

SECRETARIAT GENERAL

**DIRECTORATE GENERAL
HUMAN RIGHTS AND RULE OF LAW**



DGI(2013) 7
Strasbourg, 17 May 2013

OPINION OF THE DIRECTORATE GENERAL HUMAN RIGHTS AND RULE OF LAW

**Information Society and Action against Crime Directorate
Action against Crime Department
prepared on the basis of the expertise by Mr Alan Bacarese**

ON

Draft Law “On amendment of the Criminal Code and the Code of Criminal Procedure of Ukraine as regards the improvement of procedure for forfeiture”

Table of contents

1. Executive Summary	3
2. Introduction and Overview	5
3. Examination of the Key Legal Provisions	7
4. Other Key Provisions	10
5. Conclusions and list of recommendations	12
6. Appendix I	13
6.1 Draft Law “On amendment of the Criminal Code and the Code of Criminal Procedure of Ukraine as regards the improvement of procedure of forfeiture”	14
6.2 Appendix: Draft amendments to be introduced to the Criminal Code of Ukraine and Criminal Procedure Code of Ukraine by the Law of Ukraine “On Special Confiscation”	24

1. EXECUTIVE SUMMARY

At the request of the Ukrainian authorities, the present opinion assesses the compliance of the Draft Law “On amendment of the Criminal Code and the Code of Criminal Procedure of Ukraine as regards the improvement of procedure for forfeiture” (hereinafter “the Draft Law”) with the Council of Europe and other international standards on confiscation of proceeds of crime.

The current efforts of the Ukrainian authorities to introduce amendments to the Criminal Code (CC) and Criminal Procedure Code (CPC) with regard to the confiscation of criminal proceeds are to be supported. However, Ukraine has to be conscious of the need for clear and precise definitions of the key components of such a law in order to ensure compliance with the international norms in this field. Furthermore, given the swift legislative changes that are currently taking pace in Ukraine there is a fear that such efforts might contribute to lack of legal certainty. As an example, it should be noted that in the recent legislative amendments, and in the Draft Law itself, seems to be a lack of cross-referencing to other laws in force, therefore lacking a necessary level of consistency, which is important in such initiatives.

This opinion considers the new Draft Law in the context of the Council of Europe (CoE) Convention of 1990 on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the 2005 CoE Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism and other relevant international documents.

The key recommendations that emerge from this opinion are as follows:

1. In the main provision of Article 96 of the Criminal Code entitled “Special confiscation”, there is no explanation of the difference between a crime and a “socially dangerous” act, given that under Article 11 of the Criminal Code these two terms have one and the same meaning and one is defined through the other.

Recommendation 1 – the Draft Law amendments should be clear in their terminology in terms of their consistency with the basic concept of a crime as already defined by the Criminal Code.

2. In Article 96 (2) “Cases when special confiscation is applied” the provision mentions how “special confiscation is applied when money, valuables or other property, 1) were acquired as a result of committing a crime and/or are profits from such property”. There is no reference at this important juncture as to whether or not indirect proceeds of crime are also captured by the Draft Law. It appears not.

Recommendation 2 – the Draft Law should be amended to reflect with certainty that it also covers situations where the indirect acquisition of proceeds or assets is criminalised.

3. At Article 96 (3) the Draft Law provides for “special confiscation” in circumstances when the person is “not subject to criminal responsibility because of non-attainment of the age at which the criminal responsibility may be applied” or “because of irresponsibility”.

A legal provision that seeks to extend a confiscation regime, which is drafted as a penal measure, to minors or those not fit to stand trial for reasons of mental incapacity, which is what is assumed is meant by the phrase “irresponsibility”, will be challenged before the courts as being in breach of the international standards on human rights.

Recommendation 3 – there should be much clearer language used in the above Article to clarify precisely what it is intending to achieve. If indeed it intends to extend the confiscation regime as described, then that will open the Article, and perhaps the draft law, up to judicial challenge as such measures cannot be consistent with international human rights law.

4. Article 96 (3) also provides for special confiscation to be applied to circumstances where the individual is discharged from criminal liability on the grounds foreseen by this Code. This phrase

does not appear to be further clarified in any material provided by the Ukrainian authorities but does seem to suggest a desire to implement an *in rem*, or a non-conviction based, confiscation system.

Recommendation 4 – the Draft Law should clarify what this provision means and if it is an *in rem* or non-conviction based system then it should be made clear. If this is indeed the intention of the legislator then there should be explicit criteria set out, or properly cross referenced, to ensure that the provision is clear. Such provisions despite being a useful tool are often the subject of considerable judicial scrutiny, including again international human rights standards on the right to property, for example¹.

5. Article 96 (4) describes how the confiscation regime will also apply to transfers by the suspects to a legal person. There is no detail provided as to how one challenges transfers into legal persons, or companies and other non-natural person structures. There is no cross reference to any provision on the liability of the legal person.

Recommendation 5 – the Draft Law needs to be clear how the confiscation regime can trace transfers of proceeds of crime into a legal person and cross reference to appropriate sections of the CC or CPC that deal with the liability of legal persons. If there is no such provision then it largely leaves this text as redundant in law. If there is such a provision Ukraine must issue guidance as to how it intends to achieve this difficult process.

6. Neither the Criminal nor the Criminal Procedure Code currently seem to provide for the seizure and confiscation of property without prior notice.

Recommendation 6 – the Draft Law should allow provisional measures, such as seizure to be carried out without prior notice in order to prevent any dealing, transfer or disposal of property subject to confiscation.

7. Article 96 (5) states that special confiscation shall not be applied to proceeds which shall be restituted to the “owner or legitimate holder” of the proceeds. This is an important check and balance but neither does this Article nor Article 91 (2) of the CPC, which deals with levels of proof necessary to establish that proceeds are the product of criminal offending, provide any real clarity on how a third party proves their legal title and *bona fide* status.

Recommendation 7 – the Draft Law and appropriate sections of the CPC should make clear the process as to how third parties prove their lawful title and *bona fide* status to suspected proceeds and whether in fact the State carries the burden of proof in such circumstances.

8. Article 167 of the Code of Criminal Procedure which deals with provisional seizure of property does not appear to propose any structure to manage those assets or proceeds that have been placed under provisional freezing orders.

Recommendation 8 – the Draft Law should have considered some provision for a means of managing assets and proceeds that are placed under a provisional freezing, or restraint, order. In these early phases it is important that assets, particularly if they are perishable or difficult to manage, such as a business, and may lose value very quickly, are properly managed. In many jurisdictions there are designated departments within the judiciary or the prosecutor’s office, or even entirely separate offices, which have this responsibility.

9. The Draft Law is silent on key areas such as international cooperation, the identification of which agencies will assume which roles in the confiscation of criminal proceeds, whether any new

¹ ECHR Protocol 1 Article 1 – Protection of Property– see <http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/The+Convention+and+additional+protocols/The+European+Convention+on+Human+Rights/>.

or specialised agency might be created to achieve these aims and what resources and training will be provided to allow such complex provisions to be brought to life.

Recommendation 9 – the Draft Law, either in specific articles or in appropriate text elsewhere, should also articulate in clear terms how the Ukrainian authorities intend to implement the complex provisions that are contained in the new Draft Law and amendments to the CC and CPC and which agencies will be given the mandate to undertake the tasks created, and how it intends to provide sufficient funding and resourcing to allow such agency/ies to perform effectively.

2. INTRODUCTION AND OVERVIEW

By letter of 5 March 2013 addressed to the Director General of Human Rights and Rule of Law, the Ukrainian authorities requested the Council of Europe to provide an opinion on the compliance of the Draft Law “On amendment of the Criminal Code and the Code of Criminal Procedure of Ukraine as regards the improvement of procedure for forfeiture” with the Council of Europe and other international standards. It is solely based on the English translations of the Draft Law and comparative table with the proposed amendments (see Appendix I), as well as the Criminal and Criminal Procedure Codes provided by the Ukrainian authorities. The opinion analyses those parts of the Criminal and Criminal Procedure Codes which are expressly affected by the amendments. Thus, it does not assess these Codes in their entirety, or whether other parts of them should have been amended as well.

The opinion has been prepared on the basis of expertise by Mr Alan Bacarese (United Kingdom), Council of Europe expert. This opinion considers the Draft Law in the context of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (CETS 141 - "the 1990 Convention") and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (CETS 198 – “the 2005 Convention”) and other relevant international documents.

The Draft Law purports to make extensive amendments across the relevant articles of the Criminal Code and Criminal Procedure Code to enhance the capability of the Ukrainian state to recover the proceeds of crime. The Draft Law aims to streamline the existing domestic confiscation regime and is yet to be enacted. It also deals with the instrumentalities of crime and a number of important provisional measures.

Ukraine has embarked in recent years upon an extensive exercise in penal reform. The national criminal legal framework of Ukraine is based on the Constitution, the Criminal Code and the Criminal Procedure Act. Although the CC came into force on 1 September 2001 progress is being made in efforts to modernize the legal foundation. A new CPC was adopted by the Parliament on 13 April 2012 and entered into force on 20 November 2012. Key amendments have also been made to, for example, the Law No. 3207-VI “On amendments to several legislative acts concerning liability for corruption offences”, as well as Law No. 3206-VI “On the Principles of Preventing and Combating Corruption”. Both laws came into force on 1 July 2011. Other specific laws include the Law on Prevention and Counteraction to Money Laundering (in force since August 2010) and the Law on Special Investigative Techniques.

However, in the context of reforming the law on the confiscation of the proceeds of criminal activity this seems to have been more problematic.

In the last ten years there has been a real movement internationally towards creating more effective systems to recover the proceeds of crime. The passing into international law of the UN Conventions against Corruption (UNCAC) and t against Transnational Organised Crime, (UNTOC) for example, as well as a raft of EU initiatives have given unprecedented momentum to a move towards greater efforts to recover the proceeds of crime, and corruption in all its various guises in particular.

The Council of Europe's two key Conventions - "the 1990 Convention" and "the 2005 Convention", remain pertinent reference points for such efforts and has both been ratified by Ukraine. The Conventions contain clear provisions on money laundering but also key provisions on search, seizure and confiscation of the proceeds of crime. The following are some examples of the key confiscation provisions of the 2005 Convention²:

Chapter III, Section 1,

Article 3 – Confiscation measures

1. *Each Party shall adopt such legislative and other measures as may be necessary to enable it to confiscate instrumentalities and proceeds or property the value of which corresponds to such proceeds and laundered property.*

2-4...

Article 4 – Investigative and provisional measures

1. *Each Party shall adopt such legislative and other measures as may be necessary to enable it to identify, trace, freeze or seize rapidly property which is liable to confiscation pursuant to Article 3, in order in particular to facilitate the enforcement of a later confiscation.*

Article 5 – Freezing, seizure and confiscation

1 *Each Party shall adopt such legislative and other measures as may be necessary to ensure that the measures to freeze, seize and confiscate also encompass:*

- a the property into which the proceeds have been transformed or converted;*
- b property acquired from legitimate sources, if proceeds have been intermingled, in whole or in part, with such property, up to the assessed value of the intermingled proceeds;*
- c income or other benefits derived from proceeds, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled, up to the assessed value of the intermingled proceeds, in the same manner and to the same extent as proceeds.*

The obligations under the 2005 Convention, and to an extent the earlier 1990 Convention, are clear and mirror many of the key obligations under UNCAC and UNTOC and other relevant international legal norms. Article 3 of the 2005 Convention requires the States parties to the Convention to create a legal structure that provides for the confiscation of proceeds of crime, instrumentalities and proceeds or property the value of the proceeds. It also provides a legal remedy to provisionally freeze, or "lock-down" proceeds in all their manifestations as a means of securing assets for future confiscation orders. Ukraine's efforts to provide a structure for provisional orders are dealt with under Article 167 of the CPC.

Article 4 provides a critical focus on the need for investigative and provisional measures to assist in the identification of such proceeds and to prevent their dissipation. This aspect of the struggle to identify and secure proceeds for a seizing order, and eventually confiscation, is often missed or simply not fully understood in many legal systems. It remains a core part of any effort to establish an effective system of recovery to the proceeds of crime. This element of the equation appears to be missing from the current Ukrainian reforms, or certainly it is not apparent from the materials provided by the Ukrainian authorities³.

Article 5, a thoughtful provision, identifies the problems that exist in any proceeds of crime legislation that has to deal with those assets into which the assets have been converted or where there has been some intermingling of proceeds with other assets.

² A full copy of the Convention can be found at:

<http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=198&CL=ENG>

³ Article 7 – Investigative powers and techniques – of the 2005 Convention provides more detailed provisions on ideally what a Convention signatory should aspire to.

3. EXAMINATION OF THE KEY LEGAL PROVISIONS

Despite the international initiatives in place, these are largely ineffective without some level of sincere effort at a national level to deal with the issues that are raised in this complex area. Any national government determined to create a fair and just society has to tackle the proceeds of crime and ensure that crime does not pay. The proceeds of crime remain the financial lifeblood of all criminal activity and organised crime in particular – without the opportunity to make money and profit most crime would largely disappear.

There has been a growing realisation in the last ten years that leaving illegal assets in the hands of criminals is not an option as it funds further criminal activity, leading to a cycle of crime that plagues entire societies. Allied to this realisation is the recognition that the prosecution of criminals is no longer enough. To leave criminals with their illegally acquired gains leaves them free to return to their criminal enterprises, and eventually it undermines the rule of law.

Many national governments have been slow in tackling the proceeds of crime issue. For many it has been either the complexity of the task in hand or simply a lack of genuine political will, or indeed both. As a result many criminal justice systems have to date been ill equipped to deal with proceeds of crime. Typically, courts have been reluctant or simply ignorant of powers to order the recovery of assets following conviction.

Ukraine's commitment to enacting a new legal and procedural structure for the recovery of the proceeds of criminal activity is a positive momentum. It is unknown what the track record of the law enforcement community in Ukraine to date has been in using the old legal procedures but one assumes that the rate of recovery of assets has been slow.

With regard to the specific new draft law amendments it is perhaps noteworthy that that Ukraine has chosen to make specific amendments to the existing CC, Chapter XIV, Other Measures of Criminal Legal Nature , rather than a free standing law on the issue.

It appears that Article 96 of the CC is a supplement to the CC and sets the outline of the amendments that follow. Any confiscation regime should be organised around the concept of the confiscation of proceeds of crime, and should aim to provide a power to confiscate any property that is derived from or obtained, directly or indirectly, following the commission of an offence. With these criteria in mind Article 96 of the CC reads as follows:

Article 96

Special confiscation

1. Special confiscation is a compulsory non-compensated seizure into the state ownership of money, valuables and other property, based on court decision in cases defined by this Code and provided a crime or socially dangerous act with elements of a crime foreseen by the Special Part of this Code is committed.

Article 96

Cases when special confiscation is applied

- 2. The special confiscation is applied when money, valuables or other property*
- 1) were acquired as a result of committing a crime and/or are profits from such property;*
 - 2) were intended (used) to convince a person to commit a crime, to finance and/or to materially support a crime or to financially reward its committing;*
 - 3) were objects of a crime excluding those to be returned to the owner or legitimate holder or, when they were not identified, become the property of the state;*
 - 4) were found, manufactured, adapted or used as means or tools for committing a crime except those to be returned to the owner who did not know and might not know about their illegal use.*

What appears to be clear from the outset is that Ukraine has opted for an object-based criminal confiscation system, as opposed to a possible value-based confiscation system.

The structure of the provision appears to provide for confiscation of the proceeds of crime to be a criminal sanction as opposed to any form of reparative or restorative measure, and does not seem to provide for any civil forfeiture, or *in rem* procedure where the emphasis is upon seizure of the proceeds themselves regardless of a criminal proceeding against an individual.

Object confiscation systems are built upon the relationship between the offence and the property and it constitutes a transfer of property to the State, while value confiscation consists of an imposition to pay a certain amount of money, usually equivalent to the undue advantage or benefit from criminal conduct, in whatsoever form it is given or received. An object-based system also has procedures for the confiscation of the instrumentalities of crime.

The only problem with enacting the object-based criminal confiscation system is that the state can struggle to seize and confiscate proceeds that have been consumed or spent or where they cannot be traced, will escape confiscation. There may also be a situation in which the suspect conceals the proceeds within a company or legal entity. In such circumstances the suspect can relatively easily transfer proceeds and therefore no longer be technically in possession. This then begs a question about the sufficiency of corporate criminal liability and whether it is drawn in a narrow manner that might prevent the state from seeking to seize and confiscate the proceeds.

What is also notable is the use of language by Ukraine in creating the key provisions. There is no explanation as to what "special confiscation" is and how it might differ from "confiscation". There appears to be some confusion in the use of terms that merits some further explanation. Furthermore, one assumes that the phrase "*provided a crime or socially dangerous act with elements of a crime foreseen by the Special Part of this Code is committed*" receives some further clarification in the CC or CPC.

2. In case when money, valuables and other property mentioned in paragraph 1 of this Article were in full or in part converted into another property, the fully or partially converted property shall be subject to the special confiscation. If at the time of the court decision on special confiscation the confiscation of money, valuables and property mentioned in paragraph 1 of this Article is not possible because of consumption or impossibility to separate from other property acquired legally, or disposal or because of other reasons, the court shall take the decision to confiscate the amount of money equal to the value of such property.

Paragraph 2 appears to create a system of value based recovery. Critically a value based confiscation system can be enforced against money or assets that may not be directly connected in any way with criminal activity, but rather acquired with the criminal proceeds. The importance is that as a result there is no need to trace the exact assets obtained through the offence but rather to determine what value may have been gained and confiscate that value from any available assets that belong to the suspect or over which the offender exercises some level of control.

Furthermore, as collection rates are traditionally quite low in many countries with proceeds of crime laws in place, in part because suspects set out to obstruct and overturn the effect of restraint and confiscation orders, the use of value based tools can improve collection rates.

Value based confiscation systems have become popular as a result in many countries although many jurisdictions of a civil law legal tradition, such as Ukraine, have tended to see a value based confiscation system as a subsidiary alternative to more traditional object based confiscation systems. Adopting both systems and using them alternatively represents a sensible use of the legal tools that are available.

