must provide.

It should be noted that the use of so-called proxies of private detectives or "confidants" during the performance of various tasks is a fairly widespread phenomenon. Although the draft Law of Ukraine "On Private Detective (Investigative) Activity" No. 3726 does not contain any hint of confidential cooperation with individuals on a voluntary basis. Instead, confidential cooperation is officially permitted in investigative and criminal proceedings.

Yes, according to Part 1 of Art. 275 of the Criminal Procedure Code of Ukraine, during the conduct of undercover investigative (search) actions, the investigator has the right to use information obtained as a result of confidential cooperation with other persons, or involve these persons in conducting undercover investigative actions in the cases provided for by this Code.

In the Spelling Dictionary of the Ukrainian language, "confidant" is listed as "trustee" [126]. According to the Explanatory Dictionary of the Ukrainian Language, "confidant" should be understood as: 1) an agent; 2) exponent [127].

In turn, confidential cooperation is a secret relationship established by authorized bodies with an adult capable of action (a citizen of Ukraine, a foreigner or a stateless person) and is used on the basis of voluntariness and conspiratoriality to solve the tasks of criminal proceedings [129, p. 694].

In our opinion, a confidant is an adult, able-bodied person (a citizen of Ukraine, a foreigner, or a stateless person), with whom the private detective has established a secret relationship exclusively on the basis of voluntariness and conspiracism, the purpose of which is to perform the tasks of private detective activity.

The need to introduce this element into the current draft law, in our opinion, is explained primarily by the secret (hidden or secret) aspect of the work of a private detective. Most of the information that the detective must obtain in the course of his activity requires some effort in one way or another to obtain it, since the sources (carriers) of the latter are: 1) people and 2) other things (objects) of the material world.

Let's consider the cases when, in our opinion, it is appropriate to use confidants in the process of private detective work:

1) in the event that other overt and undercover private investigative measures (including technical ones) did not yield a positive result;

2) in the case when the use of other overt and covert private investigative measures (including technical ones) may lead to the exposure of the task or complex operation by the object;

3) in the case when it is not possible to carry out certain covert search measures due to the lack of the necessary technical means, or the use of technical means, as well as the conduct of the private search action itself, is illegal (for example, secret entry into the premises for the purpose of installing a special technical means of covertly obtaining a visual or auditory information).

So, for example, in the global practice of private detective activity, the three most widespread methods of obtaining information at enterprises, institutions, and organizations of various forms of ownership have been developed, in particular:

1) a private detective personally "gets a job" in an institution, enterprise, organization;

2) a person (confidant) specially selected and trained by a private detective is "placed" at an enterprise, institution, organization, who works there for some time in order to obtain certain information of interest to the private detective and the client (customer);

3) a person who has the opportunity to obtain information that is of interest to a private detective, the latter can "buy" (hire) from among the personnel of an enterprise, institution, organization [124, p. 171].

We can agree with the opinion of V. M. Zemlyanov that the second option is the most acceptable in this case. The fact is that the first option cannot be applied for a long time, due to the busyness of the private detective with other cases, and the third option requires a large amount of work to be carried out on the selection of a candidate for assistants, his training, verification, involvement in cooperation, etc. [124, with. 170].

Thus, having developed a plan of private detective (investigative) activities and determining the main executor of the future task, the private detective proceeds directly to the main stage - obtaining information that is of interest to the customer.

Thus, in accordance with Part 1 of Art. 12 of the draft Law of Ukraine "On Private Detective (Investigative) Activity" No. 3427 of 28.12.2015, which we mentioned above, "private detective (investigative) activity is carried out for the purpose of searching, collecting and recording information, searching for objects, property, people and animals, establishing facts and elucidating various

circumstances at the request of the customer and in accordance with the contract on the provision of private detective (investigative) services" [121].

In the case of cooperation with the National Agency, the first is the customer, instead, the subject of private detective activity - a private detective or a private detective agency (enterprise) - is the performer of the relevant services.

In Part 3 of Art. 12 of the draft law defines the types of private detective (investigative) services that can be provided by subjects of private detective activity, in particular: 1) collection, recording and research of information necessary for consideration of cases in administrative proceedings, on a contractual basis with the parties to the court process; 2) search and collection of data that may be a reason or basis for the customer of private detective services to apply to law enforcement agencies or to the court in order to protect his legal rights and interests and 3) detection of illegal (unauthorized) collection for the purpose of disclosure or use of information, that constitute the customer's commercial secret, or their disclosure, as well as the facts of illegal (unauthorized) collection of confidential information about individuals.

Subjects of private detective (investigative) activity may provide other detective services not prohibited by law (Part 4, Article 12 of the Draft Law) [121].

Based on the provisions of this article, information discovery, as a search process, includes such elements as search, collection and fixation (of information, facts or data).

Thus, the methods of detecting corruption manifestations and facts of administrative corruption by subjects of private detective activity, provided for by the current legislation, are: 1) search; 2) collection and 3) recording of information of interest to the customer.

In a broad sense, search is a search for someone or something [123]. Since the purpose of private detective activity is to obtain information by certain methods defined by law, in this case there is a search for information, which should be understood as actions aimed at obtaining information from various sources, which can be documents, automated databases or automated information systems. systems,

people as carriers of information about certain events, circumstances (eyewitnesses) or specialists in the relevant field of knowledge, etc.

As a rule, the search for information takes place in three directions: 1) search for information about the source; 2) search for the source itself and 3) search for factual data (information) contained in information sources - gathering information (for example, information about certain events or circumstances, technical characteristics of objects, properties of substances and materials, biographical data from people's lives, etc.).

As you can see, collecting information is one of the directions of its search, and sometimes it is generally considered as a synonym of the latter. Although there are cases when the collection of information should be considered as a separate method, for example, when a private detective knows the location of the source of information from the primary information provided to him by the customer himself.

Traditional sources of information for a private detective are people and documents. First of all, these are persons (carriers of information) who have information about facts and events of interest to a private detective, official representatives of enterprises, institutions, organizations, specialists in one or another field, as well as criminals who are related to specific facts and events.

Of particular interest are persons who have access to information of interest to a private detective (communicate with knowledgeable people, develop or draw up relevant documents, work with them).

Taking into account the nature of the needs, the necessary personal, business and informational qualities, the private detective begins to look for a suitable person, for which he carefully considers the appropriate contingent of people in a certain social environment (for example, the staff of a government institution of interest to the client). Among them, he selects those who meet the established requirements to the greatest extent.

As V. M. Zemlyanov rightly points out, extensive practical experience in the field of acquiring information sources (confidants, agents, etc.) allowed us to derive a fairly simple and reliably "working" formula. It allows with high probability to achieve positive results in involving any person in cooperation. This formula can be

imagined in the form of the abbreviation "MICS", where "M" is money; "I" - ideology; "C" - compromise; "S" - subjective qualities of a potential source of information [124, p. 113].

Gathering information requires the subject of private detective activity to use appropriate professional skills and abilities. In this case, such methods as surveys, observations, submission of relevant requests to enterprises, institutions, organizations, monitoring of social networks on the Internet, etc. are used. At the same time, the collection of information can be both overt (without concealing the purpose) and covert (by concealing the purpose). An example of tacit information gathering can be an oral interview of a person (using a legend), visual observation of a person, thing or place, etc.

Thus, in our opinion, under the methods of detecting corruption manifestations and facts of administrative corruption, subjects of private detective activity should be considered a complex of private detective (investigative) actions of an overt and undercover nature, which consist in searching, collecting, recording and researching information, which is of interest to the customer.

The opinion of experts in the field of law (authorized officers, investigators, lawyers, prosecutors, lawyers) and employees of private security structures seems interesting in this regard. Thus, the majority of respondents - 81 (51%) understand the methods of detecting corruption manifestations and facts of administrative corruption by subjects of private detective activity as a complex of private detective (investigative) actions of an overt and undercover nature, aimed at (searching, collecting, recording and researching information) information) that is of interest to the customer [Appendix A].

After the subject of private detective activity has found and collected information (factual data) that is of interest to the customer, he must properly record it, that is, take all necessary measures to preserve it.

The recording of information in this case should be understood as certain actions of a private detective aimed at its preservation by transferring (fixing) it to a suitable medium - paper, digital recorder, camera or video camera, magnetic film, optical disc, etc.

As a rule, there are two methods of recording information - overt (without hiding the means of recording) and covert (with the use of special technical means of a covert nature - a small-sized photo and video camera, a directional microphone, etc.). An example of vocal recording of information can be recording information in a notebook or on a recorder during a person's interview. In turn, an example of tacit recording of information can be hidden photo and video recording of circumstances and events that may be of interest to the customer.

One of the most important and priority directions of private detective activity is the possibility of using special technical means by the subjects of this activity during the exercise of their powers.

So, in particular, in Clause 9, Part 1, Art. 12 of the draft law indicates that private detectives, private detective companies (agencies) during the performance of private detective (investigative) activities have the right to film and photograph, video and audio recording, as well as use other technical means that do not cause harm to life and health of citizens, the environment, in office and other premises, with the written consent of the owners of these premises [121].

The fact is that the vast majority of activities carried out by subjects of private detective activity are of a clandestine nature. Secrecy in this case means the non-obviousness, secrecy of private investigative actions being conducted from persons who do not participate in them, but primarily from the objects for which they are conducted [130, p. 554].

The principle of secrecy is one of the main principles of intelligence. In turn, intelligence is an integral part of private detective work. Secrecy (conspiracy) is ensured by secret proceedings by a private detective of all intelligence activities. This is necessary both to ensure the safety of the client and the private detective himself, and for hiding the facts of the leak or change of information. The process of obtaining information from semi-legal (and even more so from illegal) sources should definitely have a conspiratorial nature, since the law prohibits collecting information about individuals [124, p. 160].

Thus, in Part 2 of Art. 11 of the Law of Ukraine "On Information" states that the collection, storage, use and distribution of confidential information about a person

is not allowed without his consent, except in cases specified by law, and only in the interests of national security, economic well-being and protection of human rights. Confidential information about a natural person includes, in particular, data on his nationality, education, marital status, religious beliefs, state of health, as well as address, date and place of birth [131].

Therefore, in any case, a person's mandatory consent is required to collect certain information about him. It is clear that in the case when the client turns to a private detective for the service of studying a competitor, it is simply impossible to fulfill such an order without receiving informational material. Therefore, the above-mentioned article of the Law of Ukraine "On Information" in this situation is predestined to be violated by the subject of private detective activity. Conspiracy means that obtaining information about a competitor must remain a secret for him. Concealment is achieved by legend and secrecy of measures, use of passive technical means of masking, camouflage of special technical means [124, p. 161].

Thus, as we can see, it is almost impossible to carry out intelligence activities to obtain information about the person being checked without the use of special technical means by a private detective. Accordingly, it is impossible to avoid cases of violation of legislation in each specific case.

In Art. 32 of the Constitution of Ukraine indicates that no one can be subjected to interference in his personal and family life, except for the cases provided for by the Constitution of Ukraine. It is not allowed to collect, store, use and distribute confidential information about a person without his consent, except in cases specified by law, and only in the interests of national security, economic well-being and human rights [1, p. 12].

According to the decision of the Constitutional Court of Ukraine No. 2-рп/2012 of 20.01.2012, information about a person's personal and family life is any information and/or data about non-property and property relations, circumstances, events, relationships, etc. related to a person and members of his family, with the exception of information provided by law, related to the exercise by a person holding a position related to the performance of functions of the state or local self-government bodies, official or official powers. Such personal information is

confidential. In the same decision, it is indicated that "it is impossible to determine absolutely all types of behavior of a natural person in the spheres of personal and family life, since personal and family rights are part of the natural rights of a person, which are not exhaustive, and are realized in various and dynamic relations of a property and non-property nature , relationships, phenomena, events, etc. The right to private and family life is a fundamental value necessary for the full flourishing of a person in a democratic society, and is considered as the right of an individual to an autonomous existence independent of the state, local self-government bodies, legal entities and individuals" [132].

Corresponding restrictions on the prohibition of interference in the private life of individuals are also defined by other legislative acts of Ukraine.

Thus, according to the Civil Code of Ukraine, the content of the right to inviolability of personal and family life as one of the types of personal non-property right is that a natural person freely, at his own discretion, determines his behavior in the sphere of his private life and the possibility of familiarization other persons with him and has the right to keep the circumstances of his personal life secret (Articles 270, 271, 301 of the Civil Code of Ukraine). A natural person cannot renounce personal non-property rights, nor can he be deprived of these rights (Part 3 of Article 269 of the Civil Code of Ukraine) [98].

The personal life of a natural person is his behavior in the sphere of personal, family, household intimate, social, professional, business and other relations outside the boundaries of social activities, which is carried out, in particular, during the person's performance of the functions of the state or local self-government bodies.

Family life is personal property and non-property relations between spouses and other family members, which is carried out on the basis defined in the Family Code of Ukraine [132].

In accordance with Part 4 of Art. 4 of the Family Code of Ukraine, every person has the right to respect for his family life. No one can interfere in his family life, except for cases established by the Constitution of Ukraine (Part 5, Article 5 of the Family Code of Ukraine). Regulation of family relations is carried out taking into account the right to secrecy of the personal life of their participants, their right to

personal freedom and the inadmissibility of arbitrary interference in family life (Part 4, Article 7 of the Family Code of Ukraine) [133].

At the same time, the criminal procedural legislation of Ukraine provides for the possibility of limiting the relevant constitutional and legislative provisions in cases: 1) when it is necessary for the interests of national security, economic well-being, human rights, as well as for the prevention of riots or crimes; 2) these cases must be provided for in the Criminal Procedure Code of Ukraine, that is, the procedural procedure for limiting the right to inviolability of private housing is established [134, p. 69]. That is, we are talking about the possibility of the pre-trial investigation authorities applying the relevant secret investigative actions with the obligatory permission of the investigating judge to carry them out.

According to Part 4 of Art. 258 of the Criminal Procedure Code of Ukraine, interference with private communication is access to the content of the communication under the conditions, if the participants of the communication have sufficient grounds to believe that the communication is private. Types of interference in private communication are: 1) audio and video monitoring of a person; 2) arrest, inspection and seizure of correspondence; 3) removal of information from transport telecommunication networks; 4) removal of information from electronic information systems.

As M. Ye Shumylo rightly points out, communication is private if during it information is transferred and stored under such physical and legal conditions, under which communication participants can count on the protection of information from the interference of other persons. Physical conditions that can provide protection against interference in communication are the place and time chosen by individuals, the form of communication (verbal, conclusive, written, graphic), the form of information exchange (direct or indirect - by letters, parcels, parcels, postal containers, transfers, telegrams, other material carriers of information transmission between individuals), technical means of wired and wireless communication and writing tools, creation of graphic images, coding of information and its preservation, etc. [130, p. 572].

The legislator also established guarantees against unauthorized disclosure of information received in the field of criminal proceedings. It cannot be used outside the scope of criminal proceedings. Anyone who has become aware of such information is obliged to prevent its disclosure [134, p. 69]. For violation of the specified requirements, the participants in the criminal process (witness, victim, civil plaintiff, civil defendant, defender, judge, investigator, prosecutor, employee of the investigative body, etc.) bear the responsibility provided for in Article 387 of the Criminal Code of Ukraine.

So, as we can see, the corresponding restriction of the constitutional rights of a person is allowed only under the following conditions: 1) the emergence of a threat to the interests of national security, economic well-being, and human rights; 2) prevention of riots or crimes; 3) mandatory regulatory regulation by the criminal procedural legislation of Ukraine; 4) court permission is mandatory. In addition, the subjects of restriction of the specified constitutional rights of a person can only be the bodies of the state executive power provided for by law, but not the subjects of private detective activity.

Thus, in the course of his professional activity, carrying out covert filming - and photography, video - and audio recording of the inspected persons (clause 9, part 1, article 12 of the Draft Law) with the use of special technical means in order to obtain information of interest to the client, the private detective is forced violate a number of normative legal acts of national legislation.

By the way, today the question of purchasing or using special means of obtaining information causes a lot of complaints.

As indicated above, the intelligence activities carried out by a private detective are mostly activities of a covert (conspiratorial) nature, and therefore the special technical means that he uses in his activities must have certain properties (have miniature dimensions, be in a certain way disguised under various household appliances, etc.). In the science of criminal law, similar means are defined as special technical means of secretly obtaining information (Article 359 of the Criminal Code of Ukraine).

Special technical means of covertly obtaining information are technical means, equipment, apparatus, instruments, devices, drugs and other products, specially created, developed, modernized, programmed or adapted to perform tasks of covertly obtaining information. Such means include, in particular, special technical means for the unspoken: 1) receiving and recording audio information (directional microphone, radio recording device, etc.); 2) visual observation and documentation (small camera, miniature telescope, night vision device with the possibility of image registration, etc.); 3) examination of objects and documents (portable x-ray device, universal tool for unlocking locks, etc.); 4) penetration into premises, vehicles, other objects and their examination (radio station for hidden carrying, non-linear locators and radars, universal tool for unlocking locks, etc.); 5) control over the movement of vehicles and other objects (radio-finding devices, equipment for secret recording and chemical preparations for reproducing the route of the controlled machine, miniature sensors, etc.). Special technical means can be both camouflaged as household items and uncamouflaged [102, p. 1029].

Many of the listed special technical means are used by subjects of private detective activity during the performance of their professional duties. It follows that the latter grossly violate the current criminal legislation of Ukraine.

Thus, today there is a rather controversial and dangerous situation for participants in private detective work. Based on the above provisions, private detectives are dangerous criminals, and the investigated persons are their victims, in no way protected from unauthorized interference in private communication. Of course, this is absurd, and therefore this situation needs immediate legislative regulation.

The results of the survey of experts in the field of law and security activities were quite ambiguous, according to which 75 (47%) of the respondents believe that the secret (hidden) use of special technical means by private detectives within the scope of preventing and countering administrative offenses related to corruption is not will be a gross violation of the constitutional rights and freedoms of a person and a citizen, on the other hand, 55 (35%) of the respondents, on the contrary, are sure that the use of technical means for the purpose of audio and video recording of persons is allowed by Clause 8, Part 1, Art. 13 of the Law of Ukraine "On Private

Detective (Investigative) Activities" exclusively in official premises - with the written consent of the persons in respect of whom film and photo shooting, video and audio recording is carried out, as well as with the notification of the owners or legal users of these premises [Appendix A].

In the opinion of the author, it is necessary to make appropriate changes and additions to some provisions of the Draft Law, as well as bring them into line with the rest of the legislation of Ukraine, which in one way or another concerns the implementation of private detective work. Along with this, it would be expedient to apply to the Constitutional Court of Ukraine with a request to provide relevant clarifications regarding the conduct of secret (conspiratorial) intelligence activities by subjects of private detective activity with the use of special technical means.

It should be noted that in accordance with the Law of Ukraine "On the Prevention of Corruption", the National Agency is engaged in the prevention of administrative offenses related to corruption, and therefore the involvement of subjects of private detective activity in cooperation on a contractual basis with the National Agency is possible only within the scope of the prevention of administrative offenses an offense related to corruption in the form of documenting corruption manifestations and until the moment when the authorized officials of the state power draw up an administrative protocol.

As for the very facts of the commission of administrative offenses related to corruption, provided for in Art. Art. 172-4 - 172-9-1 of the Code of Administrative Offenses, then the documentation of the latter can be done only by subjects authorized by law - officials of the National Agency, by drawing up a protocol on the commission of an administrative offense. In this case, subjects of private detective activity can only inform the customer about one or another fact of the commission of an administrative offense related to corruption by the inspected person, which was discovered during the implementation of private investigative measures within the scope of the tasks defined by the contract on the provision of private detective services. The customer can use the relevant information for further appeals to law enforcement agencies (National Anti-Corruption Bureau of Ukraine, Security Service of Ukraine) or to the court.

In favor of this provision, the results of a survey of experts in the field of law and security activities on this occasion testify. Thus, to the question regarding the possibility of subjects of private detective (research) activity to personally carry out against the commission of administrative offenses related to corruption, the majority of respondents - 101 (64%) agreed that documenting the facts of the commission of administrative offenses related to corruption can be done only by subjects authorized by law - officials of the National agency on corruption prevention, through drawing up a report on the commission of an administrative offense, and subjects of private detective activity can only inform the customer about the discovery of one or another manifestation of corruption or the fact of committing an administrative offense related to corruption, which were discovered during the implementation of private detective (investigative) activities in within the scope of tasks specified in the contract on the provision of private detective (investigative) services [Appendix A].

In view of the stated circumstances, it is proposed to introduce the following changes and additions to the draft Law of Ukraine "On Private Detective (Investigative) Activity" No. 3726:

1) Clause 8 of Part 1 of Article 13 of the Draft Law should be worded as follows:

8) to film and photograph, video and audio recording, as well as to use other special technical means of secretly obtaining information that do not cause harm to the life and health of citizens, the environment, in official and other premises, with the written consent of the owners of these premises;

2) supplement Article 1 with provisions of the following content:

A confidant is an adult, able-bodied person (a citizen of Ukraine, a foreigner or a stateless person) with whom the private detective has a tacit relationship established exclusively on the basis of voluntariness and conspiratoriality, the purpose of which is to fulfill the tasks of private detective activity.

Special technical means of covertly obtaining information are technical means, equipment, apparatus, devices, preparations and other products, specially created, developed, modernized, appropriately camouflaged or disguised, programmed and

adapted to perform tasks of covertly obtaining information during proceedings private investigative actions.

3) part three of Article 12 shall be supplemented with paragraph 12 of the following content:

12) collecting and recording facts of corrupt activities of officials, officials of enterprises, institutions, organizations of all forms of ownership on a contractual basis with the heads of these enterprises, institutions, organizations;

4) the first part of Article 13 shall be supplemented with paragraph 2-1 of the following content:

2-1) to conduct inspections at enterprises, institutions, organizations of all forms of ownership with the consent of the heads of these enterprises, institutions, organizations, as well as to get acquainted with all the necessary documents and materials in order to identify and record the facts of corruption.

Summing up, it is necessary to emphasize the importance of the considered issues. In view of the latest changes and additions proposed by the Committee of the Verkhovna Rada of Ukraine on legislative support of law enforcement, it can be stated that the legislator has not paid any attention to such important issues as: 1) the use of special technical means by subjects of private detective activity; 2) the latter's possible restriction of the constitutional rights of persons subject to inspection (objects) and 3) the use of confidential cooperation in the conduct of private investigative actions of a secret (conspiratorial) nature. Without solving these problems, the further implementation of private investigative activities seems to be extremely difficult, contradictory and dangerous. Both the private detective and the customer may experience certain negative legal consequences of a disciplinary, administrative or criminal nature. The grounds for the occurrence of such consequences will be numerous complaints from individuals and legal entities, which will be checked accordingly, against the illegal actions of subjects of private detective activity together with the customers of these services. In order to avoid such misunderstandings in the future, it is necessary to resolve all problematic issues in the field of private detective activity as clearly and qualitatively as possible while the rule-making process continues.

3.3. Interaction of subjects of private detective activity with other participants in legal relations during the prevention of administrative offenses related to corruption

In the Academic Explanatory Dictionary of the Ukrainian Language, "interaction" means mutual connection between objects in action, as well as agreed action between someone or something [123]. In turn, social interaction is a process in which people act and experience influence on each other. The mechanism of social interaction includes individuals who perform certain actions, changes in the social community or society as a whole caused by these actions, the impact of these changes on other individuals who make up the social community, and the reverse reaction of individuals.

Any type of social activity of people, any social process consists of simple elements that reflect the concept of "social action". Social action has two features: firstly, it is rational and conscious, and secondly, it is oriented towards the behavior of other people. It is obvious that, when performing social actions, each person feels the actions of other people. There is an exchange of actions, or social interaction.

So, social interaction is a system of interdependent social actions connected by a cyclical causal relationship, in which the actions of one subject are both the cause and the consequence of the corresponding actions of other subjects. It can be said that each social action is caused by a previous social action and at the same time it is the cause of subsequent actions [135, p. 118].

Social interaction gives rise to social relations or social relations - various interactions and connections between individuals or groups of people, which are established in the course of their common practical and spiritual activities.

Social relations arise:

- Between individuals as part of a social group;
- Between groups of individuals;
- Between individuals and groups of individuals [136].

Social relations are an important form of manifestation of long-lasting, stable, systemic, renewing, diverse social connections. They are relations of similarity and

difference, equality and inequality, dominance and subordination between individuals and their groups.

Various types of social relations are distinguished:

1) by scope of authority: horizontal connections, vertical connections;

2) by degree of regulation: formal (officially designed), informal;

3) by the way of communication of individuals: impersonal or mediated, interpersonal or direct;

4) by subjects of activity: inter-organizational, intra-organizational;

5) according to the level of justice: fair, unfair.

The basis of differences between social relations are motives and needs, the main of which are the primary and secondary needs (power, respect) of each person [136].

Social relations or social relations are the basis of legal relations, which should be understood as social relations regulated by legal norms, the participants of which have subjective rights and legal obligations. Legal relations arise when, and only when, the relation is governed by the norms of law. Legal relations, unlike other social relations, are protected by the state authorities from violations [137].

Unlike social relations, legal relations are characterized by the following features inherent only to them:

1. Social relations that arise only between people and their associations and are directly related to their activities and behavior.

2. Ideological relations, because before their emergence they pass through the consciousness of people, in which a model of future relations is formed in view of the existing universal human values and social priorities.

3. Act as a legal expression of economic, political, family and other relations, influence social relations formed on their basis.

4. They arise, cease or change on the basis of legal norms that influence the behavior of people and are realized through it.

5. Subjects of legal relations are connected by subjective rights and legal obligations. The parties in the legal relationship act as authorized and obligated

persons, where the rights and interests of some persons can be realized through the performance of duties by others.

6. The mutual behavior of the participants in the legal relationship is individualized and clearly defined. The subjects of legal relations (state bodies, individuals or legal entities) are usually known in advance, their actions are coordinated even before the beginning of these relations, which is not the case in other social relations.

7. The volitional character of legal relations is determined by the fact that they arise and are implemented based on the will of at least one of their participants, necessarily passing through their consciousness and expressing their will.

8. Protected by the state, as well as law in general, other social relations do not have such protection. Guaranteeing the conditions of legality and law and order means that the state protects all legal relations that exist in society [137].

Within the scope of our research, we should define the concept of legal relations in private detective activity, establish the participants of such legal relations, conditionally dividing them into groups, and also determine the legal relations that arise between subjects of private detective activity and other state authorities during the prevention of administrative offenses, associated with corruption. In order to solve the set tasks, it is advisable to use some provisions of the draft law, as well as the results of research in related fields of law, in particular, operational and investigative activities.

Legal relations in private detective activity should be understood as a specific part of social relations that arise, develop and terminate in the presence of certain legal facts, determined by the legislation on private detective activity and other legislative and departmental normative acts, with the help of which the subjects of such relations exercise their powers, aimed at achieving a specific result in order to protect the legal rights and interests of individuals and legal entities.

As you can see, the relations that arise in private detective work have the main characteristics of legal relations, since:

1) are a specific part of social relations (some of them are tacit);

2) arise on the basis of legal norms;

3) are carried out through the subjective rights and legal obligations of their participants;

4) arise, change and cease in the presence of legal facts;

5) may give rise to criminal procedural, civil procedural or administrative procedural relations;

6) in some cases contribute to criminal procedural, civil procedural and administrative procedural relations.

A specific mechanism for the realization of subjective rights and legal obligations takes place, in particular, in the legal relationship of the type "private detective - Object (a person in relation to whom private detective (investigative) activities are carried out)", since, unlike other branches of law, conspiratorial nature and is carried out under conditions of secrecy [138, p. 107].

For example, in accordance with Clause 8, Part 1, Art. 12 of the draft law, subjects of private detective activity have the right to carry out external surveillance, which in its essence is a covert investigative measure.

To a certain extent, private investigative actions that have a secret character can also include oral interviews with the purpose of the conversation concealed (reconnaissance interviews), local reconnaissance, the involvement of confidants in order to obtain information from the Object, the use of special technical means, etc.

Therefore, in the listed cases, there is an indirect, mediated interaction between the private detective and the source of information (Object). Direct, direct contact between them is either absent, or has an encrypted (using a certain legend or cover documents) character.

In general, legal relations in private detective activity can be divided into the following main types: 1) external and internal (by object of influence); 2) protective and regulatory (by functional orientation); 3) vowels and consonants (according to the mode of performance and existence); 4) simple and complex (according to the nature of legal relations between subjects); 5) bilateral and unilateral (according to the order of distribution of rights and obligations between subjects).

In a broad sense, the subject of legal relations is a person who carries out substantive and practical and cognitive activities (for example, private investigative

activities), it is a source of activity (a person or a group of persons) directed at an object. In turn, the object of legal relations is what opposes the subject in his subject-practical and cognitive activity, what the subject's activity is aimed at [3, p. 24].

The following can be determined by subjects of occurrence in private detective activity legal relationship:

1) those arising directly between subjects of private detective activity (internal legal relations);

2) those arising between subjects of private detective activity and state authorities, local self-government bodies, non-state enterprises, institutions, organizations, mass media, the public, etc. (external legal relations);

3) those that arise in the process of monitoring private detective activities.

The subjects of private detective activity should not be confused with the subjects of legal relations arising from such activities. In the first case, these are natural and legal persons (private detectives and private detective companies (agencies), which directly carry out private investigative actions, and in the second case, they are private detectives, private detective companies (agencies), as well as state authorities, local self-government bodies , enterprises, institutions, organizations of all forms of ownership, other physical and legal entities.

According to Art. 4 of the draft law, the subjects of private detective (investigative) activity are recognized as:

1) private detectives - citizens of Ukraine who received a certificate of the right to engage in private detective (investigative) activities in accordance with the procedure established by law;

2) private detective companies (agencies) – independent business entities that have undergone state registration in accordance with the procedure established by law for state registration of legal entities, the participants of which are one or more private detectives [2].

The objects of private detective activity are actions of persons (actions or inactions), including illegal ones, phenomena, processes, events and facts, as well as information about them, which are subject to detection, study, research and

evaluation by entities authorized by law, private detective activity to achieve goals and solve tasks of private detective activity [3, p. 25].

Therefore, the subject of legal relations in private investigative activity should be understood as one of the parties to this legal relationship, which is connected to the opposite party by a special mechanism of subjective rights and obligations (legal relationship) as a result of the implementation of the legislation on private detective activity .

Accordingly, the object of legal relations in private detective activity is the result of these legal relations, the achievement of which is aimed at by the actions of the subjects through the implementation of their rights and obligations defined by legislation.

Thus, the subjects of legal relations in private detective activity are:

1) private detectives and private detective companies (agencies);

2) customers, i.e. natural or legal entities, state authorities, local self-government bodies, in whose interests private detective activities are carried out (Article 1 of the Draft Law);

3) state bodies and officials vested with state-authority powers to make relevant legal decisions (for example, judicial and law enforcement bodies);

4) enterprises, institutions, organizations of all forms of ownership;

5) local self-government bodies;

6) natural persons (citizens of Ukraine, foreigners, stateless persons).

By functional purpose, the following groups of subjects of legal relations in private detective activity can be distinguished:

1) entities that directly carry out private investigative activities (private detectives and private detective companies (agencies);

2) entities that exercise control over private detective activities (in accordance with Article 20 of the Draft Law - bodies of the Ministry of Justice of Ukraine);

3) subjects involved in private detective activities (in particular, specialists in a certain field of science and technology, consultants, persons with whom confidential cooperation has been established on a voluntary basis);

4) subjects in whose interests private detective activity is carried out (customers);

5) bodies and persons with whom subjects of private detective activity interact during the exercise of their powers (state authorities, local self-government bodies, non-state enterprises, institutions, organizations, mass media, the public, etc.);

6) subjects in relation to which private investigative actions are conducted (Objects).

Accordingly, the relationships that arise between subjects of private detective activity and other participants in legal relations during the prevention of administrative offenses related to corruption can be divided into the following types:

1) legal relations arising between the subject of private detective activity and the customer - the National Agency, which, in turn, is the beginning of interaction within the framework of the prevention of administrative offenses related to corruption;

2) legal relations arising between the subject of private detective activity and other state bodies and officials empowered by state power to make relevant legal decisions, during interaction with the customer in the framework of prevention of administrative offenses related to corruption;

3) legal relations that arise between subjects of legal relations in private detective activity and enterprises, institutions, organizations of all forms of ownership (including with other subjects of private detective activity) during interaction with the National Agency in the framework of the prevention of administrative offenses, related to corruption;

4) legal relations arising between subjects of legal relations in private detective activity and local self-government bodies during interaction with the National Agency in the framework of prevention of administrative offenses related to corruption;

5) legal relations that arise between subjects of legal relations in private detective activities and trusted persons (confidants) during interaction with the customer in the framework of prevention of administrative offenses related to corruption;

6) legal relations arising between the subjects of legal relations in private detective activities and Objects during interaction with the customer in the framework of prevention an administrative offense related to corruption.

It should also be noted that in accordance with Part 2 of Art. 15 of the draft law Private detectives, associations of private detectives in their professional activities are independent of state authorities, local self-government bodies, their officials and employees.

As you know, any legal relationship arises, changes and terminates upon the presence of certain legal facts.

In private detective activity during interaction with the National Agency in the framework of the prevention of administrative offenses related to corruption, such legal facts are the actions of the subjects of this activity during the exercise of their powers.

Based on the provisions of the draft law, it can be concluded that the beginning of legal relations in private detective activities during interaction with the National Agency in the framework of the prevention of administrative offenses related to corruption is:

1) between subjects of private detective activity and the customer (the National Agency) - concluding an agreement on the provision of private detective (search) services (paragraph 4 of article 1, paragraph 1, paragraph 7 of part 3 of article 12 of the Draft Law);

2) between subjects of private detective activity and specialists in a certain field of knowledge, who are involved in private detective activity for the purpose of providing written conclusions and oral consultations - conclusion of an agreement on the provision of appropriate professional assistance by them (for example, an agreement on the provision of legal assistance) , consultation, conclusion (clause 6, part 1, article 13 of the Draft Law);

3) between subjects of private detective activity and state authorities, local self-government bodies - making a request within the framework of an agreement on the provision of private detective (investigative) services to relevant officials or officials, enterprises, institutions, organizations, public associations with for the purpose of

obtaining the necessary information (item 1, item 2 of part 1 of article 13, part 3 of article 15 of the Draft Law);

4) between subjects of private detective activity and confidants - during the provision of a task within the framework of the contract on the provision of private detective (investigative) services concluded with the National Agency for the Prevention of Administrative Offenses Related to Corruption (Part 1 of Article 13 draft law);

1) between subjects of private detective activity and persons in relation to whom private investigative actions are conducted - conclusion of an agreement on the provision of private detective (investigative) services and obtaining the consent of the Object to conduct private investigative actions of an overt or unspoken nature in relation to him (clause 3 – 5, item 8, part 1, article 13, part 3, article 15 of the Draft Law);

2) between subjects of private detective activity and persons exercising control over this activity - in the event of legal consequences due to violation of the requirements of the legislation on private detective activity or the provisions of other legislative acts during interaction with the National Agency in the framework of the prevention of administrative offenses, associated with corruption (Part 3 of Article 14 of the Draft Law).

At the written request of the subjects of private detective (investigative) activity, with the consent of the persons in respect of whom the information is being collected, the relevant law enforcement agencies may provide them on a contractual basis with information contained in address bureaus, passport units, accounting units of the patrol police, and also in units for registration of persons who have a criminal record or have been charged with criminal liability, if such data are requested in compliance with the requirements of the law (Part 3, Article 15 of the Draft Law).

In turn, in the cases provided for in Part 1 of Art. 15 of the draft law, private detectives, associations of private detectives, who during the performance of private detective (investigative) activities received information about the facts of the commission of a criminal offense or about the preparation for the commission of a

criminal offense, are obliged to immediately notify the relevant law enforcement agency and hand over the materials to it, confirming such information.

Legal relations in private detective activities during interaction with the National Agency for the prevention of administrative offenses related to corruption are terminated in the event of: 1) termination of the contract for the provision of private detective (investigative) services; 2) obtaining the necessary professional assistance (conclusion, consultation) 3) obtaining information from the confidant or performing another task assigned by the private detective; 3) receiving a response to the request; 4) annulment of the certificate of the right to engage in private detective (investigative) activities on the grounds specified in clauses 1-7 of part 1 of Article 10 of the draft law (conviction of a private detective for committing a crime, restriction of legal capacity by a court or recognition of a private detective as incapacitated, personal statement of a private detective, death of a private detective, etc.); 5) on other grounds provided for by the current legislation of Ukraine.

Summing up, it should be noted that any independent legal institution is formed around specific groups of social relations with a special method of their legal regulation. Thus, the scientific study of legal relations in private detective activity is extremely important today. The future existence of legislation on private detective activity and the corresponding legal institute in the state depends on the proper work of scientists within the framework of the rule-making process.

3.4. Peculiarities of the use of materials obtained by subjects of private detective activity during the prevention of administrative offenses related to corruption

After the subject of private detective activity has completed the task (complex operation) set before him by the customer (National Agency) within the framework of prevention of administrative offenses related to corruption, he must transfer the received information to the customer.

In accordance with Part 1 of Art. 13 of the draft law, subjects of private detective (investigative) activities during the implementation of such activities have the right to perform any actions, not prohibited by law, necessary for the proper

performance of the contract on the provision of private detective (investigative) services, in particular, to search for, receive and accumulate the necessary information by all methods not prohibited by law, including:

1) address requests to state authorities, local self-government bodies, their officials and employees, enterprises, institutions, organizations, public associations, as well as to individuals;

2) with the consent of the enterprises, institutions, organizations, in a certain amount, familiarize themselves with the documents and materials necessary for carrying out private detective (investigative) activities at the enterprises, institutions, organizations, except for those containing information with limited access;

3) carry out an external inspection of buildings, premises, other objects, access to which is not limited, and, with the consent of the owner or a person authorized by him, carry out an internal inspection of them;

4) conduct an external inspection of buildings, premises, and other objects closed to free access with the consent of their owners or legal users, and also conduct an internal inspection of them with the consent of the owner;

5) inspect and study materials, objects, documents with the consent of their owners or legal users;

6) to receive, on a contractual basis, written conclusions and oral consultations of specialists and experts on matters requiring special knowledge;

7) carry out external surveillance in open areas, in public places and on transport;

8) film and photograph, video and audio recording, as well as use other technical means that do not harm the life and health of persons, in official premises - with the written consent of the persons in respect of whom the film, photo, video and audio recording, as well as with the notification of the owners or legal users of these premises;

9) conduct an oral survey of persons.

At the same time, it is not allowed to violate the rights and freedoms of individuals and legal entities during private detective (investigative) activities (Part 2, Article 12 of the Draft Law).

