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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

UKRAINE

**CONSOLIDATED TEXT
OF THE PROVISIONS OF THE CODE ON ADMINISTRATIVE
OFFENSES AND THE CRIMINAL CODE
PROPOSED TO BE AMENDED
BY DRAFT LAW NO. 4561 (OF 27 JANUARY 2021)**

**INCREASING THE LIABILITY OF PUBLIC OFFICIALS
FOR DECLARING INACCURATE INFORMATION
IN THE ASSET DECLARATIONS AND THE FAILURE
TO SUBMIT SUCH DECLARATIONS***

***Unofficial translation**

Consolidated text**of the provisions of the Code on Administrative Offenses
and the Criminal Code proposed to be amended
by draft law no. 4561 (of 27 January 2021)
(increasing the liability of public officials
for declaring inaccurate information
in the asset declarations and the failure to submit such declarations)****Code of Administrative Offences of Ukraine (1984, as amended)****Article 172-6. Violation of financial control requirements**

{Article 172-6 as amended in accordance with Law № 1261-VII of 13.05.2014; in the wording of the Law № 1700-VII of 14.10.2014; with changes made in accordance with the Laws № 1022-VIII of 15.03.2016, № 1774-VIII of 06.12.2016, № 1074-IX of 04.12.2020}

Untimely submission without good reasons of the declaration of the person authorized to perform the functions of the state or local self-government, -

entails the imposition of a fine of fifty to one hundred non-taxable minimum incomes.

Failure to notify or untimely notification of opening of a foreign currency account in a non-resident bank or of significant changes in property status -

entails the imposition of a fine of one hundred to two hundred non-taxable minimum incomes.

The actions provided for in part one or two of this article, committed by a person who during the year was subjected to an administrative penalty for the same violations, -

entail the imposition of a fine of one hundred to three hundred non-taxable minimum incomes of citizens with confiscation of income or remuneration and deprivation of the right to hold certain positions or engage in certain activities for a period of one year.

Submission of knowingly unreliable information in the declaration of a person authorized to perform the functions of the state or local self-government, -

entails the imposition of a fine of one thousand to two thousand five hundred non-taxable minimum incomes.

~~Note. The subjects of declaration in this article are the persons specified in paragraph 1, subparagraphs "a" and "c" of paragraph 2 of part one of Article 3 of the Law of Ukraine "On Prevention of Corruption", which in accordance with parts one, two of Article 45 of the Law of Ukraine "On the prevention of corruption" are obliged to submit a declaration of the person authorized to perform the functions of state or local self-government.~~

"Note. The subjects of offenses in this article (except for offenses defined in parts two and three of this article in terms of failure to notify or late notification of significant changes in property) are persons who in accordance with parts one and two of Article 45 of the Law of Ukraine "On Prevention corruption" are obliged to submit a declaration of a person authorized to perform the functions of the state or local self-government.

The subjects of the offenses defined in parts two and three of this article in terms of failure to notify or late notification of significant changes in property status are the subjects of the declaration, which are officials who hold a responsible and especially responsible position, as

well as the subjects of the declaration who hold positions associated with a high level of corruption risks in accordance with Article 51-3 of the Law of Ukraine "On Prevention of Corruption".

Liability under this article for the submission of knowingly inaccurate information in the declaration of a person authorized to perform the functions of state or local government, in respect of property or other object of declaration, which has value, arises if such information differs from reliable in the amount of 100 to 500 subsistence minimums for workable persons.

Criminal Code of Ukraine (2001, as amended)

Article 45. Exemption from criminal liability in connection with effective repentance

{Article 45 as amended in accordance with Laws № 270-VI of 15.04.2008, № 1698-VII of 14.10.2014, № 198-VIII of 12.02.2015; with changes made in accordance with the Law № 140-IX of 02.10.2019, № 524-IX of 04.03.2020; in the wording of Law № 2617-VIII of November 22, 2018, taking into account the changes introduced by Law № 321-IX of December 3, 2019; as amended in accordance with Law № 1231-IX of 16.02.2021}

A person who for the first time has committed a criminal offense or a negligent minor crime, other than corruption offenses, violations of traffic safety rules or operation of transport by persons who drove under the influence of alcohol, drugs or other intoxicants or were under the influence of drugs that reduce attention and speed of reaction, is released from criminal liability if she sincerely repented after the commission of a criminal offense, actively contributed to the disclosure of the criminal offense and fully compensated for the damage caused by it or eliminated the damage caused.

Note. Corruption criminal offenses in accordance with this Code are criminal offenses under Articles 191, 262, 308, 312, 313, 320, 357, 410, in case of their commission by abuse of office, as well as criminal offenses under Articles 210, 354, 364, 364-1, 365-2, 368-369-2 of this Code.

Note of the translator: the draft law provides that in the note to Article 45 the figures "361-1" shall be replaced by the figures "366-2, 366-3". However, in the current version of the note to Article 45 article 366-1 is not mentioned in the list. This Article was invalidated as unconstitutional by the Constitutional Court of Ukraine in October 2020. It is understood that the existing list should be supplemented by Articles 366-2 and 366-3.

Article 366-2. Declaration of inaccurate information

{The Code is supplemented by Article 366-2 in accordance with Law № 1074-IX of 04.12.2020}

1. Submission by a declaring subject of knowingly false information in the declaration of a person authorized to perform the functions of state or local self-government provided by the Law of Ukraine "On Prevention of Corruption", if such information differs from reliable in the amount of 500 to ~~4000~~ 2000 subsistence minimums, -

shall be punishable by a fine of ~~two thousand five hundred to three thousand~~ three thousand to four thousand tax-free minimum incomes or public works for a term of one hundred and fifty to two hundred and forty hours or restriction of liberty for up to two years with deprivation of the right to hold certain positions or engage in certain activities for up to three years.

2. Submission by a declaring subject of knowingly false information into the declaration of a person authorized to perform state or local self-government functions provided by the Law of Ukraine "On Prevention of Corruption", if such information differs from reliable ones by more than ~~4,000~~ 2000 subsistence minimums for workable persons,

shall be punishable by a fine of ~~3,000~~ four thousand to 5,000 tax-free minimum incomes or community service for a term of one hundred and fifty to two hundred and forty hours, or

restriction of liberty for up to two years or imprisonment for the same period, deprivation of the right to hold certain positions or engage in certain activities for a term up to three years.

Note. The subjects of declaration in this article and article 366-3 of this Code are the persons specified in paragraph 1, subparagraphs "a" and "c" of paragraph 2 of part one of Article 3 of the Law of Ukraine "On Prevention of Corruption", which in accordance with parts one, the second article 45 of the Law of Ukraine "On Prevention of Corruption" are obliged to submit a declaration of a person authorized to perform the functions of state or local self-government.

“Note: The subjects of declaring in this Article and Article 366-3 of this Code are persons who in accordance with parts one and two of Article 45 of the Law of Ukraine "On Prevention of Corruption" are obliged to submit a declaration of a person authorized to perform the functions of the state or local self-government”;

Article 366-3. Failure of the subject to declare the declaration of the person authorized to perform the functions of the state or local self-government

{The Code is supplemented by Article 366-3 in accordance with Law № 1074-IX of 04.12.2020}

Intentional failure of the subject to declare the declaration of the person authorized to perform the functions of the state or local self-government, provided by the Law of Ukraine "On Prevention of Corruption", -

shall be punishable by a fine of two thousand five hundred to three thousand tax-free minimum incomes or public works for a term of one hundred and fifty to two hundred and forty hours, or imprisonment for up to two years with deprivation of the right to hold certain positions or engage in certain activities for up to three years.