3. Special confiscation shall be applied also in the cases when a person is not subject to criminal responsibility because of non-attainment of the age at which the criminal responsibility

may be applied, or because of irresponsibility or is discharged from criminal liability on the grounds foreseen by this Code.

It is very rare to see confiscation regimes extended to minors. This is also true of someone who is not fit to stand trial for reasons of mental incapacity, for example, which is what is assumed to be meant by the phrase “irresponsibility”. Such measures are unlikely to survive human rights challenges which the Ukrainian authorities must be aware of.

The phrase “discharged from criminal liability on the grounds foreseen by this Code” is important as it suggests that Ukraine intends to implement an *in rem*, or a non-conviction based, confiscation system. *In rem* or non-conviction based forfeiture systems, as they are also known, do not require a formal criminal conviction of the suspect and are growing in popularity⁴. They can be a very valuable tool for recovering the proceeds and instrumentalities of any crime, particularly in cases where the proceeds are transferred abroad, or when the suspect is dead, has fled the jurisdiction, or is immune from prosecution. This is important in the more challenging cases such as those involving serious corruption allegations involving high level public officials.

4. *Money, Valuables and other property mentioned in this Article, transferred by the person who committed a crime or a socially dangerous act foreseen by the Special Part of this Code, to another physical or legal person shall be subject to the special confiscations in case the person who acquired the property knew or should have known that such property had been acquired as a result of committing a crime or a socially dangerous act with elements of a crime.*

This provision covers the passing of “property” to others, which is a sensible provision to have in place so that legal title cannot pass to others who have some level of culpable knowledge. The addition of “*or should have known*” is particularly important as many third parties plead ignorance of the material facts but often have a level of knowledge, in a sense turning a blind eye to the truth, which does not negate responsibility or indeed liability. It is undoubtedly true that the ability to deprive a criminal of the home that he built for his family, if the proceeds of crime, has a truly powerful effect upon serious criminals.

It would be helpful to know what provisions exist under the Ukrainian CC and CCP on the liability of legal persons as the provision makes reference to the transfer to a legal person (see recommendation 5).

5. *Special confiscation shall not be applied to money, valuables and other property mentioned in this Article which, according to the law, shall be restituted to the owner or legitimate holder or intended for the compensation of damages caused by crime.*

The provision is an important counter balance in the general sweep of powers in any proceeds of crime law. The ability of those to whom title passes in acquiring assets that may be the proceeds of criminal activity to contest their confiscation based on bona fide grounds is important. The paragraph does not though seem to propose any particular system that assesses whether the title has passed to the owner of the property in a bona fide manner. One assumes that there will be a procedure in place that allows the state to at least ask the question of the current holders of title so as to establish that they have acquired the proceeds in a bona fide manner.

⁴ See the NCB guide at the World Bank/StAR - <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/0,,contentMDK:22013562~pagePK:64168445~piPK:64168309~theSitePK:286305,00.html>.

4. OTHER KEY PROVISIONS

Article 96 appears to have the effect of superseding all previous references to any form of confiscation across many articles of the CC, as provided by the Ukraine government.

The CPC also has a number of key amendments that support the CC (text in bold denotes the proposed amendments).

Article 91. Circumstances to be proved in criminal proceedings

1. The following shall be proved in criminal proceedings:
 - 1) occurrence of criminal offence (when, where, how a criminal offence has been committed and under what circumstances);
 - 2) degree of guilt of the accused in the commission of criminal offence, form of guilt, motive and purpose of the criminal offense;
 - 3) type and amount of damage caused by criminal offence, as well as amount of procedural expenses;
 - 4) circumstances which aggravate, mitigate the committed criminal offense, characterize the person of the accused, toughen or mitigate punishment, preclude criminal liability or shall be grounds for terminating the criminal proceedings;
 - 5) circumstances that shall be grounds for relief from criminal liability or punishment;
 - 6) **circumstances that prove that money, valuables or other property that is subject to special confiscation were acquired as a result of committing a crime and/or are profits from such property; or were intended (used) to convince a person to commit a crime, to finance and/or to materially support a crime or to financially reward its committing; or were objects of a crime including crimes related to illegal circulation of such property; or were found, manufactured, adapted or used as means or tools for committing a crime.**
2. Proving consists in collecting, examining and evaluating evidence in order to establish circumstances that are important for criminal proceedings’.

Paragraph 6 is essentially a repeat of the wording in Article 96 of the CC. Article 91 (2) does however provide some insight into the requisite levels of proof needed to establish that proceeds are the product of criminal offending. “Proving” is described as *(2) ...Proving consists in collecting, examining and evaluating evidence in order to establish circumstances that are important for criminal proceedings.*

This does not make it clear as to whether there are any circumstances in which the prosecutor or the judge can invoke a reversal of the burden of proof to assist in this identification process. Indeed any reading of the above paragraph suggests that the entire burden rests upon the state.

This is likely to be problematic in cases where suspects have deployed sophisticated means to attempt to disguise their treatment and disposal of assets. Many jurisdictions have devised strategies that in certain difficult circumstances and in order to facilitate the determination of the origin of proceeds can reverse the burden of proof thus requiring the party laying claim to an asset suspected to be the proceeds of a crime to prove their lawful ownership of the asset, albeit usually to a lesser standard than that required of the prosecutor. A reversal of the burden of proof in such circumstances needs to be distinguished from a reversal of the burden of proof regarding the elements of the offence, which is directly linked with the presumption of innocence.

Article 167. Grounds for provisional seizure of property (shaded emphasis added)

“1. Provisional seizure of property means actual deprivation of the suspect or of the holder of the property mentioned in paragraph 2 of this Article of the possibility to possess, use, and dispose of the property till the issue of attachment or return of property is decided.

2. The property in the form of objects, documents, money, etc. may be provisionally seized if there is sufficient grounds for the belief that such property:

- 1) has been found, fabricated, adapted, or used as means or instruments of the commission of criminal offence and/or preserved signs of it;
- 2) was intended (used) to induce a person to the commission of criminal offence, or to finance and/or provide material support to or as a reward for its commission;
- 3) has been a subject of a criminal offence including those related to its illegal circulation;

4) has been gained as a result of commission of criminal offence and/or is proceeds of such, including the property to which it was converted”.

A vital complement of any policy aimed at depriving offenders from the proceeds of their illegal actions is a system of preliminary measures to seize, freeze or otherwise immobilize property for the purposes of a subsequent confiscation. Article 167 provides for the provisional seizure of proceeds of crime until *‘the issue of attachment or return of property is decided’*. The provision is seemingly broad in its scope.

The 2005 Convention also requires implementing systems to have in place a system of administering property and other proceeds until a court or other competent authority decides its fate. The Ukrainian law remains silent on the issue of the management of confiscated assets. The international norms are not. Article 6 of the 2005 Convention on the “Management of frozen or seized property” provides that;

Each Party shall adopt such legislative or other measures as may be necessary to ensure proper management of frozen or seized property in accordance with Articles 4 and 5 of this Convention.

A system that purports to confiscate the proceeds of crime requires a policy and a legal structure to match in place to ensure that such assets are managed in an effective manner thus preserving their value.

Furthermore, the Draft Law and its numerous amendments also appear to be missing other key issues.

For example, there is no reference at all to international cooperation mechanisms. Much of the profit from serious crime is moved overseas. It is typically invested in bank accounts, properties and other assets. This problem is increasing with the ease of global transactions and simply serves to create complexity and delay in any investigations.

Furthermore, there is almost no reference to which agencies will undertake this confiscation work. The experience of other jurisdictions is that pursuing confiscation more rigorously, including the establishment of a dedicated agency for that purpose, suggests that such initiatives rapidly cover their costs and begin generating an operating surplus. For example, the US Asset Forfeiture Reinvigoration Programme has returned a surplus of up to €120 million annually. In view of the relatively small net increases in budgetary costs anticipated in creating such dedicated bodies, and the potential benefits in terms of contributing to increased fairness and confidence in the rule of law, increased efficiency of policing and reduced overall long-term growth in acquisitive crime, a specialised agency may well prove to be cost effective.

5. CONCLUSIONS AND LIST OF RECOMMENDATIONS

The current efforts of Ukrainian authorities to introduce amendments to the Criminal and Criminal Procedure Codes with regard to the confiscation of criminal proceeds are to be supported. For compliance with the Council of Europe and other international standards it is recommended to consider and incorporate the following key aspects:

Recommendation 1 – the Draft Law amendments should be clear in their terminology in terms of their consistency with the basic concept of a crime as already defined by the Criminal Code.

Recommendation 2 – the Draft Law should be amended to reflect with certainty that it also covers situations where the indirect acquisition of proceeds or assets is criminalised.

Recommendation 3 – Wording of Article 96 (3) should be made much clearer in order to clarify precisely what it is intending to achieve. If indeed it intends to extend the confiscation regime as described, then that will open the Article, and perhaps the Draft Law, up to judicial challenge as such measures cannot be consistent with international human rights law.

Recommendation 4 – Clarify whether Article 96 (3) intends to implement an *in rem* or non-conviction based confiscation system and if it does, there should be explicit criteria set out, or properly cross referenced, to ensure that the provision is clear. Such provisions despite being a useful tool are often the subject of considerable judicial scrutiny, including again international human rights standards on the right to property, for example.

Recommendation 5 – the Draft Law needs to be clear how the confiscation regime can trace transfers of proceeds of crime into a legal person and cross reference to appropriate sections of the CC or CPC that deal with the liability of legal persons. If there is no such provision then it largely leaves this text as redundant in law. If there is such a provision, the Ukrainian authorities must issue guidance as to how they intend to achieve this difficult process.

Recommendation 6 – the Draft Law should allow provisional measures, such as seizure to be carried out without prior notice in order to prevent any dealing, transfer or disposal of property subject to confiscation.

Recommendation 7 – the Draft Law and appropriate sections of the CPC should make clear the process as to how third parties prove their lawful title and *bona fide* status to suspected proceeds and whether in fact the State carries the burden of proof in such circumstances.

Recommendation 8 – the Draft Law should have considered some provision for a means of managing assets and proceeds that are placed under a provisional freezing, or restraint, order. In these early phases it is important that assets, particularly if they are perishable or difficult to manage, such as a business, and may lose value very quickly, are properly managed. In many jurisdictions there are designated departments within the judiciary or the prosecutor's office, or even entirely separate offices, which have this responsibility.

Recommendation 9 – the Draft Law, either in specific articles or in appropriate text elsewhere, should also articulate in clear terms how Ukraine intends to implement the complex provisions that are contained in the new Draft Law and which agencies will be given the mandate to undertake the tasks created, and how it intends to provide sufficient funding and resources to allow such agency/ies to perform effectively.

6. APPENDIX I

The English translation of the Draft Law and Comparative table with current provisions and proposed amendments to the Criminal Code and the Code of Criminal Procedure have been provided by the Ukrainian authorities.

6.1 Draft Law “On amendment of the Criminal Code and the Code of Criminal Procedure of Ukraine as regards the improvement of procedure of forfeiture”

DRAFT

Introduced by the
Cabinet of Ministers of Ukraine

M. AZAROV

_____, 2012

LAW OF UKRAINE

On amendment of the Criminal Code and the Code of Criminal Procedure of
Ukraine as regards the improvement of procedure for
forfeiture

The Verkhovna Rada of Ukraine hereby *r e s o l v e s* :

I. The acts of legislation of Ukraine specified below shall be amended as follows:

1. In the Criminal Code of Ukraine (Official Journal of the Verkhovna Rada of Ukraine, 2001, No. 25—26, p. 131):

1) the title of Section XIV of the General Part shall be rendered in the following wording:

“Other measures of criminal law”;

2) the Code shall be supplemented with Articles 96¹ and 96² of the following wording:

“Article 96¹. Special forfeiture

1. Special forfeiture shall constitute compulsory seizure without compensation, based on a court decision, of monetary funds, valuables and other property to the state ownership as prescribed by the present Code, in case of commission of a crime or a socially dangerous act which contains elements of a crime provided for by the Special Part of the present Code.

Article 96². Cases of application of the special forfeiture

1. Special forfeiture shall be applied in cases where the monetary funds,

valuables and other property were:

- 1) obtained as a result of a crime and / or are the proceeds of such property;
- 2) intended (used) to induce a person to commit a crime, to finance and / or to provide material support for a crime or remuneration for its commission;
- 3) subject of a crime, except for those returned to owner or legitimate holder, and in the case where such persons are not identified, shall be transferred to the property of the state;
- 4) were selected, produced, adapted or used as means or instruments of a crime, except those returned to the owner or legitimate holder who did not know and could not know about their illegal use.

2. In case where the monetary funds, valuables and other property specified in subparagraph 1 of paragraph one of the present Article were in full or in part transformed into other property, such fully or partly transformed property shall be subject to the special forfeiture. Should the forfeiture of monetary funds, valuables and other property specified in subparagraph 1 of paragraph one of the present Article, at the time when the court takes a decision on the special forfeiture, be impossible due to their being in use or to the impossibility of discrimination thereof from legally acquired property, or alienation, or due to other reasons, the court shall render a decision on the forfeiture of an amount of money corresponding to the value of such property.

3. Special forfeiture shall also be applied in cases where a person may not be subjected to criminal accountability due to non-attainment of years of discretion, or due to insanity, or is discharged from criminal liability or punishment on the grounds provided for by the present Code.

4. Monetary funds, valuables and other property specified in the present Article and transferred by a person who committed a crime or a socially dangerous act which contains elements of a crime provided for by the Special Part of the present Code, to another natural person or legal entity, shall be subject to the special forfeiture, if the person who accepted the property knew or should have known that such property was obtained as a result of commission of a crime or a socially dangerous act which contains elements of a crime.

5. Special forfeiture shall not be applied to monetary funds, valuables and other property specified in the present Article, which, in accordance with the law, are to be returned to owner or legitimate holder or are intended to be used to compensate for damage caused by the crime.”;

3) in the second indent of paragraphs eleven and twelve of Article 158 the words “and with the forfeiture of software and hardware owned by the party in fault by means of which an unauthorized interference was committed” shall be deleted;

4) in Article 176:

in the second indent of paragraphs one and two the words “, with the

forfeiture and destruction of all copies of works, material media with computer software, databases, performances, phonograms, videograms, broadcast programs, and the equipment and material specifically used for production and reproduction thereof” shall be deleted;

in the second indent of paragraph three the words “and with the forfeiture and destruction of all copies of works, material media with computer software, databases, performances, phonograms, videograms, broadcast programs, and the equipment and material specifically used for production and reproduction thereof” shall be deleted;

5) in Article 177:

in the second indent of paragraphs one and two the words “, with the forfeiture and destruction of illegally made products and the equipment and material specifically used for production thereof” shall be deleted;

in the second indent of paragraph three the words “and with the forfeiture and destruction of illegally made products and the equipment and material specifically used for production thereof” shall be deleted;

6) in Article 201:

in the second indent of paragraph one the words “with the forfeiture of the smuggled items” shall be deleted;

in the second indent of paragraph two the words “with the forfeiture of the smuggled items and” shall be deleted;

7) in Article 203¹:

in the second indent of paragraph one the words “with the forfeiture and destruction of disks for laser reading systems, matrices, equipment or raw materials for production thereof” shall be deleted;

in the second indent of paragraph two the words “with the forfeiture and destruction of disks for laser reading systems, matrices, equipment or raw materials for production thereof” shall be deleted;

8) in the second indent of paragraphs one and two 203² the words “ with the forfeiture of gambling equipment” shall be deleted;

9) in Article 204:

in the second indent of paragraphs one and two the words “ with the forfeiture of illegally manufactured goods and manufacturing equipment” shall be deleted;

in the second indent of paragraph three the words “ with the forfeiture and destruction of goods so manufactured and forfeiture of manufacturing equipment” shall be deleted;

10) in the second indent of paragraphs one — three of Article 209 the words “with the forfeiture of criminally obtained money and other property and”

shall be deleted;

11) in the second indent of paragraph two of Article 216 the words “with the forfeiture of goods labelled with counterfeit labels or holographic protection elements” shall be deleted;

12) in Article 229:

in the second indent of paragraphs one and two the words “with forfeiture and destruction of relevant products and tools and materials that are specifically used for production thereof” shall be deleted;

in the second indent of paragraph three the words “and the forfeiture and destruction of the products and tools and materials that are specifically used for production thereof” shall be deleted;

13) in the second indent of paragraphs one — three of Articles 239¹ and 239² the words “and the forfeiture of instruments and means of misappropriation” shall be deleted;

14) in Article 240:

in the second indent of paragraph three the words “, with forfeiture of illegally mined resources and mining equipment ” shall be deleted;

in the second indent of paragraph four the words “, with forfeiture of illegally mined resources and mining equipment” shall be deleted;

15) in Article 244:

in the second indent of paragraph one the words “, with or without the forfeiture of all instruments utilized by the culprit to commit this crime” shall be deleted;

in the second indent of paragraph two the words “, with the forfeiture of equipment ” shall be deleted;

16) in the second indent of Article 246 the words “, with the forfeiture of the proceeds of crime” shall be deleted;

17) in the second indent of paragraphs one and two 248 the words “, with the forfeiture of the hunting tools and all proceeds” shall be deleted;

18) in the second indent of paragraphs one and two 249 the words “, with the forfeiture of tools and proceeds” shall be deleted;

19) in Article 300:

in the second indent of paragraph one the words “, with the forfeiture of works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and means of production and distribution thereof” shall be deleted;

in the second indent of paragraph two the words “, with the forfeiture of

motion pictures and video films that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and means of production and demonstration thereof” shall be deleted;

in the second indent of paragraph three the words “ and forfeiture of works, motion pictures and video films that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and means of production and demonstration thereof” shall be deleted;