Each of the above-mentioned types of activity, in turn, has a corresponding administrative and procedural design: 1) requests to authorities; 2) certificates and summaries drawn up based on the results of relevant private investigative actions; 3) certificates, which display the received information that is of interest to the customer; 4) an agreement on the provision of relevant services by specialists in a certain field (for example, an agreement on the provision of legal assistance); 5) statement of the owner of the premises that he does not object to filming and photography, video and audio recording, as well as the use of other technical means that do not harm the life and health of persons, in the office premises; 6) an act of acceptance and transfer of the services provided, which is an Addition to the contract on the provision of private detective (investigative) services, etc.

All activities of a private detective within the framework of a contract for the provision of private detective (investigative) services are aimed, first of all, at the search (collection), recording and research of evidence (factual data) that refutes or proves certain circumstances. And therefore, in this study, consideration of the issue related to the collection and presentation of evidence cannot be avoided, because the admissibility of the received information as evidence for the drafting of a report by the officials of the National Agency, as well as for the attachment of this information to the materials, depends on the correct performance of these actions by the investigator. Criminal proceedings in the event that the committed and documented illegal act falls within the jurisdiction (competence) of law enforcement agencies.

Therefore, evidence should be understood as any factual data on the basis of which an authorized official or official or a court establishes the presence or absence of contested circumstances. That is, evidence is not a fact, not a circumstance, but actual data. A fact is a phenomenon of objective social reality.

Evidence, in turn, is classified into: 1) direct and indirect; 2) material and personal; 3) primary and secondary and 4) exculpatory and accusatory.

Taking into account that the interaction of subjects of private detective activity and the National Agency is aimed at bringing to justice the guilty person who committed an administrative offense related to corruption, the information (factual data) obtained during the execution of the task must be properly executed, in

compliance with the administrative and procedural form. Any violation of the administrative and procedural form during the collection of information by a private detective entails recognition of the received evidence as inadmissible.

The admissibility of evidence should be understood as a requirement established by law that limits the use of specific means of proof, or a requirement that suggests the mandatory use of specific means of proof when establishing certain factual circumstances of the case when providing proof in the process of consideration of a particular type of case in the order of administrative proceedings.

Adequacy of evidence means establishing whether it is relevant to the case. Factual data that are related to the facts to be established in the case and, based on this connection, can confirm or deny them, are considered to be relevant to the case.

In our opinion, the evidence collected by a private detective, which confirms or refutes the involvement of a person in the commission of administrative offenses related to corruption, within the framework of interaction with the National Agency, is admissible, as it was collected within the framework of the contract for the provision of private detective (investigative) services . The mandatory party (signatory) of this contract on the part of the National Agency must be exclusively the Head of the National Agency, and in his absence - the Deputy Head of the National Agency or one of the three members of the National Agency. It is in this case that the concluded contract can be considered legitimate.

A similar position is held by the majority of the surveyed experts in the field of law and security, 81 (51%) of whom believe that the right to enter into an agreement on the provision of private detective (investigative) services with the subject of private detective activity should belong exclusively to the Head of the National Agency [Appendix A].

Thus, in Clause 8, Part 2, Art. 6 of the Law of Ukraine "On Prevention of Corruption" states that the head of the National Agency represents the National Agency in relations with courts, other bodies, enterprises, institutions and organizations in Ukraine and abroad, and the public [21]. In turn, on behalf of the National Agency, its members represent the National Agency in relations with state authorities, local self-government bodies, public associations, individuals and legal

entities in Ukraine and abroad (clause 4, part 1, article 7 of the Law of Ukraine "On Prevention of Corruption").

All further activities of the private detective during the execution of the task within the framework of the contract with the National Agency depend exclusively on his awareness of the current legislation of Ukraine and compliance with the relevant procedural form.

The results of private detective (investigative) activities are understood as factual data, information, information that contributes to the determination (confirmation or refutation) of the circumstances specified in the task within the scope of the contract on the provision of private detective (investigative) services. In other words, the results of private detective (investigative) activity are information obtained by subjects of private detective activity in the manner prescribed by law.

We suggest dividing the results of private detective (research) activities into two groups:

1. Information (factual data) directly relating to (confirming or refuting) the circumstances specified in the task, which, being fixed in the procedural order, may serve as sources of evidence in proceedings in cases of administrative offenses related to corruption. They may be important for establishing the circumstances that must be proven (for example, information about the employment of a civil servant in entrepreneurial activities or information about the official's deliberate disregard of the fact of detection of a corruption offense that took place in the institution in which he holds a position, etc.).

2. Information (factual data) that is auxiliary and has an indirect relation to the circumstances defined in the task (for example, finding out biographical and other data characterizing the person of the offender). Such information can be used as a guide for the selection of organizational and tactical techniques for conducting private detective (investigative) activities or activities aimed at exposing offenders by employees of the National Agency.

The first group includes information documented by drawing up an act of acceptance and transfer of private detective (investigative) services provided, which, in particular, determines which actions were recorded, with the help of which

technical means and information media, on which they were recorded collected information (evidence). Primary data carriers on which the facts of illegal activity are recorded (photos, photographic films, phonograms, optical compact discs, hard drives, portable flash drives, memory cards, etc.) must be attached to the acceptance-transfer act.

The second group includes certificates, acts, reports (for example, a certificate from a psychoneurological dispensary, characteristics of housing and communal services, etc.), information of trusted persons (confidants).

Therefore, the private detective conveys the result of his activity with the help of an act of acceptance and transfer of the services rendered, to which the primary information media, on which the facts of illegal activity are recorded, must be added. Information (actual data) received, processed and transmitted in compliance with the above procedure can be considered admissible and, on the basis of this information, measures can be taken to bring a person (official or official) to administrative responsibility for committing an offense related to corruption.

The results of private detective activity, obtained during the performance of tasks defined by the National Agency in the contract on the provision of private detective (investigative) services, may be used:

1) as a basis for drawing up protocols on administrative offenses assigned by law to the competence of the National Agency;

2) to obtain factual data that can be evidence in proceedings in cases of administrative offenses related to corruption;

3) to take measures for legal and other protection of persons who in good faith inform about possible facts of corruption or corruption-related offenses (whistleblowers), bringing to justice persons guilty of violating their rights in connection with such information;

4) to initiate an official investigation, take measures to prosecute persons guilty of corruption or corruption-related offenses;

5) to inform other specially authorized entities in the field of anti-corruption by sending them materials testifying to the facts of such offenses;

6) to apply to the court with lawsuits (statements) regarding the invalidation of transactions concluded as a result of the commission of a corruption or corruption-related offense;

7) to introduce orders on violation of the requirements of the legislation regarding ethical behavior, prevention and settlement of conflicts of interests, other requirements and restrictions provided for by this Law;

8) for mutual information of members of the National Agency, officials authorized by the National Agency and other specially authorized subjects in the field of anti-corruption.

The results of private detective (investigative) activities are used only in cases where their authenticity and objectivity can be proven and verified during the judicial review of an administrative case.

So, for example, the court cannot recognize as evidence information obtained by a private detective and submitted to the court without indicating the source. But in cases where there is an administrative offense related to corruption, a notification of a violation of the requirements of the Law of Ukraine "On Prevention of Corruption" can be made by an employee of the relevant body without indicating authorship (anonymously). Such an anonymous message is subject to consideration if the information provided in it relates to a specific person, contains factual data that can be verified.

An anonymous notification of a violation of the requirements of the legislation on the prevention of corruption is subject to verification within fifteen days from the date of its receipt. If it is impossible to verify the information contained in the notification within the specified period, the head of the relevant body or his deputy shall extend the period for consideration of the notification up to thirty days from the date of its receipt.

In the case of confirmation of the information contained in the notification about the violation of the requirements of this Law, the head of the relevant body takes measures to stop the detected violation, eliminate its consequences and bring the guilty persons to disciplinary responsibility, and in cases of detection of signs of a criminal or administrative offense, he also informs specially authorized subjects in in

the field of anti-corruption (Part 5 of Article 53 of the Law of Ukraine "On Prevention of Corruption") [21].

Unlike proceedings in other areas of law, administrative proceedings allow the court to recognize as evidence the testimony of technical devices and technical means that have the functions of photo and film shooting, video recording, including those used by a person who is brought to administrative responsibility or by witnesses (Article 251 of the Code of Ukraine on Administrative Offenses).

By the way, the opinion of experts on this matter seems interesting. To the question of how the materials obtained by subjects of private detective (investigative) activity during the prevention of administrative offenses related to corruption should be processed, 85 (54%) answered that the results of the detective's work should be presented in an arbitrary form. orally or on any medium (sheets of paper, optical disc, USB flash drives, etc.) with or without indicating the sources of obtaining information (information) that is of interest to the customer; 24 (15%) respondents believe that such information should be transmitted by the detective only orally without specifying the sources of obtaining the information; 9 (6%) – preferred an arbitrary form on any medium (sheets of paper, optical disc, USB flash drives, etc.) with a mandatory indication of the sources of obtaining information (information), which is of interest to the customer; 7 (4%) consider "references" printed on paper sheets, indicating the sources of obtaining information (information) that is of interest to the customer, or without it, to be the best option for transmitting the received information; 33 (21%) could not answer this question at all [Appendix A].

Therefore, after receiving properly prepared information from a private detective, an official of the National Agency draws up an administrative protocol and sends it to the court together with other documents or, in compliance with the legal procedure, transmits information about the commission of a criminal offense related to corruption to law enforcement agencies.

Thus, in Part 2 of Art. 12 of the Law of Ukraine "On the Prevention of Corruption" indicates that in cases of detection of a violation of the requirements of this Law regarding ethical behavior, prevention and settlement of conflicts of interest in the activities of persons authorized to perform the functions of the state or local

self-government, and persons equated to them, or other violations of this Law. The national agency submits an order to the head of the relevant body, enterprise, institution, organization to eliminate violations of the law, conduct an official investigation, and bring the guilty person to the responsibility established by law.

The order of the National Agency is binding. The official to whom it is addressed informs the National Agency about the results of the execution of the order of the National Agency within ten working days from the date of receipt of the order [21].

In the case of detection of signs of an administrative offense related to corruption, authorized persons of the National Agency draw up a report on such offense, which is sent to the court in accordance with the decision of the National Agency. If signs of other corruption or corruption-related offenses are detected, the National Agency approves a substantiated conclusion and sends it to other specially authorized entities in the field of anti-corruption. The conclusion of the National Agency is mandatory for consideration, the results of which are reported no later than five days after receiving the notification of the committed offense (Part 3, Article 12) [21].

In accordance with Part 2 of Art. 256 of the Code of Ukraine on Administrative Offenses, the following shall be noted in the report on an administrative offense: the date and place of its completion, position, surname, first name, and patronymic of the person who drew up the report; information about the person who is brought to administrative responsibility (in case of detection); place, time of commission and essence of the administrative offense; a regulatory act that provides for responsibility for this offense; names, addresses of witnesses and victims, if any; explanation of the person who is brought to administrative responsibility; other information necessary to solve the case. If the offense caused material damage, this is also noted in the report.

The protocol is signed by the person who drew it up and by the person who is brought to administrative responsibility; if there are witnesses and victims, the protocol can be signed by these persons as well.

In case of refusal of the person who is brought to administrative responsibility to sign the protocol, a record of this is made in it. A person who is subject to administrative liability has the right to submit explanations and comments on the

content of the protocol, which are attached to the protocol, as well as to state the reasons for refusing to sign it [15].

According to Art. 257 of the Code of Administrative Offenses, the protocol on the commission of an administrative corruption offense together with other materials is sent to the local general court at the place where the corruption offense was committed within three days from the moment of its completion.

In the event of a corruption offense committed by an official working in the court apparatus, the protocol together with other materials is sent to the court of higher instance for determination of jurisdiction.

A person who has drawn up a report on the commission of an administrative corruption offence, at the same time as sending it to the court, sends to the state authority, local self-government body, the head of the enterprise, institution or organization where the person being prosecuted works, a notice of the drawing up of the report indicating the nature of the committed offense the offense and the norms of the law that have been violated [12].

Thus, the following are submitted to the court:

1) a copy of the contract on the provision of private detective (investigative) services;

2) a copy of the act of acceptance and transfer of services of private detective (investigative) activity;

3) a protocol on an administrative offense provided for by one of the articles of Chapter 13-A of the Code of Ukraine on Administrative Offenses;

4) other materials obtained during private detective activities (photo, video materials, etc.).

In turn, the following shall be sent to the law enforcement agency as a cover letter:

1) a copy of the contract on the provision of private detective (investigative) services;

2) a copy of the act of acceptance and transfer of services of private detective (investigative) activity;

4) other materials obtained during private detective activities (photo, video materials, etc.);

5) a substantiated conclusion on the detection of signs of a corruption or corruption-related offence, the investigation of which falls within the competence of the relevant law enforcement body.

In Art. 17 of the draft law "On Private Detective (Investigative) Activity" defines some restrictions aimed at preserving the professional secrecy of subjects of private detective (investigative) activity.

Thus, in part 1 it is specified that information on issues on which private detective research was carried out, and information related to personal life, honor, dignity of a person and a citizen, as well as other information received by subjects of private detective (investigative) activity during the performance of their professional duties, constitute the professional secret of subjects of private detective (investigative) activity.

Private detectives, employees of the association of private detectives are prohibited from disclosing and/or using in their own interests or the interests of third parties information that constitutes a professional secret of the subject of private detective (investigative) activity (Part 2, Article 17 of the Draft Law).

The use by the persons specified in the second part of this article, directly or through other persons, of the information obtained as a result of private detective (investigative) activities for the purpose of blackmailing the subjects of detective investigations or the customers of such investigations entails the responsibility provided for by law (Part 3 Article 17 of the draft law).

Private detectives are obliged to ensure conditions that make it impossible for third parties to access information that is a professional secret of the subject of private detective (investigative) activity, or their disclosure.

Subjects of private detective (investigative) activity are obliged to compensate for damage caused to third parties as a result of third-party access to information that constitutes a professional secret of the subject of private detective (investigative) activity, or their disclosure (parts 4, 5 of the draft law) .

A similar prohibition is contained in Part 4 of Art. 13 of the Law of Ukraine "On the Prevention of Corruption", which states that the Head and members of the National Agency, officials and officials of his apparatus are prohibited from disclosing information with limited access, obtained in connection with the performance of their official duties, except in cases established by law .

In our opinion, in order to achieve a more effective result in preventing and countering administrative offenses related to corruption, it would be expedient to enshrine a provision at the legislative level that would allow the National Agency to engage subjects of private detective activity in cooperation. The fact is that, unlike law enforcement agencies that fight against corruption offenses, the National Agency does not have an operational unit in its structure that would be engaged in secret investigative (intelligence) activities, and it also does not have the authority to issue similar assignments to the operational units of other law enforcement agencies. At the same time, as was repeatedly emphasized in this study, administrative offenses related to corruption have a high level of latency, and therefore it is quite difficult and almost impossible to document them openly, publicly. It follows that the employees of the National Agency document corruption offenses that have already occurred in the past, "stepping from the offense to the person", and not the other way around. Such retrospective activity should be called countermeasures, but not prevention.

The overwhelming majority of the interviewed specialists in the field of law and security activities - 96 (61%) - spoke in favor of the implementation of a new element in the administrative-legal mechanism for preventing and countering administrative offenses related to corruption - the subject of private detective (investigative) activity respondents [Appendix A].

Thus, taking into account the above circumstances, we propose to make the following changes to the Law of Ukraine "On Prevention of Corruption":

1) supplement part 1 of article 12 with paragraph 3-1 of the following content:

3-1) to involve, in the prescribed manner, subjects of private detective (investigative) activity on a contractual basis in the performance of individual works in order to verify possible facts of violation of the requirements of this Law.

Thus, summarizing the above, it can be noted that the private detective's compliance with the provisions of the current legislation and the corresponding procedural form is of great importance when interacting with the National Agency in the framework of the prevention of administrative offenses related to corruption, since the information collected and recorded by the private detective in the future, they will be attached to the materials of the administrative case. Violations, even minor ones, of the established legislative form, the consequence of which is, as a rule, poor knowledge of national legislation and an attempt to complete the task as quickly as possible, regardless of quality.

Conclusions to the third chapter

1. The main prerequisite for the implementation of private detective activity within the framework of combating administrative offenses related to corruption is, along with the legislation that determines the procedure for the organization and implementation of private detective activity - the draft Law of Ukraine "On Private Detective (Investigative) Activity" as well as the legislation on prevention of corruption - the Law of Ukraine "On the Prevention of Corruption" and the legislation establishing administrative responsibility for committing offenses in the field of corruption - the Code of Ukraine on Administrative Offenses. In turn, the grounds for carrying out private detective activity in the relevant field are the conclusion of a written contract on the provision of private detective (investigative) services between subjects of private detective activity and customers of these services, which can be natural or legal entities, a state authority, a local authority self-government, in the interests of which private detective (investigative) activity is carried out.

2. A confidant is an adult, able-bodied person (a citizen of Ukraine, a foreigner or a stateless person) with whom the private detective has established a secret relationship exclusively on the basis of voluntariness and conspiracism, the purpose of which is to perform the tasks of private detective activity.

3. The methods of detecting corruption manifestations and facts of administrative corruption by subjects of private detective activity should be

considered a complex of private detective (investigative) actions of an overt and undercover nature, which consist in searching, collecting, recording and researching information (information) that is of interest to the customer.

4. Recording of information should be understood as certain actions of a private detective aimed at preserving it by transferring (fixing) it to a suitable medium - paper, digital recorder, camera or video camera, magnetic film, optical disc, etc.

5. Intelligence activities carried out by a private detective are mostly activities of a covert (conspiratorial) nature, and therefore the special technical means that he uses in his activities must have certain properties (have miniature dimensions, be in a certain way disguised as various household devices etc).

6. Legal relations in private detective activity should be understood as a specific part of social relations that arise, develop and terminate in the presence of certain legal facts, determined by the legislation on private detective activity and other legislative and departmental normative acts, with the help of which the subjects of such relations implement their powers, aimed at achieving a specific result in order to protect the legal rights and interests of individuals and legal entities.

7. The subject of legal relations in private investigative activity should be understood as one of the parties to this legal relationship, which is connected to the opposite party by a special mechanism of subjective rights and obligations (legal relationship) as a result of the implementation of the legislation on private detective activity.

8. The object of legal relations in private detective activity is the result of these legal relations, the achievement of which is aimed at by the actions of the subjects through the implementation of their rights and obligations defined by legislation.

9. All activities of a private detective within the framework of a contract for the provision of private detective (investigative) services are aimed, first of all, at the search (collection), recording and research of evidence (factual data) that disprove or prove certain circumstances.

10. Evidence collected by a private detective, which confirms or refutes the involvement of a person in the commission of administrative offenses related to

corruption, within the framework of interaction with the National Agency, is admissible, as it was collected within the framework of the contract for the provision of private detective (investigative) services. The mandatory party (signatory) of this contract on the part of the National Agency must be exclusively the Head of the National Agency, and in his absence - the Deputy Head of the National Agency or one of the three members of the National Agency.

11. The results of private detective (investigative) activities are understood as actual data, information, information that contributes to the determination (confirmation or refutation) of the circumstances specified in the task within the contract for the provision of private detective (investigative) services.

12. The private detective conveys the result of his activity with the help of an act of acceptance and transfer of the services provided, to which the primary information carriers, on which the facts of illegal activity are recorded, must be attached. Information (actual data) received, processed and transmitted in compliance with the above procedure can be considered admissible and, on the basis of this information, measures can be taken to bring a person (official or official) to administrative responsibility for committing an offense related to corruption.

13. In order to achieve a more effective result in preventing and countering administrative offenses related to corruption, it would be expedient to enshrine at the legislative level a provision that would allow the National Agency to engage subjects of private detective activity in cooperation.

CONCLUSIONS

1. It was established that the fight against corruption as a social activity regulated by the norms of administrative law includes such legal components as the prevention and counteraction of corruption offenses. Prevention is primary over countermeasures. In the first case, this or that negative action has not yet occurred, but there is a real threat of its occurrence, therefore the main goal of "prevention" is to predict all possible cases of the occurrence of this negative action, as well as the development and implementation of preventive measures to prevent the corresponding undesirable phenomenon (action) . In the second case, a certain negative action has already taken place or is happening in real time, and the main task is to eliminate this negative phenomenon (action) by introducing an appropriate set of measures (countermeasures, obstacles). As a rule, the experience gained as a result of countermeasures is subsequently laid as the basis of prevention measures, which, being in dynamics, are constantly improved and, embodied in legislation as a set of relevant legal norms, constitutes an administrative-legal institute for preventing and countering administrative offenses related to corruption .

The Institute for the Prevention and Counteraction of Administrative Offenses Related to Corruption has its own history of formation and development. It is proposed to conditionally divide the process of formation and development of the institution of prevention and countermeasures against administrative offenses related to corruption into three periods: the first period begins with the adoption of the Law of Ukraine "On Combating Corruption" of October 5, 1995 and ends on April 7, 2011. When the Law of Ukraine "On Principles of Preventing and Combating Corruption" was adopted in the course of the anti-corruption legislation reform; the second period - begins on July 1, 2011, that is, from the moment the Law of Ukraine "On Principles of Prevention and Combating Corruption" came into force and ends on October 14, 2014, when the Law of Ukraine "On Principles of State Anti-Corruption Policy in Ukraine (Anti-Corruption Strategy) for the period 2014−2017" was adopted and, finally, the third period - begins on October 14, 2014, when two important Laws of Ukraine "On Prevention of Corruption" and "On the National Anti-Corruption Bureau of Ukraine" were simultaneously adopted.

2. It is noted that the concept of "administrative offense related to corruption" should be considered in a broad and narrow sense: in a broad sense - as directly culpable, illegal behavior of an entity that encroaches on the established management procedure and for which responsibility is provided by administrative legislation; in a narrow way - as the actions of a person whose activity is related to the sphere of public administration, through the implementation of actions or, on the contrary, inaction, which is connected with the illegal use of his official position by a person.

It was determined that the signs of an administrative offense related to corruption are: 1) public harm, which consists in causing or threatening to cause damage to the interests and security of the state and 2) taking active actions or inaction with selfish goals, namely: receiving an illegal benefit as both property and non-property, i.e. the mandatory presence of a selfish goal aimed at achieving material or other benefit.

Currently, Chapter 13-A of the Code of Administrative Offenses includes a specific list of illegal acts, each of which can be considered as an independent type of administrative offense related to corruption, to administrative offenses related to corruption. It is proposed to divide these offenses according to the nature of the disposition into the following three groups: 1) violation of special restrictions aimed at preventing and combating corruption (Articles 172-4, 172-5, 172-8 of the Code of Ukraine on Administrative Offenses; 2) violation of financial control requirements (Article 172-6 of the Code of Administrative Offenses) and 3); failure to take measures to prevent and counter corruption (Articles 172-7 and 172-9 of the Code of Ukraine on Administrative Offenses). Administrative offenses related to corruption can also be classified by the object of encroachment into those committed in one or another sphere of public activity (deputy, judicial, sports, etc.); according to the method of action (action, inaction), according to the amount of unlawful benefit or damage caused, according to the form of guilt (intentional or careless), etc.

3. The analysis of the structure of administrative offenses related to corruption, committed during 2014-2017, allows us to conclude that most of them are administrative offenses related to the violation of requirements for notification of conflicts of interest and violation of financial control requirements. This is followed

by administrative offenses related to violation of restrictions on co-operation and co-operation with other types of activities; violation of legal restrictions on receiving a gift; failure to take measures to combat corruption and illegal use of information that became known to the person in connection with the performance of official powers.

However, the indicators of bringing to administrative responsibility do not correspond to the real mass of offenses committed. Specially authorized entities in the field of anti-corruption cannot physically cope with the process of identifying, documenting and prosecuting corrupt officials. It is here that subjects of private detective activity could provide significant help in overcoming corruption.

4. It is proposed to divide the current anti-corruption legislation of Ukraine into three groups, depending on its direction and subject of regulation:

1) legal acts that provide for general provisions on the prevention of corruption (Constitution of Ukraine, Laws of Ukraine "On the Status of People's Deputy of Ukraine" (Article 3), "On the High Council of Justice" (Article 6), "On the Judicial System and Status judges" (Article 5), "On the Constitutional Court of Ukraine" (Article 16), "On the Prosecutor's Office" (Article 46), "On the National Police" (Article 61), "On the National Anti-Corruption Bureau of Ukraine" (Article 6), "About the Higher Anti-Corruption Court", etc.);

2) regulatory legal acts that determine the signs of corruption offenses and establish responsibility for them (depending on the nature of the committed corruption offense provides for criminal (Criminal Code of Ukraine), administrative (Code of Ukraine on Administrative Offenses, Laws of Ukraine "On Prevention of Corruption" and "On Amendments to Certain legislative acts of Ukraine on bringing national legislation into line with the standards of the Criminal Convention on Combating Corruption" dated 04.18.2013 No. 221-VII), disciplinary (Laws of Ukraine "On State Service", "On Service in Bodies of Local Self-Government", etc.) and civil - legal responsibility;

3) normative legal acts that regulate the activities of state bodies and their separate divisions regarding direct law enforcement activities in the field of combating corruption, its coordination, control and supervision over it (Laws of Ukraine "On Prevention of Corruption", "On Organizational and Legal Basis of Fighting with

Organized Crime", "On the Prosecutor's Office", "On the National Police", "On the Security Service of Ukraine", Draft Law of Ukraine "On Private Detective (Investigative) Activity", taking into account the additions proposed by this monographic study).

5. It was found that the administrative-legal mechanism for preventing and countering administrative offenses related to corruption is a system of legal means that enables authorized subjects to consistently and effectively carry out activities to counter such offenses in state authorities and bodies Local Government.

It was established that the measures included in the mechanism of prevention and countermeasures against administrative offenses related to corruption should be understood as measures of an organizational and legal nature and measures of administrative influence. Measures of an organizational and legal nature include the creation of a system of anti-corruption entities and their endowment with appropriate powers and resources. Measures of administrative influence are coercive measures applied to individuals and legal entities by authorized state bodies and their officials with the aim of preventing and terminating the rules and regulations established by law or other normative legal act in various spheres of life.

It is offered at the theoretical level to the subjects of prevention and counteraction of administrative offenses related to corruption, in addition to specially authorized subjects in the field of countering corruption (bodies of the prosecutor's office, the National Police, the National Anti-Corruption Bureau of Ukraine, the National Agency for the Prevention of Corruption), include a number of other (non-specialized) subjects of anti-corruption legal relations (subjects of private detective activity, media representatives, public organizations, citizens, etc.).

6. The main prerequisite for the implementation of private detective activities within the framework of the prevention of administrative offenses related to corruption should be a system of legislative acts regulating the mechanism of prevention of administrative offenses related to corruption (Law of Ukraine "On Prevention of Corruption", Code of Ukraine on administrative offenses) along with with legislation that determines the procedure for organizing and carrying out private detective activities (draft Law of Ukraine "On Private Detective (Investigation) Activities" No. 3427). In turn, the basis for carrying out private detective activity in

the relevant field should be the conclusion of a written contract on the provision of private detective (investigative) services between subjects of private detective activity and customers of these services, which can be natural or legal entities, a state authority, a body of local self-government, in whose interests private detective (investigative) activities are carried out.

7. It is noted that the methods of detecting corruption manifestations and facts of administrative corruption by subjects of private detective activity should be considered a complex of private detective (investigative) actions of an overt and undercover nature, which consist in searching, collecting, recording and researching information (information) that constitutes public interest.

8. Involvement of subjects of private detective activity within the scope of prevention of administrative offenses related to corruption should be understood as a significant auxiliary means of detection and documentation of administrative corruption offenses. Subjects of private detective activity should not be equated with specially authorized subjects in the field of anti-corruption, or the circle of such subjects defined by legislation should not be expanded. The activity of subjects of private detective activity in the field of prevention of administrative offenses related to corruption should be based on close cooperation with specially authorized subjects.

9. It is suggested that the results of private detective activity should be understood as actual data, information, and information that contributes to the clarification (confirmation or refutation) of the circumstances specified in the task within the scope of the contract on the provision of private detective services.

Therefore, the evidence collected by a private detective, which confirms or refutes the involvement of a person in the commission of administrative offenses related to corruption, within the framework of interaction with authorized bodies, is admissible only when it is obtained (collected) within the framework of the contract for the provision of private detective services in compliance with the requirements of the current legislation of Ukraine.

10. Proposals for amendments and additions to the Law of Ukraine "On Prevention of Corruption" and to the draft Law of Ukraine "On Private Detective (Investigative) Activity" No. 3726 of 12/28/2015 have been developed, in particular:

in the Law of Ukraine "On Prevention of Corruption":

1) supplement part 1 of article 12 with paragraph 3-1 of the following content:

"to engage, in the prescribed manner, subjects of private detective (investigative) activities on a contractual basis to perform certain tasks in order to verify possible facts of violation of the requirements of this Law";

in the draft of the Law of Ukraine "On Private Detective (Investigative) Activities" No. 3726 of 12/28/2015:

1) Clause 8 of Part 1 of Article 13 of the Draft Law shall be amended as follows:

"make films and photographs, video and audio recordings, as well as use other special technical means of secretly obtaining information that do not cause harm to the life and health of citizens, the environment, in official and other premises, with the written consent of the owners of these premises" ;

2) supplement Article 1 with the following provision:

Special technical means of covertly obtaining information are technical means, equipment, apparatus, devices, devices, preparations and other products, specially created, developed, modernized, appropriately camouflaged or disguised, programmed and adapted to perform tasks of covertly obtaining information during proceedings private investigative actions";

3) part three of Article 12 shall be supplemented with paragraph 12 of the following content:

"collection and recording of facts of corrupt activities of officials, officials of enterprises, institutions, organizations of all forms of ownership on a contractual basis with the heads of these enterprises, institutions, organizations";

4) the first part of Article 13 shall be supplemented with paragraph 2-1 of the following content:

"to carry out inspections at enterprises, institutions, organizations of all forms of ownership with the consent of the heads of these enterprises, institutions, organizations, as well as to get acquainted with all the necessary documents and materials in order to identify and record the facts of corruption."

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Appendix A

GENERAL INFORMATION

According to the results of a survey conducted among employees of operational units, investigative bodies of pre-trial investigation within internal affairs agencies, prosecutors, lawyers, and private security enterprise personnel in the city of Kyiv, the survey aimed to gauge the potential utilization of private detective services in the prevention of administrative offenses linked to corruption.

In total, 158 individuals were interviewed, with the breakdown as follows:

operational employees of the internal affairs bodies – 18

investigative bodies of internal affairs - 17

prosecutors -13

attorneys- 18

lawyers - 49

Quantitative indicators of a separate category of respondents							***General indicators***
	Operational employees	Iinvestigators	Prosecutors	Attorneys	Lawyers	Employees of private security companies	
1. Age of respondents							
up to 30 years	12 (66.6%)	10 (58,8%)	9 (69.2%)	4 (22,2%)	23 (46,9%)	18 (41,8%)	76 (48,1%)
from 30 to 40 years	6 (33,3%)	7 (41,2%)	4 (30,7%)	6 (33,3%)	16 (32,6%)	8 (18,6%)	47 (29,7%)
more than 40 years				8 (44,4%)	10 (20,4%)	17 (39,5%)	35 (22,1%)
3. Work experience in the position of the respondents							
up to 3 years	10 (55,5%)	7 (41,2%)	3 (23,0%)	5 (27,8%)	18 (36,7%)	22 (51,1%)	65 (41,1%)
from 3 to 5 years	5 (27,7%)	8 (47.0%)	5	4 (22,2%)	26 (53,0%)	19 (44,1%)	67 (42,4%)
from 5 to 10 years	3 (16,6%)	2 (11,7%)	3 (23,0%)	8 (44,4%)	5 (10,2%)	2 (4,6%)	23 (14,5%)
from 10 to1 5 years			2 (15,3%)	1 (5,5%)			3 (2%)
more than 15 years							

The main questions on the subject of the study:

Quantitative indicators of survey results certain categories of respondents							***General indicators***
Content of the question	***Operative employees***	***Investigators***	***Prosecutors***	***Attorneys***	***Lawyers***	***Employees of private security***	
1.What do you understand by administrative offenses related to corruption?							
a) offenses provided for in the Articles 368-369 of the Criminal Code	1				4	7	12
b) offenses provided for in the Articles **172-2 – 172-9-1** Code of Ukraine on Administrative Offenses	5	7	3	6	17	16	54
c) offenses provided for in the Articles **172-4 – 172-9-1** Code of Ukraine on Administrative Offenses	5	9	10	10	20	9	63
d) offenses provided for by the Law of Ukraine «On Prevention of Corruption»	2			2	2	2	8
e) options A, B					2	1	3
f) options C, D	1	1			3		5
g) difficult to answer						8	8
h) your answer option	B, C 4				B,C 1		5
2. Have you ever been involved in preventing or countering corruption-related administrative offenses in your professional experience?							
a) yes, quite often		3	9	9	6	2	29
b) extremely rare	2	10	3	4	14	6	39
c) did not have to	16	4	1	5	29	35	90
d) your answer option							
3. In your opinion, what is the difference between preventing administrative offenses related to corruption and countering them?							
a) there is no difference, since these two concepts are synonymous	2	1		2	10	4	19
b) Prevention takes precedence over counteraction since it primarily serves as a proactive measure aimed at averting negative events in the future.	9	14	10	11	23	22	89
c) Counteraction assumes precedence over prevention when a specific negative event	2	1	2	3	9	8	25

has already occurred or is unfolding in real-time. The primary objective then becomes the mitigation of this negative phenomenon through the implementation of a suitable set of preventive measures.							
d) difficult to answer	5	1	1	2	7	9	25
e) your answer option							
4. What, in your opinion, is the difference between manifestations and facts of administrative corruption?							
a) there is no difference between these two concepts, as they are synonymous	2				1	5	8
b) he manifestations of corruption are often latent in nature and may initially appear completely legal on the surface. As a result, documenting these cases and holding the individuals responsible can be quite challen-ging. Administrative corruption cases exhibit all the characteristics of administrative offenses related to corruption, as defined by articles 172-4 to 172-9-1 Code of Ukraine on Administrative Offenses	5	9	8	8	24	14	68
c)manifestations of corruption do not contain public danger, and therefore are not inherently administrative offenses, and the facts of administrative corruption have a latent nature and contain all the signs of administrative offenses related to corruption, defined by articles 172-4 – 172-9-1 Code of Ukraine on Administrative Offenses	7	5	4	6	18	10	50
d) difficult to answer	4	3	1	4	6	14	32
e) your answer option							

5. Which legal act currently establishes the legal and organizational principles governing the functioning of Ukraine's corruption prevention system, defines the content and procedures for applying preventive anti-corruption measures, and outlines rules for addressing the consequences of corruption offenses?							
a) Law of Ukraine "On Prevention of Corruption	5	11	10	10	21	19	76
в) Constitution of Ukraine							
c) Law of Ukraine «On the National Anti-Corruption Bureau of Ukraine»	1				2		3
d) Law of Ukraine «On Organizational Legal Principles of Struggle against the Organized Crime»							
e) options A, C, Д	4	2	2	2	5		15
f) difficult to answer	4	3		2	5	9	23
g) your answer option							
6. What do you understand by the administrative-legal mechanism for preventing and countering administrative offenses related to corruption?							
a) сукупність set of regulations contained in Chapter 13-A "Administrative offenses related to corruption Code of Ukraine on Administrative Offenses	2	2	1	2	11`	6	24
b) set of regulations contained in Chapter XVII "Crimes in the sphere of official activity and professional activity related to the provision of public services" of the Special Part The Criminal Code							
c) set of regulatory provisions of the Law of Ukraine On Prevention of Corruption	2	4	4	5	10	3	28
d) the system of state executive bodies implementing state policy in the sphere of prevention and counteraction of corruption in Ukraine							
e) options A and B	2						2
f) options A and C	5	8	7	9	23	17	69
g) options A, B, C	3					6	9

and D							
h) difficult to answer	4	3	1	2	5	11	26
i) your answer option							
6. Do you think it's appropriate and effective to engage private investigators in collaboration with the National Agency for the Prevention of Corruption to conduct covert investigations into the lifestyles of public officials?							
a) yes, such interaction would be expedient and effective, since administrative offenses related to corruption are mainly of a latent nature	1	4	2	14	36	38	95
b) no, because such actions grossly violate the constitutional rights and freedoms of a person and a citizen	12	8	5	1	4		30
c) difficult to answer	5	5	6	3	9	5	33
d) your answer option							
7. What, in your view, distinguishes the prerequisite from the basis for carrying out private detective work in the context of preventing and combating administrative offenses related to corruption?							
a) the prerequisite for the implementation of private detective activities within the framework of prevention and counteraction of administrative offenses related to corruption is the relevant legislation Law of Ukraine "On private detective (investigative) activity"Law of Ukraine On Prevention of Corruption, Code of Administrative Offenses and the basis is an agreement on the provision of private detective (search) services	3	6	7	5	19	15	55
b) the prerequisite for private detective activity in preventing and countering corruption-related administrative offenses is the social relations between the customer and the private detective. The basis is the actual execution of investigative actions by the private detective.	1				4	2	7

c) The prerequisite for conducting private detective activities in preventing and countering corruption-related administrative offenses is the agreement for private detective services, while the basis is the possession of a certificate for private detective activities	3	3	2	4	10	9	31
d) the prerequisite and basis for private detective activity within the scope of preventing and countering administrative offenses related to corruption are identical concepts	3	4	2	3	8	5	25
e) difficult to answer	8	4	2	6	8	12	40
f) your answer option							
8. What do you understand by methods of detection of corruption manifestations and facts of administrative corruption by subjects of private detective activity?							
a) private detective (investigative) activities of an undisclosed nature							
b) complex of private detective (search) activities of a public and private nature	6	6	2	3	11	6	35
c) search, collection, recording and research of information (information) that is of interest to the customer				1	2	4	7
d) search, collection and recording of information (information) that is of interest to the customer							
e) options A, B, C	5	8	7	9	23	29	81
f) difficult to answer	3	3	4	5	13	4	32
g) your answer option	4 They do not have such powers at all!						3
***9.* In your opinion, will the undisclosed (hidden) use of special technical means by private detectives within the scope of prevention and countermeasures against administrative offenses related to corruption be a gross violation of the constitutional rights and freedoms of a person and a citizen?**							

a) will not be, since the use of technical means for the purpose of audio and video recording of persons is allowed by Clause 8, Part 1, Art. 13 of the Law of Ukraine "On Private Detective (Research) Activity"	3	4	2	11	23	32	75
b) b) will be, since the use of technical means for the purpose of audio and video recording of persons is allowed by Clause 8, Part 1, Art. 13 of the Law of Ukraine "On Private Detective (Investigative) Activities" exclusively in official premises - with the written consent of the persons in respect of whom film and photo shooting, video and audio recording is carried out, as well as with the notification of the owners or legal users of these premises	9	10	9	4	15	8	55
d) difficult to answer	6	3	2	3	11	3	28
д) your answer option							
10. How, in your opinion, can a private detective carry out external surveillance of an audited person, thing or place within the scope of preventing and countering administrative offenses related to corruption?							
a) in accordance with Clause 7, Part 1, Art. 13 of the Law of Ukraine "On Private Detective (Investigation) Activities" exclusively in open areas, in public places or in transport without the use of technical means of photo and video recording, as the latter is not provided for by the Law	7	4	4	4	15	4	38
b) in accordance with Clause 7, Part 1, Art. 13 of the Law of Ukraine "On Private Detective (Investigative) Activities"	3	6	4	9	26	36	84

exclusively in an open area, in public places or in transport, while using technical means for photo and video recording, as the latter is not prohibited by the Law							
c) difficult to answer	4	7	5	5	8	3	32
d) your answer option	4						4
11. Which of the following officials of the National Agency for the Prevention of Corruption is authorized to enter into an agreement on the provision of private detective (investigative) services?							
a) head National Agency for the Prevention of Corruption	4	9	6	11	32	19	81
b) any member National Agency for the Prevention of Corruption				1	4	8	13
c) head of the legal support department National Agency for the Prevention of Corruption				1	2		3
d) head of the sector of prevention and detection of corruption in National Agency for the Prevention of Corruption							
e) options A, B, D	3	3	3		5	5	19
f) difficult to answer	11	5	4	5	6	11	42
g) your answer option							
12.At the expense of what should be paid for the services provided by the subjects of private detective activity within the framework of interaction with the National Agency for the Prevention of Corruption regarding the prevention of administrative offenses related to corruption?							
a) at the expense of the State Budget of Ukraine	3	7	5	10	36	37	98
b) at the expense of own funds National Agency for the Prevention of Corruption	8	4	3	5	8		28
c) services must be provided free of charge							
d) difficult to answer	6	6	5	3	5	6	26
e) your answer option	1						1
13. Can subjects of private detective (research) activity personally counter administrative offenses related to corruption?							
a) yes, since certain facts of the commission of administrative offenses related to	2	1		3	9	16	31

corruption have already occurred or are occurring in real time and the main task of a private detective is to eliminate this negative phenomenon (event) by introducing an appropriate set of preventive measures and drawing up a protocol on the commission of an administrative offense							
b) no, because the documentation of the facts of the commission of administrative offenses related to corruption can only be carried out by entities authorized by the law - officials of the National Agency for the Prevention of Corruption, by drawing up a protocol on the commission of an administrative offense							
c) No, private detective subjects are only allowed to report the discovery of any corruption manifestation or the occurrence of an administrative offense related to corruption. These findings must be a result of private detective (investigative) activities carried out within the scope of the tasks defined in the contract for the provision of private detective (search) services.							
d) options B,C	14	15	10	12	28	22	101
e) difficult to answer	2	1	3	3	12	5	26
f) your answer option							
14. Do you believe it would be appropriate to introduce a new element, namely the subject of private detective (investigative) activity, into the administrative-legal framework for preventing and combating administrative offenses related to corruption?							

