

12. Розглянуто кримінальне провадження про обвинувачення за ст.117 КК України. Кременецький районний суд Тернопільської області. <https://kr.te.court.gov.ua/sud1909/pres-centr/news/1429822>.

УДК 343:352:336.7

Farion-Melnyk A. I.

*Doctor of Philosophy in Law, Associate Professor,
Associate Professor at the Department of
Security and Law Enforcement,
West Ukrainian National University*

Ivaniuk V. D.

*Doctor of Philosophy in Law,
Associate Professor at the Department of
Administrative Law and Procedure,
West Ukrainian National University*

ILLEGAL ENRICHMENT AS A DESTROYING FACTOR IN THE STATE'S ECONOMIC SECURITY AND LEGAL STABILITY

The globalisation of the economic and legal sphere facilitates cooperation between law enforcement agencies in detecting and preventing financial crimes. The primary focus of national anti-corruption and law enforcement agencies is the detection of cases of illicit enrichment. Illegal enrichment may be understood not only as the acquisition of funds by criminal means by business entities or individuals, but primarily as offences committed by representatives of public authorities, i.e. representatives of state bodies, local self-government bodies and budgetary institutions. In the vast majority of cases, such crimes are linked to corruption, the misappropriation of state property or its embezzlement. They constitute a systemic and destructive element characteristic of all national economies without exception, which has become particularly evident in the domestic economic system under martial law.

Crimes relating to illicit enrichment constitute one of the largest categories of criminal offences, owing to the difficulty of detecting and establishing them during pre-trial investigations and proving them in court proceedings. Consequently, a significant proportion of offences committed by public officials involving the unlawful acquisition of assets whose value exceeds their official income remain outside the purview of anti-corruption authorities. The difficulty in gathering evidence leads to impunity and creates conditions for further unlawful conduct. However, the public's ever-growing interest in the activities of public officials, the monitoring of their lives, and digital technologies are bringing about a fundamental shift in approaches to determining financial capacity, and a corresponding intensification of anti-corruption bodies' activities. And although the level of crime linked to corruption and other types of offences involving illicit enrichment remains quite high today, and proving such cases is complex and time-consuming, digital and monitoring measures have prompted the improvement of existing and the development of new anti-corruption

legislation. Most often, in international practice, the terms ‘illicit enrichment’, ‘unlawful enrichment’ and ‘illegal enrichment’ are used to describe illicit enrichment. Thus, according to the legal website ‘Law Insider’, illicit enrichment is defined as: ‘a significant increase in the assets of a public official, or any other person, which they cannot reasonably explain in accordance with their income’ [1]. The United Nations Convention against Corruption (UNCAC), specifically Article 20, defines illicit enrichment as: ‘a substantial increase in the assets of a public official which he or she cannot reasonably explain in relation to his or her lawful income’ [10].

The main legal provisions set out in the international regulations and Ukrainian laws governing the issue of illicit enrichment are listed in Table 1.

Table 1

Legal acts governing issues relating to illicit enrichment

| No. | Legal Act | Article | Brief Description of Regulation |
|------------|--|--------------------|---|
| 1 | Criminal Code of Ukraine [2] | Art. 368-5 | Establishes criminal liability for illicit enrichment and unlawful acquisition of assets |
| 2 | Criminal Procedure Code of Ukraine [3] | Arts. 214, 216 | Regulates the procedure of pre-trial investigation |
| 3 | Law of Ukraine “On Prevention of Corruption” [5] | Arts. 46–52 | Establishes the system of electronic asset declarations and control over the income of public officials |
| 4 | Civil Procedure Code of Ukraine [6] | Chapter 12 | Provides for the procedure of civil confiscation of unjustified assets |
| 5 | Law of Ukraine “On the National Anti-Corruption Bureau of Ukraine” [7] | Arts. 3, 16 | Defines the powers of NABU in investigating corruption offences, including illicit enrichment |
| 6 | Law of Ukraine “On the High Anti-Corruption Court” [8] | General provisions | Regulates the functioning of the court that adjudicates cases related to illicit enrichment |
| 7 | Law of Ukraine “On the Prosecutor’s Office” [9] | Arts. 2, 36 | Defines the functions of the прокуратура in procedural supervision in cases of illicit enrichment |
| 8 | Constitution of Ukraine [4] | Art. 62 | Enshrines the principle of the presumption of innocence, applicable in cases of illicit enrichment |
| 9 | United Nations Convention against Corruption [10] | Art. 20 | Recommends that States criminalize illicit enrichment |