20) in Article 301:

in the second indent of paragraph one the words “, with the forfeiture of pornographic images or other items and means of production and distribution thereof” shall be deleted;

in the second indent of paragraph two the words “, with the forfeiture of pornographic motion pictures and video films and means of production and demonstration thereof” shall be deleted;

in the second indent of paragraphs three — five the words “and the forfeiture of pornographic items, motion pictures, video films, computer programs, and means of production, distribution and demonstration thereof” shall be deleted;

21) in Article 305:

in the second indent of paragraph one the words “with the forfeiture of smuggled narcotics or psychotropic substances, their analogues or precursors or counterfeit medicinal products” shall be deleted;

in the second indent of paragraph two the words “with the forfeiture of smuggled narcotics or psychotropic substances, their analogues or precursors or counterfeit medicinal products, and” shall be deleted;

in the second indent of paragraph three the words “ with the forfeiture of smuggled narcotics or psychotropic substances, their analogues or precursors or counterfeit medicinal products, and” shall be deleted;

22) in the second indent of paragraphs one and two 306 the words “with the forfeiture of money and other property known to be proceeds of crime, and” shall be deleted;

23) in Article 321¹:

in the second indent of paragraph one the words “ with the forfeiture of counterfeit medicinal products, raw materials and equipment for production thereof” shall be deleted;

in the second indent of paragraphs two and three the words “ counterfeit medicinal products, raw materials and equipment for production thereof, and” shall be deleted;

24) in Article 332:

in the second indent of paragraph one the words “with the forfeiture of

transport vehicles or any other means used to commit the crime” shall be deleted;

in the second indent of paragraph two the words “with the forfeiture of transport vehicles or any other means used to commit the crime” and “or without” shall be deleted;

in the second indent of paragraph three the words “, with the forfeiture of transport vehicles or any other means used to commit the crime, and” shall be deleted;

25) in the second indent of Article 334 the words “, with the forfeiture of the aircraft” shall be deleted;

26) in the second indent of paragraphs one and two 361 the words “and with the forfeiture of software and hardware owned by the party in fault by means of which an unauthorized interference was committed” shall be deleted;

27) in Article 361¹:

in the second indent of paragraph one the words “, with the forfeiture of software and hardware owned by the party in fault and intended for unauthorized interference with the operation of electronic computing machines (computers), automated systems, computer networks or telecommunication networks” shall be deleted;

in the second indent of paragraph two the words “with the forfeiture of software and hardware owned by the party in fault and intended for unauthorized interference with the operation of electronic computing machines (computers), automated systems, computer networks or telecommunication networks ” shall be deleted;

28) in the second indent of paragraphs one and two 361² the words “with the forfeiture of software and hardware owned by the party in fault by means of which distribution or dissemination of information with restricted access were committed” shall be deleted

29) in Article 362:

in the second indent of paragraph one the words “with the forfeiture of software and hardware owned by the party in fault by means of which unauthorized alteration, erasure or blocking of information were committed” shall be deleted;

in the second indent of paragraph two the words “and with the forfeiture of software and hardware owned by the party in fault by means of which unauthorized interception or copying of information were committed” shall be deleted;

in the second indent of paragraph three the words “and with the forfeiture of software and hardware owned by the party in fault by means of which unauthorized actions with information were committed” shall be deleted;

30) in the second indent of paragraph two of Article 363¹ the words “and with the forfeiture of software and hardware owned by the party in fault by means of which mass distribution of electronic messages was committed” shall be deleted.

2. In the Code of Criminal Procedure of Ukraine:

1) paragraph one of Article 91 shall be supplemented with subparagraph 6 of the following wording:

“6) circumstances which prove that monetary funds, valuables and other property which are subject to the special forfeiture were obtained as a result of a criminal offence and / or are the proceeds of such property or were intended (used) to induce a person to commit a criminal offence, to finance and / or to provide material support for a criminal offence or remuneration for its commission, or are a subject of a criminal offence, including offences related to illegal circulation thereof, or were selected, produced, adapted or used as means or instruments of a criminal offence.”;

2) in Article 100:

in the title of the Article the words “about them” shall be replaced by the words “on the special forfeiture”;

subparagraph 1 of paragraph six after the word “to the owner” shall be supplemented with the words “or to the legitimate holder”;

paragraph nine shall be replaced by three paragraphs of the following wording:

“9. The issue of the special forfeiture and material evidence and documents which were presented to the court shall be decided upon during the adjudication which ends the criminal proceedings. Such evidence and documents must be retained until the entry into force of the said decision. In case criminal proceedings are closed by the investigator or the prosecutor, the issue of the special forfeiture and material evidence and documents shall be decided upon by a court decision based on an appropriate petition which is to be treated in accordance with Articles 171-174 of the present Code. In such case:

1) monetary funds, valuables and other property which were selected, produced, adapted or used as means or instruments of a criminal offence and / or retain the traces of such criminal offence, shall be forfeited, except for cases where owner or legitimate holder did not know and could not know about their illegal use. In such case the specified monetary funds, valuables and other property shall be returned to owner or legitimate holder;

2) monetary funds, valuables and other property which were intended (used) to induce a person to commit a criminal offence, to finance and / or to provide material support for a criminal offence or remuneration for its commission) shall be forfeited;

3) property which was subject of a criminal offence related to illegal circulation, and/or withdrawn from circulation, shall be transferred to relevant institutions or destroyed;

4) property which has no value and cannot be used, shall be destroyed or transferred to parties interested subject to their request;

5) monetary funds, valuables and other property which were subject of a criminal offence shall be forfeited, except for those returned to owner or legitimate holder, and in the case where such persons are not identified, shall be transferred to the property of the state in accordance with the procedure established by the Cabinet of Ministers of Ukraine;

6) monetary funds, valuables and other property obtained as a result of a criminal offence and / or are the proceeds of such property, as well as property into which they were fully or partly transformed, shall be forfeited;

7) documents which are evidence shall be retained in the materials of a criminal proceeding during the whole time of their storage.

10. When the special forfeiture is to be decided upon, the issue of return of monetary funds, valuables and other property to owner or legitimate holder and / or on compensation for damage caused by the criminal offence should be addressed in the first place. Should the person found guilty have no property which can be the subject of recovery besides the property subject to the special forfeiture, the loss caused to the victim, civil plaintiff shall be compensated at the cost of funds obtained from selling of property forfeited, and the remainder shall become the property of the state.

11. Where the owner or legitimate holder of the monetary funds, valuables and other property specified in subparagraph 1 of paragraph nine of the present Article was identified after application of the special forfeiture and did not know and could not have known about its illegal use, he / she shall have the right to demand return of property belonging thereto or return of funds from the State Budget obtained from selling of such property.”

In this regard paragraph ten shall be considered to be paragraph twelve;

3) Article 167 shall be rendered in the following wording:

“Article 167. Grounds for temporary seizure of property

1. Temporary seizure of property shall mean actual deprivation of a suspect or persons in whose possession the property specified in the second paragraph of the present Article is, of an opportunity to own, use and dispose of the property until the issue of distraint or return of such property is settled.

2. Property in the form of belongings, documents, monetary assets, etc. may be temporarily seized, subject to availability of sufficient grounds to believe that they:

1) were selected, produced, adapted or used as means or instruments of a criminal offence and / or retain the traces of such criminal offence;

2) were intended (used) to induce a person to commit a criminal offence, to finance and / or to provide material support for a criminal offence or remuneration for its commission;

3) are subject of a criminal offence, including criminal offences related to illegal circulation thereof;

4) obtained as a result of a criminal offence and / or are the proceeds of such property, as well as property into which they were fully or partly transformed.”;

4) paragraph one of Article 169 shall be supplemented with subparagraph 4 of the following wording:

“4) in case the distraint is cancelled.”;

5) in Article 170:

in the first sentence of paragraph two the words “in the form of belongings” shall be deleted;

in paragraph three the words “in property” shall be replaced by the words “, including those in proprietary possession, in”, and shall be supplemented with the words “, of the special forfeiture” after the word “property”;

6) subparagraph 3 of paragraph two of Article 171 shall be deleted;

7) in paragraph three of Article 172:

after the words “to plaintiff” shall be supplemented with the words “and shall establish a term sufficient”;

the paragraph shall be supplemented with a sentence of the following wording: “In such case the temporarily seized property shall be subject to immediate return after expiry of the term established by the judge, and in case of a petition filed within the term established by the judge after elimination of shortcomings — after consideration of such petition and denial thereof.”;

8) in Article 174:

paragraph three after the words “shall cancel the distraint” shall be supplemented with the words “, where the property is not subject to the special forfeiture”;

the second sentence of paragraph four after the word “by court” shall be supplemented with the words “, where the property is not subject to the special forfeiture”, and — by the words “and / or non-application of the special forfeiture” after the words “of forfeiture of property”;

9) indent eight of subparagraph 2 of paragraph four of Article 374 after the words “and of documents” shall be supplemented with the words “and of the special forfeiture”;

10) paragraph one of Article 505 shall be supplemented with subparagraph 7 of the following wording:

“7) circumstances which prove that monetary funds, valuables and other property which are subject to the special forfeiture were obtained as a result of commission of a socially dangerous act or a criminal offence and / or are the proceeds of such property or were intended (used) to induce a person to commit a socially dangerous act or a criminal offence, to finance and / or to provide material support for a criminal offence or remuneration for its commission, or are a subject of a socially dangerous act or a criminal offence, including criminal offences related to illegal circulation thereof, or were selected, produced, adapted or used as means or instruments of a socially dangerous act or a criminal offence.”.

II. The present Law shall come into force six months after the date of its publication.

**Chairman
of the Verkhovna Rada of
Ukraine**

6.2 Appendix: Draft amendments to be introduced to the Criminal Code of Ukraine and Criminal Procedure Code of Ukraine by the Law of Ukraine “On Special Confiscation”

Criminal Code of Ukraine	
<i>Current version</i>	<i>Suggested Amendments</i>
<p>Chapter XIV. COMPULSORY MEDICAL MEASURES AND COMPULSORY TREATMENT</p>	<p>Chapter XIV. OTHER MEASURES OF CRIMINAL LEGAL NATURE</p>
	<p>Article 96¹ Special confiscation</p> <p>1. Special confiscation is a compulsory non-compensated seizure into the state ownership of money, valuables and other property, based on court decision in cases defined by this Code and provided a crime or socially dangerous act with elements of a crime foreseen by the Special Part of this Code is committed.</p>
	<p>“Article 96² Cases when special confiscation is applied</p> <p>2. The special confiscation is applied when money, valuables or other property</p> <ol style="list-style-type: none"> 1) were acquired as a result of committing a crime and/or are profits from such property; 2) were intended (used) to convince a person to commit a crime, to finance and/or to materially support a crime or to financially reward its committing; 3) were objects of a crime excluding those to be returned to the owner or legitimate holder or, when they were not identified, become the property of the state; 4) were found, manufactured, adapted or used as means or tools for committing a crime except those to be returned to the owner who did not know and might not know about their illegal use. <p>2. In case when money, valuables and other property mentioned in paragraph 1 of this Article were in full or in part converted into another property, the fully in partially converted property shall be subject to the</p>

	<p>special confiscation. If at the time of the court decision on special confiscation the confiscation of money, valuables and property mentioned in paragraph 1 of this Article is not possible because of consumption or impossibility to separate from other property acquired legally, or disposal or because of other reasons, the court shall take the decision to confiscate the amount of money equal to the value of such property.</p> <p>3. Special confiscation shall be applied also in the cases when a person is not subject to criminal responsibility because of non-attainment of the age at which the criminal responsibility may be applied, or because of irresponsibility or is discharged from criminal liability on the grounds foreseen by this Code.</p> <p>4. Money, Valuables and other property mentioned in this Article, transferred by the person who committed a crime or a socially dangerous act foreseen by the Special Part of this Code, to another physical or legal person shall be subject to the special confiscations in case the person who acquired the property knew or should have known that such property had been acquired as a result of committing a crime or a socially dangerous act with elements of a crime.</p> <p>5. Special confiscation shall not be applied to money, valuables and other property mentioned in this Article which, according to the law, shall be restituted to the owner or legitimate holder or intended for the compensation of damages caused by crime.</p>
<p>Article 158. Forgery of election documents, referendum documents or falsification of election returns, providing false information to the authority of the State register of voters or falsification of information of the State Register of voters</p> <p>1. Illegal manufacture, storage or use of knowingly illegally made election ballots, absentee ballot blanks, ballots for voting in a referendum, –</p> <p>shall be punishable by a fine of two hundred to four hundred tax-free</p>	<p>Article 158. Forgery of election documents, referendum documents or falsification of election returns, providing false information to the authority of the State register of voters or falsification of information of the State Register of voters</p> <p>1. Illegal manufacture, storage or use of knowingly illegally made election ballots, absentee ballot blanks, ballots for voting in a referendum, –</p> <p>shall be punishable by a fine of two hundred to four hundred tax-free</p>

<p>minimum income or correctional labor up to two years, or restraint of liberty for up to three years, or imprisonment for the same term with deprivation of the right to occupy certain positions or engage in certain activities for a period of one to three years.</p> <p>2. Forgery of electoral documents, documents of the referendum, and as well as the use of knowingly falsified election documents, referendum documents, committed by member of the electoral commission, referendum commission, by the candidate, his authorized representative, authorized person of the political party (bloc), a member of referendum initiative group, -</p> <p>shall be punishable by a fine of three hundred to six hundred tax-free minimum incomes or restraint of liberty for a term of one to four years, or imprisonment for the same term with deprivation of the right to occupy certain positions or engage in certain activities for a period of one to three years.</p> <p>3. Forgery of electoral documents, documents of the referendum, as well as the use of knowingly falsified election documents, referendum documents, committed member of the electoral commission, referendum commission, the candidate, his authorized representative, authorized person of the political party (bloc), a member of the referendum initiative group, which influenced the election returns at a polling station or within the electoral district, or has led to the impossibility to define the expression of voters at a polling station or in the relevant election (Referendum), –</p> <p>shall be punishable by restraint of liberty for a term of three to five years or imprisonment for the same term with the deprivation of the right occupy certain positions or engage in certain activities for a period of one to three years.</p> <p>4. Illegal transfer to the other person of ballot by voter, –</p>	<p>minimum income or correctional labor up to two years, or restraint of liberty for up to three years, or imprisonment for the same term with deprivation of the right to occupy certain positions or engage in certain activities for a period of one to three years.</p> <p>2. Forgery of electoral documents, documents of the referendum, and as well as the use of knowingly falsified election documents, referendum documents, committed by member of the electoral commission, referendum commission, by the candidate, his authorized representative, authorized person of the political party (bloc), a member of referendum initiative group, -</p> <p>shall be punishable by a fine of three hundred to six hundred tax-free minimum incomes or restraint of liberty for a term of one to four years, or imprisonment for the same term with deprivation of the right to occupy certain positions or engage in certain activities for a period of one to three years.</p> <p>3. Forgery of electoral documents, documents of the referendum, as well as the use of knowingly falsified election documents, referendum documents, committed member of the electoral commission, referendum commission, the candidate, his authorized representative, authorized person of the political party (bloc), a member of the referendum initiative group, which influenced the election returns at a polling station or within the electoral district, or has led to the impossibility to define the expression of voters at a polling station or in the relevant election (Referendum), –</p> <p>shall be punishable by restraint of liberty for a term of three to five years or imprisonment for the same term with the deprivation of the right occupy certain positions or engage in certain activities for a period of one to three years.</p> <p>4. Illegal transfer to the other person of ballot by voter, –</p>
--	--

shall be punishable by restraint of liberty for a term of one to three years or imprisonment for the same term with the deprivation of the right occupy certain positions or engage in certain activities for a period of one to three years.

5. Stealing or hiding the ballot, ballot for voting in a referendum or election protocol or protocol of the referendum commission or ballot boxes with illegal damage or destruction of ballot boxes, –

shall be punishable by a fine of two hundred to four hundred tax-free minimum incomes or restraint of liberty up to two years, with deprivation of the right to occupy certain positions or engage in certain activities for up to two years.

6. Stealing or hiding the ballot, ballot for voting in a referendum or election protocol or protocol of the referendum commission or ballot boxes with illegal damage or destruction of ballot boxes, which affected the results of voting at the polling place or within constituency, or led to the impossibility to define the will of the voters at the polling station or in the respective elections (referendum), –

shall be punishable by a fine of up to four hundred tax-free minimum income or restraint of liberty for up to five years, or imprisonment for the same term, with deprivation of the right to occupy certain positions or engage in certain activities for a period of two to three years.

7. Signing the protocol or protocol of the election referendum commission before the final vote count or determination of voting results or inclusion of unrecorded election ballots or ballots for voting in a referendum to the ballots used when voting, or substitution of real ballots with marked by voters or citizens who have right to participate in the referendum, or unlawful change of the protocol after its filling, or theft or concealment of the ballot, ballot for voting in referendum, election protocol or protocol of

shall be punishable by restraint of liberty for a term of one to three years or imprisonment for the same term with the deprivation of the right occupy certain positions or engage in certain activities for a period of one to three years.

5. Stealing or hiding the ballot, ballot for voting in a referendum or election protocol or protocol of the referendum commission or ballot boxes with illegal damage or destruction of ballot boxes, –

shall be punishable by a fine of two hundred to four hundred tax-free minimum incomes or restraint of liberty up to two years, with deprivation of the right to occupy certain positions or engage in certain activities for up to two years.

6. Stealing or hiding the ballot, ballot for voting in a referendum or election protocol or protocol of the referendum commission or ballot boxes with illegal damage or destruction of ballot boxes, which affected the results of voting at the polling place or within constituency, or led to the impossibility to define the will of the voters at the polling station or in the respective elections (referendum), –

shall be punishable by a fine of up to four hundred tax-free minimum income or restraint of liberty for up to five years, or imprisonment for the same term, with deprivation of the right to occupy certain positions or engage in certain activities for a period of two to three years.