a) introducing a new element, specifically the subject of private detective (investigative) activity, into the administrative-legal framework for preventing and combating administrative offenses related to corruption could have a positive impact on the further development of the institution for preventing and countering administrative corruption offenses.	6	7	4	12	29	38	96
b) no, because introducing changes and additions to the current legislation of Ukraine would only complicate the existing administrative and legal mechanism for preventing and countering administrative offenses related to corruption	8	8	5	3	14	3	41
c) difficult to answer	1	2	4	3	6	2	18
d) your answer option	no 3						3
15. How, in your opinion, should the materials obtained by the subjects of private detective (research) activities be processed during the prevention of administrative offenses related to corruption?							
a) in an arbitrary form on any medium (sheets of paper, optical disc, USB flash drives, etc.) with a mandatory indication of the sources of obtaining information (information) that is of interest to the customer	1			2	3		6
b) in the form of certificates printed on paper sheets, indicating the sources of obtaining information (information) that is of interest to the customer, or without such	2	1		1	4		8
c) only verbally without specifying the sources of information	4	4	1	2	7	6	24

d) in any form, orally or on any medium (sheets of paper, optical disc, USB flash drives, etc.) with an indication of the sources of obtaining information (information) that is of interest to the customer, or without such	4	6	4	11	29	31	85
e) difficult to answer	7	6	8	2	6	6	35
f) your answer option							
16 What document must be used to confirm the actual fulfillment by the subject of private detective activity of the terms of the contract on the provision of private detective (search) services?							
a) receipt					2	3	5
b) by the act of acceptance and transfer of the provided services	5	9	8	14	37	29	102
c) statement	2						2
d) no document, since the very fact of providing information (information) to the customer is confirmation of the fulfillment of the terms of the contract by the subject of private detective activity	3	3			4	9	19
e) difficult to answer	8	5	5	4	6	2	30
f) your answer option							

LAW OF UKRAINE

On Prevention of Corruption

(The Official Bulletin of the Verkhovna Rada of Ukraine (BVR), 2014, No. 49, Article 2056)

Section I

GENERAL PROVISIONS

Article 1. Definitions

1. For the purposes of this Law, the following definitions shall apply:

"anti-corruption expertise" shall mean activity aimed at identifying provisions in regulatory acts or draft regulatory acts which alone or in combination with other norms may facilitate the commission of corruption offences or corruption-related offences;

"direct subordination" shall mean the relationship of direct organisational or legal dependence of a subordinate person on his/her supervisor, including through the decision (participation in the decision) of issues on admission to employment, termination of employment, the use of incentives, disciplinary sanctions, providing guidance, orders, etc., monitoring their implementation;

"close persons" shall mean family members of the subject referred to in part 1, Article 3 of this Law, and husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, brother, sister, and cousin, brother-in-law (sister-in-law), nephew, niece, uncle, aunt, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, great-grandson, great-granddaughter, son-in-law, daughter-in-law, father-in-law, mother-in-law, son's (daughter's) father- and mother-in-law, adoptive parent or adopted, guardian, caretaker or a person who is under the guardianship or care of the mentioned subject;

{Paragraph 4, part 1 of Article 1 as revised by Law No. 140-IX of 02 October 2019}

"state authority" shall mean a government authority, including a collegial state authority, other subject of the public law, regardless of whether or not it holds the status of a legal entity, which, according to legislation, is assigned with powers to perform governing functions on behalf of the state, the jurisdiction of which covers the entire territory of Ukraine or separate administrative and territorial units;

{Part 1 of Article 1 has been supplemented with a new paragraph under Law No. 1975-VIII of 23 March 2017}

"corruption offence" shall mean an act that has the signs of corruption, was committed by a person referred to in part 1, Article 3 of this Law and for which the Law established criminal, disciplinary and/or civil liability;

"corruption" shall mean the use by a person referred to in part 1, Article 3 of this Law of granted official powers or powers associated with opportunities to obtain unlawful benefit or receipt of such benefit or receipt of a promise/offer of such benefit for himself/herself or others, or respectively the promise/offer or granting of an unlawful benefit to the person referred to in part 1, Article 3 of this Law or upon his/her request to other individuals or legal entities with a view to persuade the person to unlawfully use his/her official authorities or associated opportunities granted to him/her;

"unlawful benefit" shall mean money or other property, advantages, privileges, services, intangibles, any other intangible or non-monetary benefits which are promised, offered, given or received without legal justification;

"potential conflict of interest" shall mean the presence of a person's private interest in the area in which he/she exercises his/her official or representative powers that may affect the objectivity or impartiality of his/her decisions or affect the commitment or non-commitment of actions in the exercise of these powers;

"gift" shall mean money or other property, advantages, privileges, services, or intangibles, given/received free of charge or at a price below the minimum market price;

"corruption-related offence" shall mean an act that does not have signs of corruption but violates the requirements, prohibitions and restrictions established by this Law, that was committed by a person referred to in part 1, Article 3 of this Law, for which the law establishes criminal, administrative, disciplinary and/or civil liability;

"private interest" shall mean any tangible or intangible interest of a person including that which is caused by personal, familial, friendly, or other off-duty relationships with individuals or legal entities, including those arising from membership or activity in social, political, religious or other organisations;

"real conflict of interest" shall mean the contradiction between the private interest of a person and his/her official or representative powers, which affects the objectivity or impartiality of his/her decisions and commitment or non-commitment of actions in the exercise of these powers;

"specially authorised counter-corruption entities" shall mean the prosecution authorities, the National Police, the National Anti-Corruption Bureau of Ukraine, the National Agency on Corruption Prevention;

{Part 1 of Article 1 has been supplemented with a new paragraph under Law No. 198-VIII of 12 February 2015; as amended by Law No. 766-VIII of 10 November 2015}

"subjects of declaration" shall mean persons referred to in Clause 1, Subclauses "a" and "c" of Clause 2, Clause 4, part 1 of Article 3 of this Law, other persons who are obliged to file a declaration under this Law;

{Paragraph 15, part 1 of Article 1 as amended by Laws No. 1975-VIII of 23 March 2017, No. 140-IX of 02 October 2019}

"family members" shall mean:

{Paragraph 16, part 1 of Article 1 as revised by Law No. 140-IX of 02 October 2019}

a) a person married to the subject referred to in part 1, Article 3 of this Law, and children of the said subject prior to reaching their legal majority – regardless of cohabitation with the subject;

{Paragraph of part 1 of Article 1 as revised by Law No. 140-IX of 02 October 2019}

b) any cohabitants bound by common everyday life, having mutual rights and responsibilities with the subject referred to in part 1, Article 3 of this Law (other than persons whose mutual rights and obligations are not of a family nature), including persons who live together but are not married;

{Paragraph of part 1 of Article 1 as revised by Law No. 140-IX of 02 October 2019}

"elected individuals" shall mean the President of Ukraine, the Members of Parliament of Ukraine, the Members of Parliament of the Autonomous Republic of Crimea, councillors of local councils, village, settlement, town and city mayors;

"whistle-blower" shall mean an individual who, in the belief that the information is reliable, has reported the possible facts of corruption or corruption-related offences, other violations of this Law committed by another person, if such information has become known to him/her in connection with his/her work, professional, economic, social, scientific activities, his/her service or study or participation in the procedures provided for by law, which are mandatory for commencing such activities, service or study;

{Part 1 of Article 1 as been supplemented with a new paragraph under Law No. 198-IX of 17 October 2019}

"internal channels for reporting of possible corruption or corruption-related offences or other violations of this Law" shall mean methods of secure and anonymous reporting of information by the whistle-blower to the head or authorised unit (person) of the authority or legal entity in which the whistle-blower works, serves or studies or on whose order performs work;

{Part 1 of Article 1 as been supplemented with a new paragraph under Law No. 198-IX of 17 October 2019}

"external channels for reporting of possible corruption or corruption-related offences or other violations of this Law" shall mean ways of reporting information by the whistle-blower through individuals or legal entities, including through the mass media, journalists, public associations, trade unions, etc.;

{Part 1 of Article 1 as been supplemented with a new paragraph under Law No. 198-IX of 17 October 2019}

"regular channels for reporting of possible corruption or corruption-related offences or other violations of this Law" shall mean ways of secure and anonymous reporting of information by the whistle-blower to the National Agency on Corruption Prevention, other public authority competent to consider and make decisions on the matters on which the relevant information is disclosed. Regular channels must be established by specially authorised counter-corruption entities, pre-trial investigation bodies, bodies responsible for monitoring compliance with laws in relevant areas, other state authorities, institutions and organisations.

{Part 1 of Article 1 as been supplemented with a new paragraph under Law No. 198-IX of 17 October 2019}

Article 2. Corruption prevention legislation

1. Relations arising in the field of prevention of corruption shall be governed by the Constitution of Ukraine, international treaties ratified by the Verkhovna Rada of Ukraine, this Law, other laws, and other regulatory acts adopted for their implementation.

Article 3. Subjects covered by this Law

1. Subjects covered by this Law shall be:

1) persons authorised to perform the functions of the state or local government shall be:

a) the President of Ukraine, the Chairman of the Verkhovna Rada of Ukraine, his First Deputy and Deputy, the Prime Minister of Ukraine, the First Deputy Prime Minister of Ukraine, the Vice Prime Ministers of Ukraine, ministers, other heads of central executive authorities who are not members of the Cabinet of Ministers of Ukraine and their deputies, the Head of the Security Service of Ukraine, the Prosecutor General, the Head of the National Bank of Ukraine, his First Deputy and Deputy, the Head and other members of the Accounting Chamber, the Ukrainian Parliament Commissioner for Human Rights, the Commissioner for the Protection of the State Language, the Chairman of the Verkhovna Rada of the Autonomous Republic of Crimea, the Chairman of the Council of Ministers of the Autonomous Republic of Crimea;

{Subclause "a" of Clause 1, part 1 of Article 3 as amended by Laws No. 576-VIII of 02 July 2015, No. 1798-VIII of 21 December 2016, No. 2704-VIII of 25 April 2019, No. 140-IX of 02 October 2019, No. 524-IX of 04 March 2020}

b) the Members of Parliament of Ukraine, the Members of Parliament of the Autonomous Republic of Crimea, councillors of local councils, village, settlement, town and city mayors;

c) civil servants, officials of local government;

d) military officials of the Armed Forces of Ukraine, the State Service for Special Communication and Information Protection of Ukraine and of other military units established under law, except for military conscripts, cadets of higher military education institutions, cadets of higher education institutions which have in their structure military institutes, cadets of departments, sub-departments and divisions of military training;

{Subclause "d" of Clause 1, part 1 of Article 3 as amended by Laws No. 198-VIII of 12 February 2015, No. 1975-VIII of 23 March 2017}

e) judges, judges of the Constitutional Court of Ukraine, the Head, Deputy Head, members and inspectors of the High Council of Justice, officials of the Secretariat of the High Council of Justice, the Head, Deputy Head, members,

inspectors of the High Qualifications Commission of Judges of Ukraine, officials of the Secretariat of this Commission, officials of the State Judicial Administration of Ukraine, jurors (in the course of performing their duties in court);

{Subclause "e" of Clause 1, part 1 of Article 3 as revised by Law No. 1798-VIII of 21 December 2016}

f) rank and file and commanding officers of the State Penitentiary Service, the Tax Police, commanding officers of Civil Defense Authorities and Units, the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine;

{Subclause "f" of Clause 1, part 1 of Article 3 as amended by Laws No. 198-VIII of 12 February 2015, No. 597-VIII of 14 July 2015, No. 766-VIII of 10 November 2015, No. 794-VIII of 12 November 2015}

g) officers and public officials of the Prosecution Service Authorities, the Security Service of Ukraine, the State Bureau of Investigation, the National Anti-Corruption Bureau of Ukraine, the Diplomatic Service, the State Forest Protection, the State Protection of the Nature Reserve Fund, the central executive authority implementing the state tax policy and state customs policy;

{Subclause "g" of Clause 1, part 1 of Article 3 as amended by Laws No. 794-VIII of 12 November 2015, No. 440-IX of 14 January 2020}

h) Chairman, Deputy Chairman of the National Agency on Corruption Prevention;

{Subclause "h" of Clause 1, part 1 of Article 3 as revised by Law No. 140-IX of 02 October 2019}

i) members of the Central Election Commission;

j) police officers;

{Clause 1, part 1 of Article 3 has been supplemented with a new paragraph "j" under Law No. 766-VIII of 10 November 2015}

k) officers and public officials of other state authorities, government authorities of the Autonomous Republic of Crimea;

l) members of collegial state authorities, including those authorised to consider complaints about violations of public procurement law;

{Clause 1, part 1 of Article 3 has been supplemented with Subclause "l" under Law No. 1540-VIII of 22 September 2016; as revised by Law No. 1219-IX of 05 February 2021}

m) Head of the Office of the President of Ukraine, his First Deputy and Deputies, Commissioners, Press Secretary of the President of Ukraine;

{Clause 1, part 1 of Article 3 has been supplemented with Subclause "m" under Law No. 140-IX of 02 October 2019; as revised by Law No. 524-IX of 04 March 2020, No. 912-IX of 17 September 2020}

n) Secretary of the National Security and Defence Council of Ukraine, his/her assistants and advisers, assistants and advisers to the President of Ukraine (except for persons holding positions of patronage service and persons performing duties on a voluntary basis);

{Clause 1, part 1 of Article 3 has been supplemented with Subclause "n" under Law No. 912-IX of 17 September 2020}

2) persons who for the purposes of this Law are equated to persons authorised to perform the functions of state or local government shall be:

a) officials of public law entities not mentioned in Clause 1, part 1 of this Article, members of the Council of the National Bank of Ukraine (except for the Head of the National Bank of Ukraine), persons who are members of the Supervisory Board of a state bank, for-profit state-owned enterprise or organisation, economic company in which more than 50 per cent of authorised capital shares is owned by the state;

{Subclause "a" of Clause 2, part 1 of Article 3 as amended by Laws No. 1975-VIII of 23 March 2017, No. 140-IX of 02 October 2019, No. 524-IX of 04 March 2020}

b) persons who are not civil servants or local government officials but those who render public services (auditors, notaries, private bailiffs, appraisers and experts, trustees in bankruptcy, independent brokers, members of labour arbitration, arbitrators in the exercise of their functions, other persons stipulated by law);

{Subclause "b" of Clause 2, part 1 of Article 3 as amended by Law No. 1403-VIII of 02 June 2016}

c) representatives of public associations, scientific institutions, educational institutions, experts with the relevant qualification, other persons who are members of the Competition Commissions or Disciplinary Commissions set up under the Law of Ukraine "On Civil Service", Law of Ukraine "On Service in Bodies of Local Self-Government", other laws (except for non-resident foreigners who are part of such commissions), the Public Integrity Council established under the Law of Ukraine "On the Judicial System and Status of Judges", and are not the persons mentioned in Clause 1 and Subclause "a" of Clause 2, part 1 of this Article;

{Clause 2, part 1 of Article 3 has been supplemented with Subclause "c" under Law No. 889-VIII of 10 December 2015; as amended by Law No. 1975-VIII of 23 March 2017; as revised by Law No. 140-IX of 02 October 2019}

3) persons permanently or temporarily holding positions related to the implementation of organisational-administrative or administrative-economic duties or specially authorised to perform such duties in legal entities of private law, regardless of the legal form and form of incorporation, and other persons who are not officers but who work or provide services under contract with enterprise, institution or organisation, – in cases stipulated by this Law;

{Clause 3, part 1 of Article 3 as amended by Law No. 198-VIII of 12 February 2015}

4) candidates for the position of the President of Ukraine and candidates for Members of Parliament of Ukraine who are registered under the procedure established by law.

{Part 1 of Article 3 has been supplemented with Clause 4 under Law No. 1975-VIII of 23 March 2017; as revised by Law No. 805-IX of 16 July 2020}

{Clause 5, part 1 of Article 3 has been deleted under Law No. 140-IX of 02 October 2019}

{Note of Article 3 has been deleted under Law No. 140-IX of 02 October 2019}

Section II

NATIONAL AGENCY ON CORRUPTION PREVENTION

Article 4. Status of the National Agency on Corruption Prevention

1. The National Agency on Corruption Prevention (hereinafter – the National Agency) shall be a central executive authority (with a special status) shaping and implementing the state anti-corruption policy.

2. The National Agency, within the limits defined by this and other laws, shall report to and be controlled by the Verkhovna Rada of Ukraine and be accountable to the Cabinet of Ministers of Ukraine.

3. The National Agency shall be established by the Cabinet of Ministers of Ukraine in accordance with the Constitution of Ukraine, this and other laws of Ukraine.

The Chairman of the National Agency shall present the National Agency's activities to the Cabinet of Ministers of Ukraine.

4. The Constitution of Ukraine, international treaties ratified by the Verkhovna Rada of Ukraine, this and other laws of Ukraine, and regulatory acts adopted in accordance with them shall constitute the legal basis for the National Agency's work.

The Law of Ukraine "On Central Bodies of Executive Power" and other regulatory acts governing the activities of executive authorities, as well as the Law of Ukraine "On Civil Service" shall apply to the National Agency, civil servants and employees of its Staff, as well as to its powers in relation to the authorised units (authorised persons) on corruption prevention and detection to the extent not inconsistent with this Law.

{Paragraph 2, part 4 of Article 4 as amended by Law No. 140-IX of 02 October 2019}

{Part 5 of Article 4 has been deleted under Law No. 140-IX of 02 October 2019}

Article 5. Management of the National Agency

1. Management of the activities of the National Agency shall be exercised by its Chairman, who shall be appointed and dismissed by the Cabinet of Ministers of Ukraine under the procedure established by this Law.

2. The Chairman of the National Agency shall be a citizen of Ukraine, not younger than thirty-five years old, who has higher education, speaks the state language, is honest and competent, capable of performing respective official responsibilities because of his/her proper business and moral traits, educational and professional level, and state of health.

For the purposes of this Law, higher education shall be considered education obtained in Ukraine (or on the territory of the former USSR before 01 December 1991) at the educational qualification level of a Specialist's or Master's degree, as well as higher education at the relevant educational qualification level obtained in foreign countries.

3. A person may not be appointed Chairman or Deputy Chairman of the National Agency if this person:

1) has been declared incapable or partially capable by a court judgment;

2) has a criminal record for committing a criminal offence, if such a criminal record has not been expunged or removed as stipulated by the law (except for rehabilitated person);

{Clause 2, part 3 of Article 5 as amended by Law No. 720-IX of 17 June 2020}

3) has had a criminal conviction for committing a corruption crime, which has entered into force, or has been subject to an administrative penalty during the last year for committing a corruption-related offence;

4) has been deprived of the right to engage in activities related to fulfilling the functions of the state, or to occupy certain positions, in accordance with a court sentence that has come into force;

5) has participated in governing bodies of a political party, or has had work or other contractual relations with a political party within two years prior to the application to participate in the competition for the position;

6) has not filed the declaration of a person authorised to perform the functions of the state or local government for the last year under this Law;

7) has not passed a background check or has not given consent for it to be conducted.

4. The Chairman of the National Agency shall be appointed for a period of four years. The same person cannot hold the position of the Chairman of the National Agency for two consecutive terms.

5. The powers of the Chairman of the National Agency shall be terminated by the Cabinet of Ministers of Ukraine ahead of time in the case of:

1) appointment or election to another position, upon his/her consent;

2) reaching the age of sixty-five;

3) inability to exercise his/her powers for health reasons in accordance with a statement of a medical commission formed by a specially authorised central executive authority implementing the state policy in the field of public healthcare;

4) entry into force of a court ruling declaring him/her incapacitated or limiting his/her civil capacity, declaring him/her missing or dead;

5) entry into force of the court's conviction against him/her;

6) termination of his/her Ukrainian citizenship or his/her departure from Ukraine for permanent residence abroad;

7) submission of an application for voluntary termination of employment, resignation;

8) his/her death;

9) a statement by the Commission for Independent Evaluation of the National Agency's Performance on the inefficiency of such activity;

10) entry into force of a court decision on recognising as unjustified his/her assets or assets acquired on his/her behalf by other persons or in other cases stipulated by Article 290 of the Civil Procedural Code of Ukraine, and their alienation in favor of the state.

{Part 5 of Article 5 has been supplemented with a new paragraph under Law No. 263-IX of 31 October 2019}

The powers of the Chairman of the National Agency shall be terminated due to the expiration of his/her term of office.

Termination of powers of the Chairman of the National Agency shall be prohibited for any other reason.

6. The Chairman of the National Agency may have three Deputies, appointed and dismissed by the Chairman.

{Article 5 as revised by Law No. 140-IX of 02 October 2019}

Article 6. Procedure for competitive selection and appointment of the Chairman of the National Agency

1. The Chairman of the National Agency shall be appointed in accordance with the results of open competitive selection.

The competition and selection process shall be organised by the Competition Commission for Selection of the Chairman of the National Agency (hereinafter – the Competition Commission).

2. The Competition Commission shall consist of:

1) three persons appointed by the Cabinet of Ministers of Ukraine;

2) three persons appointed by the Cabinet of Ministers of Ukraine based on proposals of donors who have been providing international technical assistance to Ukraine in preventing and combating corruption during the last two years prior to expiration or early termination of term of office of the Chairman of the National Agency.

The Central executive authority in charge of shaping and implementing the state policy on attracting international technical assistance shall determine the list of such donors not later than three months prior to the expiration of the term of office of the Chairman of the National Agency or within three working days from the date of early termination of the term of office (dismissal) under the procedure established by this Law.

Any such donor may propose to the Cabinet of Ministers of Ukraine any number of candidates to the Competition Commission, or agree to propose a common list of candidates to the Competition Commission.

The decision to appoint members of the Competition Commission shall be made at an open meeting of the Cabinet of Ministers of Ukraine. Such a decision shall include a list of nominated members of the Competition Commission as well as a list of candidates to replace members of the Competition Commission in case of early termination of their powers (at least two candidates, including at least one candidate proposed by the donors who have been providing international technical assistance to Ukraine in preventing and combating corruption during the last two years prior to the expiration or termination of the term of office of the Chairman of the National Agency).

3. The members of the Competition Commission may be persons having perfect business reputation, high professional and moral qualities, public esteem, as well as experience in the field of preventing and/or combating corruption. Persons referred to in Clauses 1–4, part 3, Article 5 of this Law, and persons authorised to perform the functions of state or local government under Part 1, Article 3 of this Law may not be the members of the Commission.

4. The Competition Commission shall be formed not later than two months prior to the expiration of the term of office of the Chairman of the National Agency or within 14 days from the date of early termination thereof (dismissal) under the procedure established by this Law.

The Competition Commission shall be considered authoritative if it includes four persons, with three of them appointed by the Cabinet of Ministers of Ukraine based on proposals of donors who have been providing international technical assistance to Ukraine in preventing and combating corruption during the last two years prior to expiration or early termination of the term of office of the Chairman of the National Agency.

The term of office of a member of the Competition Commission shall be two years from the date of appointment.

The powers of a member of the Competition Commission shall be terminated ahead of time in the event of:

1) filing of a personal application for termination of powers of a member of the Competition Commission;

2) filing by the Competition Commission a proposal for early termination of powers of its member;

3) entry into force of the court's conviction against him/her;

4) recognising him/her as incapable or missing;

5) detecting the non-compliance of the Competition Commission member with the requirements specified in this Article;

6) death of the member;

The decision on early termination of powers of a member of the Competition Commission shall be made by the Cabinet of Ministers of Ukraine, which then shall appoint a member of the Competition Commission as a replacement.

5. The Competition Commission's decision shall be considered passed if four members of the Competition Commission voted in favor of it at a meeting, including three members from among persons appointed based on proposals of donors who have been providing international technical assistance to Ukraine in preventing and combating corruption during the last two years prior to expiration or early termination of the term of office of the Chairman of the National Agency.

The member of the Competition Commission may participate in its meeting remotely by means of electronic communication.

Meetings of the Competition Commission shall be open to media representatives and journalists. The Secretariat of the Cabinet of Ministers of Ukraine shall provide video- and audio recording and broadcasting in real time of the relevant video and audio data from the Competition Commission's meetings on the official website of the Cabinet of Ministers of Ukraine.

Information about the time and venue of the Competition Commission's meeting shall be published on the official website of the Cabinet of Ministers of Ukraine not later than 48 hours before the commencement of such meeting.

The Secretariat of the Cabinet of Ministers of Ukraine shall provide organisational and technical support for the activities of the Competition Commission.

The activities of the Competition Commission and its members, including the Secretariat set up to assist in their activities, may be funded through the involvement of international technical assistance.

6. The Competition Commission shall:

1) determine and promulgate the rules of its work;

2) determine and promulgate criteria and methods of evaluation of candidates for the position of the Chairman of the National Agency;

3) determine the conditions and terms of the competition, publish the respective announcement via the national printed media and on the official website of the Cabinet of Ministers of Ukraine;

4) process the documents submitted by individuals for participation in the competition;

5) assess the candidate's professional knowledge and qualities, study materials about the candidate;

6) interview the selected candidates at its meeting;

7) determine, through open voting, from among candidates who have passed the interview, the candidate who, as per a reasoned decision of the Competition Commission, has the best professional experience, knowledge and qualities to perform the duties of the Chairman of the National Agency, and also meets the criteria of competence and integrity; file a request to the Cabinet of Ministers of Ukraine on the candidate's appointment to the position of the Chairman of the National Agency;

8) publish on the official website of the Cabinet of Ministers of Ukraine information on the persons who have applied to participate in the competition, as well as information on the candidates selected for the interview and the candidate selected by the Competition Commission for appointment as the Chairman of the National Agency;

9) conduct another competition when all candidates are rejected due to their noncompliance with the requirements established for the position of the Chairman of the National Agency.

7. The members of the Competition Commission shall have the right to:

1) collect, verify and analyse information, including restricted information, on candidates for the position of the Chairman of the National Agency;

2) free-of-charge access to the registers, databases held (managed) by the state authorities;

3) participate in meetings and other events held by the Competition Commission;

4) request – from the candidates for the position of the Chairman of the National Agency, as well as any other individuals or legal entities – the explanations, documents or information necessary for the consideration of candidates for the position of the Chairman of the National Agency;

5) employ assistants to collect, verify and analyse information, including restricted information.

Assistants shall be obliged to provide protection and non-disclosure of personal data, restricted information that became known to them in the course of performing their respective duties.

8. The members of the Competition Commission shall be obliged to:

1) provide protection and non-disclosure of personal data, restricted information that became known to the Competition Commission or its member in the course of exercising their powers;

2) participate in the work of the Competition Commission personally without delegating their powers to other persons, including other members of the Competition Commission;

3) not to use personal data and other information that became known to them in the course of participation in the Competition Commission, for purposes other than for the fulfillment of their duties as members of the Competition Commission;

4) refuse to participate in the gathering of information about a candidate for the position of the Chairman of the National Agency and in considering such candidate, if the member of the Competition Commission has or has had personal or business relations with such candidate and/or in case of other conflict of interests or circumstances that may affect the objectivity and impartiality of a member of the Competition Commission when deciding on a candidate for the position of the Chairman of the National Agency.

9. The person applying for the competition shall submit the following documents prior to the deadline determined in the announcement:

1) an application for participation in the selective competition together with a consent for background check in accordance with this Law and for processing his/her personal data in accordance with the Law of Ukraine "On Personal Data Protection;"

2) a curriculum vitae which should include: last name, first name and patronymic (if any), day, month, year and place of birth, citizenship, information about education, work, position (occupation), place of work, civil work (including elected positions), membership in political parties including those in the past, the presence of labour or any other contractual relationship with a political party during two years preceding the day of submission of the application (regardless of duration of such relationships), contact telephone number and email address, and the presence or absence of a criminal record imposing administrative punishment on the individual for committing a corruption-related offence;

3) a motivation letter stating the person's motives for being elected to the position of the Chairman of the National Agency and his/her vision of possible future actions at this position;

4) a copy of the declaration of the person authorised to perform functions of state or local government for the year preceding the year in which the announcement about the selective competition was made public, and a link to the

relevant page of the Unified State Register of Declarations of Persons Authorised for State or Local Government Functions;

5) other documents, the submission of which is stipulated in this Law for conducting a background check.

The information in documents submitted under this Article, except for information that in accordance with this Law is referred to as classified information, data about the contact phone number and email address of the candidate, shall be published on the official website of the Cabinet of Ministers of Ukraine within three working days after the deadline for submission of applications for the selective competition.

{Article 6 as revised by Law No. 140-IX of 02 October 2019}

Article 7. Powers of the Chairman of the National Agency and his/her Deputies

1. The Chairman of the National Agency shall:

1) organise and control the work of the National Agency, bear personal responsibility for legality, transparency and efficiency of the National Agency, report on the work of the National Agency;

2) appoint and dismiss employees of the National Agency;

3) assign civil servant ranks to the National Agency employees, take incentive measures as well as bring employees of the National Agency to disciplinary responsibility according to the decision of the National Agency Disciplinary Board;

4) distribute responsibilities between the Deputies of the Chairman of the National Agency;

5) make decisions under the established procedure on allocating budget funds which are managed by the National Agency;

6) approve the manning table and the estimate of the National Agency, regulations on territorial bodies of the National Agency;

7) approve prospective, current and operational plans of the National Agency, determine performance indicators of the National Agency;

8) represent the National Agency in its relations with courts, other state authorities, local governments, public associations, enterprises, institutions and organisations as well as international bodies of foreign states and foreign organisations, etc.;

9) take measures to prevent unauthorised access to restricted information, ensure compliance with the legislation on access to public information managed by the National Agency, and protection of personal data owned by the National Agency;

10) issue decrees and instructions within his/her competence;

11) have the right to attend meetings of the Verkhovna Rada of Ukraine, its committees and permanent, ad hoc, special and temporary investigatory commissions, as well as participate in an advisory capacity in meetings of the Cabinet of Ministers of Ukraine, other state authorities and local governments in the case of considering issues related to the shaping and implementation of anti-corruption policy;

12) exercise other powers in accordance with this Law and other laws.

2. The Deputies of the Chairman of the National Agency shall exercise their powers in accordance with the allocation of responsibilities approved by the Chairman of the National Agency, and shall exercise the powers of the Chairman in the absence thereof as per the order of the Chairman of the National Agency.

{Article 7 as revised by Law No. 140-IX of 02 October 2019}

Article 8. Organisation of the National Agency's activities

{Part 1 of Article 8 has been deleted under Law No. 140-IX of 02 October 2019}

2. The Staff of the National Agency shall perform organisational, informational, reference and other support of the National Agency's activities.

The regulation on the National Agency's Staff, its structure and regulations on the separate structural units of the Staff shall be approved by the Chairman of the National Agency. The maximum number of employees of the National Agency's Staff shall be approved by the Cabinet of Ministers of Ukraine upon submission of the Chairman of the National Agency.

{Paragraph 2, part 2 of Article 8 as amended by Law No. 140-IX of 02 October 2019}

The Chief of the Staff and his/her Deputies shall be appointed and dismissed by the Chairman of the National Agency; other Staff members (except employees who perform the functions of maintenance or patronage) shall be appointed as per results of open competition, except in case of transfer under the procedure established by the Law of Ukraine "On Civil Service". The regulations on open competition in the National Agency shall be approved by the Chairman of the National Agency.

{Paragraph 3, part 2 of Article 8 as revised by Law No. 140-IX of 02 October 2019}

3. No more than six regional offices of the National Agency, the territory of which not necessarily coincides with an administrative and territorial division, may be established by the decision of the Chairman of the National Agency.

{Paragraph 1, part 3 of Article 8 as revised by Law No. 140-IX of 02 October 2019}

Heads of territorial offices (if established) of the National Agency shall be appointed and dismissed by the Chairman of the National Agency.

{Paragraph 2, part 3 of Article 8 as amended by Law No. 140-IX of 02 October 2019}

4. Employees of the National Agency's Staff and the Staff of its territorial offices (if established) shall undergo mandatory advanced training on a regular basis, but not less than once every two years.

Article 9. Guarantees of the National Agency's independence

1. The National Agency's independence from influence or interference in its activities shall be guaranteed by:

1) the special status of the National Agency;

2) the special procedure of selection, appointment and termination of office of the Chairman of the National Agency;

{Clause 2, part 1 of Article 9 as amended by Law No. 140-IX of 02 October 2019}

3) the special procedure established by law for funding and logistical support of the National Agency;

4) the proper conditions of remuneration for the Chairman, a Deputy Chairman of the National Agency, and officials of the National Agency's Staff, stipulated by this Law and other laws;

{Clause 4, part 1 of Article 9 as amended by Law No. 140-IX of 02 October 2019}

5) the transparency of its activities;

6) other means stipulated by this Law.

2. In the course of performance of their duties, the Chairman, Deputy Chairman of the National Agency and officials of the Staff of the National Agency shall be deemed government officials acting on behalf of the state, and fall under its protection.

{Part 2 of Article 9 as revised by Law No. 140-IX of 02 October 2019}

3. Use of the National Agency for party, group or private interests shall not be allowed. Activities of political parties at the National Agency shall be prohibited.

4. It shall be prohibited for state authorities, authorities of the Autonomous Republic of Crimea, local governments and their officers and public officials, political parties, associations and other entities to interfere in the activities of the National Agency in the course of the performance of its duties.

Any written or verbal instructions, requirements, orders, etc. filed to the National Agency or its employees concerning the powers of the National Agency, but not stipulated by the legislation of Ukraine, shall be unlawful and must not be complied with. In case of receiving such instruction, requirement, order, etc., an employee of the National Agency shall immediately inform the Chairman of the National Agency thereof in writing.

{Part 4 of Article 9 has been supplemented with paragraph 2 under Law No. 140-IX of 02 October 2019}

5. Suspicion of a criminal offence in regard to the Chairman, Deputy Chairman of the National Agency may be announced only by the Prosecutor General (acting Prosecutor General) or Deputy Prosecutor General – the Head of the Specialised Anti-Corruption Prosecution.

The Prosecutor General, his/her Deputy or the Head of the Specialised Anti-Corruption Prosecution, under the established procedure, may file a request for removal from office of the Chairman, Deputy Chairman of the National Agency on Corruption Prevention who is suspected or accused of a crime.

{Paragraph 2, part 5 of Article 9 as amended by Law No. 720-IX of 17 June 2020}

{Part 5 of Article 9 as amended by Law No. 1798-VIII of 21 December 2016; as revised by Law No. 140-IX of 02 October 2019}

6. The Chairman, Deputy Chairman of the National Agency, officials of the National Agency's Staff, their close persons and their property shall be protected by the state. In the event of a relevant notification by the Chairman, Deputy Chairman of the National Agency, the National Police authorities shall take necessary measures to ensure the security of the Chairman, Deputy Chairman of the National Agency and their close persons, and to safeguard their property.

{Part 6 of Article 9 as amended by Law No. 766-VIII of 10 November 2015; as revised by Law No. 140-IX of 02 October 2019}

7. An attempt on the life and health of the Chairman, Deputy Chairman of the National Agency, official of the National Agency's Staff, their close persons, destruction of or damage to their property, threatening them with murder, violence or destruction of property shall entail legal liability as stipulated by the law.

{Part 7 of Article 9 as revised by Law No. 140-IX of 02 October 2019}

8. The Chairman, Deputy Chairman of the National Agency shall have the right to protection provided by the National Police authorities.

{Part 8 of Article 9 as amended by Law No. 766-VIII of 10 November 2015; as revised by Law No. 140-IX of 02 October 2019}

Article 10. Legal status of the employees of the National Agency's Staff and regional offices

{Title of Article 10 as revised by Law No. 140-IX of 02 October 2019}

{Part 1 of Article 10 has been deleted under Law No. 140-IX of 02 October 2019}

2. The civil servants and other employees who perform maintenance functions shall be the employees of the National Agency's Staff and its regional offices.