However, despite terminological differences regarding the interpretation of illicit enrichment, their aim is to establish a discrepancy between income and expenditure and, consequently, the unlawful origin of assets. The issue of combating crime linked to illicit enrichment in Ukraine is systemic and multifaceted in nature, as it involves a significant number of legal provisions across various branches of law: criminal, anti-corruption, constitutional, administrative and

procedural.

REFERENCES:

1. Illicit enrichment definition. Law insider. URL: <https://www.lawinsider.com/dictionary/illicit-enrichment>
2. Criminal Code of Ukraine: Law of Ukraine No. 2341-III of 5 April 2001. URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text>
3. Criminal Procedure Code of Ukraine: Law of Ukraine No. 4651-VI of 13 April 2012. URL: <https://zakon.rada.gov.ua/laws/show/4651-17#Text>
4. Constitution of Ukraine: Law of Ukraine No. 254k/96-VR of 28 June 1996. URL: <https://zakon.rada.gov.ua/laws/show/254k/96-вр#Text>
5. On the Prevention of Corruption: Law of Ukraine No. 1700-VII of 14 October 2014. URL: <https://zakon.rada.gov.ua/laws/show/1700-18#Text>
6. Civil Procedure Code of Ukraine: Law of Ukraine No. 1618-IV of 18 March 2004. URL: <https://zakon.rada.gov.ua/laws/show/1618-15#Text>
7. On the National Anti-Corruption Bureau of Ukraine: Law of Ukraine No. 1698-VII of 14 October 2014. URL: <https://zakon.rada.gov.ua/laws/show/1698-18#Text>
8. On the High Anti-Corruption Court: Law of Ukraine No. 2447-VIII of 7 June 2018. URL: <https://zakon.rada.gov.ua/laws/show/2447-19#Text>
9. On the Public Prosecutor's Office: Law of Ukraine No. 1697-VII of 14 October 2014. URL: <https://zakon.rada.gov.ua/laws/show/1697-18#Text>
10. United Nations Convention against Corruption of 31 October 2003. URL: https://zakon.rada.gov.ua/laws/show/995_c16#Text

УДК 342.9

Карапетян А.
*аспірант 1 року навчання,
Західноукраїнський національний
університет*

ЦИФРОВІ ПЛАТФОРМИ, МЕДІА ТА МЕДІАГРАМОТНІСТЬ ЯК СКЛАДОВІ МЕХАНІЗМУ АДМІНІСТРАТИВНО-ПРАВОВОГО ЗАБЕЗПЕЧЕННЯ ПУБЛІЧНИХ ЗАКУПІВЕЛЬ В УКРАЇНІ

У сучасних умовах цифрової трансформації публічного управління соціальні мережі та різноманітні цифрові платформи набувають вагомого значення як інструменти комунікації, поширення інформації та забезпечення прозорості діяльності органів влади. Сфера публічних закупівель, як одна з ключових у контексті ефективного використання бюджетних коштів і запобігання корупції, дедалі більше інтегрується у цифровий простір, що зумовлює необхідність належного адміністративно-правового регулювання відповідних процесів. Використання соціальних мереж і цифрових платформ сприяє розширенню можливостей громадського контролю, оперативному інформуванню зацікавлених сторін та підвищенню рівня підзвітності замовників закупівель. Водночас така цифровізація актуалізує низку правових