7. Signing the protocol or protocol of the election referendum commission before the final vote count or determination of voting results or inclusion of unrecorded election ballots or ballots for voting in a referendum to the ballots used when voting, or substitution of real ballots with marked by voters or citizens who have right to participate in the referendum, or unlawful change of the protocol after its filling, or theft or concealment of the ballot, ballot for voting in referendum, election protocol or protocol of

the referendum commission or ballot box with, or unlawful destruction or deterioration of the ballot box, which led to the impossibility to determine the will of voters or to establish the referendum results, committed by member of the electoral commission, referendum commission, –

shall be punishable by a fine of seven hundred to a thousand tax-free minimum incomes or restraint of liberty for a term of three to five years, or imprisonment for a term of three to six years, with deprivation of the right to occupy certain positions or engage in certain activities for a term of two to three years.

8. Intentional providing by member of election commission or referendum commission to the citizen the possibility to vote for another person or vote more than once during the voting or giving ballot paper or ballot for voting in the referendum to a person who is not included in the list of voters (people who have right to participate in the referendum) in the respective polling station (section of the referendum), or providing the voter with filled ballot (ballot for voting in a referendum), –

shall be punishable by restraint of liberty for a term of three to five years or imprisonment for a term of three to six years, with deprivation of the right to occupy certain positions or engage in certain activities for a period of two to three years.

9. Intentional providing of false information to the Authority of State Register of Voters, –

shall be punishable by a fine of fifty to two hundred tax-free minimum incomes.

10. The action provided for in paragraph 9 of this article committed by official using official position, as well as order of inclusion of false information to database of the State Voter Register, issued by an official of the Authority of the State Register of voters, –

the referendum commission or ballot box with, or unlawful destruction or deterioration of the ballot box, which led to the impossibility to determine the will of voters or to establish the referendum results, committed by member of the electoral commission, referendum commission, –

shall be punishable by a fine of seven hundred to a thousand tax-free minimum incomes or restraint of liberty for a term of three to five years, or imprisonment for a term of three to six years, with deprivation of the right to occupy certain positions or engage in certain activities for a term of two to three years.

8. Intentional providing by member of election commission or referendum commission to the citizen the possibility to vote for another person or vote more than once during the voting or giving ballot paper or ballot for voting in the referendum to a person who is not included in the list of voters (people who have right to participate in the referendum) in the respective polling station (section of the referendum), or providing the voter with filled ballot (ballot for voting in a referendum), –

shall be punishable by restraint of liberty for a term of three to five years or imprisonment for a term of three to six years, with deprivation of the right to occupy certain positions or engage in certain activities for a period of two to three years.

9. Intentional providing of false information to the Authority of State Register of Voters, –

shall be punishable by a fine of fifty to two hundred tax-free minimum incomes.

10. The action provided for in paragraph 9 of this article committed by official using official position, as well as order of inclusion of false information to database of the State Voter Register, issued by an official of the Authority of the State Register of voters, –

shall be punishable by a fine of up to four hundred tax-free minimum incomes or restraint of liberty for up to five years, or imprisonment up to three years, with deprivation of the right to occupy certain positions or engage in certain activities for a term of one to three years.

11. Intentional insertion of untruthful information to the database of the state register of voters, unauthorized actions with the information contained in the database of the state register of voters or other unauthorized interference in the work of the state register of voters committed by a person who is entitled to access the information, or any other person through unauthorized access to database of the state register of voters, –

shall be punishable by a fine of six hundred to one thousand tax-free minimum incomes, or restraint of liberty for a term of two to five years, or imprisonment up to three years, with deprivation of the right to occupy certain positions or engage in certain activities for a period of one to three years and with seizure software and hardware, with which was committed an unauthorized interference, which are the property of the guilty person.

12. Actions provided for in parts ninth - eleventh of this article, that have influenced the results of voting at polling station or within the electoral district, or led to impossible to determine the will of the voters at the polling station or in the respective elections, and committed by prior agreement of group of persons, –

shall be punishable by restraint of liberty for a term of three to five years or imprisonment for a term of three to six years, with deprivation of the right to occupy certain positions or engage in certain activities for a period of two to three years and with seizure software and hardware, with which was committed an unauthorized interference, which are the property of the guilty person.

shall be punishable by a fine of up to four hundred tax-free minimum incomes or restraint of liberty for up to five years, or imprisonment up to three years, with deprivation of the right to occupy certain positions or engage in certain activities for a term of one to three years.

11. Intentional insertion of untruthful information to the database of the state register of voters, unauthorized actions with the information contained in the database of the state register of voters or other unauthorized interference in the work of the state register of voters committed by a person who is entitled to access the information, or any other person through unauthorized access to database of the state register of voters, –

shall be punishable by a fine of six hundred to one thousand tax-free minimum incomes, or restraint of liberty for a term of two to five years, or imprisonment up to three years, with deprivation of the right to occupy certain positions or engage in certain activities for a period of one to three years ~~and with seizure software and hardware, with which was committed an unauthorized interference, which are the property of the guilty person.~~

12. Actions provided for in parts ninth - eleventh of this article, that have influenced the results of voting at polling station or within the electoral district, or led to impossible to determine the will of the voters at the polling station or in the respective elections, and committed by prior agreement of group of persons, –

shall be punishable by restraint of liberty for a term of three to five years or imprisonment for a term of three to six years, with deprivation of the right to occupy certain positions or engage in certain activities for a period of two to three years ~~and with seizure software and hardware, with which was committed an unauthorized interference, which are the property of the guilty person.~~

Article 176. Violation of copyright and allied rights

1. Illegal reproduction or distribution of scientific, literary, or art works, computer software or databases, and also illegal reproduction, distribution of performances, phonograms and broadcast programs, making their illegal copies and distribution on audio and video tapes, disks, and other media, or other violation of copyright and allied rights, where such actions caused a significant pecuniary loss, -

shall be punishable by a fine of 200 to 1000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for the same term, with the forfeiture and destruction of all copies of works, material media with computer software, databases, performances, phonograms, broadcast programs, and the equipment and material designated for their production and reproduction.

2. The same actions, if repeated or upon their prior conspiracy of a group of persons, or where they caused a gross pecuniary loss, -

shall be punishable by a fine of 1000 to 2000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for a term of two to five years, with the forfeiture and destruction of all copies of works, material media with computer software, databases, performances, phonograms, broadcast programs, and the equipment and material designated for their production and reproduction.

3. Any such actions as provided for by paragraph 1 or 2 of this Article, where committed by an official through abuse of office or by organized group of persons, or where they caused a especially gross pecuniary loss, -

shall be punishable by a fine of 2000 to 3000 tax-free minimum incomes, or imprisonment for a term of three to six years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, and with the forfeiture and

Article 176. Violation of copyright and allied rights

1. Illegal reproduction or distribution of scientific, literary, or art works, computer software or databases, and also illegal reproduction, distribution of performances, phonograms and broadcast programs, making their illegal copies and distribution on audio and video tapes, disks, and other media, or other violation of copyright and allied rights, where such actions caused a significant pecuniary loss, -

shall be punishable by a fine of 200 to 1000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for the same term, ~~with the forfeiture and destruction of all copies of works, material media with computer software, databases, performances, phonograms, broadcast programs, and the equipment and material designated for their production and reproduction.~~

2. The same actions, if repeated or upon their prior conspiracy of a group of persons, or where they caused a gross pecuniary loss, -

shall be punishable by a fine of 1000 to 2000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for a term of two to five years, ~~with the forfeiture and destruction of all copies of works, material media with computer software, databases, performances, phonograms, broadcast programs, and the equipment and material designated for their production and reproduction.~~

3. Any such actions as provided for by paragraph 1 or 2 of this Article, where committed by an official through abuse of office or by organized group of persons, or where they caused a especially gross pecuniary loss, -

shall be punishable by a fine of 2000 to 3000 tax-free minimum incomes, or imprisonment for a term of three to six years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, ~~and with the forfeiture and~~

<p>destruction of all copies of works, material media with computer software, databases, performances, phonograms, broadcast programs, and the equipment and material designated for their production and reproduction.</p> <p>Note: A pecuniary loss shall be deemed as significant under Articles 176 and 177 of this Code, if its amount exceeds 20 tax-free minimum incomes, a gross pecuniary loss is caused where its amount exceeds 200 tax-free minimum incomes, and especially gross pecuniary loss is caused where its amount exceeds 1000 tax-free minimum incomes. (Article 176 in version of Law No 850-IV (850-15) of 22.05.2003; as amended by Laws No 3423-IV (3423-15) of 09.02.2006, No 1111-V (1111-16) of 31.05.2007)</p>	<p>destruction of all copies of works, material media with computer software, databases, performances, phonograms, broadcast programs, and the equipment and material designated for their production and reproduction.</p> <p>Note: A pecuniary loss shall be deemed as significant under Articles 176 and 177 of this Code, if its amount exceeds 20 tax-free minimum incomes, a gross pecuniary loss is caused where its amount exceeds 200 tax-free minimum incomes, and especially gross pecuniary loss is caused where its amount exceeds 1000 tax-free minimum incomes. (Article 176 in version of Law No 850-IV (850-15) of 22.05.2003; as amended by Laws No 3423-IV (3423-15) of 09.02.2006, No 1111-V (1111-16) of 31.05.2007)</p>
<p>Article 177. Violation of the rights to invention, utility model, industrial design, topography of microelectronic integrated circuits, a variety of plants, innovative proposals</p> <p>1. Illegal use of an invention, utility model, industrial design, topography of microelectronic integrated circuits, a variety of plants, innovative proposals, usurpation of authorship for them, or violation of other rights in relation to these objects, where such actions caused a significant pecuniary loss, -</p> <p>shall be punishable by a fine of 200 to 1000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for the same term, with the forfeiture and destruction of illegally made products and the equipment and material designated for their production.</p> <p>2. The same actions, if repeated, or committed by a group of persons upon their prior conspiracy or where they caused a gross pecuniary loss, -</p> <p>shall be punishable by a fine of 1000 to 2000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for a term of two to five years, with the forfeiture and destruction of illegally made products and the equipment and material designated for their</p>	<p>Article 177. Violation of the rights to invention, utility model, industrial design, topography of microelectronic integrated circuits, a variety of plants, innovative proposals</p> <p>1. Illegal use of an invention, utility model, industrial design, topography of microelectronic integrated circuits, a variety of plants, innovative proposals, usurpation of authorship for them, or violation of other rights in relation to these objects, where such actions caused a significant pecuniary loss, -</p> <p>shall be punishable by a fine of 200 to 1000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for the same term, with the forfeiture and destruction of illegally made products and the equipment and material designated for their production.</p> <p>2. The same actions, if repeated, or committed by a group of persons upon their prior conspiracy or where they caused a gross pecuniary loss, -</p> <p>shall be punishable by a fine of 1000 to 2000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for a term of two to five years, with the forfeiture and destruction of illegally made products and the equipment and material designated for their</p>

<p>production.</p> <p>3. Actions specified in paragraph 1 and 2 of this Article, committed by an official through abuse of office or by organized group of persons, or where they caused a especially gross pecuniary loss,</p> <p>shall be punishable by a fine of 2000 to 3000 tax-free minimum incomes, or imprisonment for a term of three to six years, with or without deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, and with the forfeiture and destruction of illegally made products and the equipment and material designated for their production. (Article 177 in version of Law No 850-IV (850-15) of 22.05.2003; as amended by Laws No 3423-IV (3423-15) of 09.02.2006, No 1111-V (1111-16) of 31.05.2007)</p>	<p>production.</p> <p>3. Actions specified in paragraph 1 and 2 of this Article, committed by an official through abuse of office or by organized group of persons, or where they caused a especially gross pecuniary loss,</p> <p>shall be punishable by a fine of 2000 to 3000 tax-free minimum incomes, or imprisonment for a term of three to six years, with or without deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years,and with the forfeiture and destruction of illegally made products and the equipment and material designated for their production. (Article 177 in version of Law No 850-IV (850-15) of 22.05.2003; as amended by Laws No 3423-IV (3423-15) of 09.02.2006, No 1111-V (1111-16) of 31.05.2007)</p>
<p style="text-align: center;">Article 201. Smuggling</p> <p>1. Smuggling, that is the movement of goods across the customs border of Ukraine bypassing the customs control or by concealing from the customs control, if committed in respect of cultural values, poisonous, strong, radioactive or explosive substances, weapons and ammunition (except smoothbore hunting guns and ammunition thereto), special technical means for illegal obtaining of information -</p> <p>shall be punishable by imprisonment for a term of three to seven years with the forfeiture of smuggled items.</p> <p>2. The same actions committed by a group of persons upon their prior conspiracy, or by a person previously convicted of the criminal offense under this Article, or by an official through abuse of office -</p> <p>shall be punishable by imprisonment for a term of five to twelve years with the forfeiture of smuggled items and forfeiture of property.</p>	<p style="text-align: center;">Article 201. Smuggling</p> <p>1. Smuggling, that is the movement of goods across the customs border of Ukraine bypassing the customs control or by concealing from the customs control, if committed in respect of cultural values, poisonous, strong, radioactive or explosive substances, weapons and ammunition (except smoothbore hunting guns and ammunition thereto), special technical means for illegal obtaining of information -</p> <p>shall be punishable by imprisonment for a term of three to seven years with the forfeiture of smuggled items.</p> <p>2. The same actions committed by a group of persons upon their prior conspiracy, or by a person previously convicted of the criminal offense under this Article, or by an official through abuse of office -</p> <p>shall be punishable by imprisonment for a term of five to twelve years with the forfeiture of smuggled items and forfeiture of property.</p>

	Note: Smuggling of goods is committed in respect of large amounts if the value of such goods equals or exceeds 1000 tax-free minimum incomes.
<p>Article 203¹. Illicit disks circulation for laser reading systems, matrices, equipment and raw materials for their production</p> <p>1. Illegal manufacture, export, import, storage, sale and movement of disks for laser reading systems, matrices, equipment and materials for their production, if these actions were taken in large amounts, –</p> <p>shall be punishable by a fine of 3000 to 5000 tax-free minimum incomes with the confiscation and destruction of disks for laser reading systems, matrices, equipment or raw materials for their production.</p> <p>2. The same actions, if committed repeatedly or upon prior conspiracy of a group of people, or taken in large amounts –</p> <p>shall be punishable by a fine of 5000 to 10 000 tax-free minimum incomes with confiscation and destruction of disks for laser systems reading, matrices, equipment or raw materials for their production.</p> <p>Note. Significant amounts shall mean the value of disks for laser reading systems, matrices, equipment or raw materials for their production that equal or exceeds 20 tax-free minimum incomes, large amounts - the value of disks for laser reading systems, matrices, equipment or raw materials for their production, that equals or exceeds 100 tax-free minimum income.</p>	<p>Article 203-1. Illicit disks circulation for laser reading systems, matrices, equipment and raw materials for their production</p> <p>1. Illegal manufacture, export, import, storage, sale and movement of disks for laser reading systems, matrices, equipment and materials for their production, if these actions were taken in large amounts, –</p> <p>shall be punishable by a fine of 3000 to 5000 tax-free minimum incomes with the confiscation and destruction of disks for laser reading systems, matrices, equipment or raw materials for their production.</p> <p>2. The same actions, if committed repeatedly or upon prior conspiracy of a group of people, or taken in large amounts –</p> <p>shall be punishable by a fine of 5000 to 10 000 tax-free minimum incomes with confiscation and destruction of disks for laser systems reading, matrices, equipment or raw materials for their production.</p> <p>Note. Significant amounts shall mean the value of disks for laser reading systems, matrices, equipment or raw materials for their production that equal or exceeds 20 tax-free minimum incomes, large amounts - the value of disks for laser reading systems, matrices, equipment or raw materials for their production, that equals or exceeds 100 tax-free minimum income.</p>
<p>Article 203². Gambling business</p> <p>1. Gambling business –</p> <p>Shall be punished by a fine of 10 000 to 40 000 tax-free minimum incomes with confiscation of gambling equipment.</p> <p>2. The same actions, if committed by a person previously convicted of gambling business –</p>	<p>Article 203². Gambling business</p> <p>1. Gambling business –</p> <p>Shall be punished by a fine of 10 000 to 40 000 tax-free minimum incomes with confiscation of gambling equipment.</p> <p>2. The same actions, if committed by a person previously convicted of gambling business –</p>

<p>Shall be punished by a fine of 40 000 to 50 000 tax-free minimum incomes with confiscation of gambling equipment.</p>	<p>Shall be punished by a fine of 40 000 to 50 000 tax-free minimum incomes with confiscation of gambling equipment.</p>
<p>Article 204. Unlawful manufacturing, storage, sale or transportation for selling purposes of excisable goods</p> <p>1. Unlawful purchase or storage for selling purposes, or sale, or transportation for selling purposes of illegally manufactured alcohol, tobacco or any other excisable goods, -</p> <p>shall be punishable by a fine of 1000 to 2000 tax-free minimum incomes with the forfeiture of illegally manufactured goods and manufacturing equipment.</p> <p>2. Illegal manufacturing of alcohol, tobacco and other excisable goods by establishing clandestine shops or use of equipment for mass production of such goods, or where it was committed by a person previously convicted under this article, -</p> <p>shall be punishable by a fine of 3000 to 10 000 tax-free minimum incomes with forfeiture of goods so produced and manufacturing equipment.</p> <p>3. Illegal manufacturing of goods specified in paragraphs 1 and 2 of this Article using raw material of poor quality which pose threat to human life and health, or illegal sale of such products, where it caused poisoning of people or any other grave consequences, -</p> <p>shall be punishable by imprisonment for a term of five to ten years with forfeiture and destruction of goods so manufactured and forfeiture of manufacturing equipment.</p>	<p>Article 204. Unlawful manufacturing, storage, sale or transportation for selling purposes of excisable goods</p> <p>1. Unlawful purchase or storage for selling purposes, or sale, or transportation for selling purposes of illegally manufactured alcohol, tobacco or any other excisable goods, -</p> <p>shall be punishable by a fine of 1000 to 2000 tax-free minimum incomes with the forfeiture of illegally manufactured goods and manufacturing equipment.</p> <p>2. Illegal manufacturing of alcohol, tobacco and other excisable goods by establishing clandestine shops or use of equipment for mass production of such goods, or where it was committed by a person previously convicted under this article, -</p> <p>shall be punishable by a fine of 3000 to 10 000 tax-free minimum incomes with forfeiture of goods so produced and manufacturing equipment.</p> <p>3. Illegal manufacturing of goods specified in paragraphs 1 and 2 of this Article using raw material of poor quality which pose threat to human life and health, or illegal sale of such products, where it caused poisoning of people or any other grave consequences, -</p> <p>shall be punishable by imprisonment for a term of five to ten years with forfeiture and destruction of goods so manufactured and forfeiture of manufacturing equipment.</p>
<p>Article 209. Legalization (laundering) of criminally obtained money and other property</p>	<p>Article 209. Legalization (laundering) of criminally obtained money and other property</p>

1. Effecting financial transactions and other deals involving money or other property known to be proceeds from socially dangerous criminal offenses prior to legalization (laundering) of incomes, and committing acts aimed at covering up the illegal origin of such money or other property or their ownership, the rights to such money or property, their origin, location, transfer, as well as obtaining, holding or use of money or other property known to be proceeds from socially dangerous criminal offenses prior to legalization (laundering) of incomes, -

shall be punishable by imprisonment for a term of three to six years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to two years, and with the forfeiture of criminally obtained money and other property and forfeiture of property.