{Part 2 of Article 10 as amended by Law No. 140-IX of 02 October 2019}

Article 11. Powers of the National Agency

1. The National Agency shall have the following powers:

1) analysing:

the state of corruption prevention and countering in Ukraine, the activities of state authorities, authorities of the Autonomous Republic of Crimea and local governments on preventing and countering corruption;

statistics, results of studies and other information pertaining to corruption;

2) drafting the Anti-Corruption Strategy and the State Programme for its implementation, monitoring coordination and evaluation of implementation effectiveness of the Anti-Corruption Strategy;

3) preparing and filing to the Cabinet of Ministers of Ukraine, as prescribed by law, of a draft national report on the implementation of the principles of anti-corruption policy;

4) shaping and implementing anti-corruption policy and drafting the regulatory acts on these issues;

5) organizing research on the situation with corruption;

{Clause 6, part 1 of Article 11 has been deleted under Law No. 1079-IX of 15 December 2020}

6-1) monitoring and controling implementation of legislation on ethical behavior, preventing and settling the conflicts of interest in the activities of the persons authorised to perform the functions of state or local government and persons equated to them;

{Part 1 of Article 1 has been supplemented with Clause 6-1 under Law No. 1079-IX of 15 December 2020}

7) coordinating and rendering methodological assistance in detection by state authorities, authorities of the Autonomous Republic of Crimea and local government authorities of corruption risks in their activities and implementation of measures to address them, including the preparation and implementation of anti-corruption programs;

{Clause 7, part 1 of Article 11 as amended by Law No. 524-IX of 04 March 2020}

7-1) implementing, under the procedure established by this Law, the monitoring and verification of declarations of the subjects of declaration, storage and disclosure of such declarations, and monitoring the lifestyle of the subjects of declaration;

{Part 1 of Article 11 has been supplemented with Clause 7-1 under Law No. 1079-IX of 15 December 2020}

{Clause 8, part 1 of Article 11 has been deleted under Law No. 1079-IX of 15 December 2020}

8-1) implementating, pursuant to the procedure and within the limits stipulated by this Law, the state monitoring of the observance of legal restrictions on the financing of political parties, lawful and purposeful use by political parties of funds allocated from the state budget to finance their statutory activities, the timeliness of parties' reports on property, income, expenses and financial liabilities, reports on the receipt and use of election funds for state and local elections, reports on the receipt and use of funds from the campaign fund for the all-Ukrainian referendum initiative, reports on receipt and use of funds of the all-Ukrainian referendum fund, reports on the receipt and use of funds from the initiative group fund, the completeness of such reports, reports of an independent external audit of the financial activities of the parties, the conformity of their registration with the established requirements, and the reliability of the information included in these reports;

{Part 1 of Article 11 has been supplemented with Clause 8-1 under Law No. 731-VIII of 08 October 2015; as amended by Law No. 1135-IX of 26 January 2021}

8-2) approving the distribution of funds allocated from the state budget to finance the statutory activities of political parties, in accordance with the law;

{Part 1 of Article 11 has been supplemented with Clause 8-2 under Law No. 731-VIII of 08 October10.2015}

9) ensuring proper maintenance of the Unified State Register of Declarations of Persons Authorised to Perform the Functions of State or Local Government and the Unified State Register of Perpetrators of Corruption or Corruption-Related Offences;

{Clause 10, part 1 of Article 11 has been deleted under Law No. 889-VIII of 10 December 2015}

11) coordinating, within their competence, ensuring methodological support and analysis of the efficiency of work of the authorised units (authorised persons) on corruption prevention and detection;

12) approving the anti-corruption programs of the state authorities, authorities of the Autonomous Republic of Crimea and local governments, and elaborating a typical format of the anti-corruption programme of a legal entity;

13) receiving and reviewing notifications, cooperating with whistle-blowers, ensuring their legal and other protection, checking compliance with legislation on the protection of whistle-blowers, issuing orders requiring the elimination of violations of labour (termination of employment, transfers, performance appraisals, changes in working conditions, denial of appointment to a higher position, reduction in pay, etc.) and other rights of whistle-blowers and bringing those responsible for violating their rights to justice in connection with such reports;

{Clause 13, part 1 of Article 11 as revised by Law No. 198-IX of 17 October 2019}

14) organising training, retraining and advanced training of civil servants of state authorities and authorities of the Autonomous Republic of Crimea, and local government officials on issues related to the prevention of corruption (except for the advanced training of civil servants of state authorities and local government officials);

{Clause 14, part 1 of Article 11 as amended by Law No. 889-VIII of 10 December 2015}

15) providing clarification, guidance and consulting on the application of legislation on ethical conduct, preventing and settling the conflicts of interest in the activities of the persons authorised to perform the functions of state or local government and persons equated to them, applying other provisions of this Law and regulatory acts on the protection of whistle-blowers adopted for its implementation;

{Clause 15, part 1 of Article 11 as amended by Laws No. 140-IX of 02 October 2019, No. 198-IX of 17 October 2019}

16) informing the public about measures taken by the National Agency to prevent corruption and implementing measures aimed at forming public awareness of the negative attitude to corruption;

17) involving public in the shaping, implementing and monitoring of anti-corruption policy;

18) coordinating the implementation of international commitments in the shaping and implementing anti-corruption policy, cooperating with state authorities, non-governmental organisations of foreign states and international organisations within its competence;

19) performing exchange of information with the competent authorities of foreign states and international organisations;

20) other powers stipulated by law.

Article 12. Rights of the National Agency

1. The National Agency shall have the following rights for the implementation of its powers:

{Clause 1, part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

1[-1]) to obtain information, under the procedure stipulated by law and upon written requests, from state authorities, authorities of the Autonomous Republic of Crimea, local government, business entities regardless of their form of ownership and their officials, citizens and their associations, including restricted information, as may be necessary to fulfil its objectives;

{Part 1 of Article 12 has been supplemented with Clause 1[-1] under Law No. 1079-IX of 15 December 2020}

1[-2]) to have direct access to information and telecommunication and reference systems, registers, databases, including those containing restricted information, the holders (administrators) of which are state authorities or local government, to use state, including government means of communications, special communications networks and other technical means. Obtaining information from the Unified Register of Pre-trial Investigations shall be carried out under the procedure and to the extent determined by joint order of the National Agency and the Prosecutor General.

The processing of such information shall be carried out by the National Agency in compliance with the legislation on protection of personal data and secrecy protected by law;

{Part 1 of Article 12 has been supplemented with Clause 1[-2] under Law No. 1079-IX of 15 December 2020}

{Clause 2, part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

2[-1]) to obtain information from open databases, registers of foreign countries, including after payment for receiving relevant information, if such payment is required for access to information;

{Part 1 of Article 12 has been supplemented with Clause 2[-1] under Law No. 140-IX of 02 October 2019}

3) to engage scientists (including on a contractual basis), employees of state authorities, authorities of the Autonomous Republic of Crimea and local government in certain activities, in accordance with the established procedure, for participation in the study of certain issues;

4) to create commissions and working groups, to organise conferences, seminars and meetings on preventing and countering corruption;

5) to adopt binding regulatory acts on issues within its competence;

5[-1]) to receive statements from individuals and legal entities regarding violations of this Law, and perform checks of possible violations of this Law, acting on its own initiative;

{Part 1 of Article 12 has been supplemented with Clause 5[-1] under Law No. 1079-IX of 15 December 2020}

5[-2]) to inspect the organised work on preventing and identifying corruption in state authorities, authorities of the Autonomous Republic of Crimea and local government, legal entities of public law and legal entities specified in part 2, Article 62 of this Law, in particular regarding the drafting and implementation of the anti-corruption programs, establishment and operation of internal and regular channels to report possible facts of corruption or corruption-related offences, other violations of this Law, protection of whistle-blowers;

{Part 1 of Article 12 has been supplemented with Clause 5[-2] under Law No. 1079-IX of 15 December 2020}

5[-3]) to issue precepts concerning violations of statutory requirements on ethical conduct, prevention and resolution of a conflict of interest, and other requirements and restrictions set forth in this Law;

{Part 1 of Article 12 has been supplemented with Clause 5[-3] under Law No. 1079-IX of 15 December 2020}

5[-4]) to obtain written explanations from persons authorised to perform the functions of state or local government, economic entities, regardless of their form of ownership, their officials, citizens and their associations, pertaining to circumstances that may indicate a breach of ethical conduct, prevention and settlement of conflicts of interest and other requirements and restrictions stipulated by this Law regarding the correctness of the information specified in the declarations of persons authorised to perform state or local government functions;

{Part 1 of Article 12 has been supplemented with Clause 5[-4] under Law No. 1079-IX of 15 December 2020}

5[-5]) to obtain written explanations from persons authorised to perform the functions of state or local government, persons equated to them, employees of legal entities under public law and legal entities specified in part 2, Article 62 of this Law regarding circumstances that may indicate violation of this Law on the protection of whistle-blowers;

{Part 1 of Article 12 has been supplemented with Clause 5[-5] under Law No. 1079-IX of 15 December 2020}

5[-6]) to file claims (applications) to the court to recognise as unlawful regulatory acts and personal decisions issued (taken) in breach of the requirements and restrictions stipulated by this Law; to invalidate contracts signed as a result of the commission of corruption or a corruption-related offence;

{Part 1 of Article 12 has been supplemented with Clause 5[-6] under Law No. 1079-IX of 15 December 2020}

5[-7]) in the event that the Agency establishes evidence that a person authorised to perform the functions of the state or local government acquired unjustified assets or that such assets were acquired by another person on his/her behalf or in other cases provided for by Article 290 of the Civil Procedural Code of Ukraine, ? to raise before the Specialised Anti-Corruption Prosecution or, in the cases specified by law, before the Office of the Prosecutor General, the question of going to court with a claim for recognition of unjustified assets and their alienation in favor of the state;

{Part 1 of Article 12 has been supplemented with Clause 5[-7] under Law No. 1079-IX of 15 December 2020}

{Clause 6, part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

{Clause 7, part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

{Clause 8, part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

{Clause 9, part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

{Clause 9[-1], part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

{Clause 10, part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

{Clause 10[-1], part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

11) to approve the methodology for corruption risk assessment in the activities of state authorities; to analyse the anti-corruption programs of state authorities and to make suggestions for such programs that are mandatory for review;

11^{-1}) to initiate an official investigation, taking measures to bring to justice those guilty of committing corruption or corruption-related offences, and to send materials to other specially authorised counter-corruption entities that show evidence of such offences;

{Part 1 of Article 12 has been supplemented with Clause 11^{-1} under Law No. 1079-IX of 15 December 2020}

11^{-2}) to draw up protocols on administrative offences referred by law to the competence of the National Agency; to apply measures that are prescribed by law to further case proceedings involving administrative offences;

{Part 1 of Article 12 has been supplemented with Clause 11^{-2} under Law No. 1079-IX of 15 December 2020}

{Clause 12, part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

{Clause 12^{-1}, part 1 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

13) other rights stipulated by law.

{Part 2 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

{Part 3 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

{Part 4 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

{Part 5 of Article 12 has been deleted under Law No. 1079-IX of 15 December 2020}

6. If violations of this Law regarding ethical behavior, prevention and settlement of conflicts of interest are identified in the activities of persons authorised to perform the functions of state or local government and persons equated to them, protection of whistle-blowers or any other violations of this Law, the National Agency shall issue a precept to the head of the body, enterprise, or institution to eliminate violations of the law, to conduct an official investigation, and bring the perpetrator to statutory liability.

The precept of the National Agency shall be binding. The official to whom the precept of the National Agency is addressed shall inform the National Agency of the results of its performance within ten working days after receipt of the said precept.

The precept shall not be issued in case of violation of the requirements of this Law on ethical conduct, prevention and settlement of conflicts of interest in the activities of a judge, a judge of the Constitutional Court of Ukraine. The National Agency shall inform the High Council of Justice or the Constitutional Court of Ukraine, respectively, about the detection of such violations. The High Council of Justice, the Constitutional Court of Ukraine, in accordance with the powers granted by law, shall decide on bringing a judge, a judge of the Constitutional Court of Ukraine to disciplinary responsibility under the procedure established by law.

A precept of the National Agency shall not be imposed on issues directly related to the administration of justice by a judge, as well as the exercise of constitutional proceedings by a judge of the Constitutional Court of Ukraine.

{Article 12 has been supplemented with part 6 under Law No. 1079-IX of 15 December 2020}

7. If signs of administrative corruption-related offences are detected, the authorised representatives of the National Agency shall produce a protocol on the offence and send it to the court under the procedure established by the National Agency.

If signs of administrative corruption-related offences committed by a judge, a judge of the Constitutional Court of Ukraine are detected, the Chairman of the National Agency or his/her Deputy shall draw up a protocol on the offence and send it to the court under the procedure established by law, and shall inform the High Council of Justice or the Chairman of the Constitutional Court of Ukraine thereof.

If signs of other corruption or corruption-related administrative offence are detected, the National Agency shall approve a reasoned opinion and forward it to other specially authorised counter-corruption entities.

If signs of other corruption or corruption-related administrative offence committed by a judge, a judge of the Constitutional Court of Ukraine are detected, the Chairman of the National Agency or his/her Deputy shall approve a reasoned opinion and forward it to other specially authorised counter-corruption entities, and also inform the High Council of Justice or the Chairman of the Constitutional Court of Ukraine, respectively, of the fact that such an opinion was approved.

An opinion of the National Agency shall be mandatory for review and the results of such review shall be informed to it within five days of receipt of the report of the offence committed.

{Article 12 has been supplemented with part сьомою under Law No. 1079-IX of 15 December 2020}

8. The state authorities, authorities of the Autonomous Republic of Crimea, local government, individuals and legal entities shall be required to provide the requested documents or information requested by the National Agency, including restricted information, within ten working days upon receipt of the request, and in the case of a request for background check, within three days.

{Article 12 has been supplemented with part 8 under Law No. 1079-IX of 15 December 2020}

9. Regulatory acts of the National Agency shall be subject to state registration by the Ministry of Justice of Ukraine and shall be included into the Unified State Register of Regulatory Acts.

Regulatory acts of the National Agency, which have passed state registration, shall enter into force on the day of their official publication, unless otherwise provided for by the acts themselves, but not earlier than the day of official publication.

Regulatory acts of the National Agency, after inclusion in the Unified State Register of Regulatory Acts, shall be published in official printed publications in the state language.

Other acts of the National Agency shall come into force on the day of their passing, unless otherwise stipulated by the acts themselves, but not earlier than the day of their passing, and shall be brought to the attention of the persons covered by such acts under the procedure established by the National Agency.

Acts of the National Agency shall be published by posting them on the official website of the National Agency.

{Article 12 has been supplemented with part 9 under Law No. 1079-IX of 15 December 2020}

Article 13. Authorised persons of the National Agency on Corruption Prevention

1. The authorised persons of the National Agency shall be the Chairman, the Deputy Chairman of the National Agency and officials authorised by the Chairman of the National Agency.

The authorised persons of the National Agency shall have the right to:

{Part 1 of Article 13 has been supplemented with paragraph 2 under Law No. 1079-IX of 15 December 2020}

unhindered access to the premises of the state authorities, authorities of the Autonomous Republic of Crimea, local state authorities, legal entities under public law and legal entities specified in part 1, Article 62 of this Law upon presentation of an employee ID card, and access to documents or other materials as may be necessary to conduct inspections;

{Part 1 of Article 13 has been supplemented with paragraph 3 under Law No. 1079-IX of 15 December 2020}

request any necessary documents or other information, including those with the restricted access, in connection with the exercise of their powers;

{Part 1 of Article 13 has been supplemented with paragraph 4 under Law No. 1079-IX of 15 December 2020}

obtain, within their competence, written clarifications from officers and officials of state authorities, authorities of the Autonomous Republic of Crimea, local governments, economic entities, regardless of their form of ownership, their officials, citizens and their associations;

{Part 1 of Article 13 has been supplemented with paragraph 5 under Law No. 1079-IX of 15 December 2020}

according to the allocation of responsibilities, draw up protocols on administrative offences in cases within the powers of the National Agency;

{Part 1 of Article 13 has been supplemented with paragraph 6 under Law No. 1079-IX of 15 December 2020}

represent the National Agency in the courts under the procedure established by law;

{Part 1 of Article 13 has been supplemented with paragraph 7 under Law No. 1079-IX of 15 December 2020}

carry out inspections on the issues assigned by this Law to the powers of the National Agency. The allocation of responsibilities for conducting inspections between authorised persons of the National Agency shall be carried out automatically under the procedure established by the Chairman of the National Agency.

{Part 1 of Article 13 has been supplemented with paragraph 8 under Law No. 1079-IX of 15 December 2020}

{Part 1 of Article 13 as revised by Law No. 140-IX of 02 October 2019}

{Part 2 of Article 13 has been deleted under Law No. 1079-IX of 15 December 2020}

3. Unless the National Agency authorises its persons otherwise, they may not be members of commissions, committees or other bodies established by the state authorities or local governments.

4. The Chairman, Deputy Chairman of the National Agency, its officials and administrative staff shall be prohibited from disclosing classified information acquired in connection with the performance of their official duties, except in cases established by the law.

{Part 4 of Article 13 as amended by Law No. 140-IX of 02 October 2019}

Article 13^{-1}. Authorised units (authorised persons) on corruption prevention and detection

1. For the purpose of organising and carrying out measures on corruption prevention and detection stipulated by this Law, the authorised units (authorised persons) on corruption prevention and detection shall be established (determined).

The authorised units (authorised persons) on corruption prevention and detection shall be established (determined) at:

the Office of the President of Ukraine, the Staff of the Verkhovna Rada of Ukraine, the Secretariat of the Cabinet of Ministers of Ukraine, the Secretariat of the Ukrainian Parliament Commissioner;

the Staffs of the National Security and Defense Council of Ukraine, the Accounting Chamber, the Supreme Court, the High Anti-Corruption Court, the Constitutional Court of Ukraine, the National Bank of Ukraine, the Deposit Guarantee Fund for Individuals; the Secretariats of the High Council of Justice, the High Qualification Commission of Judges of Ukraine;

the Staffs and territorial bodies of Ministries, other central executive authorities, other state authorities whose jurisdiction extends to the entire territory of Ukraine (except the National Anti-Corruption Bureau of Ukraine, the National Agency);

the Staff of the Council of Ministers of the Autonomous Republic of Crimea, the Staff of the executive authorities of the Autonomous Republic of Crimea;

the oblast, Kyiv and Sevastopol city, raion, district in the city of Kyiv state administrations;

the Staffs of the Verkhovna Rada of the Autonomous Republic of Crimea, oblast, raion, city councils, the Sevastopol City Council, the Secretariat of the Kyiv City Council;

enterprises, institutions and organisations managed by a state authority (except for legal entities where anti-corruption programs are approved in accordance with this Law);

state trust funds.

{Part 2 of Article 13^{-1} has been deleted under Law No. 1079-IX of 15 December 2020}

3. The head of the authorised unit (authorised person) shall be accountable to and under the control of the head of the relevant state or local government authority.

The head of the relevant state or local government authority shall guarantee the independence of the authorised unit (authorised person) from influence on or interference with their work.

4. The head of the authorised unit (authorised person) of a state body whose jurisdiction extends to the entire territory of Ukraine may be dismissed on the initiative of the head, subject to the consent of the National Agency.

The consent of the National Agency shall be given for the purpose of clarifying the circumstances provided for in parts 1 and 3, Article 53[-4] of the Law.

{Paragraph 2, part 4 of Article 13[-1] as amended by Law No. 524-IX of 04 March 2020}

5. The National Agency shall approve the Model Regulations on the Authorised Unit (Authorised Person) and the procedure for granting permission for dismissal of the head of the authorised unit (authorised person).

The National Agency shall establish mandatory requirements for the minimum staffing of the authorised unit in state authorities.

6. Main tasks of the authorised units (authorised person) shall be:

1) developing, organising and controlling the implementation of measures for the prevention of corruption and corruption-related offences;

2) arranging assessment of corruption risks in the activity of the respective authority, preparation of measures for their elimination, submission of the relevant proposals to the head of such authority;

3) providing methodological and advisory assistance on compliance with the anti-corruption legislation;

4) implementing measures to identify conflict of interest, facilitate its resolution, inform the head of the relevant authority and the National Agency on revealing a conflict of interest, and measures taken to resolve it;

5) verifying the fact of submission of declarations by the subjects and notification of the National Agency on cases of non-submission or untimely submission of such declarations under the procedure established by the Law;

6) exercising control over the observance of anti-corruption legislation, including consideration of reports of violations of the requirements of this Law, including at subordinate enterprises, institutions and organisations;

7) ensuring protection of employees who have reported violations of the requirements of this Law from the negative influence by the manager or employer under the legislation on protection of whistle-blowers;

8) informing the head of the relevant authority, the National Agency or other specially authorised counter-corruption entities about the facts of violation of legislation on preventing and combating corruption.

{Article 13[-1] has been supplemented with part 6 under Law No. 1079-IX of 15 December 2020}

{The Law has been supplemented with Article 13[-1] under Law No. 140-IX of 02 October 2019}

Article 14. Supervision over the activities of the National Agency

1. The National Agency's budget spending shall be controlled by the Accounting Chamber through an audit once every two years.

2. Civil control over the activities of the National Agency shall be ensured through the Public Council of the National Agency, which consists of 15 people and is formed based on the results of open and transparent competition.

The competition for the formation of the Public Council under the National Agency shall be conducted by an open rating Internet voting of citizens residing in the territory of Ukraine, under the procedure established by the Cabinet of Ministers of Ukraine.

Applications for participation in the competition to form the Public Council under the National Agency shall be submitted by public associations that have been active in preventing and/or combating corruption for at least two years and have confirmed the projects they have implemented (hereinafter – public associations).

A public association may submit no more than three nominations to participate in the competition, taking into account all applications submitted by affiliated public associations. Affiliated public associations shall be public associations that have common founders or close persons among their founders.

Membership of the Public Council under the National Agency may not include persons:

1) referred to in Clause 1 and Subclause "a" of Clause 2, part 1, Article 3 of this Law;

2) who have been employees of the National Agency for the last three years irrespective of their employment duration;

3) whose close persons are or have been employees of the National Agency for the last three years irrespective of their employment duration.

The Public Council under the National Agency shall be duly constituted if it consists of at least nine members. The Public Council shall retain its powers for a two-year term. The Regulation on the Public Council under the National Agency shall be approved by the Cabinet of Ministers of Ukraine.

3. The National Council under the National Agency shall:

1) elect up to three representatives from among its members to become the members of each of:

the commissions that hold a competitive selection for filling vacant positions in the National Agency;

the disciplinary commissions that carry out disciplinary proceedings against civil servants of the National Agency;

2) hear information on the activities, implementation of plans and tasks of the National Agency, monitor the effectiveness of implementation by the National Agency of its powers;

3) analyse the situation while ensuring independence of the National Agency;

4) consider the National Agency's annual report and approve the opinion on it;

5) consider the draft national report on implementation of the principles of anti-corruption policy and approve the opinion on it;

6) participate in the development of the anti-corruption strategy and the state programme for its implementation;

7) participate in the development of draft regulatory acts of the National Agency, and draw opinions about them;

8) exercise other powers provided for in the Regulation on the Public Council under the National Agency.

4. An external independent evaluation of the National Agency's performance shall be conducted every two years.

The evaluation shall be conducted by the Commission for the Independent Evaluation of the Performance of the National Agency (hereinafter – the Commission) composed of three persons appointed by the Cabinet of Ministers of

Ukraine based on proposals of donors who have been providing international technical assistance to Ukraine in preventing and combating corruption for the last two years prior to the assessment.

The selection of donors and the submission of proposals for candidates to the Commission shall be made in accordance with Article 6 of this Law.

Prior to the formation of the Commission, the Cabinet of Ministers of Ukraine shall approve and promulgate the criteria and methodology for evaluating the performance of the National Agency's activities.

When evaluating the National Agency's Performance, the Commission also shall take into account information from the High Council of Justice, the Constitutional Court of Ukraine on the compliance of the National Agency with the guarantees of independence of judges, judges of the Constitutional Court of Ukraine in the exercising of its powers.

{Part 4 of Article 14 has been supplemented with a new paragraph under Law No. 1079-IX of 15 December 2020}

The members of the Commission shall act independently and shall not have to comply with any orders or instructions.

The decision of the Commission to approve the National Agency's performance evaluation report shall be deemed passed if all members of the Commission have voted in favour of it.

The National Agency's performance evaluation report shall be published on the official website of the Cabinet of Ministers of Ukraine within five days of its approval.

To carry out the evaluation, the members of the Commission shall have the right to:

1) access information and documents held by the National Agency (including restricted information);

2) conduct confidential interviews with employees of the National Agency, employees of other state authorities, as well as other persons who possess the information (documents) necessary to carry out the evaluation;

3) contact the public authorities, any individuals or legal entities with a request for clarification, documents or information necessary for the assessment;

4) use the help of assistants. Assistants shall be obliged to provide protection and non-disclosure of personal data, restricted information that became known to them in the course of performing their respective duties.

Members of the Commission shall ensure the protection and non-disclosure of personal data, restricted information that became known to them in the course of exercising their powers.

The Secretariat of the Cabinet of Ministers of Ukraine shall provide organisational and technical support for the activities of the Commission. The activities of the Commission and its members, including the Secretariat set up to assist in their activities, may be funded through the involvement of international technical assistance.

5. The National Agency shall prepare annual reports on its activities. The report of the National Agency shall be submitted for approval to the Public Council under the National Agency, which considers the report within two weeks of its submission.

The National Agency shall publish the annual report no later than 15 April on its official website together with the opinion of the Public Council (if the opinion is approved within the prescribed time).

The National Agency's annual report shall include the following information:

1) indicators of its performance and results of their achievement, determined by the National Agency;

2) statistics on the results of activities of the National Agency, including data on:

the number of violations of this Law, the Law of Ukraine "On Political Parties in Ukraine;"

the number of protocols on administrative offences drawn up by the authorised persons of the National Agency and the results of their consideration;

the number of precepts issued by the National Agency, materials sent about violations of law to the law enforcement and other authorities, the results of their consideration;

results of appeals of the National Agency to court with claims (statements) in accordance with the law;

disciplinary penalties imposed on employees of the National Agency;

3) the results of activities of the internal control unit and the anti-corruption unit of the National Agency;

4) information about interaction with other state bodies, local government bodies, enterprises, institutions and organisations;

5) information on cooperation with competent authorities of foreign states, international and foreign organisations;

6) the number of employees of the National Agency, their qualifications and experience, their advanced training;

7) staffing list and estimate of the National Agency, its implementation;

8) other information concerning results of the activities of the National Agency.

{Article 14 as revised by Law No. 140-IX of 02 October 2019}

Article 15. Social protection of the Chairman, Deputy Chairman of the National Agency and the employees of the Staff of the National Agency

{Title of Article 15 as revised by Law No. 140-IX of 02 October 2019}

1. The Chairman, Deputy Chairman of the National Agency, and employees of the Staff of the National Agency shall have compulsory state social insurance under the compulsory state social insurance legislation.

{Part 1 of Article 15 as revised by Law No. 77-VIII of 28 December 2014; as amended by Law No. 140-IX of 02 October 2019}

2. In the event of the death of the Chairman, Deputy Chairman of the National Agency in the course of performance of his/her official duties, the family of the deceased and, if there is no immediate family, the deceased's parents and dependents shall receive one-time financial assistance in the amount of ten years' salary earned by the deceased in the last position he/she held, under the procedure and terms stipulated by the Cabinet of Ministers of Ukraine. The family of the deceased shall retain the right to receive housing.

{Part 2 of Article 15 as amended by Law No. 140-IX of 02 October 2019}

{Part 3 of Article 15 has been deleted under Law No. 77-VIII of 28 December 2014}

4. Damage done to the property of the Chairman, Deputy Chairman or employee of the Staff of the National Agency or to the property of their close persons in connection with the performance of official duties shall be reimbursed in full from the state budget of Ukraine, with subsequent recourse of this amount from the culpable individuals under the procedure established by law.

{Part 4 of Article 15 as amended by Law No. 140-IX of 02 October 2019}

Article 16. Remuneration of the Chairman, Deputy Chairman of the National Agency and the employees of the Staff of the National Agency

{Title of Article 16 as revised by Law No. 140-IX of 02 October 2019}

1. Salaries of the Chairman, Deputy Chairman and the employees of the Staff of the National Agency shall be of a sufficient financial level to ensure the proper performance of their duties considering the nature, intensity and danger of their work, to ensure recruitment and retaining of qualified personnel in the Staff of the National Agency, to encourage achievement of high results in official activities, and compensate the costs of the intellectual efforts of the employees.

{Part 1 of Article 16 as amended by Law No. 140-IX of 02 October 2019}

2. Salaries of the Chairman, Deputy Chairman and the employees of the Staff of the National Agency shall consist of an official salary, long service bonuses, bonuses for rank, and bonuses and other allowances as stipulated by laws on public service.

The following position salaries of the National Agency employees shall be established in accordance with the amount of the subsistence minimum for able-bodied persons set as of 01 January of the calendar year:

Chairman of the National Agency – 40;

Deputy Chairman of the National Agency, Chief of the Staff of the National Agency – 30;

Head of territorial body of the National Agency, Deputy Chief of the Staff of the National Agency, head of the Internal Control Unit – 25;

Deputy head of the territorial body of the National Agency, Head of independent structural unit of the Staff of the National Agency, Deputy Head of the Internal Control Unit – 20.

The position salary of other employees of the National Agency shall be twice the amount of official salary established by the Cabinet of Ministers of Ukraine for employees holding relevant positions in central executive authorities.

The position salary of the authorised persons of the National Agency shall be set with a factor of 1.5 (except for the Chairman, Deputy Chairman of the National Agency).

{Part 2 of Article 16 as amended by Law No. 1774-VIII of 06 December 2016; as revised by Law No. 140-IX of 02 October 2019}

3. Long-service bonuses, bonuses for rank, bonuses and other allowances shall be paid to the Chairman, Deputy Chairman and civil servants of the National Agency in accordance with the Law of Ukraine "On Public Service" taking into account the provisions of this Law.

The amount of monthly bonuses of the Chairman, the Deputy Chairman of the National Agency may not exceed 50 per cent of their salary.

{Part 3 of Article 16 as revised by Law No. 140-IX of 02 October 2019}

Article 17. Financial, material and technical support of the National Agency

1. Financial support of the National Agency shall be provided from the State Budget of Ukraine. Financing of the National Agency through any other sources shall be prohibited, except in cases provided for by the international treaties ratified by the Verkhovna Rada of Ukraine or international technical assistance projects.

2. Expenditures for financing the National Agency shall be determined in the State Budget of Ukraine as a separate line at a level sufficient to ensure the proper exercise of the powers by the National Agency.

The Chairman of the National Agency shall represent the position of the National Agency on issues of its financing at meetings of the Cabinet of Ministers of Ukraine, committees or in plenary sessions of the Verkhovna Rada of Ukraine.

3. The National Agency shall be the senior administrator of State Budget of Ukraine funds allocated for its financing.

Expenses for activities of the National Agency shall include funds for awareness campaigns and training on corruption preventing and countering.

4. The National Agency shall be supplied with all the necessary materials, equipment and other assets to carry out its official duties.

Article 17^{-1}. Internal Control Unit, Corruption Prevention Unit of the National Agency

1. To ensure the integrity of the employees of the National Agency and enforcement of this Law, the Internal Control Unit is established within the Staff of the National Agency The Internal Control Units may be established within the territorial authorities of the National Agency by a decision of the Chairman of the National Agency.

2. The procedure for operation and powers of the Internal Control Units shall be determined by a provision approved by the Chairman of the National Agency. The Chairman of the National Agency shall appoint and dismiss the head and employees of the Internal Control Unit. Internal Control Units shall report directly to the Chairman of the National Agency.

3. Internal Control Unit of the National Agency shall:

1) monitor and control the compliance of the National Agency employees with the acts of legislation on ethical conduct, prevention and settlement of conflicts of interest, other requirements, restrictions and prohibitions stipulated by this Law;

2) control the timeliness of filing and comprehensive examination of the declarations of persons authorised to perform the functions of the state or local government, submitted by the employees of the National Agency as prescribed by the Chairman of the National Agency;

3) conduct integrity checks of employees of the National Agency and monitoring of their lifestyle under the procedure established by the Chairman of the National Agency;

4) check the information contained in the appeals of individuals and legal entities, mass media, other sources, including those received through a special telephone line, an Internet page, electronic communications of the National Agency, regarding the involvement of employees of the National Agency in committing offences;

5) conduct official investigations in relation to the employees of the National Agency;

6) conduct background checks regarding the persons applying for positions in the National Agency;

7) take measures to protect employees of the National Agency reporting illegal acts or omissions of other employees of the National Agency;

8) exercise other powers specified in the Regulations on the Internal Control Unit of the National Agency.

4. An employee of the National Agency who has become aware of the illegal acts or omissions of another employee of the National Agency shall immediately inform the Chairman of the National Agency and the Internal Control Unit of the National Agency thereof.

5. The National Agency has a Corruption Prevention Unit, the Regulations on which shall be approved by the Chairman of the National Agency.

Corruption Prevention Unit of the National Agency shall:

1) advise employees of the National Agency on compliance with the requirements of the legislation on ethical behavior, prevention and settlement of conflicts of interest, other requirements, restrictions and prohibitions provided for by this Law;

2) organise the assessment of corruption risks in the activities of the National Agency, prepare measures for their elimination and take other measures aimed at preventing the corruption and corruption-related offences by the employees of the National Agency;

3) develop and provide implementation of the National Agency's anti-corruption program;

4) exercise other powers specified in the Regulation on the Corruption Prevention Unit of the National Agency.

{Section II has been supplemented by Article 17[-1] under Law No. 140-IX of 02 October 2019}

Section III

SHAPING AND IMPLEMENTING ANTI-CORRUPTION POLICY

Article 18. Anti-corruption policy

1. The principles of the anti-corruption policy (Anti-Corruption Strategy) shall be determined by the Verkhovna Rada of Ukraine.

2. The Verkhovna Rada shall hold annual parliamentary hearings on the state of corruption no later than 1 June, approve and make publicly available the annual national report on the implementation of the principles of anti-corruption policy.

3. The Anti-Corruption Strategy shall be drafted by the National Agency based on the state of corruption analysis and results of previous Anti-Corruption Strategy implementation.

4. The Anti-Corruption Strategy shall be implemented through fulfilment of the state target program, which is drafted by the National Agency and approved by the Cabinet of Ministers of Ukraine.

Heads of state authorities shall be personally responsible for ensuring the completion of the State programme of Anti-Corruption Strategy implementation.

5. The state target programme to implement the Anti-Corruption Strategy shall be subject to annual review, taking into account the results of implementation of these measures, and also the conclusions and recommendations of parliamentary hearings on the situation with corruption.

Article 19. Anti-corruption programmes

1. Anti-corruption programmes shall be adopted in:

the Administration of the President of Ukraine, the Staff of the Verkhovna Rada of Ukraine, the Secretariat of the Cabinet of Ministers of Ukraine, the Secretariat of the Ukrainian Parliament Commissioner for Human Rights, the Prosecutor General’s Office, the Security Service of Ukraine, ministries, other central executive authorities, other state authorities with jurisdiction covering the entire territory of Ukraine, Oblast, Kyiv and Sevastopol city state administrations, state trust funds – through approval by their heads;

{Paragraph 2, Part 1 of Article 19 as amended by Law No. 113-IX of 19 September 2019}

the Staff of the National Security and Defense Council of Ukraine – through approval by the Secretary of the National Security and Defense Council of Ukraine;

The National Bank of Ukraine – through approval by its Management Board;

{Paragraph 4, Part 1 of Article 19 as amended by Law No. 576-VIII of 02 July 2015}

the Accounting Chamber, the Central Election Commission, the High Council of Justice, the Supreme Rada of the Autonomous Republic of Crimea, oblast councils, Kyiv and Sevastopol city councils, the Council of Ministers of the Autonomous Republic of Crimea – through approval by the decisions of these authorities.

{Paragraph 5, part 1 of Article 19 as amended by Laws No. 576-VIII of 02 July 2015, No. 1798-VIII of 21 December 2016}

Anti-corruption programmes and amendments thereto shall be subject to the approval by the National Agency under the procedure established by it.

{Paragraph 6, part 1, of Article 19 as revised by Law No. 524-IX of 04 March 2020}

2. The anti-corruption programmes shall provide for:

the definition of the general principles of general departmental policy for preventing and combating corruption in the relevant field, as well as for implementing the anti-corruption strategy and the State anti-corruption programme;

assessment of corruption risks in activities of an authority, institution or organisation, and the causes and conditions which facilitate them;

measures to eliminate the identified corruption risks, persons responsible for their implementation, terms and resources required;

awareness raising measures and measures to disseminate information on targeted anti-corruption programmes;

procedures for monitoring, evaluation of implementation and periodic review of the programmes;

other measures aimed at preventing corruption and corruption-related offences.

Article 20. National report on implementation of the principles of the anti-corruption policy

1. The National Agency shall prepare a draft annual national report on implementation of the principles of the anti-corruption policy, to be submitted to the Cabinet of Ministers of Ukraine by no later than 01 April.

