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THE PROBLEMATICAL QUESTIONS OF CORRUPTION CRIMES

The legislative bases of state anti-corruption policy of Ukraine are investigated in this article. The disparities and non-agreements of the provisions of some standards are analysed here, in particular the provision of Criminal convention about combating against corruption (ETS 173) from the 27th of January, 1999, according to the Law of Ukraine “About the prevention of the corruption” from the 14th of October, 2014 # 1700 - VII and the issue XVII of Special part of the Criminal Code of Ukraine “Crimes in the sphere of official and vocational activities, that is connected with provision of public services”.

Being analysed the list of the corruption crimes, that was mentioned in the remark of the 45 article of the Criminal Code of Ukraine, foreseen by articles 191 “ Conversion, misapplication of property or its acquisition by means of official duties abusing”, 262 “Stealing, conversion, exaction of firearms, ammunition, explosive substances and radioactive materials or their acquisition by means of fraud or official duties abusing”, 308 “ Stealing, conversion, exaction of narcotics, psychotropic substances or their analogues or else their acquisition by means of fraud or official duties abusing”, 312 “Stealing, conversion, exaction of precursors or their acquisition by means of fraud or official duties abusing”, 313 “Stealing, conversion, exaction of the equipment that is intended for making narcotics, psychotropic substances or their analogues or their acquisition by means of fraud or official duties abusing and other illegal acts with such equipment”, 320 “The fixed rules infringement of narcotics, psychotropic substances or their analogues or precursors

circulation”, 357 “Stealing, conversion, exaction of the documents, stamps, seals, their acquisition by means of fraud or official duties abusing or their damage”, 410 “Stealing, conversion, exaction of firearms, ammunition, explosive or other fighting substances, means of transportation, military and special equipment or other military stores by a serviceman and also their acquisition by means of fraud or official duties abusing”, in case if they were committed by means of official duties abusing, and also the actions that were foreseen by the articles 210 “Equivocal using of the budgetary funds, making the budget spending or extending credits from the budget without prescribed budget assignments or with their exceeding”, 354 “The bribe of the company, enterprise or organization employee”, 364 “Authority and official duties abusing”, 364-1 “Abusing of the juridical person's authority of private law by the official independently of organizational legal form”, 365-2 “Abusing of the authorities of the persons who provide public services”, 368 - 369-2 of the Criminal Code of Ukraine.

Proving that in spite of positive features and importance of fixing corruption crimes in the Criminal Code of Ukraine there are still problematical questions of their classification as for the analysis of corruption and corruption delinquency concept. Turning attention to the absence of the indication at the person as the general individual of the corruption delinquency in the list of the individuals of corruption delinquency, that was foreseen in the Law of Ukraine “About the prevention of the corruption” from the 14th of October, 2014, and this individual, according to the corruption conception, can suggest and guarantee undue benefit. At the same time the crimes, that hold the general individual as a legislator, have been referred to the corruption crimes incorrectly (CCU art.354 p.1, CCU art. 368-3 p. 1, CCU art. 368-4 p. 1, CCU art. 369, CCU 369-1 p. ¹⁾.

Researchers' viewpoints are analysed critically, if they say that the lucrative impulse is obligatory presence in the overwhelming majority of the corruption crimes, in particular, foreseen in the articles 191, 354, 357, 364, 364-1, 365-2, 368, 368-2, 368-3, 368-4,

369-2 p. 2 and p. 3 of the Criminal Code of Ukraine. Simultaneously some constituent elements of crimes, such as: art. 210, art.320, art. 357 p. 1 of the Criminal Code of Ukraine may not have got the purpose of getting undue benefit or the lucrative impulse.

Besides mentioned disagreements of anti-corruption legislation attention paying to the legislative gaps, in particular, the null Law of Ukraine “About the prevention basis and counteractions of the corruption”[9] was declared in the remark to the art. 369-2 of CCU instead of necessary valid “About the prevention of the corruption”from the 14th of October, 2014. The absence of the reference to the Law of Ukraine “About the prevention of the corruption”from the 14thof October, 2014, doesn't allow to impose the list of people as for the legislative level, authorized to fulfill the functions of the state. The actions classification of the individual of crime, mentioned in the art.369-2 of CCU, is impossible without it. In this case for people who committed a crime, foreseen in the art. 369-2 of CCU till the 14th of October, should use retroactive force in the time of law, that rescind the criminality of the action, extenuate criminal amenability or in other way improve the status of the person, foreseen in the art. 5 of Criminal Code of Ukraine.