2. The same actions provided for by paragraph 1 of this Article, if repeated, or committed by a group of persons upon their prior conspiracy, or in respect of gross amounts, -

shall be punishable by imprisonment of seven to twelve years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, with the forfeiture of criminally obtained money and other property and forfeiture of property.

3. Actions provided for by paragraphs 1 and 2 of this article, committed by an organized group or in especially large amounts, -

shall be punishable by imprisonment for a term of eight to fifteen years with the deprivation of the right to occupy certain positions or engage in certain activities for up to three years with the confiscation of money or other illegally obtained property and with the forfeiture of property.

Note. 1. Socially dangerous illicit action that preceded the legalization (laundering) of profits according to this article, is an action for which the

1. Effecting financial transactions and other deals involving money or other property known to be proceeds from socially dangerous criminal offenses prior to legalization (laundering) of incomes, and committing acts aimed at covering up the illegal origin of such money or other property or their ownership, the rights to such money or property, their origin, location, transfer, as well as obtaining, holding or use of money or other property known to be proceeds from socially dangerous criminal offenses prior to legalization (laundering) of incomes, -

shall be punishable by imprisonment for a term of three to six years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to two years, and ~~with the forfeiture of criminally obtained money and other property and~~ forfeiture of property.

2. The same actions provided for by paragraph 1 of this Article, if repeated, or committed by a group of persons upon their prior conspiracy, or in respect of gross amounts, -

shall be punishable by imprisonment of seven to twelve years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, ~~with the forfeiture of criminally obtained money and other property and~~ forfeiture of property.

3. Actions provided for by paragraphs 1 and 2 of this article, committed by an organized group or in especially large amounts, -

shall be punishable by imprisonment for a term of eight to fifteen years with the deprivation of the right to occupy certain positions or engage in certain activities for up to three years ~~with the confiscation of money or other illegally obtained property and~~ with the forfeiture of property.

Note. 1. Socially dangerous illicit action that preceded the legalization (laundering) of profits according to this article, is an action for which the

<p>Criminal Code of Ukraine provides for sentence of imprisonment or fine for over 3000 tax-free minimum incomes (except for actions under articles 212 and 212-1 of the Criminal Code of Ukraine), or actions, committed outside Ukraine, if it is recognized as a socially dangerous illicit action that preceded the legalization (laundering) of profits under the criminal law of the country where it has been committed and a crime under the Criminal Code of Ukraine and as the result of which is the illegally obtained income.</p> <p>2. Legalization (laundering) of proceeds obtained in an illegal way is considered to be committed in large amounts, if the matter of a crime was money or other property in the amount that equals or exceeds 6000 tax-free minimum incomes.</p> <p>3. Legalization (laundering) of proceeds of crime way is considered to be committed in especially large amounts, if the matter of the crime was money or other property in the amount that equals or exceeds 18000 tax-free minimum incomes.</p>	<p>Criminal Code of Ukraine provides for sentence of imprisonment or fine for over 3000 tax-free minimum incomes (except for actions under articles 212 and 212-1 of the Criminal Code of Ukraine), or actions, committed outside Ukraine, if it is recognized as a socially dangerous illicit action that preceded the legalization (laundering) of profits under the criminal law of the country where it has been committed and a crime under the Criminal Code of Ukraine and as the result of which is the illegally obtained income.</p> <p>2. Legalization (laundering) of proceeds obtained in an illegal way is considered to be committed in large amounts, if the matter of a crime was money or other property in the amount that equals or exceeds 6000 tax-free minimum incomes.</p> <p>3. Legalization (laundering) of proceeds of crime way is considered to be committed in especially large amounts, if the matter of the crime was money or other property in the amount that equals or exceeds 18000 tax-free minimum incomes.</p>
<p>Article 216. Illegal production, counterfeiting, use or sale of illegally produced, acquired or counterfeit documentary stamps or check stamps</p> <p>1. Illegal production, counterfeiting, use or sale of illegally produced, acquired or counterfeit documentary stamps or check stamps for labeling of packages of copies of audiovisual works and phonograms, videograms, computer programs, databases or holographic protection elements, -</p> <p>shall be punishable by a fine of 500 to 1000 tax-free minimum incomes.</p> <p>2. The same actions, if repeated, or committed by a group of persons upon prior conspiracy, -</p> <p>shall be punishable by a fine of 3000 to 5000 tax-free minimum incomes</p>	<p>Article 216. Illegal production, counterfeiting, use or sale of illegally produced, acquired or counterfeit documentary stamps or check stamps</p> <p>1. Illegal production, counterfeiting, use or sale of illegally produced, acquired or counterfeit documentary stamps or check stamps for labeling of packages of copies of audiovisual works and phonograms, videograms, computer programs, databases or holographic protection elements, -</p> <p>shall be punishable by a fine of 500 to 1000 tax-free minimum incomes.</p> <p>2. The same actions, if repeated, or committed by a group of persons upon prior conspiracy, -</p> <p>shall be punishable by a fine of 3000 to 5000 tax-free minimum incomes</p>

with the forfeiture of goods labeled with counterfeit labels or holographic protection elements.	with the forfeiture of goods labeled with counterfeit labels or holographic protection elements.
<p>Article 229. Illegal use of a trade (or service) mark, registered trade name, qualified indication of origin</p> <p>1. Illegal use of a trade (or service) mark, registered trade name, qualified indication of origin, or any other intentional violation of the rights to these objects, and if this caused a significant pecuniary damage, - shall be punishable by a fine of 1000 to 2000 tax-free minimum incomes with the confiscation and destruction of the products and tools and materials that are specifically used for its production.</p> <p>2. The same actions committed repeatedly or by a group of persons upon their prior conspiracy, or where they caused an especially gross pecuniary damage - shall be punishable by a fine of 3000 to 10 000 tax-free minimum incomes with confiscation and destruction of the products and tools and materials that are specifically used for its production.</p> <p>3. Actions envisaged by paragraph 1 or 2 of this Article committed by an official abusing his/her position or an organized group or if they caused pecuniary damage on a large scale, - shall be punishable by a fine of 10 000 to 15 000 tax-free minimum incomes with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, and the confiscation and destruction of the products and tools and materials that are specifically used for its production.</p> <p>Note. The pecuniary damage shall be deemed as significant if it equals or exceeds 20 tax-free minimum incomes; the pecuniary damage shall be deemed as large if it equals or exceeds 200 tax-free minimum incomes; the pecuniary damage shall be deemed as especially large if it equals or exceeds 1000 tax-free minimum incomes.</p>	<p>Article 229. Illegal use of a trade (or service) mark, registered trade name, qualified indication of origin</p> <p>1. Illegal use of a trade (or service) mark, registered trade name, qualified indication of origin, or any other intentional violation of the rights to these objects, and if this caused a significant pecuniary damage, - shall be punishable by a fine of 1000 to 2000 tax-free minimum incomes with the confiscation and destruction of the products and tools and materials that are specifically used for its production.</p> <p>2. The same actions committed repeatedly or by a group of persons upon their prior conspiracy, or where they caused an especially gross pecuniary damage - shall be punishable by a fine of 3000 to 10 000 tax-free minimum incomes with confiscation and destruction of the products and tools and materials that are specifically used for its production.</p> <p>3. Actions envisaged by paragraph 1 or 2 of this Article committed by an official abusing his/her position or an organized group or if they caused pecuniary damage on a large scale, - shall be punishable by a fine of 10 000 to 15 000 tax-free minimum incomes with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, and the confiscation and destruction of the products and tools and materials that are specifically used for its production.</p> <p>Note. The pecuniary damage shall be deemed as significant if it equals or exceeds 20 tax-free minimum incomes; the pecuniary damage shall be deemed as large if it equals or exceeds 200 tax-free minimum incomes; the pecuniary damage shall be deemed as especially large if it equals or exceeds 1000 tax-free minimum incomes.</p>
<p>Article 240. Violation of rules related to the protection of mineral resources</p> <p>1. Violation of prescribed rules related to the protection of mineral</p>	<p>Article 240. Violation of rules related to the protection of mineral resources</p> <p>1. Violation of prescribed rules related to the protection of mineral</p>

<p>resources, where it exposed human life and health or environment to danger, -</p> <p>shall be punishable by a fine of 300 to 600 tax-free minimum incomes, or restraint of liberty for a term up to two years, or imprisonment for the same term.</p> <p>2. Violation of prescribed rules related to the use of mineral resources, where it exposed human life and health or environment to danger, and also unlawful mining of mineral resources of the national importance, -</p> <p>shall be punishable by a fine of 400 to 700 tax-free minimum incomes, or restraint of liberty for a term up to three years, or imprisonment for the same term.</p> <p>3. The acts provided for in paragraphs 1 and 2 of this Article, if repeated, or committed repeatedly within the territory or facilities of natural resource conservation area, -</p> <p>Shall be punishable by restraint of liberty for a term of two to five years, or imprisonment for the same term, with forfeiture of illegally mined resources and mining equipment.</p> <p>4. The acts provided for in paragraphs 1, 2 and 3 of this Article, committed by means of setting fire, explosion or by any other generally dangerous method, or where it caused an death of people, their massive spread of disease among them, or any other grave consequences, -</p> <p>shall be punishable by imprisonment for a term of five to eight years, with the forfeiture of illegally mined resources and mining equipment.</p>	<p>resources, where it exposed human life and health or environment to danger, -</p> <p>shall be punishable by a fine of 300 to 600 tax-free minimum incomes, or restraint of liberty for a term up to two years, or imprisonment for the same term.</p> <p>2. Violation of prescribed rules related to the use of mineral resources, where it exposed human life and health or environment to danger, and also unlawful mining of mineral resources of the national importance, -</p> <p>shall be punishable by a fine of 400 to 700 tax-free minimum incomes, or restraint of liberty for a term up to three years, or imprisonment for the same term.</p> <p>3. The acts provided for in paragraphs 1 and 2 of this Article, if repeated, or committed repeatedly within the territory or facilities of natural resource conservation area, -</p> <p>Shall be punishable by restraint of liberty for a term of two to five years, or imprisonment for the same term, with forfeiture of illegally mined resources and mining equipment.</p> <p>4. The acts provided for in paragraphs 1, 2 and 3 of this Article, committed by means of setting fire, explosion or by any other generally dangerous method, or where it caused an death of people, their massive spread of disease among them, or any other grave consequences, -</p> <p>shall be punishable by imprisonment for a term of five to eight years, with the forfeiture of illegally mined resources and mining equipment.</p>
<p>Article 244. Violation of law on the continental shelf of Ukraine</p> <p>1. Violation of law on the continental shelf of Ukraine, where it caused significant damage, and also failure of a person responsible for the</p>	<p>Article 244. Violation of law on the continental shelf of Ukraine</p> <p>1. Violation of law on the continental shelf of Ukraine, where it caused significant damage, and also failure of a person responsible for the</p>

<p>operation of technological installations or other sources of risk in a safety zone to take measures for the protection of sea life against hazardous effect of waste or radiation and energy, where it exposed sea life or human life or health to danger, -</p> <p>shall be punishable by a fine of 100 to 200 tax-free minimum incomes, or restraint of liberty for a term up to three years, or imprisonment for a term up to two years, with or without the forfeiture of all instruments utilized by the culprit to commit this offense.</p> <p>2. Exploration, prospecting and mining of natural resources or any other operations on the continental shelf of Ukraine carried out by foreign nationals, unless they comply with an agreement concluded between Ukraine and a foreign country concerned, consent to the binding character of which was granted by the Verkhovna Rada (Parliament) of Ukraine, or by a special permit issued in a manner prescribed by law, -</p> <p>shall be punishable by a fine of 50 to 100 tax-free minimum incomes, or arrest for a term up to six months, with the forfeiture of equipment.</p>	<p>operation of technological installations or other sources of risk in a safety zone to take measures for the protection of sea life against hazardous effect of waste or radiation and energy, where it exposed sea life or human life or health to danger, -</p> <p>shall be punishable by a fine of 100 to 200 tax-free minimum incomes, or restraint of liberty for a term up to three years, or imprisonment for a term up to two years, with or without the forfeiture of all instruments utilized by the culprit to commit this offense.</p> <p>2. Exploration, prospecting and mining of natural resources or any other operations on the continental shelf of Ukraine carried out by foreign nationals, unless they comply with an agreement concluded between Ukraine and a foreign country concerned, consent to the binding character of which was granted by the Verkhovna Rada (Parliament) of Ukraine, or by a special permit issued in a manner prescribed by law, -</p> <p>shall be punishable by a fine of 50 to 100 tax-free minimum incomes, or arrest for a term up to six months, with the forfeiture of equipment.</p>
<p style="text-align: center;">Article 246. Illegal cutting of forests</p> <p>Illegal cutting of trees and shrubs in forests, forest shelter-belts and other forest implantation, where it caused significant damage, and also any such acts committed in national parks or territories and sites of natural conservation, or in other specially protected forests,</p> <p>shall be punishable by a fine of 50 of 100 tax-free minimum incomes, or arrest for a term up to six months, or restraint of liberty for a term up to three years, or imprisonment for the same term, with the forfeiture of the proceeds of crime.</p>	<p style="text-align: center;">Article 246. Illegal cutting of forests</p> <p>Illegal cutting of trees and shrubs in forests, forest shelter-belts and other forest implantation, where it caused significant damage, and also any such acts committed in national parks or territories and sites of natural conservation, or in other specially protected forests,</p> <p>shall be punishable by a fine of 50 of 100 tax-free minimum incomes, or arrest for a term up to six months, or restraint of liberty for a term up to three years, or imprisonment for the same term, with the forfeiture of the proceeds of crime.</p>
<p style="text-align: center;">Article 248. Illegal hunting</p> <p>1. Violation of rules related to hunting, where it caused a substantial damage, and also illegal hunting in national parks or any territories and sites of natural conservation, or hunting for animals, birds or other species</p>	<p style="text-align: center;">Article 248. Illegal hunting</p> <p>1. Violation of rules related to hunting, where it caused a substantial damage, and also illegal hunting in national parks or any territories and sites of natural conservation, or hunting for animals, birds or other species</p>

<p>listed in the Red Book of Ukraine, - shall be punishable by a fine of 100 to 200 tax-free minimum incomes, or community service for a term of 160 to 240 hours, or restraint of liberty for a term up to three years, with the forfeiture of the hunting tools and all proceeds.</p> <p>2. The same acts committed by an official through abuse of office, or by a group of persons upon their prior conspiracy, or by a method that caused mass destruction of animals, birds, or any other species, or by use of vehicles, or by a person previously convicted of the offense created by this Article, - shall be punishable by a fine of 200 to 400 tax-free minimum incomes, or restraint of liberty for a term up to five years, or imprisonment for the same term, with the forfeiture of hunting tools and proceeds.</p> <p>Note: For the purpose of this Article, substantial damage, if it implies causing material loss, shall mean damage that equals or exceeds 250 tax-free minimum incomes.</p>	<p>listed in the Red Book of Ukraine, - shall be punishable by a fine of 100 to 200 tax-free minimum incomes, or community service for a term of 160 to 240 hours, or restraint of liberty for a term up to three years, with the forfeiture of the hunting tools and all proceeds.</p> <p>2. The same acts committed by an official through abuse of office, or by a group of persons upon their prior conspiracy, or by a method that caused mass destruction of animals, birds, or any other species, or by use of vehicles, or by a person previously convicted of the offense created by this Article, - shall be punishable by a fine of 200 to 400 tax-free minimum incomes, or restraint of liberty for a term up to five years, or imprisonment for the same term, with the forfeiture of hunting tools and proceeds.</p> <p>Note: For the purpose of this Article, substantial damage, if it implies causing material loss, shall mean damage that equals or exceeds 250 tax-free minimum incomes.</p>
<p style="text-align: center;">Article 249. Illegal fishing or hunting or any other sea hunting industry</p> <p>1. Illegal fishing or hunting or any other sea hunting industry that caused significant damage, - shall be punishable by a fine of 100 to 200 tax-free minimum incomes, or restraint of liberty for a term up to three years, with the forfeiture of tools and proceeds.</p> <p>2. The same acts committed with the use of explosive, poisonous substances, electric current or other means of mass destruction of fish, animals or other species, or by a person previously convicted of the offense created by this Article, - shall be punishable with a fine of 200 to 400 tax-free minimum incomes, or restraint of liberty for a term up to three years, or imprisonment for the</p>	<p style="text-align: center;">Article 249. Illegal fishing or hunting or any other sea hunting industry</p> <p>1. Illegal fishing or hunting or any other sea hunting industry that caused significant damage, - shall be punishable by a fine of 100 to 200 tax-free minimum incomes, or restraint of liberty for a term up to three years, with the forfeiture of tools and proceeds.</p> <p>2. The same acts committed with the use of explosive, poisonous substances, electric current or other means of mass destruction of fish, animals or other species, or by a person previously convicted of the offense created by this Article, - shall be punishable with a fine of 200 to 400 tax-free minimum incomes, or restraint of liberty for a term up to three years, or imprisonment for the</p>

same term, with the forfeiture of tools and proceeds.	same term, with the forfeiture of tools and proceeds.
<p style="text-align: center;">Article 300. Importation, making or distribution of works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination</p> <p>1. Importation into Ukraine for sale or distribution purposes, or making, storage, transportation or other movement for the same purposes, or sale or distribution of works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and also compelling others to participate in creation of such works, -</p> <p>shall be punishable by a fine up to 150 tax-free minimum incomes, or arrest for a term up to six months, or restraint of liberty for a term up to three years, with the forfeiture of works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and means of their making and distribution.</p> <p>2. The same actions in regard to motion pictures and video films that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and also selling works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, to minors or disseminating such works among minors, -</p> <p>shall be punishable by a fine of 100 to 300 tax-free minimum incomes, or restraint of liberty for a term up to five years, with the forfeiture of motion pictures and video films that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and means of their making and showing.</p> <p>3. Any such acts as provided for by paragraph 1 or 2 of this Article, if repeated, or committed by a group of persons upon their prior conspiracy, and also compelling minors to participate in the creation of works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, -</p>	<p style="text-align: center;">Article 300. Importation, making or distribution of works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination</p> <p>1. Importation into Ukraine for sale or distribution purposes, or making, storage, transportation or other movement for the same purposes, or sale or distribution of works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and also compelling others to participate in creation of such works, -</p> <p>shall be punishable by a fine up to 150 tax-free minimum incomes, or arrest for a term up to six months, or restraint of liberty for a term up to three years, with the forfeiture of works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and means of their making and distribution.</p> <p>2. The same actions in regard to motion pictures and video films that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and also selling works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, to minors or disseminating such works among minors, -</p> <p>shall be punishable by a fine of 100 to 300 tax-free minimum incomes, or restraint of liberty for a term up to five years, with the forfeiture of motion pictures and video films that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and means of their making and showing.</p> <p>3. Any such acts as provided for by paragraph 1 or 2 of this Article, if repeated, or committed by a group of persons upon their prior conspiracy, and also compelling minors to participate in the creation of works that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, -</p>