2. The annual report on implementation of the principles of the anti-corruption policy shall contain the following information:

1) statistics on results of the performance of specially authorised counter-corruption entities, together with an obligatory indication of the following data:

a) the number of reports of criminal corruption and corruption-related offences registered by each specially authorised counter-corruption entities;

b) the number of operational search cases initiated by specially authorised counter-corruption entities, and their effectiveness;

c) the number of persons against whom indictments were prepared in connection with the criminal corruption and corruption-related offences they committed, as well as protocols on the commission of administrative corruption-related offences;

d) the number of persons with an effective court conviction for criminal corruption or corruption-related offences they committed and those who were held administratively liable for corruption-related offences;

e) the number of persons acquitted on the corresponding offences they committed and regarding whom relevant administrative proceedings were terminated without the imposition of penalties;

f) information individually by categories of persons referred to in part 1, Article 3 of this Law and by liability types for corruption and corruption-related offences;

g) the number of persons dismissed from office (work, service) in connection with prosecution for corruption or corruption-related offences, as well as persons who have been imposed the main/additional penalty of deprivation of the right to occupy certain positions or engage in certain activities;

h) information on the amount of damage caused by corruption and corruption-related offences, the status and amount of reimbursement;

i) information about funds and other property obtained as a result of corruption or corruption-related offences, forfeited upon the decision of a court, as well as funds in the amount of illicit services or benefits collected for the benefit of the state;

j) information about funds and other property obtained as a result of corruption or corruption-related offences returned to Ukraine from abroad and their subsequent disposal;

k) information on the forfeiture of items and proceeds of criminal corruption offences;

l) the number of proposals by the relevant authorities or officials to repeal regulatory acts and decisions issued (taken) as a result of the commission of a corruption offence, and the results of their consideration;

m) information about regulatory acts or decisions deemed illegal in court, as petitioned by an interested individual, association of citizens, legal entity, state authority or local government, published (adopted) as a result of the commission of a corruption offence;

n) the number of requests to eliminate the causes and conditions that contributed to the commission of corruption and corruption-related offences or failure to comply with the requirements of anti-corruption laws;

o) information about cooperation with the relevant authorities of other states, international organisations and foreign non-governmental organisations and cooperation agreements signed with them;

p) information about cooperation with non-governmental organisations and the media;

q) information about the staff of specially authorised counter-corruption entities, qualifications and experience of their employees, and their professional development;

r) information about the activities of internal security units of specially authorised counter-corruption entities; the number of reported offences of their employees, the results of consideration of such reports, holding employees of internal security units liable;

s) the amount of funding of specially authorised counter-corruption entities;

t) other information related to the performance by specially authorised counter-corruption entities of their activities and fulfilment of their responsibilities;

u) the number of reports of whistle-blowers, the number of whistle-blowers;

{Clause 1, part 2 of Article 20 has been supplemented with Subclause "u" under Law No. 198-IX of 17 October 2019}

v) the number of persons with an effective court conviction for criminal corruption or corruption-related offences they committed and those who were held administratively liable for corruption-related offences that caused proceedings in connection with the reports of whistle-blowers;

{Clause 1, part 2 of Article 20 has been supplemented with Subclause "v" under Law No. 198-IX of 17 October 2019}

w) information on the amount of damages and harm caused by corruption and corruption-related offences that caused proceedings in connection with the reports of whistle-blowers, the status and amount of their compensation;

{Clause 1, part 2 of Article 20 has been supplemented with Subclause "w" under Law No. 198-IX of 17 October 2019}

x) information on the number of persons against whom measures have been taken to protect their rights and interests as whistle-blowers;

{Clause 1, part 2 of Article 20 has been supplemented with Subclause "x" under Law No. 198-IX of 17 October 2019}

2) summarised results of anti-corruption expertise of regulatory acts and draft regulatory acts;

3) information on the results of the implementation of measures taken by public authorities for preventing and countering corruption, including those taken in the course of international cooperation;

4) summarised analysis of the state of corruption, which shall contain:

a) corruption risks, identified by state authorities, authorities of the Autonomous Republic of Crimea and local governments in their activities, and measures they have taken to eliminate such risks;

{Subclause "a", Clause 4, part 2 of Article 20 as amended by Law No. 524-IX of 04 March 2020}

b) results of sociological and analytical research of the corruption situation performed by state authorities, authorities of the Autonomous Republic of Crimea, local governments, international organisations and public associations;

c) the state of implementation of international legal obligations in preventing and countering corruption;

d) the impact of measures taken on the level of corruption, based on statistical data and sociological research;

5) report on the implementation of the Anti-Corruption Strategy;

6) conclusions and recommendations.

3. By no later than 15 February, specially authorised counter-corruption entities, other state authorities, authorities of the Autonomous Republic of Crimea and local governments shall submit information to the National Agency as required to prepare a national report on implementation of the principles of the anti-corruption policy.

4. On an annual basis by no later than 15 April, the Cabinet of Ministers of Ukraine shall review and approve a draft national report on implementation of the principles of the anti-corruption policy, which shall be sent to the Verkhovna Rada of Ukraine within ten working days from the date of its approval.

5. The national report on implementation of the principles of the anti-corruption policy shall be published on the official website of the Verkhovna Rada of Ukraine.

Article 21. Participation of the public in corruption prevention measures

1. Public associations, their members or authorised representatives and individuals in their corruption prevention activity shall have the right to:

1) report discovered facts of committed corruption or corruption-related offences, real and potential conflicts of interest to the specially authorised counter-corruption entities, to the National Agency on Corruption Prevention, management or other representatives of the authority, institution or organisation where these offences have been committed or whose employees have a conflict of interest, and also to the public;

2) request and receive information about corruption prevention activities from state authorities, authorities of the Autonomous Republic of Crimea and local government, under the procedure established by the Law of Ukraine "On Access to Public Information;"

3) perform or order the performance of a public anti-corruption expertise of regulatory acts and draft regulatory acts and, as a result of such anti-corruption expertise, submit proposals to the relevant authorities and receive information from the relevant authorities about consideration of such proposals;

4) participate in parliamentary hearings and other events on corruption prevention;

5) make proposals to bodies empowered with legislative initiative to improve the legal regulation of relations arising in corruption prevention sphere;

6) perform or order the performance of research, including scientific, sociological and other research into corruption prevention issues;

7) conduct events to inform the public about corruption prevention;

8) exercise public control over the implementation of corruption prevention laws by using such forms of control which are not contrary to law;

9) perform other activities to prevent corruption which are not prohibited by law.

2. A public association, individual or legal entity shall not be denied access to information concerning the competence of bodies that perform corruption prevention measures or the main areas of their activities. This information shall be provided under the procedure established by law.

3. Draft laws and other draft regulatory acts which provide for the granting of benefits and advantages to specific economic entities, as well as the delegation of powers of state authorities, authorities of the Autonomous Republic of Crimea or local government for the purpose of their public discussion shall be immediately posted on the official

website of the corresponding authorities, but no later than 20 working days prior to their consideration with a view to adopt.

4. State authorities, authorities of the Autonomous Republic of Crimea and local government shall summarise the results of the public discussion of draft laws and other draft regulatory acts referred to in part 3 of this Article and publish them on their websites.

Section IV

PREVENTION OF CORRUPTION AND CORRUPTION-RELATED OFFENCES

Article 22. Restrictions on use of official powers or position

1. Persons referred to in part 1, Article 3 of this Law shall be prohibited from using their official powers or position and associated opportunities to obtain an unlawful benefit for themselves or others including use of state or municipal property or funds for their personal interest.

Article 23. Restrictions on receiving gifts

1. Persons referred to in Clauses 1 and 2, part 1, Article 3 of this Law shall be prohibited to demand, request or receive gifts for themselves or close persons from legal entities or individuals:

1) in connection with the performance by such persons of activities related to their functions of state or local government;

2) if the person who provides a gift is a subordinate to that person.

2. Persons mentioned in Clauses 1 and 2, part 1, Article 3 of this Law may accept gifts which meet generally accepted notions of hospitality, except as provided by part 1of this Article, if the value of such gifts does not exceed the subsistence minimum for able-bodied persons, established as of the date when the gift was received, a gift was accepted once, and the aggregate value of gifts received from one person (group of persons) within the year does not exceed two subsistence minimums established for able-bodied persons as of 01 January of the year when the gift was accepted.

{Paragraph 1, part 2 of Article 23 as amended by Laws No. 198-VIII of 12 February 2015, No. 1774-VIII of 06 December 2016}

The restriction on the value of gifts stipulated by this part shall not apply to gifts which are:

1) given to close persons;

2) received as public discounts for products, services, publicly available benefits, prizes, rewards and bonuses.

3. Gifts received by the persons referred to in Clauses 1 and 2, part 1, Article 3 of this Law in the capacity of gifts to the State, the Autonomous Republic of Crimea, local community, state-owned and municipal enterprises, institutions or organisations shall be recognised as state or municipal property and transferred to the authority, enterprise, institution or organisation under the procedure determined by the Cabinet of Ministers of Ukraine.

4. Decisions taken by a person referred to in Clauses 1 and 2, part 1, Article 3 of this Law in favor of a person who has given a gift to him/her or his/her close persons shall be seen as decisions taken under conditions of a conflict of interest and provisions of Article 67 of this Law shall be applied to such decisions.

Article 24. Preventing the receipt of unlawful benefit or gifts and the handling thereof

1. Persons authorised to perform the functions of state or local government, or persons equated to them, if they are offered an unlawful benefit or gift, regardless of private interests, shall immediately take the following steps:

1) reject the offer;

2) identify, where possible, the person who made the offer;

3) involve witnesses, if possible, including from among employees;

4) notify the immediate supervisor (if any) in writing about the offer or the head of the respective authority, enterprise, institution or organisation, and one of the specially authorised counter-corruption entities.

2. If a person subject to the restrictions on the use of their official position and on the receipt of gifts has discovered in his/her office a property or has received a property which may be an unlawful benefit or gift, he/she shall promptly, but no later than within one business day, notify his/her immediate supervisor in writing or the head of the respective authority, enterprise, institution or organisation about such fact.

Upon discovery of a property which may be an unlawful benefit, a written act shall be drawn up and signed by the person who discovered the unlawful benefit or gift, and by his/her immediate supervisor or head of the authority, enterprise, institution or organisation.

If a property which may be an unlawful benefit or gift is discovered by a person who is the head of the body, enterprise, institution or organisation, an act on discovery of the property which may be an unlawful benefit or gift shall be signed by such person and the person authorised to perform the functions of the head of the respective authority, enterprise, institution or organisation in the head's absence.

3. Items of unlawful benefit and received or discovered gifts shall be stored at the respective authority before they are transferred to the specially authorised counter-corruption entities.

4. Provisions of this Article shall not apply to cases of receipt of a gift under the circumstances provided for by part 2, Article 23 of this Law.

5. If a person referred to in Clauses 1 and 2, part 1, Article 3 of this Law has doubts about the possibility of receiving a gift, he/she may seek advice on the matter by writing to the National Agency, which shall provide an appropriate explanation.

{Part 5 of Article 24 as amended by Law No. 140-IX of 02 October 2019}

Article 25. Restrictions on other part-time activities

1. Persons referred to in Clause 1, part 1, Article 3 of this Law shall be prohibited to:

1) engage in any other paid (except for teaching, research and creative activities, medical practice, instruction and referee practice in sport) or entrepreneurial activities, unless otherwise stipulated by the Constitution or laws of Ukraine;

2) become a member of the board, other executive or supervisory bodies or supervisory board of a company or organisation that seeks profit (except for cases when the persons carry out the functions of management of shares owned by the state or territorial community and represent the interests of the state or territorial community on the board (supervisory board) or audit committee of the economic organisation), unless otherwise stipulated by the Constitution and laws of Ukraine.

2. The restrictions stipulated by part 1 of this Article shall not apply to members to the Verkhovna Rada of the Autonomous Republic of Crimea, councillors of local councils (except those who exercise their powers in the respective council on a regular basis), jurors, assistant consultants to the Members of Parliament of Ukraine, employees of Secretariats of the Chairman of the Verkhovna Rada of Ukraine, the First Deputy Chairman of the Verkhovna Rada of Ukraine and the Deputy Chairman of the Verkhovna Rada of Ukraine, employees of the Secretariats of the Parliamentary Factions (or groups of Members of Parliament) in the Verkhovna Rada of Ukraine, employees of Patronage Services in state authorities.

{Part 2 of Article 25 as amended by Laws No. 1798-VIII of 21 December 2016, No. 319-IX of 03 December 2019, No. 805-IX of 16 July 2020}

Article 26. Restrictions after termination of activities connected with the functions of state or local government

1. Persons authorised to perform the functions of state or local government referred to in Clause 1, part 1, Article 3 of this Law, who resigned or otherwise terminated the activities connected with the functions of state or local government, shall be prohibited to:

1) within one year from the date of termination of the relevant activities, enter into employment agreements (contracts) or perform transactions in business with legal entities of private law and individuals – entrepreneurs if the persons referred to in the paragraph 1 of this part, within one year before the termination of the functions of state or local government exercised powers of control, supervision, preparation or decisions-making in relation to the activities of these legal entities or individuals – entrepreneurs;

2) disclose or otherwise use for their interests information that became known to them in connection with the performance of official duties, except for cases stipulated by law;

3) within one year from the date of termination of the relevant activities, represent the interests of any person in the cases (including those heard in courts) where another party is an authority, enterprise, institution or organisation, where they had been working at the time of termination of their mentioned activities.

2. Violation of restrictions on entering into employment agreements (contracts), as stipulated under Clause 1, part 1 of this Article shall serve as grounds for termination of such contract.

Business transactions committed in violation of Clause 1, part 1 of this Article may be invalidated.

If the National Agency detects violations referred to in part 1 of this Article, it shall appeal to the court for termination of the employment agreement (contract) and for invalidation of the transaction.

Article 27. Restrictions on joint work with close persons

1. Persons mentioned in Clause 1, part 1, Article 3 of this Law may not have in their direct subordination close persons or be directly subordinated to close persons in connection with carrying out their official powers.

{Paragraph 1, part 1 of Article 27 as amended by Law No. 524-IX of 04 March 2020}

Persons applying for the positions referred to in Clause 1, part 1, Article 3 of this Law shall be obliged to notify the management of the authority where they seek the position about close persons working at this authority.

{Paragraph 2, part 1 of Article 27 as amended by Law No. 524-IX of 04 March 2020}

The provisions of the first and second paragraphs of this part shall not apply to:

1) people's assessors and jurors;

2) close persons who are directly subordinated to each other when one of them acquires the status of an elected person;

3) persons who work in rural settlements (except raion centers) and mountain settlements.

2. In the event of circumstances that violate the requirements of part 1 of this Article, the respective persons or their close persons shall take steps to eliminate such circumstances within fifteen days.

If during this period the circumstances are not voluntarily eliminated, the respective persons or their close persons, within one month from the occurrence of the circumstances, shall be transferred under the established procedure to another position which eliminates issues of direct subordination.

If it is impossible to perform such a transfer, the person who is in subordination shall be dismissed.

Section V

PREVENTION AND RESOLUTION OF A CONFLICT OF INTEREST

Article 28. Prevention and resolution of a conflict of interest

1. Persons referred to in Clauses 1 and 2, part 1, Article 3 of this Law shall be obliged to:

1) take measures to prevent the occurrence of a real or potential conflict of interest;

2) report – no later than the next business day from the date when the person found out or should have found out about a real or potential conflict of interest – to their immediate head and, if the person holds a position that does not provide for having an immediate head or a position in a collegial authority – report to the National Agency or other authority or a collegial authority determined by the law, where the conflict of interest occurred while exercising powers;

3) not to take any actions and not to make decisions under the conditions of a real conflict of interest;

4) take measures to address a real or potential conflict of interest.

2. Persons authorised to perform the functions of state or local government may not in any way, directly or indirectly, encourage their subordinates to make decisions, take actions or refrain from actions that violate the law and benefit their private interests or the private interests of third parties.

3. The immediate head or the head of an authority which has the powers to dismiss/initiate dismissal from a position within two business days after receiving notice that his/her subordinate has a real or potential conflict of interest shall make a decision to resolve the conflict of interest, and report to the respective person to this effect.

When the National Agency receives a report from a person about the presence of a real or potential conflict of interest, it shall explain, within seven working days, to the reporting person the procedure for his/her actions to resolve the conflict of interest.

4. The immediate head or the head of an authority who has the powers to dismiss/initiate dismissal from a position, who became aware of the conflict of interest of his/her subordinate person, shall be obliged to take steps, in accordance with this Law, to prevent and resolve the conflict of interest of such person.

5. If a person doubts whether he/she has a conflict of interest, he/she shall seek an clarification at the National Agency. If the person did not receive confirmation about the absence of a conflict of interest, he/she shall act in accordance with the requirements set out in this Section of the Law.

{Part 5 of Article 28 as amended by Law No. 140-IX of 02 October 2019}

6. If a person has received confirmation about the absence of a conflict of interest, he/she shall be exempted from liability even if it later transpired that there had been a conflict of interest in actions regarding which he/she sought clarification.

7. Laws and other regulatory acts that define the powers of state authorities, authorities of the Autonomous Republic of Crimea and local state authorities, and the procedure governing provision of certain types of state services and other activities related to the functions of state and local government need to provide for a procedure and ways to resolve the conflict of interest of officials whose activities they regulate.

Article 29. Measures of external resolution and self-resolution of a conflict of interest

1. A conflict of interest shall be resolved externally by:

1) suspension of a person from fulfilling the task, performing actions, making decisions or participation in making decisions under the conditions of a real or potential conflict of interest;

2) use of external monitoring to control how a person fulfils a certain task, performs certain actions or makes decisions;

3) restricting a person's access to certain information;

4) reviewing the scope of a person's official powers;

5) reassignment of a person to another position;

6) termination of employment of a person.

2. Persons referred to in Clauses 1 and 2, part 1, Article 3 of this Law, who have an actual or potential conflict of interest, can independently take steps to resolve it by eliminating the respective private interest and providing documents that prove it to their immediate head or the head of an authority which has the powers to dismiss/initiate dismissal from a position.

Elimination of a private interest shall exclude any possibility of its concealment.

Article 30. Suspension from fulfilling a task, performing actions, decision-making or participating in decision-making

1. A person authorised to perform the functions of state or local government, or person equated to him/her shall be suspended from fulfilling a task, performing actions, decision-making or participating in decision making in the conditions of a real or potential conflict of interest by decision of the head of the relevant authority, enterprise, institution or organisation, in cases where the conflict of interest does not have a permanent nature and if there is a possibility to involve other employees of the respective authority, enterprise, institution or organisation for making such a decision or taking respective actions.

2. A person authorised to perform the functions of state or local government, or person equated to him/her shall be suspended from fulfilling a task, performing actions, decision-making or participating in decision-making in the conditions of a real or potential conflict of interest, as well as involving other employees of the respective authority, enterprise, institution or organisation for such decision-making or taking respective actions, by the decision of the head of the authority or respective structural subdivision where the person works.

Article 31. Restricting access to information

1. Access of a person authorised to perform the functions of state or local government, or person equated to him/her to certain information shall be restricted by decision of the head of the authority or respective structural unit where the person works, in cases when the conflict of interest is associated with such access and is of a constant nature, as well as if the person is able to continue proper execution of his/her powers under such restriction, and if it is possible to assign another employee of the authority, enterprise, institution or organisation, to work with the such information.

Article 32. Reviewing the scope of official powers

1. The scope of official powers of a person authorised to perform the functions of state or local government, or person equated to him/her shall be reviewed by decision of the head of the authority, enterprise, institution, organisation or respective structural unit where the person works if a conflict of interest in its activities is of a permanent nature, related to the specific authority of the person and if the person is able to continue proper execution of his/her official tasks under such review, and if it is possible for another employee to be vested with the respective powers.

Article 33. Exercising powers under external control

1. A person authorised to perform the functions of state or local government, or person equated to him/her, shall exercise official powers under external control, if suspension of the person from fulfilling a task, performing actions, decision-making or participating in decision-making under a real or potential conflict of interest, restricting a person's access to information or reviewing its powers are impossible and there is no reason for his/her reassignment to another position or his/her discharge.

2. The external control shall be carried out in the following forms:

1) verification by an employee, appointed by the head of the authority, enterprise, institution or organisation, of the status and results of performing tasks, taking actions, content of the decisions or draft decisions, that are made or are being developed by the person or respective collegial authority on issues related to the conflict of interest;

2) performance of tasks, taking actions, considering cases, drafting and making decisions by the person in the presence of an employee appointed by the head of the authority;

3) participation of the authorised person of the National Agency in the work of the collegial authority as an observer without voting rights.

3. A decision on the implementation of external control shall include an indication of the form of control, the employee authorised to administer control, as well as the duties of the person associated with the use of external control of his/her performance of respective tasks, actions or decision-making.

Article 34. Reassignment or discharge of a person due to a conflict of interest

1. A person authorised to perform the functions of state or local government, or person equated to him/her shall be reassigned to another position due to the presence of a real or potential conflict of interest by decision of the head of the authority, enterprise, institution or organisation if the conflict of interest in the activities of the person is of a permanent nature and cannot be resolved by suspending that person from fulfilling the task, taking actions, decision-making or participating in decision-making, restricting access of the person to information, reviewing his/her powers and functions, eliminating the private interest or, if there is a vacant position, that has characteristics that correspond to the person's personal and professional qualities.

Reassignment to another position shall be possible only with the consent of the person authorised to perform the functions of state or local government, or equivalent persons.

2. A person authorised to perform the functions of state or local government, person equated to him/her shall be discharged from his/her positions in connection with a conflict of interest if the actual or potential conflict of interest in that person's activities is permanent and cannot be resolved by other means, including the absence of the person's consent to reassignment or eliminating the private interest.

Article 35. *{Article 35 has been deleted under Law No. 1079-IX of 15 December 2020}*

Article 35^{-1}. Peculiarities of resolving a conflict of interest arising in the activity of certain categories of persons authorised to perform the functions of state or local government

1. Rules for resolving a conflict of interest in the activities of the President of Ukraine, MPs of Ukraine, members of the Cabinet of Ministers of Ukraine, heads of central executive authorities, which are not part of the Cabinet of Ministers of Ukraine, judges, judges of the Constitutional Court of Ukraine, the Chairmen, a Deputy Chairman of oblast and raion councils, city, village, settlement heads, secretaries of city, village and settlement councils and councillors of local councils shall be determined by laws governing the status of the respective persons and the principles of organisation of the respective authorities.

2. In the event of a real or potential conflict of interest of a person authorised to perform the functions of state or local government, or person equated to him/her, who is part of a collegial authority (committee, commission, board, etc.), this person shall have no right to participate in the decision-making process of this authority.

Any relevant member of the collegial authority or participant of the meeting who is directly related to the question under consideration may report about the conflict of interest of such person. A report about a conflict of interest of a member of a collegial authority shall be included in the minutes of the meeting of the collegial authority.

If the non-participation of a person authorised to perform the functions of state or local government, or person equated to him/her, who is a part of that collegial authority, in the authority's decision-making process results in loss of competence by this authority, the person's participation in decision-making shall be subject to external controls. The respective collegial authority shall make a decision on exercising external control.

{The Law has been supplemented with Article 35^{-1} under Law No. 1079-IX of 15 December 2020}

Article 36. Preventing a conflict of interest when a person owns enterprises or equity rights

1. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall, within thirty days after appointment (election) to the position, transfer the management of enterprises and equity rights that he/she owns to another person under the procedure established by law.

If at the time of expiration of the mentioned thirty-day period, restrictions are imposed on operations with shares in the depository accounting system based on a relevant decision of the National Securities and Stock Market Commission on the suspension of changes in the depository accounting system, the persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall be obliged to transfer such shares they own to another person within 30 days from the date of resumption of the changes in the depository accounting system.

{Part 1 of Article 36 has been supplemented with a new paragraph under Law No. 852-IX of 02 September 2020}

In cases stated above, the persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall be prohibited to transfer the management of the enterprises and equity rights that they own to their family members.

{Paragraph 3, part 1 of Article 36 as amended by Law No. 852-IX of 02 September 2020}

2. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall transfer their enterprises, which by the method of formation (establishment) and formation of the authorized capital are unitary enterprises, by concluding a contract on property management with a business entity.

3. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall transfer their equity rights in one of the following ways, namely by:

1) concluding a contract on property management with a business entity (but not a contract on management of securities and other financial instruments);

2) concluding a contract on management of securities, other financial instruments and funds intended for investment in securities and other financial instruments, with a securities trader who is licensed by the National Securities and Stock Market Commission to manage securities;

3) concluding a contract on the establishment of a venture unit investment fund for managing transferred equity rights with an asset management company that is licensed by the National Securities and Stock Market Commission to conduct asset management activities.

Equity rights as payment of the cost of securities of a venture unit investment fund shall be transferred after registration by the National Securities and Stock Market Commission of the emission of the securities of such collective investment institution.

4. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law, may not conclude such contracts as mentioned in parts two and three of this Article with business entities, securities traders and asset management companies, where family members of such persons are employed.

5. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law, appointed (elected) to their position, within one day after transferring the management of the enterprises and equity rights that they own, shall be required to notify the National Agency thereof in writing and provide a notarised copy of the concluded contract.

6. The requirements of this Article shall not apply to:

1) persons who are independent members of the supervisory board of a state bank, state-owned enterprise, for-profit state-owned enterprise or organisation, economic company with more than 50 per cent of authorised capital shares owned by the state;

2) councillors of local councils (except those who exercise their powers in the relevant council on a permanent basis);

3) Assistant Consultants to Members of Parliament of Ukraine, employees of the Secretariats of the Chairman of the Verkhovna Rada of Ukraine, the First Deputy Chairman of the Verkhovna Rada of Ukraine and the Deputy Chairman of the Verkhovna Rada of Ukraine, employees of the Secretariats of the Parliamentary Factions (or groups of Members of Parliament) in the Verkhovna Rada of Ukraine.

{Part 6 of Article 36 has been supplemented with Clause 3 under Law No. 319-IX of 03 December 2019}

{Article 36 has been supplemented with part 6 under Law No. 140-IX of 02 October 2019}

Section VI

RULES OF ETHICAL CONDUCT

Article 37. Requirements for the conduct of persons

1. General requirements for the conduct of persons referred to in Clause 1, Subclause "a" of Clause 2 of part 1, Article 3 of this Law, which they are obliged to follow when exercising their official or representative powers, and the grounds and procedure for bringing a person to account for a breach of these requirements shall be established by this Law, which shall represent the legal basis for the codes or standards of professional ethics.

2. The central executive authority in charge of shaping and implementing the state policy in the field of public service shall approve the general rules of ethical conduct for civil servants and local government officials.

{Paragraph 1, part 2 of Article 37 as amended by Law No. 889-VIII of 10 December 2015}

State authorities, authorities of the Autonomous Republic of Crimea and local state authorities, if necessary, shall develop and ensure compliance with industry codes or standards of ethical behavior for their employees and other

persons authorised to perform the functions of state or local government, or persons equated to them who conduct activities in the sphere of their control.

Article 38. Compliance with the law and ethical norms of conduct

1. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall strictly comply with the law and generally accepted ethical standards of conduct, and be polite in their relations with citizens, supervisors, colleagues and subordinates while exercising their official powers.

Article 39. Priority of interests

1. Persons referred to in Clause 1, part 1, Article 3 of this Law, when representing the state or territorial community, shall act solely in the interests of the state or territorial community.

Article 40. Political neutrality

1. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall be obliged to be politically neutral, avoid demonstrations of their own political beliefs or opinions in any form, not use official authority for the interests of political parties or branches, or individual politicians, while exercising their official powers.

2. The provisions of part 1 of this Article shall not apply to elected officials, assistant consultants to Members of Parliament of Ukraine, employees of Secretariats of the Chairman of the Verkhovna Rada of Ukraine, the First Deputy Chairman of the Verkhovna Rada of Ukraine and the Deputy Chairman of the Verkhovna Rada of Ukraine, employees of the Secretariats of the Parliamentary Factions (or groups of Members of Parliament) in the Verkhovna Rada of Ukraine and persons holding political office.

{Part 2 of Article 40 as amended by Law No. 319-IX of 03 December 2019}

Article 41. Impartiality

1. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall act impartially, in spite of private interests, their personal attitude to any persons, their own political views, ideological, religious or other personal views or beliefs.

Article 42. Competence and efficiency

1. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall perform official functions and professional responsibilities, and implement decisions and instructions of the authorities and persons to which they are subordinate, accountable or under their control in good faith, competently, promptly, efficiently and responsibly, and shall not permit the abuse or inefficient use of government and municipal property.

Article 43. Non-disclosure of information

1. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall not disclose or use in any other way confidential and other information with restricted access, which has become known to them in connection with their official powers and professional obligations, except as required by law.

Article 44. Refraining from execution of illegal decisions or orders

1. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law, in spite of private interests, shall refrain from execution of decisions or orders of the administration, if they are against the law.

2. Persons referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law shall independently evaluate the lawfulness of decisions or orders provided by the administration and the possible harm that would be caused in case of exercising of such decisions or orders.

3. If a person referred to in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law receives decisions or orders for executing which the person regards as unlawful or threatening to legally protected rights, freedoms and interests of individual citizens, legal entities, state or public interests, the person shall immediately and in writing notify the head of the authority, enterprise, institution or organisation, where he/she works, while elected persons shall notify the National Agency thereof immediately and in writing.

Section VII

FINANCIAL CONTROL

Article 45. Submission of declarations of persons authorised to perform the functions of state or local government

1. Persons referred to in Clause 1, Subclause "a" and "c" of Clause 2, part 1, Article 3 of this Law shall be required, on an annual basis, before 01 April, through the official website of the National Agency, to file a declaration of a person authorised to perform the functions of state or local government (hereinafter – the Declaration) for the previous year in the form, as determined by the National Agency.

{Part 1 of Article 45 as amended by Laws No. 1975-VIII of 23 March 2017, No. 140-IX of 02 October 2019}

2. Persons referred to in Clause 1, Subclause "a" and "c" of Clause 2, part 1, Article 3 of this Law who terminate activity related to performance of the functions of state or local government shall submit a declaration of a person authorised to perform the functions of state or local government for the period not covered by previously submitted declarations.

{Paragraph 1, part 2 of Article 45 as amended by Law No. 1975-VIII of 23 March 2017}

Persons who terminate activity related to the performance of functions of state or local government or other activity mentioned in Subclauses "a" and "c" of Clause 2, part 1 of Article 3 shall be required, in the year following the termination of activity, to submit a declaration of a person authorised to perform the functions of state or local government for the previous year, under the procedure stipulated in part 1 of this Article.

{Paragraph 2, part 2 of Article 45 as amended by Law No. 1975-VIII of 23 March 2017}

{Part 2 of Article 45 as amended by Law No. 140-IX of 02 October 2019}

3. A person who is a candidate for a position specified in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law, as well as a person mentioned in Clause 4 (except for persons running as candidates for members of the Verkhovna Rada of the Autonomous Republic of Crimea, local councils, for the positions of village, settlement and city heads) of part 1, Article 3 of this Law, prior to appointment or election to the respective position, shall file a declaration of a person authorised to perform functions of state or local government for the previous year, under the procedure established by this Law. A person elected as a member of the Verkhovna Rada of the Autonomous Republic of Crimea, member of a local council, village, settlement or city head shall submit such declaration within fifteen calendar days from the date of taking office as a member/councillor, village, settlement or city head.

{Paragraph 1, part 3 of Article 45 as revised by Law No. 805-IX of 16 July 2020}

Persons mentioned in Subclause "c" of Clause 2, part 1, Article 3 of this Law shall file a declaration of a person authorised to perform functions of state or local government for the previous year, under the procedure established by this Law, in the event that they become a member of the Competition Commissions or Disciplinary Commissions, established under the Laws of Ukraine "On Civil Service", "On Service in Bodies of Local Self-Government", this and other laws of Ukraine, of the Civic Integrity Council, established under the Law of Ukraine "On the Judicial System and Status of Judges", – within ten calendar days after becoming a member (inclusion, engagement, election, appointment) in the composition of the relevant commission, Civic Integrity Council, respectively.

{Paragraph 2, part 3 of Article 45 as revised by Law No. 140-IX of 02 October 2019}

{Paragraph 3, part 3 of Article 45 has been deleted under Law No. 140-IX of 02 October 2019}

{Part 3 of Article 45 as revised by Law No. 1975-VIII of 23 March 2017}

4. Within seven days of the filing of the declaration, the subject of declaration may file an amended declaration, but no more than three times.

{Paragraph 1, part 4 of Article 45 as revised by Law No. 140-IX of 02 October 2019}

If the subject of declaration is found liable for failing to submit or for late submission of a declaration, or if false information is discovered in the declaration, the subject of declaration shall submit a corresponding declaration with true information.

{Part 4 of Article 45 as revised by Law No. 1022-VIII of 15 March 2016}

5. Section VII of this Law shall not extend to officials of establishments, institutions and organisations whose principal activity is associated with social protection of the population, social and professional rehabilitation of disabled adults and children, social protection of war veterans and participants of anti-terrorist operations, taking measures to ensure national security and defense, repel and deter the armed aggression of the Russian Federation in the Donetsk and Luhansk Oblasts, health care (except for heads of health care institutions of the central, oblast, raion, city (cities of regional significance, cities of Kyiv and Sevastopol) level), education (except for heads of higher educational institutions and their deputies), science (except for presidents of the National Academy of Science and national sectoral academies of science, First Vice-Presidents, Vice-Presidents and Chief Scientific Secretaries of the National Academy of Sciences of Ukraine and National Sectoral Academies of Sciences, other members of the Presidium of the National Academy of Sciences of Ukraine and Presidiums of National Sectoral Academies of Sciences, elected by the General Meeting of the National Academy of Sciences of Ukraine and National Sectoral Academies of Sciences respectively, heads of research institutes and other scientific institutions), culture, arts, restoration and preservation of national memory, physical culture, sports, national patriotic education, military service personnel mobilized for the special period, military service on draft of officers, and military officials from among contracted military servicemen of lower rank, military officials from among contracted sergeant and sergeant-major rank, and junior officer ranks, except for military servicemen who serve in drafting commissions.

{Paragraph 1, part 5 of Article 45 as amended by Laws No. 1975-VIII of 23 March 2017, No. 2462-VIII of 19 June 2018}

Subjects of declaration who had no possibility, before 01 April, to submit a declaration for the previous year at the place of their military service or work due to performing duties in the interests of Ukraine's defense during the special period, direct engagement in military (battle) actions, including in the territory of anti-terrorist operation and taking measures to ensure national security and defense, repel and deter the armed aggression of the Russian Federation in the Donetsk and Luhansk Oblasts, or due to having been sent to other countries to participate in international peacekeeping operations as part of national contingents or national personnel, performing other tasks in the interests of national security and defense, shall submit such declaration for the reporting period within 90 calendar days starting from the date of their arrival at the place of military service or the end day of military service, as specified by part 2, Article 24 of the Law of Ukraine "On Military Duties and Military Service."

{Part 5 of Article 45 has been supplemented with Paragraph 2 under Law No. 1975-VIII of 23 March 2017; as amended by Laws No. 2462-VIII of 19 June 2018, No. 912-IX of 17 September 2020}

Persons identified in paragraph 2, part 5 of this Article shall be exempt from the duty of filing declarations, provided they do not hold other positions set out in Clause 1, SubClause "a" of Clause 2, Part 1, Article 3 of this Law.

{Part 5 of Article 45 has been supplemented with paragraph 3 under Law No. 1975-VIII of 23 March 2017}

{Article 45 has been supplemented with part 5 under Law No. 1798-VIII of 21 December 2016}

6. Section VII of this Law shall not apply to non-resident foreigners who are independent members of the supervisory board of a state bank, for-profit state-owned enterprise or organisation, economic company with more than 50 per cent of authorised capital shares owned by the state.

{Article 45 has been supplemented with part 6 under Law No. 140-IX of 02 October 2019}

Article 46. Information to be included in the declaration

1. The declaration shall contain information on:

1) last name, given name and patronymic, day, month and year of birth, registration number of the taxpayer registration card, series and number of passport of a citizen of Ukraine, unique record number in the Unified State Demographic Register of the subject of declaration and his/her family members, registered place of their residence, as well as their actual place of residence or mailing address to which correspondence may be sent to the subject of declaration by the National Agency, place of work (military service), or place of future work (military service), current position, or aspired position, and category of the position (if any) of the subject of declaration, including being an official holding a position of high and especially high responsibility, a subject of declaration holding a position of high corruption risks, and being a public figure in accordance with the Law of Ukraine "On Preventing and Counteracting the Legalisation (Laundering) of Illicitly Obtained Income, Financing of Terrorism and Financing of Proliferation of Weapons of Mass Destruction."

{Paragraph 1, Clause 1, part 1 of Article 46 as revised by Law No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

Military service people of low rank, sergeant and sergeant-major rank, junior and senior officer rank shall not specify information about their place of work (service) or future work (service), or position held;

{Clause 1, part 1 of Article 46 has been supplemented with paragraph 2 under Law No. 1975-VIII of 23 March 2017}

persons mentioned in Subclause "c" of Clause 2, part 1, Article 3 of this Law shall also state information about the name of the Competition and Disciplinary Commissions whose member they are (were);

{Clause 1, part 1 of Article 46 has been supplemented with Paragraph 3 under Law No. 1975-VIII of 23 March 2017; as revised by Law No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020; as amended by Law No. 524-IX of 04 March 2020}

{Clause 1, part 1 of Article 46 as amended by Law No. 1022-VIII of 15 March 2016}

2) real estate privately owned by the subject of declaration and members of his/her family, including joint ownership, or property they rent or use based on another right of use, irrespective of the form of the transaction, by which such a right was acquired. Such data shall include:

a) information on the type, property characteristics, location, date title to the property was acquired, the date it was rented or otherwise used, and the value of the property on the date when it came into ownership, possession or use;

b) if immovable property is in joint ownership, the information mentioned in Clause 1, part 1of this Article about all co-owners or the name of the respective legal entity and the code in the Unified State Register of Legal Entities and Individual Entrepreneurs shall be given. If immovable property is leased out or otherwise lawfully used, the information mentioned in Clause 1, part 1 of this Article about such property owner or the name of the respective legal entity and the code in the Unified State Register of Legal Entities and Individual Entrepreneurs shall also be given;

{Clause 2, part 1 of Article 46 as amended by Law No. 198-VIII of 12 February 2015}

2^{-1}) constructions in progress, constructions not commissioned into operation or where the ownership is not registered in the manner prescribed by law, which:

a) are owned by the subject of declaration or members of his/her family in accordance with the Civil Code of Ukraine;

b) are located in land plots owned by the subject of declaration or members of his/her family as their private property, including joint ownership, lease or any other lawful use, irrespective of the legal grounds for acquisition of such right;

c) are built, completely or in part, with the materials or at the expense of the subject of declaration or the members of his/her family.

Such data shall include:

a) information about the property location;

b) information about the owner or user of the land plot where the property is being constructed;

c) if property is in joint ownership, information mentioned in Clause 1, part 1 of this Article about all co-owners or the name of the respective legal entity and the code in the Unified State Register of Legal Entities and Individual Entrepreneurs shall be given;

{Part 1 of Article 46 has been supplemented with Clause 2^{-1} under Law No. 631-VIII of 16 July 2015}

3) valuable movable property the value of which exceeds 100 subsistence minimums for able-bodied persons, established as of 01 January of the reporting year and title to which is held privately by the subject of declaration or members of his/her family, including joint ownership, or is in his/her possession or use regardless of the form of the transaction by which such title was acquired. Such data shall include:

{Paragraph 1, Clause 3, part 1 of Article 46 as amended by Laws No. 1022-VIII of 15 March 2016, No. 1774-VIII of 06 December 2016}

a) information on the type of property, characteristics of the property, the date title to the property was acquired, the date it was rented or otherwise used, and the value of the property on the date when it came into ownership, possession or use;

b) information on vehicles and other self-propelled machines and mechanisms shall also include data on their make and model, year of manufacture, and identification number (if any). Information on vehicles and other self-propelled machines and mechanisms shall be reported regardless of their value;

c) if movables are in joint ownership, the information mentioned in Clause 1, part 1 of this Article about all co-owners or the name of the respective legal entity and the code in the Unified State Register of Legal Entities and

Individual Entrepreneurs shall be given. If movables are leased out or otherwise lawfully used, the information mentioned in Clause 1, part 1 of this Article about such property owners or the name of the respective legal entity and the code in the Unified State Register of Legal Entities and Individual Entrepreneurs shall also be given.

Note. Valuable movable property specified in this Clause (except for vehicles and other self-propelled machines and mechanisms), the rights to which had been acquired before submission by the subject of declaration of the first declaration in accordance with the requirements of this Law, shall be declared with a mandatory indication of whether such property was acquired before the period of performance of the functions of state or local government or during such period. At the same time, indication of data on the value of such property and the date of its acquisition in ownership, possession or use shall not be a mandatory requirement;

{Clause 3, part 1 of Article 46 has been supplemented with paragraph 5 under Law No. 1022-VIII of 15 March 2016}

{Clause 3, part 1 of Article 46 as amended b Law No. 198-VIII of 12 February 2015}

4) securities, including shares, bonds, checks, certificates or promissory notes, belonging to the subject of declaration or members of his/her family, including information about the type of the security, its issuer, the date of obtaining ownership of securities, quantity and par value of the securities. If the securities are transferred to another person for management, the information required in Clause 1, part 1 of this Article on that person as well as the owner or the name of the respective legal entity and the code in the Unified State Register of Legal Entities and Individual Entrepreneurs shall also be provided;

{Clause 4, part 1 of Article 46 as amended by Law No. 198-VIII of 12 February 2015}

5) other equity rights that belong to the subject of declaration or his/her family members, with an indication of the name of each economic entity, its organisational and legal form, code in the Unified State Register of Enterprises and Organisations of Ukraine and the share in the authorised (share) capital of the company, enterprise or organisation, in monetary and percentage terms;

5^{-1}) legal entities, trusts or other similar legal entities where an ultimate beneficial owner (controller) is the subject of declaration or members of his/her family.

The terms "ultimate beneficial owner (controller)", "trust" shall be used in the meanings established by the Law of Ukraine "On Preventing and Counteracting Legalisation (Laundering) of Proceeds from Crime, Financing of Terrorism and Proliferation of Weapons of Mass Destruction";

{Part 1 of Article 46 has been supplemented with Clause 5^{-1} under Law No. 198-VIII of 12 February 2015; as revised by Law No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

6) intangible assets owned by the subject of declaration or his/her family members, including intellectual property objects that can have value in monetary terms, cryptocurrencies. Information on intangible assets include data on the type and characteristics of such assets, the value of assets at the time of title acquisition, and the date when title to them arose;

{Clause 6, part 1 of Article 46 as amended by Law No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

7) income earned by the subject of declaration or his family members, including income in the form of salaries (monetary allowance) obtained at the main place of work, and concurrently for other work, fees, dividends, interest, royalties, insurance payments, charitable aid, pension, income from alienation of securities and equity rights, gifts and other income.

{Paragraph 1, Clause 7, part 1 of Article 46 as amended by Law No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

Such information shall include data on the type of income, source of income and its size. Information about a gift shall only be given if the value of such gift exceeds five subsistence minimums for able-bodied persons, established as of 01 January of the reporting year; and for gifts in a monetary form, if the amount of such gifts received from the same person (group of persons), within a year, exceeds five subsistence minimums for able-bodied persons established as of 01 January of the reporting year;

{Paragraph 2, Clause 7, part 1 of Article 46 as revised by Law No. 198-VIII of 12 February 2015; as amended by Law No. 1774-VIII of 06 December 2016}

8) monetary assets of the subject of declaration or his/her family members, including cash, funds in bank accounts or stored in a bank, contributions to credit unions and other non-banking financial institutions, funds lent to third parties, and assets in the form of precious (bank) metals. Information on monetary assets shall include information on the type, size and currency of the asset, as well as the name and code in the Unified State Register of Enterprises and Organisations of Ukraine of the institution where respective accounts were opened or to which respective contributions were made. Available assets (including cash, money on bank accounts, deposits with credit unions and other non-banking financial institutions, funds lent to third parties) and assets in the form of precious (bank) metals, the value of which does not exceed 50 subsistence minimums for able-bodied persons, established as of 01 January of the reporting year, shall not be subject to declaration;

{Clause 8, part 1, Article 46 as amended by Laws No. 198-VIII of 12 February 2015, No. 1774-VIII of 06 December 2016, No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

8^{-1}) banking and other financial institutions, including those abroad, where accounts are opened in the name of the subject of declaration or his/her family members (regardless of the type of account, as well as accounts opened by third parties in the name of the subject of declaration or his/her family members) or where funds, other property are stored. Such information shall include details of account type and number, details of the banking or other financial institution,

persons entitled to dispose of such account or access to an individual bank safe, persons who opened an account in the name of the subject of declaration or his/her family members;

{Part 1 of Article 46 has been supplemented with Clause 8[-1] under Law No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

9) financial obligations of the subject of declaration or his/her family members, including loans, credits received, leasing obligations, the amount of funds paid towards the principal amount of a loan (credit) sum and interest on a loan (credit), loan (credit) balance at the end of the reporting period, obligations under insurance contracts and non-state pension provision contracts. Information on financial obligations shall include data on the type of obligation, its size, currency of obligation, details about the person in whose favor such obligations arose in accordance with Clause 1, part 1 of this Article, or the name of the respective legal entity and the code in the Unified State Register of Legal Entities and Individual Entrepreneurs, and the date when the obligation appeared. Such information shall be provided only if the value of the obligation exceeds 50 subsistence minimums for able-bodied persons, established as of 01 January of the reporting year.

{Paragraph 1, Clause 9, part 1 of Article 46 as amended by Laws No. 198-VIII of 12 February 2015, No. 1774-VIII of 06 December 2016, No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

If real estate or movable property constitute the subject matter of the transaction to ensure the performance of the obligation, the declaration shall indicate the type of property, its location, price and information about the owner of the property, in accordance with Clause 1, part 1 of this Article, or the name of the respective legal entity and the code in the Unified State Register of Legal Entities and Individual Entrepreneurs. If a surety is the means of securing the received obligation, the declaration shall contain the information on the guarantor specified in Clause 1, part 1 of this Article or the name of the respective legal entity and the code in the Unified State Register of Legal Entities and Individual Entrepreneurs;

{Paragraph 2, Clause 9, part 1 of Article 46 as revised by Law No. 198-VIII of 12 February 2015}

10) expenditures as well as any other transactions made within the reporting period, based on which the subject of declaration obtains or terminates the right of ownership, possession or use, including joint ownership, of real estate or movable property, intangible and other assets, as well as financial obligations referred to in Clauses 2–9, part 1 of this Article.

{Paragraph 1, Clause 10, part 1 of Article 46 as amended by Law No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

Such information shall be specified if the amount of the corresponding expenditure exceeds 50 subsistence minimums for able-bodied persons, established as of 01 January of the reporting year; such information shall include data on the type of transaction and its subject matter. Upon the written request of the National Agency, the subject of declaration shall provide information about the name of the counterparty;

{Paragraph 2, Clause 10 Part 1 of Article 46 as amended by Law No. 198-VIII of 12 February 2015; as revised by Law No. 1022-VIII of 15 March 2016; as amended by Law No. 1774-VIII of 06 December 2016}

11) a position or job that is being or was performed concurrently: data on a position or job (paid or not) that is performed under an agreement (contract), name of the legal entity or individual for whom the person is or was employed concurrently, with an indication of the code in the Unified State Register of Legal Entities and Individual Entrepreneurs, or last name, given name and patronymic of the individual with an indication of his/her registration number of the taxpayer registration card;

12) participation of the subject of declaration in management, revisionary or supervisory bodies of public associations, charities, self-regulatory or self-governing professional associations, membership in such associations (organisations) with an indication of the names of the respective associations (organisations) and their code in the Unified State Register of Legal Entities and Individual Entrepreneurs.

2. The information referred to in part 1 of this Article shall be provided regardless of whether the object of declaration is in Ukraine or abroad.

The National Agency shall specify in the form of a declaration the data to be provided for the purpose of identification of individuals or legal entities, including foreigners, stateless persons, foreign legal entities, as well as the objects of declaration for which information is provided in the declaration.

{Part 2 of Article 46 has been supplemented with paragraph 2 under Law No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

Data on an object of declaration owned or used by the subject of declaration or his/her family members shall be included in the declaration if such object was in the possession or use as of the last day of the reporting period or for at least half of the days of the reporting period.

{Part 2 of Article 46 has been supplemented with paragraph 3 under Law No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

3. A declaration shall also contain information about the objects of declaration provided for in Clauses 2–8, part 1 of this Article, which are owned by third party, if a subject of declaration or member of his/her family gains proceeds or has the right to proceeds from such object or is entitled, directly or indirectly (through any other individuals or legal entities) to deal with such object in a way similar to disposal.

The information provided for in this part shall not be indicated in the declaration if the relevant objects are owned by a legal entity specified in Clause 5[-1], part 1 of this Article and are mainly used within the scope of economic activity of such legal entity (industrial equipment, special machinery, etc.).

The provisions of this part shall be applied during submission of declarations by officers in position of high and especially high responsibility, as well as by subjects of declaration holding a position of high corruption risks in accordance with Article 51^{-3} of this Law.

{Paragraph 3, part 3 of Article 46 as amended by Law No. 1079-IX of 15 December 2020}

{Article 46 has been supplemented with a new part under Law No. 631-VIII of 16 July 2015}

4. Information required by Clause 10, part 1 of this Article shall not be indicated in the declarations of persons who aspire to hold positions specified in Clause 1, Subclause "a" of Clause 2, part 1, Article 3 of this Law, as well as in declarations that are submitted under Paragraph 2, part 3, Article 45 of this Law.

{Part 4 of Article 46 as amended by Laws No. 1975-VIII of 23 March 2017, No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020}

5. Income and expenditures of the subjects of declaration shall be indicated in the currency of Ukraine.

The cost of property, property rights, assets and other objects of declaration referred to in part 1 of this Article shall be indicated in the currency of Ukraine at the time of acquisition of title or last monetary valuation.

The cost of property, property rights, assets and other objects of declaration which are in possession or use of the subject of declaration shall be indicated if it is known to the subject of declaration or had to become known to him/her as a result of the commission of the relevant transaction.

6. Income/expenditures received/made in foreign currency, for the purposes of indication in the declaration, shall be calculated in the national currency of Ukraine based on the currency (exchange) rate of the National Bank of Ukraine effective on the date of receipt of income/making expenditures. As regards income/expenditures received/made abroad, the state where they were received/made shall be indicated.

7. If a family member of a subject of declaration refuses to provide any information or part thereof for filling in the declaration, the subject of declaration shall be obliged to indicate this in the declaration, stating all known information about such family member, as stipulated by Clauses 1–12 of part 1 of this Article.

Note. For the purposes of Section VII and subject to the provisions of Article 1 of this Law, family members of a subject of declaration who are not his/her spouses or minor children as of the last day of the reporting period shall be considered to have been persons who have cohabited with the subject of declaration as of the last day of the reporting period or in total for at least 183 days during the year, preceding the year of submission of the declaration.

{Article 46 has been supplemented with Note under Law No. 140-IX of 02 October 2019 – amendments shall become effective from 01 January 2020; as amended by Law No. 524-IX of 04 March 2020}

Article 47. Accounting and disclosure of declarations

1. Submitted declarations shall be included in the Unified State Register of Declarations of Persons Authorised to Perform the Functions of State or Local Government that is formed and maintained by the National Agency under the procedure established by it. The National Agency shall provide unhindered, round-the-clock access to the Unified State Register of Declarations of Persons Authorised to Perform the Functions of State or Local Government on the official website of the National Agency through the possibility to view, copy and print information, as well as a set of data (electronic record), organised in a format that allows its automatic processing by electronic means (machine reading) for further reuse.

{Paragraph 1, part 1 of Article 47 as amended by Laws No. 140-IX of 02 October 2019, No. 1079-IX of 15 December 2020}

{Paragraph 2, part 1 of Article 47 has been deleted under Law No. 1079-IX of 15 December 2020}

{Paragraph 3, part 1 of Article 47 has been deleted under Law No. 1079-IX of 15 December 2020}

Information specified in the declaration regarding the registration number of the taxpayer registration card or series and number of a passport of a citizen of Ukraine, unique record number in the Unified State Demographic Register, place of residence, date of birth of individuals in relation to whom information in the declaration is given, location of the objects that are specified in the declaration (except for the oblast, raion, settlement where the object is located), account number with a bank or other financial institution shall be restricted information and shall not be subject to public disclosure.

{Paragraph 4, part 1 of Article 47 as amended by Laws No. 597-VIII of 14 July 2015, No. 524-IX of 04 March 2020}

2. Information about a person in the Unified State Register of Declarations of Persons Authorised to Perform the Functions of State or Local Government shall be stored for the entire period during which the individual performs functions of state or local government and for five years after the termination of such functions, except for the last declaration filed by the person, which is stored for an unlimited term.

Article 48. *{Article 48 has been deleted under Law No. 1079-IX of 15 December 2020}*

Article 49. *{Article 49 has been deleted under Law No. 1079-IX of 15 December 2020}*

Article 50. *{Article 50 has been deleted under Law No. 1079-IX of 15 December 2020}*

Article 51. *{Article 51 has been deleted under Law No. 1079-IX of 15 December 2020}*

Article 51^{-1}. Control and examination of declarations

1. The National Agency shall conduct the following types of control regarding declarations filed by the subjects of declaration:

1) control with respect to timeliness of filing;

2) control with respect to accuracy and completeness;

3) logical and arithmetic control.

2. The National Agency shall conduct a comprehensive examination of declarations in accordance with this Law.

3. The procedure for control, as stipulated by this Article, as well as comprehensive examination of declarations shall be determined by the National Agency.

4. Control and examination of declarations, as well as decisions made on their results, shall not hinder pre-trial investigation and court proceedings in the manner prescribed by the Criminal Procedure Code of Ukraine.

5. The types of control over declarations submitted by persons who, in the positions they hold, belong to the personnel of the intelligence bodies of Ukraine and/or hold positions associated with a state secret in connection with the direct performance by such persons of operational-search, counter-intelligence, intelligence activities, as well as persons applying for such positions, and persons who have terminated their activities, shall be carried out by authorised units (authorised persons) of the relevant state authorities or military formations under the procedure determined by the National Agency.

6. Special procedures for conducting a comprehensive examination of declarations submitted by judges, judges of the Constitutional Court of Ukraine shall be established by Article 52^{-2} of this Law.

{The Law has been supplemented with Article 51^{-1} under Law No. 1079-IX of 15 December 2020}

Article 51^{-2}. Verification of the timeliness of declaration filing

1. State authorities, authorities of the Autonomous Republic of Crimea, local government authorities, and legal entities of public law shall verify the fact of submission by a subject of declaration of a declaration according to this Law, who work (used to work or are members or were members of the Competition Commission established in the authority/body, members of the Civic Integrity Council) in them and inform the National Agency about cases of non-submission or late submission of such declarations under the procedure established by the Agency.

2. If as a result of control it is discovered that a subject of declaration did not submit a declaration, the National Agency shall notify such subject of declaration in writing of this fact, and the subject of declaration shall submit a declaration within ten days upon receipt of such notification, in the manner specified in part 1, Article 45 of this Law.

At the same time, the National Agency shall notify the specially authorised counter-corruption entities, head of the state authority, authority of the Autonomous Republic of Crimea, local government authority, head of their Staff, head of legal entity of public law in writing about the fact of non-submission of the declaration by the respective subject of declaration.

3. If the National Agency establishes the fact of non-submission of the declaration by a judge, a judge of the Constitutional Court of Ukraine, the National Agency shall report such circumstances in writing to the High Council of Justice or to the Chairman of the Constitutional Court of Ukraine.

{The Law has been supplemented with Article 51^{-2} under Law No. 1079-IX of 15 December 2020}

Article 51^{-3}. Comprehensive examination of declarations

1. The Comprehensive examination of a declaration shall consist of verifying the accuracy of the declared data, accuracy of evaluation of declared assets, checking for the presence of a conflict of interests and signs of unjust enrichment and may be conducted during the period when the subject of declaration carries out activities related to performance of functions of state or local government and within three years after the termination of such activities.

Declarations of officials that hold position of high and especially high responsibility, of subjects of declaration who hold positions associated with a high level of corruption risks, the list of which is approved by the National Agency, shall be subject to mandatory comprehensive examination.

Declarations filed by other subjects of declaration, in the event of discrepancies discovered as a result of logical and arithmetical control, shall also be subject to comprehensive examination.

The National Agency shall conduct a comprehensive examination of the declaration, and shall independently conduct a comprehensive examination of information to be indicated in the declaration with regard to family members of the subject of declaration, in cases stipulated by part 7, Article 46 of this Law.

The National Agency shall examine declarations based on information received from individuals and legal entities, from media and other sources about the possible indication of false data in the declaration.

The National Agency shall determine the procedure for the selection of declarations for mandatory comprehensive examination and the order of such examination based on risk assessment, as well as the procedure for the automatic allocation of responsibilities for carrying out a comprehensive examination among the authorised persons of the National Agency.

The National Agency shall, using the software of the Unified State Register of Declarations of Persons Authorised to Perform State or Local Government Functions, ensure maintenance of the priority of declarations selected for comprehensive examination and shall inform the subject of declaration of the inclusion of the declaration submitted by him/her in the said priority of declarations.

2. When results of the comprehensive examination of the declaration indicate that false information was included in the declaration, the National Agency shall notify thereof in writing the head of the relevant state authority, the authority of the Autonomous Republic of Crimea, local government authority, head of their Staff, head of legal entity of public law, where the respective subject of declaration works, and specially authorised counter-corruption entities.

3. If the results of the comprehensive examination of the declaration reveal signs of unjustified asset, the National Agency shall allow the subject of declaration to provide a written explanation of this fact with the relevant evidence within ten working days. In case of non-submission or incomplete submission of a written explanation and evidence by the subject of declaration within the specified deadline, the National Agency shall notify thereof the National Anti-Corruption Bureau of Ukraine and the Specialised Anti-Corruption Prosecution.

Note. Official persons who hold positions of high and especially high responsibility in this Article shall mean the President of Ukraine, the Prime Minister of Ukraine, a member of the Cabinet of Ministers of Ukraine, First Deputy and Deputy Minister, a member of the National Council of Television and Radio Broadcasting of Ukraine, the National

Commission for State Regulation of Financial Services Markets, the National Securities and Stock Market Commission, the Antimonopoly Committee of Ukraine, the Head of the State Committee for Television and Radio Broadcasting of Ukraine, the Head of the State Property Fund of Ukraine, his/her First Deputy or Deputy, a member of the Central Election Commission, a member, inspector of the High Council of Justice, a member, inspector of the High Qualification Commission of Judges of Ukraine, a Member of the Parliament of Ukraine, the Ukrainian Parliament Commissioner for Human Rights, the Commissioner for the Protection of the State Language, members of the National Commission for Standards of the State Language, the Director of the National Anti-Corruption Bureau of Ukraine, his/her First Deputy and Deputy, the Chairman of the National Agency on Corruption Prevention and his/her Deputies, the Prosecutor General, his/her First Deputy and Deputy, the Head of the National Bank of Ukraine, his/her First Deputy and Deputy, a member of the National Bank's Council, the Secretary of the National Security and Defense Council, his/her First Deputy and Deputy, the Head of the Office of the President of Ukraine, his/her First Deputy and Deputy, the Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, his/her First Deputy and Deputy, an adviser or assistant to the President of Ukraine, the Chairman of the Verkhovna Rada of Ukraine, the Prime Minister of Ukraine, positions belonging to civil service positions of categories "A" and "B", and positions assigned, in accordance with part 1, Article 14 of the Law of Ukraine "On Service in Bodies of Local Self-Government", to categories 1–3, and also judges, judges of the Constitutional Court of Ukraine, prosecutors, investigators and interrogators, Heads and Deputy Heads of state authorities which jurisdiction covers the entire territory of Ukraine, Heads of their Staff and Heads of their independent structural units, Heads and Deputy Heads of state authorities, authorities of the Autonomous Republic of Crimea which jurisdiction covers the territory of one or more oblasts, the Autonomous Republic of Crimea, Kyiv and Sevastopol, Heads of state authorities, authorities of the Autonomous Republic of Crimea which jurisdiction covers the territory of one or more raions, a city of republican significance in the Autonomous Republic of Crimea or of Oblast significance, a district in a city, city/town of raion significance, and senior-ranking military officials.

{The Law has been supplemented with Article 51^{-3} under Law No. 1079-IX of 15 December 2020}

Article 51^{-4}. Monitoring the lifestyle of subjects of declaration

1. The National Agency shall selectively monitor the lifestyles of subjects of declaration in order to establish a correspondence between their standard of living and property and the income they and their family members receive according to the declaration of a person authorised to perform the functions of state or local government, which is filed under this Law.

2. Lifestyle monitoring of the subjects of declaration shall be performed by the National Agency on the basis of information received from individuals and legal entities, as well as from the media and other open sources of information, which contains information about a discrepancy between the standard of living of the subjects of declaration and their declared property and income.

3. The procedure for monitoring the lifestyles of the subjects of declaration shall be determined by the National Agency.

Lifestyle monitoring shall be carried out in compliance with the legislation on personal data protection and shall not involve undue abuse of the right to privacy and family life of a person.

4. Established inconsistencies in the standard of living and property and income declared by a subject of declaration shall serve as grounds for comprehensive examination of a declaration. If the National Agency discovers discrepancies in living standards, it shall give the subject of declaration an opportunity, within ten working days, to provide a written explanation about this fact.

If lifestyle monitoring reveals signs of corruption or corruption-related offences, the National Agency shall inform the specially authorised counter-corruption entities hereof.

5. Specific aspects of monitoring the lifestyle of judges and judges of the Constitutional Court of Ukraine shall be established by Article 52^{-2} of this Law.

{The Law has been supplemented with Article 51^{-4} under Law No. 1079-IX of 15 December 2020}

Article 52. Additional measures of financial control

1. When a subject of declaration or his/her family member open a foreign currency account in a non-resident bank, the respective subject of declaration shall be obliged to notify thereof the National Agency in writing within ten days, under the established procedure, indicating the account number and location of the non-resident bank.

{Part 2 of Article 52 has been deleted under Law No. 1079-IX of 15 December 2020}

{Part 3 of Article 52 has been deleted under Law No. 1079-IX of 15 December 2020}

4. If there are significant changes in the subject of declaration's material status, namely receipt of income, purchase of property for a sum exceeding 50 subsistence minimums for able-bodied persons, established as of 01 January of the respective year, the mentioned subject of declaration, within ten days from the receipt of income, property purchase, or spending, shall be obliged to notify the National Agency thereof. This information shall be entered into the Unified State Register of Declarations of Persons Authorised to Perform the Functions of State or Local Government and published on the official website of the National Agency.

{Article 52 has been supplemented with part 4 under Law No. 1079-IX of 15 December 2020}

The provisions of part 4 of this Article shall apply to subjects of declaration who are officials holding positions of high and especially high responsibility, as well as by subjects of declaration holding positions involving high levels of corruption risks, in accordance with Article 51^{-3} of this Law.

5. The National Agency shall determine the procedure for informing this Agency about the opening of a foreign currency account in non-resident banks, as well as about significant changes in material status.

{Article 52 has been supplemented with part 5 under Law No. 1079-IX of 15 December 2020}

Article 52[-1]. Specific aspects of implementation of financial control measures concerning certain categories of persons

1. With respect to the persons referred to in Subclauses "c", "d", "f", "g", "j", "k" of Clause 1, part 1, Article 3 of this Law, who, in the positions they hold, belong to the personnel of the intelligence bodies of Ukraine and/or hold positions associated with a state secret in connection with the direct performance by such persons of operational-search, counter-intelligence, intelligence activities, as well as persons applying for such positions, and persons who have terminated their activities, the measures provided for in Section VII of this Law, shall be organised and shall be carried out in such a way as to make it impossible to disclose the affiliation of such persons to the relevant relevant state authorities or military formations, under the procedure established by the National Agency.

The family members of the persons referred to in the paragraph 1, part 1 of this Article, who are the subjects of declaration under this Law, for the purpose of keeping state secrets shall provide the data on such persons in volumes, form and content that make it impossible to disclose their belonging to these authorities.

This Article shall not apply to officials appointed and dismissed by the acts of the President of Ukraine and the Verkhovna Rada of Ukraine, that do not constitute state secrets. Such persons shall file declarations of persons authorised to perform the functions of state or local government in accordance with the general procedure under Section VII of this Law.

{Section VII has been supplemented with Article 52[-1] under Law No. 597-VIII of 14 July 2015; as revised by Law No. 140-IX of 02 October 2019}

Article 52[-2]. Specific aspects of comprehensive examination of declarations, monitoring the lifestyles of judges, judges of the Constitutional Court of Ukraine

1. The procedure for conducting the comprehensive examination of the declaration filed by a judge, a judge of the Constitutional Court of Ukraine and procedure for monitoring the lifestyle of a judge, a judge of the Constitutional Court of Ukraine shall be determined by the National Agency with the consent of the High Council of Justice or the Assembly of Judges of the Constitutional Court of Ukraine, respectively. Such procedure may not establish specific features of conducting the comprehensive examination of the declaration filed by a judge, a judge of the Constitutional Court of Ukraine, monitoring the lifestyle of a judge, a judge of the Constitutional Court of Ukraine, not stipulated by this Law.

2. In case of comprehensive examination of a declaration filed by a judge, a judge of the Constitutional Court of Ukraine, monitoring the lifestyle of a judge, a judge of the Constitutional Court of Ukraine, the National Agency shall immediately, but not later than the next business day from the day of the beginning of such examination or lifestyle monitoring inform about it the High Council of Justice or the Chairman of the Constitutional Court of Ukraine, respectively.

3. The certificate on the results of comprehensive examination of the declaration filed by a judge, a judge of the Constitutional Court of Ukraine, monitoring the lifestyle of a judge, a judge of the Constitutional Court of Ukraine shall be approved by the Chairman of the National Agency or his/her Deputy.

4. Any illegal influence, pressure or interference in the activities of a judge, a judge of the Constitutional Court of Ukraine during the comprehensive examination of the declarations, lifestyle monitoring shall be prohibited.

5. In case of any signs of illegal influence, pressure or interference with the activity of a judge, judge of the Constitutional Court of Ukraine during the comprehensive examination of the declaration or lifestyle monitoring, the judge, judge of the Constitutional Court of Ukraine shall immediately, but not later than the next working day from the day when the judge became aware of these signs, notify thereof the High Council of Justice or the Assembly of Constitutional Court Judges of Ukraine, respectively.

6. The High Council of Justice, the Assembly of Constitutional Court Judges of Ukraine shall consider such notification and may, within ten business days from the day of its receipt, submit to the Chairman of the National Agency a mandatory submission for elimination of violations, identification and bringing to responsibility the persons who committed actions or omissions that violate the guarantees of the independence of judges, judges of the Constitutional Court of Ukraine during the exercise of the powers of the National Agency.

The Chairman of the National Agency shall ensure the consideration of such submission and elimination of violations and within ten working days from the day of receipt of the submission shall inform the High Council of Justice, the Assembly of Constitutional Court Judges of Ukraine about the decisions taken as a result of its consideration.

7. The authorised person of the National Agency that has committed actions or allowed inaction that violates the guarantees of independence of judges, judges of the Constitutional Court of Ukraine shall be subject to disciplinary liability pursuant to the procedure established by law.

{Section VII has been supplemented with Article 52[-2] under Law No. 1079-IX of 15 December 2020}

Section VIII

PROTECTION OF WHISTLE-BLOWERS

Article 53. State protection of whistle-blowers

1. The whistle-blowers and their close persons shall be protected by the state.

2. If there is a threat to the life, housing, health and property of whistle-blowers, their close persons in connection with the report of possible corruption or corruption-related offences or other violations of this Law, the law enforcement agencies may apply legal, organisational, technical and other measures to protect them from unlawful encroachments as prescribed by the Law of Ukraine "On Ensuring the Safety of Persons Participating in Criminal Proceedings."

3. To protect the rights and represent his/her interests, the whistle-blower may use all types of legal assistance provided for by the Law of Ukraine "On Free Civil Legal Aid" or engage a lawyer independently.

The National Agency in case of application of the whistle-blower shall:

1) represent in court the interests of the whistle-blower in cases where the whistle-blower is unable to defend his/her violated or contested rights independently or to exercise procedural competences; and representatives or bodies, which are granted by law the right to protect the rights, freedoms and interests of the whistle-blower, do not exercise or improperly exercise his/her protection;

2) have the right to attend court hearings of all instances, including closed court hearings, subject to the consent of the whistle-blower in whose interests the proceedings are declared closed;

3) have the right to file a statement of claim (petition) to the court to protect the rights and freedoms of whistle-blowers, to participate in court hearings of cases in which proceedings have been commenced on its claims (petitions, applications (submissions);

4) have the right to intervene in cases in which proceedings have been commenced on claims (applications, petitions (submissions) of whistle-blowers at any stage of their proceedings;

5) have the right to initiate, regardless of the participation of the National Agency in judicial proceedings, the review of judgements in the manner prescribed by law.

4. The National Anti-Corruption Bureau of Ukraine, the National Agency, other specially authorised counter-corruption entities, state authorities, authorities of the Autonomous Republic of Crimea, local governments, legal entities of public law and legal entities specified in part 2, Article 62 of this Law, shall be obliged to establish protected anonymous communication channels (online communication channels, anonymous hotlines, electronic mailboxes, etc.), through which a whistle-blower may provide a report with guaranteed anonymity. The National Agency shall determine the requirements for protection of such communication channels.

5. A report of possible corruption or corruption-related offences or other violations of this Law may be made by an employee of the relevant authority without attribution (anonymously).

The requirements for anonymous reporting of possible corruption or corruption-related offences, other violations of this Law and the procedure for their consideration shall be determined by this Law.

An anonymous report on possible facts of corruption or corruption-related offences or other violations of this Law shall be considered if the information contained therein concerns a specific person and contains factual data that can be verified.

An anonymous report on possible facts of corruption or corruption-related offences, other violations of this Law shall be subject to verification within a period not exceeding 15 days from the date of its receipt. If it is impossible to verify the information contained in the report within the specified period, the head of the relevant authority or his deputy shall extend the period of consideration of the report up to 30 days from the date of its receipt.

In case of confirmation of the information on possible facts of corruption or corruption-related offences, other violations of this Law, the head of the relevant authority shall take measures to stop the detected violation, eliminate its consequences and bring the guilty persons to disciplinary liability, and in case of identification of signs of criminal or administrative offence also inform the specially authorised counter-corruption entity about it.

6. Officials and officers of state authorities, authorities of the Autonomous Republic of Crimea, officials of local governments, legal entities of public law, their structural units in case of revealing corruption or corruption-related offence or receiving reports about committing such offence by employees of relevant state authorities, authorities of the Autonomous Republic of Crimea, local governments, legal entities of public law, their structural units, legal entities referred to in part 2 of Article 62 of this Law shall, within their powers, take measures to stop such an offence and immediately, within 24 hours, inform in writing the specially authorised counter-corruption entity about the commission of the offence.

7. The National Agency shall constantly monitor the implementation of the law in the field of protection of whistle-blowers, and shall carry out an annual analysis and review of the state policy in this area.

Note. Close persons of the whistle-blower shall be persons referred to in paragraph 4, part 1, Article 1 of this Law.

{Article 53 as revised by Law No. 198-IX of 17 October 2019}

Article 53[-1]. Providing conditions for reporting information on possible facts of corruption or corruption-related offences, other violations of this Law

1. The State shall encourage and assist whistle-blowers to report possible facts of corruption or corruption-related offences or other violations of this Law orally and in writing, in particular through special telephone lines, official websites, electronic means of communication, by contacting mass media, journalists, public associations and trade unions.

2. Specially authorised counter-corruption entities, state authorities, authorities of the Autonomous Republic of Crimea, local authorities, legal entities of public law and legal entities specified in part 2, Article 62 of this Law shall provide whistle-blowers with conditions for reporting of possible facts of corruption or corruption-related offences, other violations of this Law by:

1) introducing mechanisms to encourage and form a culture of reporting the possible facts of corruption or corruption-related offences, other violations of this Law;

2) providing employees and persons who serve or study in them or perform certain work with methodological assistance and advice on how to report possible facts of corruption, corruption-related offences or other violations of this Law;

3) defining internal procedures and mechanisms for receiving and reviewing reports of possible facts of corruption or corruption-related offences, other violations of this Law, and for verifying and responding appropriately to such reports;

4) mandatory establishing and functioning of internal and regular channels for reporting of possible facts of corruption or corruption-related offences, other violations of this Law.

{Section VIII has been supplemented with Article 53[-1] under Law No. 198-IX of 17 October 2019}

Article 53[-2]. Procedure for carrying out verification on a whistle-blower's report

1. The whistle-blower shall independently determine which channels to use to report possible facts of corruption or corruption-related offences, other violations of this Law, namely internal, regular or external channels.

2. A report shall contain factual data confirming the possible commission of a corruption or corruption-related offence or other violations of this Law, that may be verified.

3. A report of a corruption or corruption-related offence, other violations of this Law through regular or internal channels of reporting such information shall be subject to preliminary verification within not more than ten working days.

Based on the results of the preliminary verification, the official responsible for conducting it shall make one of the following decisions:

appoint an internal (in-house) verification or investigation of the information in case of confirmation of the facts stated in the notification or if further clarification of their credibility is required;

transfer materials to the body of pre-trial investigation in case of establishing the signs of a criminal offence or to other bodies authorised to respond to the revealed offences under the procedure prescribed by the Criminal Procedure Code of Ukraine;

close the proceedings if the facts set out in the report are not confirmed.

A whistle-blower shall be provided with detailed written information on the results of preliminary verification on his/her report on possible facts of corruption or corruption-related offences, other violations of this Law within three days from the date of completion of the relevant verification.

If the information received on possible facts of corruption or corruption-related offences, other violations of this Law is not within the competence of the body or legal entity to which it was received, the whistle-blower shall be informed about it within three days without conducting a preliminary verification with explanation on competence of bodies or legal entities authorised to conduct verification or investigation of the relevant information.

If the information received relates to actions or omissions of the head of the relevant body or legal entity to which the information was received, such information shall be forwarded without conducting a preliminary verification within three days to the National Agency, which shall determine the procedure for further consideration of such information.

Internal (in-house) verification or investigation on the report of possible facts of corruption or corruption-related offences, other violations of this Law shall be conducted within a period not exceeding 30 days from the date of completion of the preliminary verification. If it is impossible to verify the reported information within the specified period, the head of the relevant body or legal entity or its deputy shall extend the period of verification or investigation of information up to 45 days, which shall be reported to the whistle-blower.

An internal (in-house) verification or investigation may not be entrusted to a person to whom or close persons of whom the reported information relates.

Based on the results of the internal (in-house) verification, the official responsible for conducting it shall make one of the following decisions:

transfer materials to the body of pre-trial investigation in case of establishing the signs of a criminal offence or to other bodies authorised to respond to the revealed offences;

within the competence, prosecute the persons guilty of violating the law, information on which has been reported; eliminate the violations revealed, the causes and conditions of the violation, the consequences thereof; and also take measures to restore the rights and lawful interests of persons and compensate for the losses and damage caused to individuals and legal entities as a result of the violations committed.

Materials of preliminary and internal (in-house) verifications or investigations of reported information on the commission of a corruption or corruption-related offence, other violations of this Law shall be kept by the relevant body or legal entity for a period of three years from the date of receipt of such information.

Information on criminal offence received by pre-trial investigation bodies shall be considered under the procedure established by the Criminal Procedure Code of Ukraine.

Information on administrative offences received by the bodies whose authorised persons have the right to draw up protocols on the relevant administrative offences shall be considered under the procedure established by law.

Consideration of anonymous reports on possible facts of corruption or corruption-related offences and other violations of this Law shall be carried out in the manner prescribed by the Law of Ukraine "On Prevention of Corruption."

4. For reporting information with limited access (except for information containing a state secret, the procedure for notification of which is determined by law), a whistle-blower may use external channels for reporting information in case if:

1) reporting of information through internal and regular channels has not been effective within the term set for its verification or investigation (verification and investigation of the disclosed information have been refused; identified violations have not resulted in prosecution or initiation of proceedings for bringing the responsible persons to justice, restoring the violated rights and freedoms of persons or compensating the damage caused; no measures have been taken to stop the reported action or or omission; no measures have been taken to prevent reported damage or threat of damage, etc.);

2) the internal channels will not be effective as the information about the damage or threat to the public interest disclosed is considered a matter of public interest under the Law of Ukraine "On Information" and the public's right to know the information prevails over the potential damage from its dissemination;

3) a whistle-blower, his/her close persons have been dismissed from their work (position), disciplinary punished or subjected to other negative actions or measures of discrimination due to a report of possible facts of corruption or corruption-related offences or other violations of this Law;

4) there are no internal or regular channels for reporting possible facts of corruption or corruption-related offences or other violations of this Law, through which relevant information may be reported;

5) there is a real threat of destruction of documents or evidence concerning the disseminated information.

{Section VIII has been supplemented with Article 53[-2] under Law No. 198-IX of 17 October 2019}

Article 53[-3]. Rights and guarantees of whistle-blower protection

1. The rights of the whistle-blower shall arise from the moment of reporting information on possible facts of corruption or corruption-related offences, other violations of this Law.

2. The whistle-blower shall have the right to:

1) be notified of his/her rights and obligations under this Law;

2) submit evidence in support of his/her report;

3) receive from the authorised body to which he/she submitted the report, confirmation of its acceptance and registration;

4) give explanations, testimonies or refuse to give them;

5) receive free legal assistance in connection with the protection of the rights of the whistle-blower;

6) confidentiality;

7) report the facts of possible corruption or corruption-related offences or other violations of this Law without specifying his/her personal data (anonymously);

8) in the case of a threat to life and health, security in respect of himself/herself and his/her close persons, property and homes or refuse to accept such measures;

9) receive reimbursement of expenses in connection with the protection of the whistle-blower's rights, reimbursement of lawyer's fees in connection with the protection of the rights of a person as a whistle-blower, costs of court fees;

10) receive remuneration in cases specified by law;

11) receive psychological assistance;

12) be exempted from legal liability in cases specified by law;

13) receive information on the status and results of consideration, verification and/or investigation of the information reported by him/her.

3. The rights and guarantees of protection of whistle-blowers shall extend to close persons of the whistle-blower.

{Section VIII has been supplemented with Article 53[-3] under Law No. 198-IX of 17 October 2019}

Article 53[-4]. Protection of labour rights of the whistle-blower

1. A whistle-blower, his/her close persons shall not be refused employment, dismissed or forced to dismiss, subjected to disciplinary liability or subjected by the head or the employer to other negative measures (transfer, performance appraisal, change in working conditions, denial of appointment to a higher position, reduction in pay, etc.) or threatened with such measures due to the reporting of possible facts of corruption or corruption-related offences or other violations of this Law.

Negative actions shall also include formally legitimate decisions and actions of a head or an employer which are selective in nature, in particular they do not apply to other employees in similar situations and/or have not been applied to the employee in similar situations before.