<p>shall be punishable by imprisonment of three to five years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and forfeiture of works, motion pictures and video films that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and means of their making and showing.</p>	<p>shall be punishable by imprisonment of three to five years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and forfeiture of works, motion pictures and video films that propagandize violence and cruelty, racial, national or religious intolerance and discrimination, and means of their making and showing.</p>
<p style="text-align: center;">Article 301. Importation, making, sale or distribution of pornographic items</p> <p>1. Importation into Ukraine for sale or distribution purposes, or making, transportation or other movement for the same purposes, or sale or distribution of pornographic images or other items, and also compelling others to participate in their making, -</p> <p>shall be punishable by a fine of 50 to 100 tax-free minimum incomes, or arrest for a term up to six months, or restraint of liberty for a term up to three years, with the forfeiture of pornographic images or other items and means of their making and distribution.</p> <p>2. The same actions committed in regard to pornographic motion pictures and video films, or computer programs, also selling pornographic images or other items to minors or disseminating such images and items among them, -</p> <p>shall be punishable by a fine of 100 to 300 tax-free minimum incomes, or restraint of liberty for a term up to five years, or imprisonment for the same term, with the forfeiture of pornographic motion pictures and video films and means of their making and showing.</p> <p>3. Any such acts as provided for by paragraph 1 or 2 of this Article, if repeated, or committed by a group of persons upon their prior conspiracy, or aimed at obtaining big profit, -</p>	<p style="text-align: center;">Article 301. Importation, making, sale or distribution of pornographic items</p> <p>1. Importation into Ukraine for sale or distribution purposes, or making, transportation or other movement for the same purposes, or sale or distribution of pornographic images or other items, and also compelling others to participate in their making, -</p> <p>shall be punishable by a fine of 50 to 100 tax-free minimum incomes, or arrest for a term up to six months, or restraint of liberty for a term up to three years, with the forfeiture of pornographic images or other items and means of their making and distribution.</p> <p>2. The same actions committed in regard to pornographic motion pictures and video films, or computer programs, also selling pornographic images or other items to minors or disseminating such images and items among them, -</p> <p>shall be punishable by a fine of 100 to 300 tax-free minimum incomes, or restraint of liberty for a term up to five years, or imprisonment for the same term, with the forfeiture of pornographic motion pictures and video films and means of their making and showing.</p> <p>3. Any such acts as provided for by paragraph 1 or 2 of this Article, if repeated, or committed by a group of persons upon their prior conspiracy, or aimed at obtaining big profit, -</p>

<p>shall be punishable by imprisonment of three to seven years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and forfeiture of pornographic items, motion pictures, video films, computer programs, and means of their making, dissemination and showing.</p> <p>4. Acts provided for in paragraphs 1 and 2 of this Article committed in regard to pornographic works, images or other items containing child pornography, or compelling minors to participate in making pornographic works, images or motion and video films, computer programs, -</p> <p>shall be punishable by imprisonment of five to ten years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and forfeiture of pornographic items, motion pictures, video films, computer programs, and means of their making, dissemination and showing.</p> <p>5. Acts provided for in paragraphs 1 and 2 of this Article, if repeated, or committed by a group of persons upon their prior conspiracy, or aimed at obtaining big profit, -</p> <p>shall be punishable by imprisonment of seven to twelve years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and forfeiture of pornographic items, motion pictures, video films, computer programs, and means of their making, dissemination and showing.</p> <p>Note: Gaining big profit takes place when its amount equals or exceeds 200 tax-free minimum incomes.</p>	<p>shall be punishable by imprisonment of three to seven years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and forfeiture of pornographic items, motion pictures, video films, computer programs, and means of their making, dissemination and showing.</p> <p>4. Acts provided for in paragraphs 1 and 2 of this Article committed in regard to pornographic works, images or other items containing child pornography, or compelling minors to participate in making pornographic works, images or motion and video films, computer programs, -</p> <p>shall be punishable by imprisonment of five to ten years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and forfeiture of pornographic items, motion pictures, video films, computer programs, and means of their making, dissemination and showing.</p> <p>5. Acts provided for in paragraphs 1 and 2 of this Article, if repeated, or committed by a group of persons upon their prior conspiracy, or aimed at obtaining big profit, -</p> <p>shall be punishable by imprisonment of seven to twelve years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years and forfeiture of pornographic items, motion pictures, video films, computer programs, and means of their making, dissemination and showing.</p> <p>Note: Gaining big profit takes place when its amount equals or exceeds 200 tax-free minimum incomes.</p>
<p>Article 305. Smuggling of narcotics, psychotropic substances, their analogues or precursors</p> <p>1. Smuggling of narcotics, psychotropic substances, their analogues or</p>	<p>Article 305. Smuggling of narcotics, psychotropic substances, their analogues or precursors</p> <p>1. Smuggling of narcotics, psychotropic substances, their analogues or</p>

<p>precursors, or falsified medicaments that is their movement across the customs border of Ukraine outside the customs control or by concealing from the customs control, -</p> <p>shall be punishable by imprisonment of five to eight years with the forfeiture of smuggled narcotics or psychotropic substances, their analogues, precursors or falsified medicaments.</p> <p>2. The same actions, if repeated, or committed by a group of persons upon their prior conspiracy, and also where these actions involved especially dangerous narcotics or psychotropic substances, their analogues or precursors or falsified medicaments in large amounts, -</p> <p>shall be punishable by imprisonment for a term of eight to ten years with the forfeiture of smuggled narcotics or psychotropic substances, their analogues or precursors or falsified medicaments, and forfeiture of property.</p> <p>3. Smuggling of narcotics, psychotropic substances, their analogues or precursors or falsified medicaments committed by an organized group, and also where smuggling involved narcotics or psychotropic substances, their analogues or precursors or falsified medicaments in especially large amounts, -</p> <p>shall be punishable by imprisonment for the term of ten to twelve years with the forfeiture of smuggled narcotics or psychotropic substances, their analogues or precursors or falsified medicaments, and forfeiture of property.</p> <p>Note: For the purposes of this Chapter, "large" and "especially large" amounts of narcotics or psychotropic substances, their analogues or precursors, or falsified medicaments as well as poisonous or potent substances, or poisonous or potent medicines or falsified medicaments shall be determined by the relevant health authority together with the</p>	<p>precursors, or falsified medicaments that is their movement across the customs border of Ukraine outside the customs control or by concealing from the customs control, -</p> <p>shall be punishable by imprisonment of five to eight years with the forfeiture of smuggled narcotics or psychotropic substances, their analogues, precursors or falsified medicaments.</p> <p>2. The same actions, if repeated, or committed by a group of persons upon their prior conspiracy, and also where these actions involved especially dangerous narcotics or psychotropic substances, their analogues or precursors or falsified medicaments in large amounts, -</p> <p>shall be punishable by imprisonment for a term of eight to ten years with the forfeiture of smuggled narcotics or psychotropic substances, their analogues or precursors or falsified medicaments, and forfeiture of property.</p> <p>3. Smuggling of narcotics, psychotropic substances, their analogues or precursors or falsified medicaments committed by an organized group, and also where smuggling involved narcotics or psychotropic substances, their analogues or precursors or falsified medicaments in especially large amounts, -</p> <p>shall be punishable by imprisonment for the term of ten to twelve years with the forfeiture of smuggled narcotics or psychotropic substances, their analogues or precursors or falsified medicaments, and forfeiture of property.</p> <p>Note: For the purposes of this Chapter, "large" and "especially large" amounts of narcotics or psychotropic substances, their analogues or precursors, or falsified medicaments as well as poisonous or potent substances, or poisonous or potent medicines or falsified medicaments shall be determined by the relevant health authority together with the</p>
--	---

authority responsible for state policy on drugs circulation.	authority responsible for state policy on drugs circulation.
<p align="center">Article 306. Use of proceeds from trafficking in narcotics, psychotropic substances, their analogues and precursors</p> <p>1. Placing proceeds from trafficking in narcotics, psychotropic substances, their analogues or precursors or poisonous or potent substances, or poisonous or potent medicines, into banks, enterprises, institutions, organizations and their divisions, or purchasing facilities and property designated for privatization, or industrial and other equipment, or using these proceeds and property to continue trafficking in narcotics, psychotropic substances, their analogues or precursors, -</p> <p>shall be punishable by imprisonment for a term of seven to twelve years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, with the forfeiture of money and other property known to be proceeds from crime, and with the forfeiture of property.</p> <p>2. Any such actions as provided for by paragraph 1 of this Article, if repeated, or committed by a group of persons upon prior conspiracy, or in respect of gross amounts, -</p> <p>shall be punishable by imprisonment for a term of eight to fifteen years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years with the forfeiture of money and other property known to be proceeds from crime, and with the forfeiture of property.</p> <p>Note: The gross amount shall mean the amount that equals or exceeds 200 tax-free minimum incomes.</p>	<p align="center">Article 306. Use of proceeds from trafficking in narcotics, psychotropic substances, their analogues and precursors</p> <p>1. Placing proceeds from trafficking in narcotics, psychotropic substances, their analogues or precursors or poisonous or potent substances, or poisonous or potent medicines, into banks, enterprises, institutions, organizations and their divisions, or purchasing facilities and property designated for privatization, or industrial and other equipment, or using these proceeds and property to continue trafficking in narcotics, psychotropic substances, their analogues or precursors, -</p> <p>shall be punishable by imprisonment for a term of seven to twelve years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, with the forfeiture of money and other property known to be proceeds from crime, and with the forfeiture of property.</p> <p>2. Any such actions as provided for by paragraph 1 of this Article, if repeated, or committed by a group of persons upon prior conspiracy, or in respect of gross amounts, -</p> <p>shall be punishable by imprisonment for a term of eight to fifteen years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years with the forfeiture of money and other property known to be proceeds from crime, and with the forfeiture of property.</p> <p>Note: The gross amount shall mean the amount that equals or exceeds 200 tax-free minimum incomes.</p>
<p align="center">Article 321¹. Counterfeiting of medicines or circulation of counterfeit medicines.</p> <p>1. Manufacture, purchase, transportation, sending, storage for the purpose</p>	<p align="center">Article 321¹. Counterfeiting of medicines or circulation of counterfeit medicines.</p> <p>1. Manufacture, purchase, transportation, sending, storage for the purpose</p>

<p>of sale or distribution of obviously counterfeit medicines –</p> <p>shall be punished by imprisonment for a term of three to five years with confiscation of counterfeit medicines, raw materials and equipment for their manufacture.</p> <p>2. The same actions committed repeatedly or by previous concert of a group of persons, or in large amounts, or if they have caused protracted injury to health of the person, as well as the production of counterfeit drugs –</p> <p>shall be punished by imprisonment for a term of five to eight years, with confiscation of counterfeit medicines, raw materials, equipment for their production and property.</p> <p>3. Actions, stipulated by the first or second part of this article, if they caused death of a person or other grave consequences, or committed in particularly large amount –</p> <p>shall be punished by imprisonment for a term of eight to ten years, or imprisonment for life, with the confiscation of counterfeit medicines, raw materials, equipment for their production and property.</p> <p>4. A person who voluntarily surrendered counterfeit medicines and indicated the source of their acquisition or contributed to the disclosure of crimes related to their trafficking, is exempted from criminal liability for acquisition, transport, transfer or storage with the purpose of selling, distribution of obviously counterfeit medicines, their importation into the territory of Ukraine, export from the territory of Ukraine and transit through its territory (as mentioned in the first part of this article, if such actions has not created a threat to the life or death of the people).</p>	<p>of sale or distribution of obviously counterfeit medicines –</p> <p>shall be punished by imprisonment for a term of three to five years with confiscation of counterfeit medicines, raw materials and equipment for their manufacture.</p> <p>2. The same actions committed repeatedly or by previous concert of a group of persons, or in large amounts, or if they have caused protracted injury to health of the person, as well as the production of counterfeit drugs –</p> <p>shall be punished by imprisonment for a term of five to eight years, with confiscation of counterfeit medicines, raw materials, equipment for their production and property.</p> <p>3. Actions, stipulated by the first or second part of this article, if they caused death of a person or other grave consequences, or committed in particularly large amount –</p> <p>shall be punished by imprisonment for a term of eight to ten years, or imprisonment for life, with the confiscation of counterfeit medicines, raw materials, equipment for their production and property.</p> <p>4. A person who voluntarily surrendered counterfeit medicines and indicated the source of their acquisition or contributed to the disclosure of crimes related to their trafficking, is exempted from criminal liability for acquisition, transport, transfer or storage with the purpose of selling, distribution of obviously counterfeit medicines, their importation into the territory of Ukraine, export from the territory of Ukraine and transit through its territory (as mentioned in the first part of this article, if such actions has not created a threat to the life or death of the people).</p>
<p>Article 332. Illegal smuggling of persons across the state border of Ukraine</p>	<p>Article 332. Illegal smuggling of persons across the state border of Ukraine</p>

<p>1. Illegal smuggling of persons across the state border of Ukraine, organization of illegal smuggling of persons across the state border of Ukraine, coordinating or facilitating any such actions by advice, instructions, provision of means or removal of obstacles, -</p> <p>shall be punishable by imprisonment for a term of three to five years with the forfeiture of transport or any other means used to commit the offense.</p> <p>2. The same actions committed in a manner which was dangerous for the life or health of ther perons who was illegally smuggled across the state border of Ukraine, or committed with regard to several persons, or repeatedly, or committed by a group of persons upon their prior conspiracy, or by an official abusing his office -</p> <p>shall be punishable by imprisonment for a term of five to seven years with the forfeiture of transport or other means used to commit the offense with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.</p> <p>3. The actions foreseen by part one and two of this Article committed by an organized group or for for mercenary motives –</p> <p>shall be punishable by imprisonment for a term of seven to nine years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years with the forfeiture of transport or other means used to commit the offense, and with forfeiture of property.</p>	<p>1. Illegal smuggling of persons across the state border of Ukraine, organization of illegal smuggling of persons across the state border of Ukraine, coordinating or facilitating any such actions by advice, instructions, provision of means or removal of obstacles, -</p> <p>shall be punishable by imprisonment for a term of three to five years with the forfeiture of transport or any other means used to commit the offense.</p> <p>2. The same actions committed in a manner which was dangerous for the life or health of ther perons who was illegally smuggled across the state border of Ukraine, or committed with regard to several persons, or repeatedly, or committed by a group of persons upon their prior conspiracy, or by an official abusing his office -</p> <p>shall be punishable by imprisonment for a term of five to seven years with the forfeiture of transport or other means used to commit the offense with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.</p> <p>3. The actions foreseen by part one and two of this Article committed by an organized group or for for mercenary motives –</p> <p>shall be punishable by imprisonment for a term of seven to nine years with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years with the forfeiture of transport or other means used to commit the offense, and with forfeiture of property.</p>
<p align="center">Article 334. Violation of international flights regulations</p> <p>Flying in or out of Ukraine without an appropriate permit, or failure to follow the routes, places of landing, air ways, gates or echelons described in such permit, -</p>	<p align="center">Article 334. Violation of international flights regulations</p> <p>Flying in or out of Ukraine without an appropriate permit, or failure to follow the routes, places of landing, air ways, gates or echelons described in such permit, -</p>

<p>shall be punishable by a fine of 200 to 1000 tax-free minimum incomes, or restraint of liberty for a term up to five years, or imprisonment for the same term, with the forfeiture of the aircraft.</p>	<p>shall be punishable by a fine of 200 to 1000 tax-free minimum incomes, or restraint of liberty for a term up to five years, or imprisonment for the same term, with the forfeiture of the aircraft.</p>
<p>Article 361. Unauthorized interference with the work of electronic computing machines (computers), automated systems, computer networks or telecommunication networks</p> <p>1. Unauthorized interference with the work of electronic computing machines (computers), automated systems, computer networks or telecommunication networks, which led to leak, loss, fake, blocking information, distortion of the information processing or violation the established order its routing, - shall be punishable by a fine of 600 to 1000 tax-free minimum incomes, or restraint of liberty for a term of two to five years, or imprisonment for a term of three years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to two years, with the forfeiture of software and hardware, by means of which were accomplished unauthorized intervention, which are owned by the party in fault.</p> <p>2. The same actions, if repeated or committed by a group of persons upon their prior conspiracy, if they caused a significant damage shall be punishable by imprisonment for a term of three to five years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to two years, with the forfeiture of software and hardware, by means of which were accomplished unauthorized intervention, which are owned by the party in fault.</p> <p>Note. Significant damage under these Articles 361 - 363-1 if it is causing material damage, shall mean a damage which equals or exceeds 100 tax-free minimum incomes.</p>	<p>Article 361. Unauthorized interference with the work of electronic computing machines (computers), automated systems, computer networks or telecommunication networks</p> <p>1. Unauthorized interference with the work of electronic computing machines (computers), automated systems, computer networks or telecommunication networks, which led to leak, loss, fake, blocking information, distortion of the information processing or violation the established order its routing, - shall be punishable by a fine of 600 to 1000 tax-free minimum incomes, or restraint of liberty for a term of two to five years, or imprisonment for a term of three years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to two years, with the forfeiture of software and hardware, by means of which were accomplished unauthorized intervention, which are owned by the party in fault.</p> <p>2. The same actions, if repeated or committed by a group of persons upon their prior conspiracy, if they caused a significant damage shall be punishable by imprisonment for a term of three to five years, with or without the deprivation of the right to occupy certain positions or engage in certain activities for a term up to two years, with the forfeiture of software and hardware, by means of which were accomplished unauthorized intervention, which are owned by the party in fault.</p> <p>Note. Significant damage under these Articles 361 - 363-1 if it is causing material damage, shall mean a damage which equals or exceeds 100 tax-free minimum incomes.</p>
<p>Article 361-1. Creation for the purpose of use, dissemination and distribution of harmful software or hardware, as well as their dissemination and distribution.</p> <p>1. Creation for the purpose of use, dissemination and distribution, as well as dissemination and distribution of harmful software or hardware,</p>	<p>Article 361-1. Creation for the purpose of use, dissemination and distribution of harmful software or hardware, as well as their dissemination and distribution.</p> <p>1. Creation for the purpose of use, dissemination and distribution, as well as dissemination and distribution of harmful software or hardware,</p>

<p>appropriate for unauthorized interference with the work of electronic computing machines (computers), automated systems, computer networks or telecommunication networks, - shall be punishable by a fine of 500 to 1000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for the same term, with the forfeiture of software and hardware, appropriate for unauthorized interference with the work of electronic computing machines (computers), automated systems, computer, which are owned by the party in fault.</p> <p>2. The same actions, if repeated or committed by a group of persons upon their prior conspiracy, if they caused a significant damage, - shall be punishable by imprisonment for a term up to five years, with the forfeiture of software and hardware, appropriate for unauthorized interference with the work of electronic computing machines (computers), automated systems, computer, which are owned by the party in fault.</p>	<p>appropriate for unauthorized interference with the work of electronic computing machines (computers), automated systems, computer networks or telecommunication networks, - shall be punishable by a fine of 500 to 1000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for the same term, with the forfeiture of software and hardware, appropriate for unauthorized interference with the work of electronic computing machines (computers), automated systems, computer, which are owned by the party in fault.</p> <p>2. The same actions, if repeated or committed by a group of persons upon their prior conspiracy, if they caused a significant damage, - shall be punishable by imprisonment for a term up to five years, with the forfeiture of software and hardware, appropriate for unauthorized interference with the work of electronic computing machines (computers), automated systems, computer, which are owned by the party in fault.</p>
<p>Article 361-2. Unauthorized dissemination and distribution of information with restricted access, which is stored in the electronic computing machines (computers), automated systems, computer networks or information-carrying medium.</p> <p>1. Unauthorized dissemination and distribution of information with restricted access, which is stored in the electronic computing machines (computers), automated systems, computer networks or information-carrying medium, established and protected in accordance with existing legislation, - shall be punishable by a fine of 500 to 1000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for a term up to two years, with the forfeiture of software and hardware, by means of which were accomplished unauthorized distribution or dissemination of information with restricted access, which are owned by the party in fault</p> <p>2. The same actions, if repeated or committed by a group of persons upon their prior conspiracy, if they caused a significant damage, - shall be punishable by imprisonment for a term of two to five years, with</p>	<p>Article 361-2. Unauthorized dissemination and distribution of information with restricted access, which is stored in the electronic computing machines (computers), automated systems, computer networks or information-carrying medium.</p> <p>1. Unauthorized dissemination and distribution of information with restricted access, which is stored in the electronic computing machines (computers), automated systems, computer networks or information-carrying medium, established and protected in accordance with existing legislation, - shall be punishable by a fine of 500 to 1000 tax-free minimum incomes, or correctional labor for a term up to two years, or imprisonment for a term up to two years, with the forfeiture of software and hardware, by means of which were accomplished unauthorized distribution or dissemination of information with restricted access, which are owned by the party in fault</p> <p>2. The same actions, if repeated or committed by a group of persons upon their prior conspiracy, if they caused a significant damage, - shall be punishable by imprisonment for a term of two to five years, with</p>

<p>the forfeiture of software and hardware, by means of which were accomplished unauthorized interference with the work of electronic computing machines (computers), automated systems, computer, which are owned by the party in fault.</p>	<p>the forfeiture of software and hardware, by means of which were accomplished unauthorized interference with the work of electronic computing machines (computers), automated systems, computer, which are owned by the party in fault.</p>
<p>Article 362. Unauthorized actions with information, which is processed in the electronic computing machines (computers), automated systems, computer networks or saved on the information-carrying medium, committed by a person entitled to access to such information.</p> <p>1. Unauthorized alteration, erasure or blocking of information, which is processed in the electronic computing machines (computers), automated systems, computer networks or stored on the information-carrying medium, if it led to leak, committed by a person entitled to access to such information, – shall be punishable by a fine of 600 to 1000 tax-free minimum incomes, or correctional labor for a term up to two years, with the forfeiture of software and hardware, by means of which were accomplished unauthorized distribution alteration, erasure or blocking of information, which is owned by the party in fault.</p> <p>2. Unauthorized interception or copying of information, which is processed in the electronic computing machines (computers), automated systems, computer networks or stored on the information-carrying medium if it led to leak, committed by a person entitled to access to such information, – shall be punishable by imprisonment for a term up to three years, with the deprivation of the right to occupy certain positions or engage in certain activities for the same term, and with the forfeiture of software and hardware, by means of which were accomplished unauthorized interception or copying of information, which are owned by the party in fault.</p> <p>3. Acts provided for in paragraphs 1 and 2 of this Article, if repeated or committed by a group of persons upon their prior conspiracy, if they caused a significant damage, -</p>	<p>Article 362. Unauthorized actions with information, which is processed in the electronic computing machines (computers), automated systems, computer networks or saved on the information-carrying medium, committed by a person entitled to access to such information.</p> <p>1. Unauthorized alteration, erasure or blocking of information, which is processed in the electronic computing machines (computers), automated systems, computer networks or stored on the information-carrying medium, if it led to leak, committed by a person entitled to access to such information, – shall be punishable by a fine of 600 to 1000 tax-free minimum incomes, or correctional labor for a term up to two years, with the forfeiture of software and hardware, by means of which were accomplished unauthorized distribution alteration, erasure or blocking of information, which is owned by the party in fault.</p> <p>2. Unauthorized interception or copying of information, which is processed in the electronic computing machines (computers), automated systems, computer networks or stored on the information-carrying medium if it led to leak, committed by a person entitled to access to such information, – shall be punishable by imprisonment for a term up to three years, with the deprivation of the right to occupy certain positions or engage in certain activities for the same term, and with the forfeiture of software and hardware, by means of which were accomplished unauthorized interception or copying of information, which are owned by the party in fault.</p> <p>3. Acts provided for in paragraphs 1 and 2 of this Article, if repeated or committed by a group of persons upon their prior conspiracy, if they caused a significant damage, -</p>

<p>shall be punishable by imprisonment for a term of three to six years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, and with the forfeiture of software and hardware, by means of which were accomplished unauthorized actions with information, which are owned by the party in fault.</p>	<p>shall be punishable by imprisonment for a term of three to six years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years, and with the forfeiture of software and hardware, by means of which were accomplished unauthorized actions with information, which are owned by the party in fault.</p>
<p>Article 363-1. Impeding the work of electronic computing machines (computers), automated systems, computer networks or telecommunication networks by mass distribution of electronic messages</p> <p>1. Willful mass distribution of electronic messages, committed without the prior consent of recipients, which led to disturbance or interruption of electronic computing machines (computers), automated systems, computer networks or telecommunication networks, - shall be punishable by a fine of 500 to 1000 tax-free minimum incomes, or restraint of liberty for a term up to three years.</p> <p>2. The same actions, if repeated or committed by a group of persons upon their prior conspiracy, if they caused a significant damage, - shall be punishable by a fine of 500 to 1000 tax-free minimum incomes, or restraint of liberty for a term up to five years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term to three years, and with the forfeiture of software and hardware, by means of which were accomplished mass distribution of electronic messages, which are owned by the party in fault.</p>	<p>Article 363-1. Impeding the work of electronic computing machines (computers), automated systems, computer networks or telecommunication networks by mass distribution of electronic messages</p> <p>1. Willful mass distribution of electronic messages, committed without the prior consent of recipients, which led to disturbance or interruption of electronic computing machines (computers), automated systems, computer networks or telecommunication networks, - shall be punishable by a fine of 500 to 1000 tax-free minimum incomes, or restraint of liberty for a term up to three years.</p> <p>2. The same actions, if repeated or committed by a group of persons upon their prior conspiracy, if they caused a significant damage, - shall be punishable by a fine of 500 to 1000 tax-free minimum incomes, or restraint of liberty for a term up to five years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term to three years, and with the forfeiture of software and hardware, by means of which were accomplished mass distribution of electronic messages, which are owned by the party in fault.</p>

Criminal Procedure Code of Ukraine

Article 91. Circumstances to be proved in criminal proceedings

1. The following shall be proved in criminal proceedings:

- 1) occurrence of criminal offence (when, where, how a criminal offence has been committed and under what circumstances);
- 2) degree of guilt of the accused in the commission of criminal offence, form of guilt, motive and purpose of the criminal offense;
- 3) type and amount of damage caused by criminal offence, as well as amount of procedural expenses;
- 4) circumstances which aggravate, mitigate the committed criminal offense, characterize the person of the accused, toughen or mitigate punishment, preclude criminal liability or shall be grounds for terminating the criminal proceedings;
- 5) circumstances that shall be grounds for relief from criminal liability or punishment.

2. Proving consists in collecting, examining and evaluating evidence in order to establish circumstances that are important for criminal proceedings.

Article 91. Circumstances to be proved in criminal proceedings

1. The following shall be proved in criminal proceedings:

- 1) occurrence of criminal offence (when, where, how a criminal offence has been committed and under what circumstances);
- 2) degree of guilt of the accused in the commission of criminal offence, form of guilt, motive and purpose of the criminal offense;
- 3) type and amount of damage caused by criminal offence, as well as amount of procedural expenses;
- 4) circumstances which aggravate, mitigate the committed criminal offense, characterize the person of the accused, toughen or mitigate punishment, preclude criminal liability or shall be grounds for terminating the criminal proceedings;
- 5) circumstances that shall be grounds for relief from criminal liability or punishment;

6) circumstances that prove that money, valuables or other property that is subject to special confiscation were acquired as a result of committing a crime and/or are profits from such property; or were intended (used) to convince a person to commit a crime, to finance and/or to materially support a crime or to financially reward its committing; or were objects of a crime including crimes related to illegal circulation of such property; or were found, manufactured, adapted or used as means or tools for committing a crime.

2. Proving consists in collecting, examining and evaluating evidence in order to establish circumstances that are important for criminal proceedings.

Article 100. Custody of and deciding on physical evidence and documents

1. Physical evidence transferred to, or seized by, a party to criminal proceedings shall be returned to its holder as soon as possible, except as provided for in Articles 160-166, 170-174 of this Code.

2. Physical evidence or a document released voluntary or pursuant to a court decision shall be kept by the party to criminal proceedings to which it has been so released. The party to criminal proceedings to which physical evidence or a document has been provided is required to preserve it in the state acceptable for the use in criminal proceedings. Physical evidence that has been obtained or seized by investigator, public prosecutor shall be examined, photographed and described in detail in the report of examination. Prosecution shall preserve physical evidence according to the procedure established by the Cabinet of Ministers of Ukraine.

3. A document shall be kept throughout all criminal proceedings. Upon request of the owner of a document, investigator, public prosecutor, court may issue a copy of this document, and if necessary, the original, attaching to the criminal proceedings certified copies thereof in their stead.

4. If the party to criminal proceedings loses or destroys any physical evidence released thereto, such party is required to provide a similar object or compensate its cost to the holder. If the party to criminal proceedings loses or destroys a document released thereto, it is required to compensate the holder expenses related to the loss or destruction of a document and production of its duplicate.

5. Physical evidence and documents furnished to the court shall be kept at the court, except as provided otherwise by the sixth paragraph below and except for such bulky physical evidence or otherwise requiring special storage conditions, which may be kept in a different storage location.

6. Physical evidence, unless it contains signs of a criminal offence, in the form of items or large lots of goods, where storing it, in view of its bulkiness or for other reasons, is impossible without excessive difficulty or where the cost of storing it in special conditions is commensurate with their value, as well as physical evidence in the form of perishable goods or products shall be:

1) returned or transferred for safekeeping to its holder if this does not prejudice the criminal proceedings;

Article 100. Custody of physical evidence and documents and deciding on special confiscation

1. Physical evidence transferred to, or seized by, a party to criminal proceedings shall be returned to its holder as soon as possible, except as provided for in Articles 160-166, 170-174 of this Code.

2. Physical evidence or a document released voluntary or pursuant to a court decision shall be kept by the party to criminal proceedings to which it has been so released. The party to criminal proceedings to which physical evidence or a document has been provided is required to preserve it in the state acceptable for the use in criminal proceedings. Physical evidence that has been obtained or seized by investigator, public prosecutor shall be examined, photographed and described in detail in the report of examination. Prosecution shall preserve physical evidence according to the procedure established by the Cabinet of Ministers of Ukraine.

3. A document shall be kept throughout all criminal proceedings. Upon request of the owner of a document, investigator, public prosecutor, court may issue a copy of this document, and if necessary, the original, attaching to the criminal proceedings certified copies thereof in their stead.

4. If the party to criminal proceedings loses or destroys any physical evidence released thereto, such party is required to provide a similar object or compensate its cost to the holder. If the party to criminal proceedings loses or destroys a document released thereto, it is required to compensate the holder expenses related to the loss or destruction of a document and production of its duplicate.

5. Physical evidence and documents furnished to the court shall be kept at the court, except as provided otherwise by the sixth paragraph below and except for such bulky physical evidence or otherwise requiring special storage conditions, which may be kept in a different storage location.

6. Physical evidence, unless it contains signs of a criminal offence, in the form of items or large lots of goods, where storing it, in view of its bulkiness or for other reasons, is impossible without excessive difficulty or where the cost of storing it in special conditions is commensurate with their value, as well as physical evidence in the form of perishable goods ~~or~~ products shall be:

1) returned or transferred for safekeeping to its owner or legitimate holder if this does not prejudice the criminal proceedings;

<p>Article 167. Grounds for provisional seizure of property</p> <p>1. Provisional seizure of property means actual deprivation of the suspect of the possibility to possess, use, and dispose of certain property till the issue of attachment or return of property is decided.</p> <p>2. The property in the form of objects, documents, money, etc. may be provisionally seized if there is sufficient grounds for the belief that such property:</p> <p>1) has been found, fabricated, adapted, or used as means or instruments of the commission of criminal offence and/or preserved signs of it;</p> <p>2) has been given to a person to induce him to the commission of criminal offence, financing and/or providing material support to or as a reward for its commission;</p> <p>3) has been a subject of criminal offence related to its illegal circulation;</p> <p>4) has been gained as a result of commission of criminal offence, is proceeds of such or were the target of a criminal offence.</p>	<p>Article 167. Grounds for provisional seizure of property</p> <p>1. Provisional seizure of property means actual deprivation of the suspect or of the holder of the property mentioned in paragraph 2 of this Article of the possibility to possess, use, and dispose of the property till the issue of attachment or return of property is decided.</p> <p>2. The property in the form of objects, documents, money, etc. may be provisionally seized if there is sufficient grounds for the belief that such property:</p> <p>1) has been found, fabricated, adapted, or used as means or instruments of the commission of criminal offence and/or preserved signs of it;</p> <p>2) was intended (used) to induce a person to the commission of criminal offence, or to finance and/or provide material support to or as a reward for its commission;</p> <p>3) has been a subject of a criminal offence including those related to its illegal circulation;</p> <p>4) has been gained as a result of commission of criminal offence and/or is proceeds of such, including the property to which it was converted.</p>
<p>Article 169. Terminating provisional seizure of property</p> <p>1. Provisionally seized property shall be returned to the person from whom it has been seized:</p> <p>1) upon public prosecutor's resolution, if he finds that the seizure was ill-grounded;</p> <p>2) Upon ruling of investigating judge or court, if it dismisses public prosecutor's motion to attach the property;</p> <p>3) in cases set forth in paragraph five of Article 171 and paragraph six of Article 170 of this Code.</p>	<p>Article 169. Terminating provisional seizure of property</p> <p>1. Provisionally seized property shall be returned to the person from whom it has been seized:</p> <p>1) upon public prosecutor's resolution, if he finds that the seizure was ill-grounded;</p> <p>2) Upon ruling of investigating judge or court, if it dismisses public prosecutor's motion to attach the property;</p> <p>3) in cases set forth in paragraph five of Article 171 and paragraph six of Article 170 of this Code;</p> <p>4) in case of cancellation of the attachment.</p>
<p>Article 170. Grounds for attachment of property</p> <p>1. Attachment of property means temporary deprivation of the suspect, accused person or persons who are civilly liable by law for the</p>	<p>Article 170. Grounds for attachment of property</p> <p>1. Attachment of property means temporary deprivation of the suspect, accused person or persons who are civilly liable by law for the</p>

damage caused through actions of the suspect, accused person or an insane person who has committed a socially dangerous act, of the possibility to dispose of certain property by a ruling of the investigating judge or court, until revocation of such attachment of property, according to the procedure established by this Code. Pursuant to the requirements of this Code, attachment of property may also envisage the prohibition for person whose property has been attached or another person holding property, to dispose in any way of such property and to use it.