2. In case of dismissal of an employee who is a whistle-blower from work, through no fault of his/her own, the remuneration for the period of dismissal shall be in the amount of the average salary of the employee for the last year.

3. The whistleblower, his/her close persons may not be refused the conclusion or extension of an agreement, employment contract (agreement), the provision of administrative and other services in connection with a report of possible facts of corruption or corruption-related offences or other violations of this Law. It shall be prohibited to create obstacles to a whistle-blower, his/her close persons in further implementation of their labour, professional, economic, social, scientific or other activities, service or study, as well as to take any discriminatory measures in connection with the report on possible facts of corruption or corruption-related offences, other violations of this Law.

4. The whistle-blower, his/her close persons whose rights have been violated contrary to the provisions of parts 1–3 of this Article shall be guaranteed the restoration of their violated rights.

5. The whistle-blower, his/her close persons who have been dismissed from work due to a report of possible facts of corruption or corruption-related offences or other violations of this Law shall be immediately reinstated in their previous work (position) and shall be paid their average earnings for the time of forced absence, but not more than for one year. If an application for reinstatement of a whistle-blower or his/her close person in work (position) is considered for more than one year through no fault of their own, they shall be paid their average earnings for the entire period of enforced absence.

6. The whistle-blower, his/her close persons who have been transferred to another permanent lower-paid work (position) due to the report of possible facts of corruption or corruption-related offences, other violations of this Law shall be immediately reinstated in their previous work (position), and they shall be paid the difference in earnings for the period of performance of the lower-paid work, but not more than for one year. If an application for reinstatement of a whistle-blower or his/her close person in work is considered for more than one year through no fault of their own, they shall be paid their average earnings for the entire period of enforced absence.

7. If there are grounds for reinstatement of an employee dismissed in connection with his/her or his/her close person's report of possible facts of corruption or corruption-related offences or other violations of this Law, and in case of his/her refusal of such reinstatement, the employee shall be paid monetary compensation in the amount of six months' average earnings and, if reinstatement is impossible – in the amount of two years' average earnings.

{Section VIII has been supplemented with Article 53[-4] under Law No. 198-IX of 17 October 2019}

Article 53[-5]. Whistle-blower's right to confidentiality and anonymity

1. It shall be prohibited to disclose information about the identity of the whistle-blower, his/her close persons or other data that may uncover the identity of the whistle-blower, his/her close persons, to third parties not involved in the consideration, verification and/or investigation of the facts reported by him/her, as well as to persons, whose actions or omissions relate to the facts reported by him/her, except in cases provided for by the law.

2. If the law allows without the consent of the whistle-blower to make a reasoned decision to disclose information about the whistle-blower or information that may identify the whistle-blower, the whistle-blower must be notified thereof at least 18 working days before the date of disclosure of the relevant information by handing him/her a notice of the relevant decision against receipt. The notice about the disclosure of information on the identity of the whistle-blower must indicate the range of persons to whom the information will be disclosed, as well as the grounds for such disclosure.

3. The unlawful disclosure of information about a whistle-blower shall be punishable under the law.

{Section VIII has been supplemented with Article 53[-5] under Law No. 198-IX of 17 October 2019}

Article 53[-6]. Whistleblower's right to receive information

1. The whistle-blower shall have the right to receive information on the status and results of consideration, verification and/or investigation in connection with the report of possible facts of corruption or corruption-related offences or other violations of this Law.

2. The information provided for in part 1 of this Article shall be provided to the whistle-blower upon his/her application by the authority, legal entity, official or officer responsible for consideration, verification and/or investigation in connection with his/her report on possible facts of corruption or corruption-related offences, other violations of this Law, not later than five days after receiving the application, as well as the final results of consideration, verification and/or investigation.

{Section VIII has been supplemented with Article 53[-6] under Law No. 198-IX of 17 October 2019}

Article 53[-7]. Remuneration to the whistle-blower

1. The whistle-blower who has reported a corruption offence, the monetary value of the object of which or the damage caused to the state from which exceeds five thousand or more times the subsistence minimum for able-bodied persons established by law at the time of the offence, shall have the right to remuneration.

2. The amount of the remuneration after conviction shall be 10 per cent of the monetary value of the object of the corruption offence or the amount of the damage caused to the state. The amount of remuneration shall not exceed three thousand minimum salaries established by law at the time of the offence.

3. If several whistle-blowers provide different information about the same corruption offence, including information which supplements the relevant facts, the amount of remuneration shall be shared in equal parts among such whistle-blowers.

{Section VIII has been supplemented with Article 53[-7] under Law No. 198-IX of 17 October 2019}

Article 53[-8]. Legal liability of the whistle-blower

1. The whistle-blower shall not be legally liable for reporting possible facts of corruption or corruption-related offences, other violations of this Law, disseminating the information specified in a report, despite the possible violation of official, civil, labour or other duties or obligations by such a report.

2. Reporting the possible facts of corruption or corruption-related offences, other violations of this Law may not be considered as a violation of the conditions of confidentiality provided for in the civil, labour or other agreement (contract).

3. The whistleblower shall be released from civil liability for property and/or moral damage caused as a result of reporting of possible facts of corruption or corruption-related offences, other violations of this Law, except in the case of knowingly false report. In case of unintentional report of inaccurate information by a whistle-blower, the information shall be subject to refutation under the procedure established by the Civil Code of Ukraine.

{Section VIII has been supplemented with Article 53[-8] under Law No. 198-IX of 17 October 2019}

Article 53[-9]. Powers of authorised units (authorised persons) on corruption prevention and detection in the field of protection of whistle-blowers

1. The powers of authorised units (authorised persons) on corruption prevention and detection in the field of protection of whistle-blowers shall include:

1) organising the work of internal channels for reporting possible facts of corruption or corruption-related offences, other violations of this Law, receiving and organising the consideration of information reported through such channels;

2) cooperating with whistle-blowers, ensuring compliance with their rights and guarantees of protection provided for by law;

3) providing employees of the relevant authority or legal entity or persons who serve or study in them, perform certain work, with methodological assistance and advice on reporting of possible facts of corruption or corruption-related offences, other violations of this Law, and protection of whistle-blowers, conducting internal trainings on these issues.

2. To exercise the powers in the field of protection of whistle-blowers, the authorised units (authorised persons) on corruption prevention and detection shall have the right to:

1) demand documents, including those containing restricted information (except for state secrets) from other structural units of the relevant body or legal entity, and make or receive copies thereof;

2) summon and question the persons, whose actions or omissions are related to the facts reported by the whistle-blower, including the head or deputy heads of the authority, institution or organisation;

3) apply to the National Agency regarding the violated rights of the whistle-blower, his/her close persons;

4) submit a proposal to the head of the respective body or legal entity to bring the guilty persons to disciplinary liability for the violation of this Law;

5) exercise other powers defined by law, aimed at a comprehensive review of the reports of whistle-blowers and the protection of their rights and freedoms.

Heads and deputy heads of the relevant units or responsible officials whose responsibilities include the organisation of internal channels for reporting the possible facts of corruption or corruption-related offences or other violations of this Law, receipt and organisation of consideration of information reported through them, cooperation with the whistle-blowers, shall be accountable and responsible in their activities only to the head of the relevant authority or legal entity.

The head of the authorised unit on corruption prevention and detection shall appoint a separate person responsible for exercising the powers in the field of protection of whistle-blowers.

{Section VIII has been supplemented with Article 53[-9] under Law No. 198-IX of 17 October 2019}

Section IX

OTHER MECHANISMS FOR PREVENTING AND COMBATING CORRUPTION

Article 54. Prohibition for state authorities and local governments to receive benefits, services and property

1. State authorities, authorities of the Autonomous Republic of Crimea and local state authorities shall be prohibited from receiving money or other assets, intangible assets, property advantages, benefits or services, free of charge from individuals and legal entities, except as provided for by applicable laws or international treaties in force ratified by the Verkhovna Rada of Ukraine.

2. Illegal receipt from individuals or legal entities of money or other property, intangible assets, property advantages, benefits or services, free of charge, if there are appropriate grounds, shall entail the liability of officials of state authorities, authorities of the Autonomous Republic of Crimea and local governments.

Article 55. Anti-corruption expertises

1. An anti-corruption expertise shall be carried out to identify contributing factors or those that may contribute to the commission of corruption offences in the effective regulatory acts and draft regulatory acts, and to develop recommendations for their elimination.

2. A mandatory anti-corruption expertise shall be carried out by the Ministry of Justice of Ukraine, except for an anti-corruption expertise of draft regulatory acts submitted for consideration to the Verkhovna Rada of Ukraine by the Members of Parliament of Ukraine, which is carried out by a Committee of the Verkhovna Rada of Ukraine in charge of anti-corruption issues.

The Ministry of Justice of Ukraine shall define the procedure and methodology for conducting an anti-corruption expertise, as well as the procedure for announcement of its results.

3. All draft regulatory acts submitted for consideration to the Cabinet of Ministers of Ukraine shall be subject to mandatory anti-corruption expertise, which shall be carried out by the Ministry of Justice of Ukraine.

4. The Ministry of Justice of Ukraine shall carry out an anti-corruption expertise of regulatory acts in accordance with its approved annual plan. The said anti-corruption expertise shall be carried out in accordance with the laws of Ukraine, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine in the following areas:

1) rights and freedoms of humans and citizens;

2) powers of state authorities, local state authorities and persons authorised to perform the functions of state or local government;

3) provision of administrative services;

4) allocation and expenditure of state budget and local budgets;

5) bidding (tender) procedure.

An anti-corruption expertise of regulatory acts of state authorities, whose regulatory acts are subject to state registration, shall be carried out during such registration.

5. The National Agency may, at its own initiative, carry out an anti-corruption expertise of draft regulatory acts submitted for consideration to the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine, following the procedures it has established.

The Cabinet of Ministers of Ukraine shall forward to the National Agency all relevant draft regulatory acts for conducting an anti-corruption expertise.

The National Agency shall inform the respective Committee of the Verkhovna Rada of Ukraine or the Cabinet of Ministers of Ukraine about the performance of an anti-corruption expertise of the respective draft regulatory act, which shall serve as the basis for suspension of its consideration or approval, but for no longer than 10 days.

The Public Council under the National Agency shall be engaged to participate in its anti-corruption expertise.

6. Results of the anti-corruption expertise of effective regulatory acts in cases when factors that contribute or may contribute to corruption offences are detected, shall be subject to mandatory disclosure on the official website of the relevant authority which performed the expertise in question.

7. A public anti-corruption expertise of existing regulatory acts and draft regulatory acts may be carried out upon the initiative of individuals, public associations and legal entities.

A public anti-corruption expertise of regulatory acts, draft regulatory acts, as well as disclosure of its results shall be carried out at the expense of the respective individuals, public associations, legal entities or other sources not prohibited by legislation.

8. Results of an anti-corruption expertise, including a public expertise, shall be subject to compulsory consideration by the subject of publication (approval) of the appropriate act, its successor or authority to which relevant legislative powers in this area were transferred.

9. The National Agency shall hold periodic reviews of legislation for the presence of corruptogenic standards and submit proposals to the Ministry of Justice to include them into the plan of an anti-corruption expertise provided for by part 4 of this Article. The National Agency may also engage public associations and scientific institutions, on the terms of a government order, on the basis of an open tender, to participate in the said monitoring.

Article 56. Background check

1. A background check, also in regard to information submitted in person shall be conducted regarding persons running for positions that lead to having responsible or particularly responsible status and positions with high corruption risk, the list of which shall be approved by the National Agency.

Background checks shall not be conducted in regard to:

1) candidates for the post of the President, candidates for Members of Parliament of Ukraine, candidates for members of the Verkhovna Rada of the Autonomous Republic of Crimea, local councils and for positions of village, settlement, city heads and starostas;

{Paragraph 3, part 1 of Article 56 as amended by Law No. 1848-VIII of 09 February 2017}

2) citizens who are drafted into military service upon conscription of officers and upon conscription to military service during mobilization, for the special period, or who are involved in the execution of their duties in accordance with staffing tables during wartime;

3) applicants who hold positions in state authorities, authorities of the Autonomous Republic of Crimea and local government, and who are appointed as a result of transfer or promotion to positions within the same authority or appointed as a result of a transfer to positions in other state authorities, authorities of the Autonomous Republic of Crimea or local government;

4) applicants who hold positions in state authorities, authorities of the Autonomous Republic of Crimea and local government which are terminated and therefore such people are appointed as a result of a transfer to other authorities which inherit the powers and functions of the authorities being terminated;

5) persons, when their inclusion in the lists of people's assessors and jurors is considered.

If the appointment, election or approval for office is performed by a local council, a background check shall be conducted in the manner stipulated by this Law in regard to persons appointed, selected or approved for the relevant positions.

If the appointment of a person to the position of prosecutor takes place in accordance with Section II "Final and Transitional Provisions" of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Priority Measures on Reform of the Prosecutor's Office", a background check shall be carried out under the procedure established by this Law with regard to the person appointed to the position of prosecutor. If the person does not pass a background check or give consent to the background check, he/she shall be subject to immediate dismissal by the person authorised by law to decide on prosecutor's dismissal.

{Part 1 of Article 56 has been supplemented with paragraph 9 under Law No. 113-IX of 19 September 2019}

2. The head (deputy head) of the government authority, authority of the Autonomous Republic of Crimea or local government authority, or their staff, where the person is running for a position, shall be responsible for organising a background check, except for instances determined by law. To ensure the organisation of a background check, the head

of the relevant government authority, authority of the Autonomous Republic of Crimea or local government, or their staff, may determine the unit responsible for conducting the background check.

The peculiarities of arranging a background check regarding candidates for positions of judges shall be stipulated by the Law of Ukraine "On the Judicial System and Status of Judges".

The Secretariat of the High Council of Justice and the Secretariat of the High Qualification Commission of Judges of Ukraine respectively shall conduct a background check of the candidates for membership in the High Council of Justice and the High Judicial Qualification Commission of Ukraine elected by the congress of judges of Ukraine, the congress of lawyers of Ukraine, the all-Ukrainian conference of prosecutors, the congress of representatives of law higher education and research institutions.

{Part 2 of Article 56 has been supplemented with a new paragraph under Law No. 1798-VIII of 21 December 2016}

In regard to candidates for other positions who are appointed (elected) by the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine, the performance of a background check shall be imposed, respectively, to the Head of the Presidential Administration of Ukraine, Head of the Verkhovna Rada of Ukraine Staff, the Minister of the Cabinet of Ministers of Ukraine or their respective deputies.

The organisation of a background check in newly created state authorities shall be assigned to the central executive authority implementing the state policy in the field of the civil service until the establishment at such newly formed authority of a unit responsible for this.

3. Information about a person running for a position, referred to in part 1 of this Article, shall be subject to a special inspection, namely regarding:

1) existence of a legally effective court decision, according to which such person was held criminally liable, including for corruption offences, as well as the existence of a conviction, its revocation or cancellation;

2) the fact that the person is or has been previously subjected to administrative sanctions for corruption-related offences;

3) the reliability of the information specified in the declaration of a person authorised to perform the functions of state or local government;

4) the person's possession of equity rights;

5) the health condition (specifically regarding the person's registration with psychiatric or drug rehabilitation health care institutions), education, the presence of an academic degree, or an academic rank;

6) person's relation to military service;

7) whether an individual has access to state secrets, if such access is required under the qualification requirements for a position;

8) extending to a person of a prohibition to hold the relevant position under the provisions of the Law of Ukraine "On Lustration".

A candidate for transfer to a position at another government authority, authority of the Autonomous Republic of Crimea or local government who has already undergone a background check before, shall inform thereof the appropriate authority which shall request information on its results in the prescribed manner.

Note. Positions that assume high and especially high responsibility in this Article shall mean the President of Ukraine, the Prime Minister of Ukraine, a member of the Cabinet of Ministers of Ukraine, First Deputy and Deputy Ministers, a member of the National Council of Television and Radio Broadcasting of Ukraine, the National Commission for State Regulation of Financial Services Markets, the National Securities and Stock Market Commission, the National Energy and Utilities Regulatory Commission, the Head and State Commissioner of the Antimonopoly Committee of Ukraine, the Head of the State Committee for Television and Radio Broadcasting of Ukraine, the Head of the State Property Fund of Ukraine, his/her First Deputy or Deputy, a member of the Central Election Commission, a member, inspector of the High Council of Justice, a member, inspector of the High Qualification Commission of Judges of Ukraine, a Member of the Parliament of Ukraine, the Ukrainian Parliament Commissioner for Human Rights, the Commissioner for the Protection of the State Language, a member of the National Commission for Standards of the State Language, the Director of the National Anti-Corruption Bureau of Ukraine, his/her First Deputy and Deputy, the Chairman of the National Agency on Corruption Prevention and his/her Deputies, the Prosecutor General, his/her First Deputy and Deputy, the Head of the National Bank of Ukraine, his/her First Deputy and Deputy, a member of the National Bank's Council, the Secretary of the National Security and Defense Council, his/her First Deputy and Deputy, the Head of the Office of the President of Ukraine, his/her First Deputy and Deputy, the Permanent Representative of the President of Ukraine in the Autonomous Republic of Crimea, his/her First Deputy and Deputy, an adviser or assistant to the President of Ukraine, the Chairman of the Verkhovna Rada of Ukraine, the Prime Minister of Ukraine, positions belonging to civil service positions of categories "A" and "B", and positions assigned, in accordance with Article 14 of the Law of Ukraine "On Service in Bodies of Local Self-Government", to categories 1-3, and also positions of judges, prosecutors, investigators and interrogators, heads, deputy heads of state authorities which jurisdiction covers the whole territory of Ukraine, heads of their staff and heads of their independent structural subdivisions, heads and deputy heads of state authorities, authorities of the Autonomous Republic of Crimea which jurisdiction covers the territory of one or more oblasts, the Autonomous Republic of Crimea, Kyiv and Sevastopol, heads of state authorities, authorities of the Autonomous Republic of Crimea which jurisdiction covers the territory of one or more raions, a city of republican significance in the Autonomous Republic of Crimea or of Oblast significance, a district in a city, city/town of raion significance and positions to be displaced by higher military officers.

{Note to Article 56 as amended by Laws No. 889-VIII of 10 December 2015, No. 1540-VIII of 22 September 2016, No. 1798-VIII of 21 December 2016, No. 2704-VIII of 25 April 2019, No. 720-IX of 17 JUne 2020, No. 1074-IX of 04 December 2020}

Article 57. Procedure for conducting a background check

1. A background check shall be conducted with the written consent of the person who is running for a position, within a period not exceeding twenty-five calendar days from the date when consent for the background check is granted.

If the person does not grant such consent, he/she shall not be considered for the appointment.

The procedure for conducting a background check and the form of consent for background check shall be approved by the Cabinet of Ministers of Ukraine.

2. For the purposes of performing a background check, the person running for a position shall submit the following to the respective authority:

1) written consent to perform a background check;

2) a curriculum vitae;

3) a copy of the passport of a citizen of Ukraine;

4) copies of documents on education, academic ranks and academic degrees;

5) a medical certificate on health condition, adhering to the format approved by the Ministry of Healthcare of Ukraine regarding a person's registration with psychiatric or drug rehabilitation health care institutions;

6) a copy of a military ID card or military service record card (applicable to military servicemen or persons liable to the military service);

7) a certificate of access to state secrets (if applicable).

A person running for a position also submits a declaration of a person authorised to perform the functions of state or local government to the National Agency, in the manner specified by part 1, Article 45 of this Law.

Persons mentioned in paragraph 7, part 1, Article 56 of this Law shall submit documents stipulated by this part of the Article for a background check within three business days after their corresponding election or approval.

3. After obtaining the written consent of candidates for the position to conduct a background check, an authority where such person seeks the position, not later than the next day, shall send the appropriate state authorities in charge of conducting a background check of the information provided for in part 3, Article 56, or to their territorial bodies (if any) a request for inspection of information about a person who is a candidate for the respective position in accordance with the form approved by the Cabinet of Ministers of Ukraine.

The request shall be signed by the head of the body, for the position in which the person is applying and, in his/her absence, a person acting as the head or one of his/her deputies in accordance with the assignment of functional responsibilities.

Copies of the documents mentioned in part 2 of this Article shall be attached to the request.

Regarding candidates for positions (other than the position of a judge), appointment (election) to which is performed by the President of Ukraine, the Verkhovna Rada of Ukraine or the Cabinet of Ministers of Ukraine, such request shall be sent to the relevant state authorities (their territorial bodies), respectively, by the Head of the Presidential Administration of Ukraine, the Head of Verkhovna Rada of Ukraine Staff, the Minister of the Cabinet of Ministers of Ukraine (their deputies or other official designated by them) through a central executive body that implements state policy in the civil service.

4. A background check shall be performed by:

1) the National Police and the State Judicial Administration of Ukraine, regarding information about bringing a person to criminal liability, existence of a conviction, revocation or cancellation thereof;

{Clause 1, part 4 of Article 57 as amended by Law No. 766-VIII of 10 November 2015}

2) the Ministry of Justice of Ukraine and the National Securities and Stock Market Commission, regarding the presence of individual equity rights belonging to a person;

3) the National Agency, regarding the presence in the Unified State Register of Perpetrators of Corruption or Corruption-related Offences of information about a candidate; also regarding the reliability of the information indicated by the person in the declaration of the person authorised to perform the functions of state or local government for the previous year;

4) the central executive authority implementing the state policy in the field of public healthcare, the appropriate executive body of the Autonomous Republic of Crimea, the structural unit of the oblast, Kyiv and Sevastopol city administration - on information about the health of the candidate (regarding a person's registration with psychiatric or drug rehabilitation health care institutions);

5) the central executive authority implementing the state policy in the field of education, the relevant executive authority of the Autonomous Republic of Crimea, the structural unit of the oblast, Kyiv and Sevastopol city administration, the central body of executive power to which the educational institution is subordinated, the head of the educational institution, regarding the education, the presence of a candidate's academic degree, and his/her academic rank;

6) the Security Service of Ukraine, regarding the presence of a person's access to state secrets, as well as the relation of a person to military duty (in terms of personal and quality record-keeping of persons liable to the military service in the Security Service of Ukraine);

7) the Ministry of Defense of Ukraine, Military Commissariats of the Autonomous Republic of Crimea, oblasts, cities of Kyiv and Sevastopol, regarding a person's relation to military duty (except for personal and quality record-keeping of persons liable to the military service in the Security Service of Ukraine).

Other central executive authorities or specially authorised counter-corruption entities may be involved in conducting a background check in order to verify information about the person referred to in this Article or the authenticity of documents provided for in this Article.

Article 58. The results of a background check

1. The results of the background check, signed by the head of the authority which carried out the inspection and, in his/her absence, a person who performs his/her duties, or the deputy head of the body in accordance with the assignment of functional responsibilities, shall be submitted to the authority that sent the appropriate request within seven days upon the receipt of the request.

During a background check, authorities (departments) conducting it can interact and exchange between themselves information regarding the individual, particularly regarding individuals who apply for positions holding which constitutes a state secret. Such interaction and exchange shall be carried out under the procedure established by the Cabinet of Ministers of Ukraine.

2. The decision on appointment (election) or refusal of appointment (election) to a position connected with performing the functions of state or local government shall be taken after a background check.

If the results of a background check establish discrepancies in the curriculum vitae and/or declaration of a person authorised to perform the functions of state or local government, for the previous year, the official (agency) that organises the background check shall provide the candidate for the position with the opportunity to provide a written explanation of such fact and/or to correct such a discrepancy within five business days.

If the results of the background check establish information about the applicant for the position, which does not meet the requirements established by the legislation for the position, the official (agency) that is responsible for the appointment (election) for this position, shall refuse to appoint (elect) the applicant to the position.

If the results of the background check and of a review of the above explanations by the candidate for the position establish that the person has submitted forged documents or false information, the officer (agency) that is responsible for the appointment (election) to this post, shall report to the law enforcement agencies within three business days about the established facts and shall refuse to appoint (elect) the applicant to the position.

The person regarding whom the results of a background check have discovered circumstances which constitute grounds for denial of his/her appointment (election) shall be deemed not to have passed the background check.

The powers of the person referred to in paragraph 8, part 1, Article 56 of this Law shall be terminated early without termination of the member's powers and the relevant person shall be dismissed from the relevant position without a decision by the relevant council, if he/she failed to pass the background check or failed to provide consent for a background check within the term stipulated by this Law.

A decision refusing appointment (election) to a position, taken as a result of a background check, may be appealed in court.

3. The agency, for a position in which the person is running, on the basis of the information received, shall prepare a statement on the results of a background check, the form of which is approved by the Cabinet of Ministers of Ukraine. Regarding candidates for positions (other than the position of a judge), appointment (election) to which is carried out by the President of Ukraine, the Verkhovna Rada of Ukraine or the Cabinet of Ministers of Ukraine, such statement shall be prepared by the relevant structural unit of the Administration of the President of Ukraine, the Staff of the Verkhovna Rada of Ukraine or the Secretariat of the Cabinet of Ministers of Ukraine.

Persons in respect of whom a background check was carried out, shall have the right to familiarize themselves with the statement of results of the background check and, if they disagree with the results of the inspection, they may submit written comments to the respective state agency or local government. These comments shall be reviewed within seven days from the day of their receipt.

Information on the results of a background check and documents regarding its performance shall be confidential, unless they contain information constituting a state secret.

The documents which were filed for a background check by a person who sought to occupy a position, if they are subsequently appointed (elected) to such position, shall be sent for storage to the personal file and, in the event of a refusal to appoint (elect) the person, they shall be returned to such person on receipt, unless the falsity of these documents was established or under other circumstances as stipulated by law.

The statement on background check results shall be attached to the documents submitted by the person or to the personal file, if a decision was made to appoint (elect) this person.

Article 59. Unified State Register of Perpetrators of Corruption or Corruption-Related Offences

1. Information about persons brought to criminal, administrative, disciplinary or civil liability for corruption or corruption-related offences, as well as about entities subjected to measures of criminal law in connection with the commission of a corruption offence, shall be entered into the Unified State Register of Perpetrators of Corruption and Corruption-Related Offences, which is established and maintained by the National Agency. Information concerning persons who are members of the personnel of agencies that conduct operative and investigative or intelligence-gathering or counter-intelligence activities, whose affiliation to the above authorities constitutes a state secret, and who were brought to liability for commission of corruption offences, shall be included in the restricted Part of the Unified State Register of Perpetrators of Corruption or Corruption-Related Offences.

Regulations on the Unified State Register of Perpetrators of Corruption or Corruption-Related Offences, the procedure of its establishment and its maintenance shall be approved by the National Agency.

Information about individuals brought to liability for corruption or corruption-related offences, as well information about legal entities subject to measures of a criminal and legal nature in connection with the commission of corruption or corruption-related offences, shall be entered in the Unified State Register of Perpetrators of Corruption or

Corruption-Related Offences, within three business days from the date of receipt by the National Agency from the State Judicial Administration of Ukraine of an electronic copy of the legally effective court decision, from the Unified State Register of Court Decisions.

Information about the imposition of a disciplinary sanction for corruption or corruption-related offences shall be entered into the Unified State Register of Perpetrators of Corruption and Corruption-Related Offences within three working days of receipt by the National Agency of a duly certified paper copy of the order imposing disciplinary sanction, sent from the personnel department of the government authority, authority of the Autonomous Republic of Crimea, authority of the local government, the enterprise, institution or organisation.

2. Information from the Unified State Register of Perpetrators of Corruption or Corruption-Related Offences about entries regarding the person to the said Register or about the absence of information regarding this person shall be provided:

at the request of state authorities, authorities of the Autonomous Republic of Crimea and local state authorities for the purpose of conducting a background check of information about persons running for positions connected with the functions of state or local government;

at the request of law enforcement agencies if it is necessary to obtain such information in the course of criminal or administrative proceedings or at the prosecutor's request made in the course of his/her supervision of compliance with and enforcement of laws;

at the request of an individual (or an authorised person of the individual) or an authorised representative, seeking information about themselves or the represented entity.

3. The National Agency shall ensure publication on its official website of information from the Unified State Register of Perpetrators of Corruption or Corruption-Related Offences, within three business days of its entry in the Register.

The following information about an individual who has been prosecuted for corruption or corruption-related offences shall be available for free of charge, round-the-clock access:

1) surname, name, patronymic;

2) place of work, position at the time of the commission of corruption or a corruption-related offence;

3) set of elements of the corruption or corruption-related offence;

4) type of punishment (penalty);

5) means of commission of a disciplinary corruption offence;

6) type of disciplinary sanction.

The following information about a legal entity that has been subjected to measures of a criminal and legal nature shall be available for free of charge, round-the-clock access:

1) name;

2) registered address, code in the Unified State Register of Legal Entities and Individual Entrepreneurs;

3) set of elements of the corruption offence, that lead to application of the measures of a criminal and legal nature;

4) type of measures of a criminal and legal nature that were applied.

This information about a person shall not be regarded as confidential and may not be of restricted access.

Article 60. Requirements for transparency of and access to information

1. Persons specified in Clauses 1, 2 of part 1, Article 3 of this Law, as well as persons permanently or temporarily holding positions related to administrative and regulatory or administrative and economic duties, or specifically authorised to perform such duties in legal entities of private law, regardless of their legal and organisational form shall be prohibited to:

{Paragraph 1, part 1 of Article 60 as amended by Law No. 1975-VIII of 23 March 2017}

1) refuse to provide information to individuals or legal entities, who have the right to obtain such information according to the legislation;

2) provide information in an untimely manner, or from provide misleading or incomplete information that is subject to provision in accordance with the law.

{Part 1 of Article 60 as amended by Law No. 140-IX of 02 October 2019}

2. The following information may not be of restricted access:

1) information about the amounts, types of charitable and other assistance provided to individuals and legal entities or obtained from them by the persons referred to in Clause 1, Subclauses "a" and "c" of Clause 2, part 1, Article 3 of this Law, or state authorities, local state authorities;

{Clause 1, part 2, Article 60 as amended by Laws No. 1975-VIII of 23 March 2017, No. 140-IX of 02 October 2019}

2) information about the amounts, types of salary, financial aid and any other payments from the budget or at the expense of technical or other assistance as part of implementation in Ukraine of programmes (projects) in the field of preventing and combating corruption to the persons specified in Clause 1, Subclauses "a" and "c" of Clause 2, part 1, Article 3 of this Law, as well as that received by such persons in the course of transactions that are subject to compulsory state registration, as well as gifts stipulated by this Law.

{Clause 2, part 2 of 60 as amended by Laws No. 1975-VIII of 23 March 2017, No. 140-IX of 02 October 2019}

3) transfer of enterprises or corporate rights held by persons to the management, which shall be performed in the manner stipulated by this Law;

4) a conflict of interests of persons referred to in Clauses 1, 2 of part 1, Article 3 of this Law and measures to resolve such conflict of interest.

Section X

CORRUPTION PREVENTION IN THE ACTIVITIES OF LEGAL ENTITIES

Article 61. General provisions of corruption prevention within the activities of a legal entity

1. Legal entities shall ensure the development and implementation of measures that are necessary and reasonable for preventing and combating corruption within their activities.

2. The head and founders (participants) of a legal entity shall conduct a regular assessment of corruption risks in the entity's activities and implement appropriate anti-corruption measures. Independent experts may be engaged to identify and eliminate corruption risks within the activities of a legal entity, in particular, for conducting audits.

3. Officials and officers of legal entities, other persons performing work and having labor relations with legal entities:

1) shall not commit or engage in the commission of corruption offences related to the activities of the legal entity;

2) shall refrain from conduct, which may be seen as a willingness to commit a corruption offence related to the activities of the legal entity;

3) without delay, shall inform the officer responsible for the prevention of corruption within activities of the legal entity, the head of the legal entity or founders (participants) of the legal entity about instances of incitement to commit a corruption offence related to the activities of a legal entity;

4) without delay, shall inform the officer responsible for the prevention of corruption within activities of the legal entity, the head of the legal entity or founders (participants) of the legal entity about instances when other employees of the legal entity or other persons commit corruption or corruption-related offences;

5) without delay, shall inform the officer responsible for the prevention of corruption within activities of the legal entity, the head of the legal entity or founders (participants) of the legal entity about the occurrence of a real or potential conflict of interests.

Article 62. Anti-corruption programme of a legal entity

1. The anti-corruption programme of a legal entity shall be a set of rules, standards and procedures meant to identify, combat and prevent corruption within the activities of the legal entity.

2. The anti-corruption programme shall compulsorily be approved by the heads of:

1) state-owned, municipal enterprises, economic companies (the state or communal share in which exceeds 50 per cent), whose average number of employees exceeds fifty persons in the reporting (financial) year, and gross income from sales of products (work, services) for this period exceeds seventy million hryvnias;

2) legal entities that are participants of the procurement procedure in accordance with the Law of Ukraine "On Public Procurement", if the cost of procurement of goods and services is equal to or exceeds 20 million hryvnias.

{Clause 2, part 2 of Article 62 as amended by Laws No. 198-VIII of 12 February 2015, No. 679-VIII of 15 September 2015, No. 140-IX of 02 October 2019; as revised by Law No. 114-IX of 19 September 2019}

3. The anti-corruption programme shall be approved after its discussion with employees of the legal entity. The text of the anti-corruption programme shall be made available to the employees of the legal entity at all times.

4. Provisions for mandatory compliance with the anti-corruption programme shall be included in employment contracts, internal regulations of a legal entity, and may be included in the contracts concluded by the legal entity

{Part 4 of Article 62 as amended by Law No. 198-VIII of 12 February 2015}

5. The person responsible for implementation of the anti-corruption programme (hereinafter, the Commissioner), with legal status as specified in this Law, shall be appointed by the legal entities mentioned in part 2 of this Article.

{Part 5 of Article 62 as amended by Law No. 198-VIII of 12 February 2015}

Article 63. Requirements for the anti-corruption programme of a legal entity

1. The anti-corruption programme of legal entities referred to in part 2, Article 62 of this Law, may contain the following provisions:

{Paragraph 1, part 1 of Article 63 as amended by Law No. 198-VIII of 12 February 2015}

1) the scope of its application and range of individuals that are subject to its provisions;

2) an exhaustive list and description of anti-corruption measures, standards, procedures and the means for their execution (application), in particular, pertaining to the procedure for periodic assessments of corruption risks within the activities of a legal entity;

3) the rules of professional ethics for employees of a legal entity;

4) the rights and obligations of employees and founders (participants) of the legal entity in connection with preventing and combating corruption in the legal entity;

5) the rights and obligations of the Commissioner as the official responsible for corruption prevention and of his/her subordinate employees (if any);

6) the procedure for regular reporting by the Commissioner to the founders (participants) of the legal entity;

7) the procedure for proper supervision, control and monitoring of compliance with the anti-corruption programme within activities of the legal entity, evaluating its results and implementation of planned activities;

8) the privacy terms and conditions applicable when the Commissioner is informed by employees about instances when they are incited to commit corruption or a corruption-related offence or about corruption offences committed by other employees or persons;

9) the procedures for the protection of employees who have provided information on corruption or corruption-related offences;

10) the procedure for employees to inform the Commissioner about a real or potential conflict of interests, and the procedure for settling discovered conflicts of interests;

11) the procedure for the Commissioner to consult employees of the legal entity on an individual basis regarding the application of anti-corruption standards and procedures;

12) the procedure for periodic training of employees in preventing and combating corruption;

13) the application of disciplinary actions to employees who violate the provisions of the anti-corruption programme;

14) the procedure for application of measures to respond to discovered instances of corruption or corruption-related offences, in particular, informing the authorised state bodies and conducting internal investigations;

15) the procedure for amending the anti-corruption programme.

Article 64. Legal status of the Commissioner

1. The Commissioner shall be an officer of a legal entity who is appointed by the head of the legal entity or its participants (founders) in accordance with labour legislation and in the manner prescribed by the approved anti-corruption programme.

2. The Commissioner may be an individual, who has organisational skills, moral and professional qualities and a health condition appropriate for accomplishing the relevant duties.

{Part 2 of Article 64 as revised by Law No. 198-VIII of 12 February 2015}

3. A person may not be appointed to the position of the Commissioner if this person:

1) has previous convictions that have not been revoked or cancelled according to the procedures established by the law;

2) has been declared incapable or partially capable by a court judgment;

3) was discharged from positions in state authorities, state authorities of the Autonomous Republic of Crimea or local state authorities due to violation of the oath, or in connection with commission of corruption or a corruption-related offence, within three years following the date of such discharge.

4. Work at positions referred to in Clause 1, part 1, Article 3 of this Law, as well as any other activity that creates an actual or potential conflict of interests shall be incompatible with the activities of the Commissioner.

{Paragraph 1, Pat 4 of Article 64 as amended by Law No. 198-VIII of 12 February 2015}

If circumstances of incompatibility occur, the Commissioner, within two days from the date when such circumstances occurred, shall notify thereof the head of the legal entity and simultaneously submit a letter of resignation.

5. The Commissioner may be discharged from his/her position early in the following instances:

1) termination of employment contract at the Commissioner's initiative;

2) termination of employment contract at the initiative of the head of the legal entity or its founders (participants). The person holding the position of Commissioner in a legal entity referred to in part 2, Article 62 of this Law may be discharged subject to the consent of the National Agency;

3) an inability to exercise authority due to health issues according to the conclusion of a medical commission, which is created by the decision of the specially authorised central executive authority implementing the state policy in the field of public healthcare;

4) entry into force of a court ruling declaring him/her incapacitated or limiting his/her civil capacity, declaring him/her missing or dead;

5) entry into force of the court's conviction against him/her;

6) death.

6. The Head of the legal entity shall inform the National Agency in writing within two business days about the discharge of the person from the Commissioner's position and shall ensure the immediate submission of a new candidate for this position.

Section XI

LIABILITY FOR CORRUPTION OR CORRUPTION-RELATED OFFENCES AND ELIMINATION OF THEIR CONSEQUENCES

Article 65. *{Article 65 has been deleted under Law No. 1079-IX of 15 December 2020}*

Article 65^{-1}. Liability for corruption or corruption-related offences

1. Persons referred to in part 1, Article 3 of this Law shall be subject to criminal, administrative, civil and disciplinary liability as prescribed by law for the commission of corruption or corruption-related offences.

In the event of the commission of a crime on behalf of and in the interests of the legal entity by an authorised person on his/her own or in conspiracy with a legal entity, in cases determined by the Criminal Code of Ukraine , measures of criminal and legal nature shall apply.

2. A person who committed corruption or a corruption-related offence but who was not administered a punishment or did not have a penalty imposed by the court in the form of deprivation of the right to occupy a position or engage in

activities related to implementation of the functions of state or a local government or an equivalent activity, shall be brought to disciplinary liability under the procedure established by law.

The issue of bringing to disciplinary responsibility a judge, a judge of the Constitutional Court of Ukraine, who has committed a corruption or corruption-related offence, but the court has not imposed penalties on him/her or has not imposed penalties in the form of deprivation of the right to hold certain positions or engage in certain activities, related to the performance of state or local government functions, or such that are equated with such activities, shall be resolved under the procedure established by law.

The person authorised to perform the functions of the state or local government, in whose respect a court decision on recognition of unjustified assets and their alienation in favor of the state has come into force, shall be dismissed under the procedure established by law.

3. An official investigation shall be conducted under the procedure established by the Cabinet of Ministers of Ukraine in order to identify the causes and conditions that contributed to the commission of corruption or a corruption-related offence or otherwise to non-compliance with the requirements of this Law, upon the recommendation of the specially authorised counter-corruption entity or a by a regulation of the National Agency upon the decision of the head of the agency, enterprise, institution or organisation, for which the person who has committed such an offence works.

4. Restrictions on prohibiting a person who was discharged from a position in connection with prosecution for a corruption offence, from engaging in activities related to the functions of state, local government, or other similar activity, shall be imposed solely based on a reasoned decision of the court, unless otherwise provided for by the law.

5. The person who was notified of being suspected of having committed an offence in his/her activity shall be subject to suspension from the exercise of powers at his/her position in the manner prescribed by law.

The issue of dismissal of a judge from the administration of justice, removal from office of a judge, a judge of the Constitutional Court of Ukraine, who has been notified of being suspected of having committed a criminal offence in his/her official activity, shall be resolved under the procedure established by law.

The person against whom a protocol has been produced on commission of a corruption-related administrative offence, unless otherwise provided for by the Constitution and laws of Ukraine, may be suspended from his/her official duties by a decision of the head of the authority, institution, enterprise, organisation in which he/she is employed until the end of the case investigation in court.

If proceedings on corruption-related administrative violations were stopped due to the absence of the event or corpus delicti of an administrative offence, average earnings during forced absence associated with removal from office shall be compensated to the persons suspended from his/her official duties.

{The Law has been supplemented with Article 65[-1] under Law No. 1079-IX of 15 December 2020}

Article 66. Compensation of losses and damage to the State as a result of a corruption offence

1. Losses and damage caused to the state as a result of corruption or a corruption-related offence shall be compensated by the person who committed the offence, in the manner prescribed by the law.

Article 67. Unlawful acts and transactions

1.Regulatory acts and decisions issued (approved) in violation of this Law shall be annulled by the agency or official authorised to approve or annul the corresponding acts or decisions, or may be found unlawful in the course of court proceedings at the request of an interested individual, associations of citizens, legal entity, prosecutor, government authority, in particular the National Agency or local government authority.

Within three working days, the authority or the official shall send the National Agency a copy of the decision about annulment of or an enforcement order pertaining to the court decision on deeming the relevant acts or decisions unlawful.

2. Transaction concluded as a result of violation of this Law may be revoked.

Article 68. Restoration of rights and lawful interests and compensation of losses and damage caused to individuals and legal entities as a result of a corruption offence

1. Individuals and legal entities whose rights were violated as a result of corruption or a corruption-related offense and who experienced harm and who have incurred moral or pecuniary damage or losses, shall be entitled to restoration of their rights, payment of damages and losses in accordance with the law.

2. Losses and damage, caused to an individual or legal entity as a result of unlawful decisions, actions or omissions by the person performing activities to prevent and combat corruption, shall be reimbursed from the State Budget of Ukraine under the procedure established by law. The state, Autonomous Republic of Crimea or local government authority that compensated losses and damages caused by an unlawful decision, act or omission of the person performing activities to prevent and combat corruption, shall have the right of recourse (regress) to the person who caused losses and damage, in the amount of paid compensation (except for compensation of payments related to labour relations and compensation for non-pecuniary damages).

Article 69. Alienation of unlawfully acquired and unjustified assets

1. Assets acquired as a result of a corruption offence shall be subject to confiscation or special confiscation by a court order in the manner prescribed by law.

2. Assets for which the court has not established that they or the funds necessary for their acquisition were received from legal income on the basis of evidence presented shall be considered unjustified and shall be subject to alienation by court under the procedure established by law.

{Article 69 as revised by Law No. 263-IX of 31 October 2019}

Section XII

INTERNATIONAL COOPERATION

Article 70. International cooperation in preventing and combating corruption

1. In accordance with the international treaties it has concluded, Ukraine cooperates in the prevention and combating of corruption with foreign states and international organisations that are engaged in preventing and combating corruption.

2. International legal assistance and other forms of international cooperation in the event of corruption offences shall be rendered by the competent authorities in accordance with the law and international treaties of Ukraine ratified by the Verkhovna Rada of Ukraine.

Article 71. International treaties of Ukraine in preventing and combating corruption

1. If the international treaties of Ukraine ratified by the Verkhovna Rada of Ukraine establish rules other than those provided for by the law on preventing and combating corruption, the rules of international treaties shall apply.

Article 72. International exchange of information in the field of preventing and combating corruption

1. Competent authorities of Ukraine may provide the relevant foreign authorities with information and receive information from them, including information with restricted access, concerning questions of preventing and combating corruption, in compliance with the requirements of the legislation and international treaties ratified by the Verkhovna Rada of Ukraine.

2. Provision of information to foreign authorities on issues related to preventing and combating corruption, shall be only possible if these authorities and the competent authority of Ukraine can establish a regime for accessing the information, which makes disclosure in any way and for other purposes impossible, including by unauthorised access.

Article 73. Measures to return funds and other assets to Ukraine, obtained as a result of corruption offences, and disposition of confiscated funds and other property obtained as a result of corruption offences

1. Ukraine shall take measures to return funds and other assets to Ukraine, obtained as a result of corruption offences, and dispose of these funds and other assets in accordance with the law and international treaties of Ukraine ratified by the Verkhovna Rada of Ukraine.

Section XIII

FINAL PROVISIONS

1. This Law shall enter into force from the day following the date of its publication and shall be effective six months after the date of entry into force.

2. Until the system for submitting and publishing, in accordance with this Law, declarations of persons authorised to perform functions of state or local government has launched, the subjects of declaration shall submit declarations on assets, income, expenses and financial liabilities, according to the procedure set out in the Law of Ukraine "On the Principles of Corruption Prevention and Counteraction". Such declarations shall be published under the procedure set out in the Law of Ukraine "On the Principles of Corruption Prevention and Counteraction".

The National Agency on Corruption Prevention shall make a decision on the launch of the system for submitting and publishing, in accordance with this Law, declarations of persons authorised to perform functions of state or local government.

{Paragraph 2, Clause 2 of Section XIII as amended by Laws No. 928-VIII of 25 December 2015, No. 1022-VIII of 15 March 2016}

In 2016, public officials, who at the time of the launch of this system occupy responsible or particularly responsible positions according to Article 50 of this Law, shall submit annual declarations for the previous year in the order specified by this Law, within 60 calendar days from the launch of the system.

{Clause 2 of Section XIII has been supplemented with paragraph 3 under Law No. 1022-VIII of 15 March 2016}

{Clause 2 of Section XIII as revised by Law No. 198-VIII of 12 February 2015}

2^{-1}. Establish that declarations of a person authorised to perform functions of state or local government, which in accordance with Article 45 of this Law are submitted for the previous year before 01 April, in 2020 the subjects of declaration shall submit before 01 June.

The subjects of declaration, who until 01 June 2020 did not have possibility to submit declaration of the person authorised to perform functions of the state or local government, provided for in paragraph 1, part 2, Article 45 of this Law, or notification of significant changes in property status under Article 52 of this Law in connection with the establishment of quarantine and restrictive measures on the territory of their residence, shall be released from liability for late submission of such a declaration or notification within the specified period.

{Section XIII has been supplemented with Clause 2^{-1} under Law No. 530-IX of 17 March 2020}

2^{-2}. Establish that the prohibition provided for by Article 54 of this Law does not apply to funds and/or goods, according to the list determined by the Cabinet of Ministers of Ukraine, which are voluntarily transferred to the central executive authority implementing the state policy in the field of public healthcare, and/or other central executive authorities implementing the state policy in the field of sanitary and epidemic well-being of population, quality control

and safety of medicines, combating HIV/ AIDS and other socially dangerous diseases, and/or health care structural units of oblast, Kyiv and Sevastopol city state administrations, during the quarantine established by the Cabinet of Ministers of Ukraine in accordance with the Law of Ukraine "On Protection of Population against Infectious Diseases" in relation to the spread of coronavirus disease (COVID-19) on the territory of Ukraine.

{Section XIII "Final provisions" has been supplemented with Clause 2[-2] under Law No. 540-IX of 30 March 2020}

3. Legislative and other regulatory acts shall apply to the extent not contradicting this Law until they are brought in line with this Law.

4. The following shall be declared invalid:

1) The Law of Ukraine "On the Principles of Corruption Prevention and Counteraction" (The Official Bulletin of the Verkhovna Rada of Ukraine, 2011, No. 40, Article 404; 2013, No. 2, Article 4, No. 33, Article 435; 2014, No. 10, Article 119, No. 11, Article 132, No. 12, Article 178, Article 183, Nos. 20–21, Article 712, No. 22, Article 816, No. 28, Article 937, No. 29, Article 942; as amended under Law of Ukraine of 12 August 2014 No. 1634-VII), except for provisions about financial control which become invalid after the system for filing and public disclosure of declarations by persons authorised to perform the functions of state or local government, starts working in accordance with this Law;

{Subclause 1, Clause 4 of Section XIII as revised by Law No. 198-VIII of 12 February 2015}

2) the Law of Ukraine "On Rules of Ethical Conduct" (The Official Bulletin of the Verkhovna Rada of Ukraine, 2013, No. 14, Article 94).

5. The following legislative acts of Ukraine shall be amended:

1) in the Labour Code of Ukraine (The Official Bulletin of the Verkhovna Rada of the Ukrainian SSR, 1971, Annex to No. 50, Article 375):

a) in part 1 of Article 36:

Clause 7[-1] shall be amended to read as follows:

"7[-1]) concluding an employment contract, contrary to the requirements of the Law of Ukraine "On Prevention of Corruption" established for persons who resigned or otherwise terminated activities related to performance of functions of the state or local government, within a year from the date of termination;"

b) in Clause 4, part 1 of Article 41 the words "of the Law of Ukraine "On the Principles of Corruption Prevention and Counteraction" shall be replaced with the words "of the Law of Ukraine "On Prevention of Corruption", and the word "immediate" shall be replaced with the word "direct;"

c) in Article 235:

part 1 after the words "for the other job" shall be supplemented with the words "including because of notification on violations of the requirements established by the Law of Ukraine "On Prevention of Corruption", by the other person;"

after part 3 a new part shall be added to read as follows:

"If there are any reasons for reinstating an employee, fired as the result of a notification by him/her or by a member of his/her family of a violation of the Law of Ukraine "On Prevention of Corruption", by the other person, and if the latter refuses such reinstatement, the body resolving the labour dispute shall make a decision on payment of compensation to such employee in the amount of his/her average six-month salary."

In connection herewith, parts 4 and 5 shall be considered parts 5 and 6, respectively;

2) in the Code of Ukraine on Administrative Offences (The Official Bulletin of the Verkhovna Rada of the Ukrainian SSR, 1984, Annex to No. 51, Article 1122):

a) part 1 of Article 21 after the words "administrative offence" shall be supplemented with the words "except for an officer;"

b) Clause 5, part 1 of Article 24 shall be supplemented with paragraph 2 to read as follows:

"deprivation of the right to occupy certain positions or engage in certain activities;"

c) part 1 of Article 25 after the words "additional administrative sanctions" shall be supplemented with the words "deprivation of the right to occupy certain positions or engage in certain activities, only as an additional sanction;"

d) in Article 30:

the title shall be supplemented with the words "deprivation of the right to occupy certain positions or engage in certain activities;"

parts 5 and 6 shall be added to read as follows:

"Deprivation of the right to occupy certain positions or engage in certain activities shall be imposed by the court for a term of six months to one year without reference to a sanction of an article (sanction of part of an article) of the Special Part of this Code, if a court, having regard to the nature of the administrative offence committed by a person in office and other circumstances of the case, decides that such person should be deprived of the right to occupy certain positions or engage in certain activities.

Deprivation of the right to occupy certain positions or engage in certain activities may also be imposed by a court for a term of one year if such penalty is stipulated by sanction of an article (sanction of part of an article) of the Special Part of this Code;"

e) the title of chapter 13-A shall be amended to read as follows:

"Chapter 13-A
ADMINISTRATIVE OFFENCES ASSOCIATED WITH CORRUPTION;"

f) Article 172^{-4}-172^{-8} shall be amended to read as follows:

"**Article 172^{-4}**. Violations of restrictions on other part-time activities

Violation by a person of restrictions established by laws related to engagement in any other paid (except for teaching, research and creative activities, medical practice, instruction and referee practice in sport) or entrepreneurial activities -

shall entail the imposition of the fine from three hundred to five hundred tax-free minimum incomes of citizens and confiscation of the proceeds gained from entrepreneurial activities or remuneration for part-time employment.

Violation by a person of statutory restrictions concerning becoming a member of the board, other executive or supervisory bodies or supervisory board of a company or organisation that seeks profit (unless the persons carrying out the functions of management of shares owned by the state or territorial community and represent the interests of the state or territorial community on the board (supervisory board) or audit committee of the economic organisation), -

shall entail the imposition of the fine from three hundred to five hundred tax-free minimum incomes of citizens and confiscation of the proceeds gained from the said activity.

Actions provided for by part 1 or 2, committed by the person who has already been, within the last year, the subject of administrative sanction for the same offences, -

shall entail the imposition of the fine from five hundred to eight hundred tax-free minimum incomes of citizens, with confiscation of gained proceeds or remuneration, and the deprivation of the right to occupy certain positions or engage in certain activities for one year.

Note. The subject of the offence in this Article shall be the persons mentioned in Clause 1, part 1, Article 3 of the Law of Ukraine "On Prevention of Corruption", except for Members of Parliament of the Autonomous Republic of Crimea, councillors of local councils (except for those exercising their powers at the respective council on a permanent basis), members of the High Council of Justice (except for those working for the High Council of Justice on a permanent basis), people's assessors and jurors.

Article 172^{-5}. Violation of statutory restrictions for receiving gifts

Violation of statutory restrictions for receiving gifts -

shall entail the imposition of the fine from one hundred to two hundred tax-free minimum incomes of citizens and confiscation of such gift.

The same action committed by the person who has already been, within the last year, the subject of administrative sanction for violations mentioned in part 1 of this Article, -

shall entail the imposition of the fine from two hundred to four hundred tax-free minimum incomes of citizens, with confiscation of such gift (donation), and the deprivation of the right to occupy certain positions or engage in certain activities for one year.

Note. The subjects of the offence in this Article shall be persons mentioned in Clauses 1 and 2, part 1, Article 3 of the Law of Ukraine "On Prevention of Corruption".

Article 172^{-6}. Violation of financial control requirements

Delayed submission of a declaration by a person authorised to perform the functions of state or local government, -

shall entail the imposition of the fine from fifty to one hundred tax-free minimum incomes of citizens.

Failure to notify, or delayed notification about an opened currency account with a non-resident banking institution or about a material change in property status -

shall entail the imposition of the fine from one hundred to two hundred tax-free minimum incomes of citizens.

Actions provided for by part 1 or 2, committed by the person who has already been, within the last year, the subject of administrative sanction for the same offences, -

shall entail the imposition of the fine from one hundred to three hundred tax-free minimum incomes of citizens, with confiscation of gained proceeds or remuneration, and the deprivation of the right to occupy certain positions or engage in certain activities for one year.

Note. The subjects of the offence in this Article shall be persons who, in accordance with parts 1 and 2, Article 45 of the Law of Ukraine "On Prevention of Corruption", shall submit the declaration of a person authorised to perform the functions of state or local government.

Article 172^{-7}. Violation of requirements for prevention and settlement of conflicts of interest

A person's failure to notify, in cases and in the manner prescribed by law, about an actual conflict of interest -

shall entail the imposition of the fine from one hundred to two hundred tax-free minimum incomes of citizens.

Taking actions or making decisions when there is a real conflict of interest -

shall entail the imposition of the fine from two hundred to four hundred tax-free minimum incomes of citizens.

Actions provided for by part 1 or 2, committed by the person who has already been, within the last year, the subject of administrative sanction for the same offences, -

shall entail the imposition of the fine from four hundred to eight hundred tax-free minimum incomes of citizens with the deprivation of the right to occupy certain positions or engage in certain activities for one year.

Note.

1. The subjects of the offence in this Article shall be persons mentioned in Clauses 1 and 2, part 1, Article 3 of the Law of Ukraine "On Prevention of Corruption".

2. In this article, "real conflict of interest" shall mean the contradiction between the private interest of a person and his/her official or representative powers, which affects the objectivity or impartiality of his/her decisions and commitment or non-commitment of actions in the exercise of these powers.

Article 172[-8]. Illegal use of information, which became known to a person due to his/her official powers

Unlawful disclosure or use in any other way of information by a person in his/her personal interest, if such information became known to him/her due to his/her official powers, -

shall entail the imposition of the fine from one hundred to one hundred and fifty tax-free minimum incomes of citizens.

Note. The subjects of the offence in this Article shall be persons mentioned in Clause 1, part 1, Article 3 of the Law of Ukraine "On Prevention of Corruption;"

f) in Article 172[-9]:

in paragraph 2 the words "from fifty to one hundred twenty-five" shall be replaced with the words "from one hundred twenty-five to two hundred and fifty;"

part 2 shall be supplemented to read as follows:

"The same action repeated within a year after the imposition of administrative sanctions -

shall entail the imposition of a fine from two hundred and fifty to four hundred tax-free minimum incomes of citizens;"

g) shall be supplemented with Article 188[-46] to read as follows:

"**Article 188[-46]**. Failure to comply with legal requirements (precepts) of the National Agency on Corruption Prevention

Failure to comply with any legal requirements (precepts) of the National Agency on Corruption Prevention, related to remedy of violations of legislation on preventing and countering corruption; failure to provide information or documents, and violation of legally established time limits for their provision, provision of deliberately false or incomplete information, -

shall entail the imposition of the fine from one hundred to two hundred and fifty tax-free minimum incomes of citizens.

The same actions committed by a person who has already been, within the last year, the subject of administrative sanction for the same offences, -

shall entail the imposition of the fine from two hundred to three hundred tax-free minimum incomes of citizens;"

i) Article 221 after figures "188[-45]" shall be supplemented with the figures "188[-46];"

j) Clause 1, part 1 of Article 255 shall be supplemented with paragraph to read as follows:

"of the National Agency on Corruption Prevention (Article 188[-46]);"

3) Criminal Code of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2001, Nos. 25–26, Article 131) shall be supplemented with Article 366[-1] as follows:

"**Article 366[-1].** Declaring false information

The submission by a subject of declaration of deliberately false information in the declaration of a person authorised to perform the functions of state or local government, in the manner prescribed by the Law of Ukraine "On Prevention of Corruption" or intentional failure by the subject of declaration to submit the said declaration -

shall be punishable by imprisonment for a term to two years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

Note. The subject of the declaration shall be the persons who, in accordance with parts 1 and 2, Article 45 of the Law of Ukraine "On Prevention of Corruption", shall submit the declaration of a person authorised to perform the functions of state or local government;"

4) in the Commercial Code of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2003, Nos. 18–22, Article 144):

a) Article 22 shall be supplemented with part 11 to read as follows:

"11. An economic entity of the state sector of the economy shall implement an anti-corruption programme under procedure established by law;"

b) Article 24 shall be supplemented with part 6 to read as follows:

"6. An economic entity of the communal sector shall implement an anti-corruption programme under procedure established by law;"

5) in the Civil Procedural Code of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2004, Nos. 40–42, Article 492):

a) part 2 of Article 35 shall be supplemented with paragraph 2 to read as follows:

"The National Agency on Corruption Prevention may join as a third party, making no separate claims with respect to the matter in dispute and acting on the side of the plaintiff, in cases when a head officer or employer takes or threatens to take negative measures of influence against a plaintiff (such as dismissal, forced resignation, disciplinary action, transfer, attestation, modification of working conditions, refusal to promote, salary cut, and so on) as a result of the plaintiff or a member of his/her family notifying of a violation of the Law of Ukraine "On Prevention of Corruption" by another person;"

b) paragraph 3, part 1 of Article 60 shall be amended to read as follows:

"In cases when a head officer or employer takes or threatens to take negative measures of influence against a plaintiff (such as dismissal, forced resignation, disciplinary action, transfer, attestation, modification of working conditions, refusal to promote, salary cut, and so on) as a result of the plaintiff or a member of his/her family notifying

of a violation of the Law of Ukraine "On Prevention of Corruption" by another person, the burden of proof regarding whether the decisions or acts were lawful, shall be borne by the defendant;"

6) part 2, Article 53 of the Code of Administrative Procedure of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2005, No. 35–37, Article 446) shall be supplemented with paragraph 2 to read as follows:

"The National Agency on Corruption Prevention may join as a third party, making no separate claims with respect to the matter in dispute and acting on the side of the plaintiff, in cases when a head officer or employer takes or threatens to take negative measures of influence against a plaintiff (such as dismissal, forced resignation, disciplinary action, transfer, attestation, modification of working conditions, refusal to promote, salary cut, and so on) as a result of the plaintiff or a member of his/her family notifying of a violation of the Law of Ukraine "On Prevention of Corruption" by another person;"

7) in the Code of Criminal Procedure of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2013, Nos. 9–13, Article 88):

a) part 1 of Article 155 shall be supplemented with words "and about the removal from office of a member of the National Agency on Corruption Prevention, by the Prosecutor General of Ukraine or his/her deputy;"

b) part 1 of Article 158 after the word "Prosecutor" shall be supplemented with the words "and about a member of the National Agency on Corruption Prevention, by the Prosecutor General of Ukraine or his/her deputy;"

c) part 1 of Article 480 shall be supplemented with Clause 9 to read as follows:

"9) of the member of the National Agency on Corruption Prevention;"

d) Clause 2, part 1 of Article 481 after the words "to the deputies of the Prosecutor General of Ukraine" shall be supplemented with the words "to the member of the National Agency on Corruption Prevention;"

8) in the Law of Ukraine "On Civil Service" (The Official Bulletin of the Verkhovna Rada of Ukraine, 1993, No. 52, Article 490; 2011, No. 41, Article 416; 2013, No. 14, Article 89; 2014, No. 11, Article 132):

{Amendments to the Law (except for amendments to Article 37) has been repealed under Law No. 889-VIII of 10 December 2015}

j) in part 12 of Article 37, the words "liability for an administrative corruption offence related to restrictions prescribed by the Law of Ukraine "On the Principles of Corruption Prevention and Counteraction" shall be replaced with the words "administrative responsibility for a corruption-related offence;"

{Subclause 9, Clause 5 of Section XIII has been repealed under Law No. 2136-VIII of 13 July 2017}

10) in the Law of Ukraine "On Local Self-Government in Ukraine" (The Official Bulletin of the Verkhovna Rada of Ukraine, 1997, No. 24, Article 170 as amended):

a) in Article 55:

part 3 shall be supplemented with words "becoming a member of the board, other executive or supervisory bodies or supervisory board of a company or organisation that seeks profit (unless the persons carrying out the functions of management of shares owned by the state or territorial community and represent the interests of the state or territorial community on the board (supervisory board) or audit committee of the economic organisation);"

paragraphs 1 through 4 of part 5 shall be replaced with one paragraph to read as follows:

"The powers of the head of a raion, oblast, city or district council shall be deemed terminated early without the termination of the councillor's powers if a person applies to the respective council with a request for his/her resignation from the position of council head."

In connection herewith, paragraph 5 shall be considered as paragraph 2;

b) paragraphs 1 to 4, part 4 of Article 56 shall be replaced with a single paragraph of to read as follows:

"4. The powers of the deputy head of a city district or raion council, as well as the powers of the first deputy head of an oblast council shall also be deemed terminated early without termination of the councillor's powers of the respective council if a person applies to the respective council with a request for resignation from the position of deputy (first deputy) of the council head;"

c) shall be supplemented with Article 59^{-1} to read as follows:

"**Article 59^{-1}**. Conflict of Interest

1. A village, settlement, or city mayor, secretary, deputy of village, settlement, or city council, the head, deputy head, councillor of a raion, oblast or district (in a city) council shall take part in the consideration, preparation and making of decisions by the respective council, subject to his/her own public announcement thereto during the sitting of a council where the respective issue is to be heard.

2. Monitoring of compliance with part 1 of this Article, provision to the persons referred to therein of advice and information on prevention and settlement of a conflict of interests, handling of property, which may constitute unlawful benefits or gifts, shall be vested in a permanent commission, designated by the respective council.

Note. The terms "real conflict of interest", "potential conflict of interest", "unlawful benefit", "gift" shall be used in the meaning, specified in the Law of Ukraine "On Preventing Corruption;"

d) in Article 79:

y paragraph 1:

Clause 3^{-1} shall be amended to read as follows:

"3^{-1}) a court decision ordering to hold him/her liable for a corruption-related offence, imposing penalty in the form of deprivation of the right to occupy certain positions or engage in certain activities related to performance of the functions of state or local government;"

Clause 4 shall be deleted;

in part 7:

in Clause 1 the words "part 1" shall be replaced with the words and numbers "Clauses 1, 2, 5, 6 of part 1;"

after Clause 5 a new Clause shall be added to read as follows:

"2) through the reasons listed in Clauses 3, 3^{-1}, part 1 of this Article, as of the day following the day when a council or its executive committee receives the respective court decision without the respective council making a decision."

In connection herewith, Clauses 2 and 3 shall be considered Clauses 3 and 4, respectively;

{Subclause 11, Clause 5 of Section XIII has been repealed under Code No. 396-IX of 19 December 2019}

12) in part 1, Article 62 of the Law of Ukraine "On Banks and Banking" (The Official Bulletin of the Verkhovna Rada of Ukraine, 2001, Nos. 5–6, Article 30 as amended):

Subclause "c" of Clause 4 shall be deleted;

shall be supplemented with paragraph 8 to read as follows:

"8) under the court decision, to the National Agency on Corruption Prevention in relation to the existence and status of accounts and transactions under the accounts of a certain legal entity, an individual or an individual entrepreneur in accordance with the Law of Ukraine "On Prevention of Corruption;"

13) in the Law of Ukraine "On Service in Bodies of Local Self-Government" (The Official Bulletin of the Verkhovna Rada of Ukraine, 2001, No. 33, Article 175; 2010, No. 4, Article 18; 2013, No. 14, Article 89, No. 23, Article 218; 2014, No. 11, Article 132):

a) part 3 and 4 of Article 5 shall be replaced with one part to read as follows:

"As for the persons elected (approved) by the respective council to positions mentioned in Paragraph 3, Article 3 of this Law, and for the persons nominated to positions in local government bodies, mentioned in Paragraph 4, Article 3 of this Law, upon their written consent, a background check shall be made in the manner prescribed by the Law of Ukraine "On Prevention of Corruption;"

b) in Article 12:

Clause 4, part 1 shall be deleted;

in part 2, the words "by the Law of Ukraine "On the Principles of Corruption Prevention and Counteraction" shall be replaced with words "by the Law of Ukraine "On Prevention of Corruption;"

c) Article 12^{-1} shall be amended to read as follows:

"**Article 12^{-1}**. Prevention and resolution of a conflict of interest

Officials of the local government shall comply with the rules for prevention and settlement of a conflict of interest mentioned in the Law of Ukraine "On Prevention of Corruption;"

d) Article 13 shall be amended to read as follows:

"**Article 13**. Financial control

Officials of the local government shall submit a declaration of a person authorised to perform the functions of state or local government, in the manner prescribed by the Law of Ukraine "On Prevention of Corruption;"

e) paragraph 4 of part 1, and part 2 of Article 20 shall be deleted;

14) Article 7, part 1 of Article 5 of the Law of Ukraine "On Status of Deputies of Local Councils" (The Official Bulletin of the Verkhovna Rada of Ukraine, 2002, No. 40, Article 290; 2013, No. 14, Article 89; 2014, No. 11, Article 132) shall be amended to read as follows:

"7) after the entry into effect of a sentence subjecting a person to imprisonment or entry into effect of a judgment holding such person liable for corruption or a corruption-related offence, and when punishment was served or imposed in a form of deprivation of the right to occupy certain positions or engage in certain activities related to performance of the functions of state or local government;"

15) in the Rules of Procedure of the Verkhovna Rada of Ukraine, as approved by the Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine" (The Official Bulletin of the Verkhovna Rada of Ukraine, 2010, Nos. 14–17, Article 133, as amended):

a) Chapter 5 shall be supplemented with Article 31^{-1} to read as follows:

"**Article 31^{-1}.** Restrictions on taking part in discussion of issues at a plenary meeting of the Verkhovna Rada of Ukraine related to the conflict of interest

1. The Member of Parliament shall participate in plenary meetings during discussion of issues where he/she has a conflict of interest, only subject to public announcement thereto during the plenary meeting of the Verkhovna Rada of Ukraine hearing the respective issue;"

b) Article 37 shall be supplemented with part 6 to read as follows:

"6. The Member of Parliament shall participate in voting at plenary meetings during discussion of issues where he/she has a conflict of interest, only subject to public announcement thereto during the plenary meeting of the Verkhovna Rada of Ukraine hearing the respective issue;"

c) part 2 of Article 85 shall be supplemented with paragraph 2 to read as follows:

"The Member of Parliament who faces a real or potential conflict of interest in issues for preparation and preliminary consideration of which the respective commission is created, may not be elected as a member of the temporary special commission. The Member of Parliament nominated by a parliamentary faction (or a group of members of parliament) to membership of a temporary special commission, must notify the Verkhovna Rada about his/her inability to participate in the temporary special commission if the said reason exists;"

d) part 3 of Article 87 shall be supplemented with paragraphs 6 and 7 to read as follows:

"5) shall have, when elected, any other real or potential conflict of interest in relation to issues for investigation of which an appropriate commission is established.

The Member of Parliament who has a real or potential conflict of interest in issues, for which the said commission is created, may not be elected as a member of the temporary investigating commission."

e) in Article 173:

part 4 shall be amended to read as follows:

"4. A candidate for the position of special prosecutor or special investigator shall provide the Verkhovna Rada with an individual card and a declaration of a person authorised to perform the functions of state or local government for the previous year;"

part 6 shall be supplemented with paragraph 2 to read as follows:

"A person who, if elected, faces a real or potential conflict of interest, in relation to issues for investigation of which an appropriate commission is established, may not be elected as a member of the special temporary investigating commission. A person nominated by a parliamentary faction (or a group of members of parliament) to membership of the special temporary investigating commission must notify the respective committee and the Verkhovna Rada about his/her inability to participate in the temporary special investigating commission if the said reason exists;"

16) in the Law of Ukraine "On the Judicial System and Status of Judges" (The Official Bulletin of the Verkhovna Rada of Ukraine, 2010, Nos. 41–45, Article 529; 2013, No. 14, Article 89, No. 38, Article 501; 2014, No. 11, Article 132, No. 23, Article 870):

a) in part 4 of Article 54:

in Clause 6, the words "by the Law of Ukraine "On the Principles of Corruption Prevention and Counteraction" shall be replaced with words "by the Law of Ukraine "On Prevention of Corruption;"

Clause 7 shall be amended to read as follows:

"7) submit a declaration of a person authorised to perform the functions of state or local government, in the manner prescribed by the Law of Ukraine "On Prevention of Corruption;"

b) Article 56 shall be supplemented with part 2 to read as follows:

"2. The Judicial Ethics Commission shall work on the development of the draft Code of Judicial Ethics and amendments to it, consulting judges and resigned judges on problematic issues and giving recommendations on judges' ethical conduct, preventing and regulating conflicts of interests in their activity, preventing unlawful benefits or gifts that are prohibited by law and their handling.

The Council of Judges of Ukraine shall create the Judicial Ethics Commission, develop and approve its regulations. The Judicial Ethics Commission shall exercise its powers on a pro bono basis. The Administrative Office of the Council of Judges of Ukraine shall provide for its operation;"

c) in part 1 of Article 67:

Clause 8 shall be deleted;

after paragraph 11 a new paragraph shall be added to read as follows:

"A candidate for the position of judge shall also submit to the National Agency on Corruption Prevention a declaration of the person authorised to perform the functions of state or local government, in the manner prescribed by the Law of Ukraine "On Prevention of Corruption".

In connection herewith, paragraphs 12 and 13 shall be considered paragraphs 13 and 14;

d) in Clause 7, part 4 of Article 75, the words "by the Law of Ukraine "On the Principles of Corruption Prevention and Counteraction" shall be replaced with words "by the Law of Ukraine "On Prevention of Corruption;"

e) Clause 6, part 1 of Article 83 shall be amended to read as follows:

"6) delayed submission of a declaration of a person authorised to perform the functions of state or local government, in the manner prescribed by the Law of Ukraine "On Prevention of Corruption;"

f) in Article 127:

Article 6^{-1} of part 5 shall be amended to read as follows:

"6^{-1}) control compliance with the legal requirements pertaining to prevention and settlement of a conflict of interest in the activity of the Judges of the Constitutional Court of Ukraine and judges of general jurisdiction, the Chairman and members of the Higher Qualification Commission of Judges of Ukraine, the Chairman of the State Judicial Administration of Ukraine and his/her deputies, shall make a decision on settlement of a real or potential conflict of interest in activities of the said persons (except for cases when the conflict of interest shall be settled in the manner prescribed by procedural legislation);"

after part 5 a new part shall be added to read as follows:

"6. If the judges of the Constitutional Court of Ukraine and the judges of general jurisdiction (except for cases when the conflict of interest shall be settled in the manner prescribed by procedural legislation), the Chairman and members of the Higher Qualification Commission of Judges of Ukraine or the Chairman of the State Judicial Administration of Ukraine, have a real or potential conflict of interest, they shall, no later than the following working day after such conflict arose, notify thereof the Council of Judges in writting."

In connection herewith, parts 6 through 9 shall be considered parts 7 through 10, respectively;

{Subclause 17, Clause 5 of Section XIII has been repealed under Law No. 595-VIII of 14 July 2015}

18) part 6, Article 6 of the Law of Ukraine "On Access to Public Information" (The Official Bulletin of the Verkhovna Rada of Ukraine, 2011, No. 32, Article 314; 2013, No. 14, Article 89; 2014, No. 11, Article 132) shall be amended to read as follows:

"6. Information listed in the declaration of a person authorised to perform the functions of state or local government, submitted under the Law of Ukraine "On Prevention of Corruption", shall not be deemed restricted-access information, except for the information mentioned in paragraph 4, part 1, Article 47 of the said Law;"

19) Article 19 of the Law of Ukraine "On Central Bodies of Executive Power" (The Official Bulletin of the Verkhovna Rada of Ukraine, 2011, No. 38, Article 385; 2014, No. 13, Article 223) shall be supplemented with part 6 and note to read as follows:

"6. If the head of the central executive body has a real or potential conflict of interest, he/she shall, no later than on the following working day, notify thereof the minister. The minister shall direct and coordinate the respective central executive body, except for the head of the central executive body with special status, which shall, in the said case, notify the Cabinet of Ministers of Ukraine.

Following the results of consideration of the said information, the minister directing and coordinating the respective central executive body shall make a decision on taking measures to settle the conflict of interest of the respective central executive body head, and then control their implementation. If the conflict of interest arises for the head of the central executive body with special status, the said actions shall be taken by the Cabinet of Ministers of Ukraine.

Note. The terms "real conflict of interest", "potential conflict of interest" are used in the meaning, specified in the Law of Ukraine "On Prevention of Corruption;"

{Subclause 20, Clause 5 of Section XIII has been repealed under Code No. 396-IX of 19 December 2019}

21) in the Law of Ukraine "On the Cabinet of Ministers of Ukraine" (The Official Bulletin of the Verkhovna Rada of Ukraine, 2014, No. 13, Article 222, No. 22, Article 816):

a) in part 4 of Article 7, the words "by the Law of Ukraine "On the Principles of Corruption Prevention and Counteraction" shall be replaced with words "by the Law of Ukraine "On Prevention of Corruption;"

b) shall be supplemented with Article 45^{-1} to read as follows:

"**Article 45^{-1}.** Conflict of Interest

1. A member of the Cabinet of Ministers of Ukraine shall not use his/her official position for private interest.

2. If a member of the Cabinet of Ministers of Ukraine faces a real or potential conflict of interest, he/she shall, no later than on the following working day, notify thereof the Cabinet of Ministers of Ukraine in writing.

3. A member of the Cabinet of Ministers of Ukraine may not participate in the examination, preparation and decision-making, perform other powers in the issues with regard to which he or she has evident real or potential conflict of interest.

4. If it is impossible to settle the conflict of interest of the member of the Cabinet of Ministers of Ukraine in the manner prescribed by Part Three of this Article and if he/she cannot resolve the conflict of interest alone, the Prime Minister of Ukraine shall apply to the Verkhovna Rada of Ukraine with a recommendation to dismiss the said member of the Cabinet of Ministers of Ukraine (the recommendation about the Minister of Foreign Affairs of Ukraine and the Minister of Defense of Ukraine shall be given subject to the consent of the President of Ukraine).

Note. The terms "real conflict of interest", "potential conflict of interest", "private interest" shall be used in the meaning, specified in the Law of Ukraine "On Prevention of Corruption"

{Subclause 22, Clause 5 of Section XIII has been repealed under Law No. 922-VIII of 25 December 2015}

{Also refer to Clause 6, Section II of Law No. 1975-VIII of 23 March 2017}

6. The Cabinet of Ministers of Ukraine shall:

1) within three months of the effective date of this Law, ensure implementation of the Regulation on the Competitive Selection to Fill Vacancies of the Members of the National Agency on Corruption Prevention and the Rules of Procedures for the respective Competitive Selection Committee;

2) within six months of the effective date of this Law, submit its proposals for consideration of the Verkhovna Rada of Ukraine on the amendment of legislative acts in accordance with this Law;

ensure that all regulatory acts provided for by this Law, except for those provided for by Subclause 1 of this Clause, are properly adopted;

bring its regulatory acts in line with this Law;

ensure that regulatory acts of the ministries and other central executive bodies are brought into conformity with this Law;

establish the National Agency on Corruption Prevention;

3) ensure that the selective competition to fill the vacancies of the members of the National Agency on Corruption Prevention is duly conducted in the manner prescribed by Article 5 of this Law, before this Law comes into force.

{Clause 6 of Section XIII has been supplemented with Subclause 3 under Law No. 198-VIII of 12 February 2015}

President of Ukraine **P. POROSHENKO**

City of Kyiv
14 October 2014
No. 1700-VII

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MONOGRAPH

LEGAL PRINCIPLES OF PREVENTION OF CORRUPTION OFFENSES BY MEANS OF PRIVATE DETECTIVE ACTIVITY IN UKRAINE: ADMINISTRATIVE AND LEGAL ASPECT

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