2. Investigating judge or court during trial shall order the attachment of property of the suspect, accused in the form of objects if there are sufficient grounds for the belief that such objects meet the criteria specified in paragraph two of Article 167 of this Code. Furthermore, where a civil action is granted, the court on a motion of the public prosecutor or civil plaintiff may decide on attachment of property for the purpose of securing the civil claim pending validity date of the decision, unless such measures have not been taken before.

3. Attachment may be ordered against movable and immovable property, intellectual property rights, money in any currency in cash or non-cash form, securities, corporate rights which are owned by the suspect, accused or other person who are civilly liable by law for the damage caused through actions of the suspect, accused person or an insane person who has committed a socially dangerous act and stay with him or with other physical or legal persons to secure possible confiscation of property or civil action.

4. Ban on use of property as well as ban of disposal of such property may be applied only in cases where non-application thereof may entail disappearance, loss of or damage to the property concerned, or other consequences that may obstruct criminal proceedings.

5. Ban on use of living quarters where any persons reside on legitimate grounds shall not be tolerated.

damage caused through actions of the suspect, accused person or an insane person who has committed a socially dangerous act, of the possibility to dispose of certain property by a ruling of the investigating judge or court, until revocation of such attachment of property, according to the procedure established by this Code. Pursuant to the requirements of this Code, attachment of property may also envisage the prohibition for person whose property has been attached or another person holding property, to dispose in any way of such property and to use it.

2. Investigating judge or court during trial shall order the attachment of property of the suspect, accused ~~in the form of objects~~ if there are sufficient grounds for the belief that such objects meet the criteria specified in paragraph two of Article 167 of this Code. Furthermore, where a civil action is granted, the court on a motion of the public prosecutor or civil plaintiff may decide on attachment of property for the purpose of securing the civil claim pending validity date of the decision, unless such measures have not been taken before.

3. Attachment may be ordered against movable and immovable property, intellectual property rights, money in any currency in cash or non-cash form, securities, corporate rights, **including those** which are owned by the suspect, accused or other person who are civilly liable by law for the damage caused through actions of the suspect, accused person or an insane person who has committed a socially dangerous act and stay with him or with other physical or legal persons to secure possible confiscation of property, special confiscation or civil action.

4. Ban on use of property as well as ban of disposal of such property may be applied only in cases where non-application thereof may entail disappearance, loss of or damage to the property concerned, or other consequences that may obstruct criminal proceedings.

5. Ban on use of living quarters where any persons reside on legitimate grounds shall not be tolerated.

<p>Article 171. Motion for attachment of property</p> <p>1. Public prosecutor, investigator upon approval of the public prosecutor and, with a view to securing a civil action, also a civil plaintiff may file a motion for the attachment of property with investigating judge, court.</p> <p>2. Investigator's, public prosecutor's motion for the attachment of property shall include:</p> <ol style="list-style-type: none"> 1) grounds for the attachment of property; 2) list and types of property to be attached; 3) documents confirming the title to the property that must be attached. <p>The motion shall also be attached originals or copies of documents and other materials with which investigator, public prosecutor substantiates his arguments.</p> <p>3. A motion of a civil plaintiff, investigator, public prosecutor for attachment of property of the suspect, accused or another person to secure the civil action shall include:</p> <ol style="list-style-type: none"> 1) the scope of damage inflicted by criminal offense; 2) evidence that confirms the fact of inflicting damage and the amount of such damage. <p>4. The value of property to be attached to secure a civil action shall be commensurate with the amount of damage caused by criminal offence.</p> <p>5. Investigator, public prosecutor shall submit motion for the attachment of provisionally seized property not later than the next day after the seizure of property, otherwise the property has to be immediately returned to the person from whom it has been seized.</p>	<p>Article 171. Motion for attachment of property</p> <p>1. Public prosecutor, investigator upon approval of the public prosecutor and, with a view to securing a civil action, also a civil plaintiff may file a motion for the attachment of property with investigating judge, court.</p> <p>2. Investigator's, public prosecutor's motion for the attachment of property shall include:</p> <ol style="list-style-type: none"> 1) grounds for the attachment of property; 2) list and types of property to be attached; 3) documents confirming the title to the property that must be attached. <p>The motion shall also be attached originals or copies of documents and other materials with which investigator, public prosecutor substantiates his arguments.</p> <p>3. A motion of a civil plaintiff, investigator, public prosecutor for attachment of property of the suspect, accused or another person to secure the civil action shall include:</p> <ol style="list-style-type: none"> 1) the scope of damage inflicted by criminal offense; 2) evidence that confirms the fact of inflicting damage and the amount of such damage. <p>4. The value of property to be attached to secure a civil action shall be commensurate with the amount of damage caused by criminal offence.</p> <p>5. Investigator, public prosecutor shall submit motion for the attachment of provisionally seized property not later than the next day after the seizure of property, otherwise the property has to be immediately returned to the person from whom it has been seized.</p>
<p>Article 172. Consideration of a motion for attachment of property</p> <p>1. Motion for attachment of property is considered by investigating judge, court not later than two days after it has been lodged, with participation of the investigator and/or public prosecutor, civil plaintiff, if he has filed the motion, suspect, accused, other holder of property, and also of the defense counsel, legal representative, if any. Failure to appear</p>	<p>Article 172. Consideration of a motion for attachment of property</p> <p>1. Motion for attachment of property is considered by investigating judge, court not later than two days after it has been lodged, with participation of the investigator and/or public prosecutor, civil plaintiff, if he has filed the motion, suspect, accused, other holder of property, and also of the defense counsel, legal representative, if any. Failure to appear</p>

<p>by these persons at the court session does not preclude consideration of the motion.</p> <p>2. A motion of investigator, public prosecutor, civil plaintiff for the attachment of property which has not been provisionally seized may be considered without notifying the suspect, accused, other holder of property, their defense counsel, representative or legal representative when this is necessary to ensure attachment of property.</p> <p>3. Having established that motion for attachment of property has been filed without compliance with Article 171 of the present Code, investigating judge, the court returns the motion to public prosecutor or civil plaintiff for correction of deficiencies, and adopts an appropriate ruling thereon.</p> <p>4. During consideration of the motion for attachment of property, investigating judge may, upon motion of participants to consideration or <i>proprio motu</i>, hear any witness or examine any materials which are important for deciding the issue of property attachment.</p>	<p>by these persons at the court session does not preclude consideration of the motion.</p> <p>2. A motion of investigator, public prosecutor, civil plaintiff for the attachment of property which has not been provisionally seized may be considered without notifying the suspect, accused, other holder of property, their defense counsel, representative or legal representative when this is necessary to ensure attachment of property.</p> <p>3. Having established that motion for attachment of property has been filed without compliance with Article 171 of the present Code, investigating judge, the court returns the motion to public prosecutor or civil plaintiff and defines timeframe sufficient for correction of deficiencies, and adopts an appropriate ruling thereon. In this case the provisionally seized property shall be immediately restituted after the expiry of the timeframe set by the judge and, in case of another motion after correction of all deficiencies within the timeframe set by the judge – after consideration of the motion and denial.</p> <p>4. During consideration of the motion for attachment of property, investigating judge may, upon motion of participants to consideration or <i>proprio motu</i>, hear any witness or examine any materials which are important for deciding the issue of property attachment.</p>
<p>Article 174. Revocation of property attachment</p> <p>1. The suspect, accused, their defense counsel, legal representative other owner or possessor of property who were absent during consideration of the issue of property attachment may file a motion to revoke property attachment fully or in part. Such motion is considered in the course of pre-trial investigation by investigating judge, and during trial, by court.</p> <p>Property attachment may also be revoked fully or in part by investigating judge’s ruling in the course of pre-trial investigation or by court during trial, upon motion of the suspect, accused, their defense counsel, legal representative or other owner or possessor of property if they prove that there is no need for continued application of this measure, or that the attachment was ungrounded.</p>	<p>Article 174. Revocation of property attachment</p> <p>1. The suspect, accused, their defense counsel, legal representative other owner or possessor of property who were absent during consideration of the issue of property attachment may file a motion to revoke property attachment fully or in part. Such motion is considered in the course of pre-trial investigation by investigating judge, and during trial, by court.</p> <p>Property attachment may also be revoked fully or in part by investigating judge’s ruling in the course of pre-trial investigation or by court during trial, upon motion of the suspect, accused, their defense counsel, legal representative or other owner or possessor of property if they prove that there is no need for continued application of this measure, or that the attachment was ungrounded.</p>

<p>2. Investigating judge, court shall consider the motion to revoke property attachment within three days after such motion has been received by court. The person who filed the motion and the person upon whose motion the property has been attached shall be notified of the time and place of the consideration of the motion.</p> <p>3. Public prosecutor shall revoke property attachment concurrently with adopting a ruling on terminating the criminal proceedings.</p> <p>4. The court shall concurrently with adopting a judgment in the end of trial, dispose the issue of revoking property attachment. The court shall revoke property attachment in particular, in cases of acquittal of the accused, termination of criminal proceedings by court, non-infliction by court of punishment in the form of confiscation of property, leaving the civil action undecided or dismissal of the civil claim.</p>	<p>2. Investigating judge, court shall consider the motion to revoke property attachment within three days after such motion has been received by court. The person who filed the motion and the person upon whose motion the property has been attached shall be notified of the time and place of the consideration of the motion.</p> <p>3. Public prosecutor shall revoke property attachment, if the property is not subject to special confiscation, concurrently with adopting a ruling on terminating the criminal proceedings.</p> <p>4. The court shall concurrently with adopting a judgment in the end of trial, dispose the issue of revoking property attachment. The court shall revoke property attachment, if the property is not subject to special confiscation, in particular, in cases of acquittal of the accused, termination of criminal proceedings by court, non-infliction by court of punishment in the form of confiscation of property and/or non-application of special confiscation, leaving the civil action undecided or dismissal of the civil claim.</p>
<p style="text-align: center;">Article 374. Contents of a judgment</p> <p>1. A judgment shall be comprised of introduction, reasoning part and operative part.</p> <p>2. Introduction shall state: date and place of delivery; name and composition of the court, and secretary of court session; designation (number) of criminal proceedings; last name, name and patronymic of the defendant, year, month and date of his birth, place of birth and place of residence; occupation, education, family status and other information on the defendant's person that is important for the case; Law of Ukraine on criminal liability which provides for the criminal offense in the commission of which the person concerned is accused; parties to criminal proceedings and other participants in court proceedings.</p> <p>3. Reasoning part of a judgment shall state: 1) if a person has been acquitted, statement of charges brought</p>	<p style="text-align: center;">Article 374. Contents of a judgment</p> <p>1. A judgment shall be comprised of introduction, reasoning part and operative part.</p> <p>2. Introduction shall state: date and place of delivery; name and composition of the court, and secretary of court session; designation (number) of criminal proceedings; last name, name and patronymic of the defendant, year, month and date of his birth, place of birth and place of residence; occupation, education, family status and other information on the defendant's person that is important for the case; Law of Ukraine on criminal liability which provides for the criminal offense in the commission of which the person concerned is accused; parties to criminal proceedings and other participants in court proceedings.</p> <p>3. Reasoning part of a judgment shall state: 1) if a person has been acquitted, statement of charges brought</p>

<p>against the person and found by court to not be proved, as well as grounds for acquittal of the defendant stating motives for repudiating evidence of accusation;</p> <p>motives for taking other decisions in respect of issues disposed by court when rendering a judgment, and statutory provisions the court was guided by.</p> <p>2) if a person has been found guilty:</p> <p>statement of charges found by court to be proved, with indication of place, time, and the way of commission and implications of the criminal offense, form of guilt, and motives of the criminal offense;</p> <p>Articles (paragraphs of Article) of Law of Ukraine on criminal liability which establishes liability for the criminal offense guilty of committing which the defendant is found;</p> <p>evidence in support of circumstances established by court, as well as motives for not taking into account particular evidence;</p> <p>motives for changing charges, grounds for finding a part of charges unsubstantiated, if such decisions have been taken by the court;</p> <p>circumstances which aggravate or mitigate punishment;</p> <p>motives for imposition of punishment; for releasing from service of punishment; for application of compulsory medical measures where a state of limited criminal capacity of the defendant has been established; for application of compulsory medical treatment as specified in Article 96 of the Criminal Code of Ukraine; motives of appointing a public tutor for the underage person;</p> <p>grounds for granting, dismissing or leaving undecided the civil action;</p> <p>motives for taking other decisions in respect of issues disposed by court when rendering a judgment, and statutory provisions the court was guided by.</p> <p>4. Operative part of a judgment shall state:</p> <p>1) if a person has been acquitted: last name, first name and patronymic of the defendant, decision on finding him innocent of charges brought against him and on his acquittal;</p> <p>decision to restore rights restricted during criminal proceedings;</p>	<p>against the person and found by court to not be proved, as well as grounds for acquittal of the defendant stating motives for repudiating evidence of accusation;</p> <p>motives for taking other decisions in respect of issues disposed by court when rendering a judgment, and statutory provisions the court was guided by.</p> <p>2) if a person has been found guilty:</p> <p>statement of charges found by court to be proved, with indication of place, time, and the way of commission and implications of the criminal offense, form of guilt, and motives of the criminal offense;</p> <p>Articles (paragraphs of Article) of Law of Ukraine on criminal liability which establishes liability for the criminal offense guilty of committing which the defendant is found;</p> <p>evidence in support of circumstances established by court, as well as motives for not taking into account particular evidence;</p> <p>motives for changing charges, grounds for finding a part of charges unsubstantiated, if such decisions have been taken by the court;</p> <p>circumstances which aggravate or mitigate punishment;</p> <p>motives for imposition of punishment; for releasing from service of punishment; for application of compulsory medical measures where a state of limited criminal capacity of the defendant has been established; for application of compulsory medical treatment as specified in Article 96 of the Criminal Code of Ukraine; motives of appointing a public tutor for the underage person;</p> <p>grounds for granting, dismissing or leaving undecided the civil action;</p> <p>motives for taking other decisions in respect of issues disposed by court when rendering a judgment, and statutory provisions the court was guided by.</p> <p>4. Operative part of a judgment shall state:</p> <p>1) if a person has been acquitted: last name, first name and patronymic of the defendant, decision on finding him innocent of charges brought against him and on his acquittal;</p> <p>decision to restore rights restricted during criminal proceedings;</p>
---	---

<p>decision regarding measures to ensure criminal proceedings including decision on a restraint measure prior to taking legal effect by the judgment;</p> <p>decision regarding exhibits and documents;</p> <p>decision regarding procedural expenses;</p> <p>time limit and procedure for the judgment to take legal effect and to be appealed against;</p> <p>procedure for obtaining copies of the judgment and other information;</p> <p>2) if a person has been found guilty: last name, first name and patronymic of the defendant, decision on finding him guilty of charges brought against him and the relevant Article (paragraph of Article) of the Law of Ukraine on criminal liability;</p> <p>punishment for each charge which the court found proved, and the final sentence imposed by court;</p> <p>beginning of the term of serving the punishment;</p> <p>decision to apply compulsory medical treatment or compulsory medical measures in respect of a defendant with limited criminal capacity, if any;</p> <p>decision to appoint public tutor for the underage person;</p> <p>decision as to the civil action;</p> <p>decision on other executions on property and grounds for such;</p> <p>decision regarding exhibits and documents;</p> <p>decision on reimbursement of procedural expenses;</p> <p>decision regarding measures to ensure criminal proceedings;</p> <p>decision on the credit of detention pending trial;</p> <p>time limit and procedure for the judgment to take legal effect and to be appealed against;</p> <p>procedure for obtaining copies of the judgment and other information.</p> <p>Where several charges have been brought against a person and certain charges have not been proved, the operative part of a judgment shall state on which the defendant is acquitted and on which convicted.</p> <p>If the defendant is found guilty but is released from serving</p>	<p>decision regarding measures to ensure criminal proceedings including decision on a restraint measure prior to taking legal effect by the judgment;</p> <p>decision regarding exhibits and documents;</p> <p>decision regarding procedural expenses;</p> <p>time limit and procedure for the judgment to take legal effect and to be appealed against;</p> <p>procedure for obtaining copies of the judgment and other information;</p> <p>2) if a person has been found guilty: last name, first name and patronymic of the defendant, decision on finding him guilty of charges brought against him and the relevant Article (paragraph of Article) of the Law of Ukraine on criminal liability;</p> <p>punishment for each charge which the court found proved, and the final sentence imposed by court;</p> <p>beginning of the term of serving the punishment;</p> <p>decision to apply compulsory medical treatment or compulsory medical measures in respect of a defendant with limited criminal capacity, if any;</p> <p>decision to appoint public tutor for the underage person;</p> <p>decision as to the civil action;</p> <p>decision on other executions on property and grounds for such;</p> <p>decision regarding exhibits and documents, and special confiscation;</p> <p>decision on reimbursement of procedural expenses;</p> <p>decision regarding measures to ensure criminal proceedings;</p> <p>decision on the credit of detention pending trial;</p> <p>time limit and procedure for the judgment to take legal effect and to be appealed against;</p> <p>procedure for obtaining copies of the judgment and other information.</p> <p>Where several charges have been brought against a person and certain charges have not been proved, the operative part of a judgment shall state on which the defendant is acquitted and on which convicted.</p>
--	--

punishment, the court shall state this in the operative part of the judgment.

Whenever the defendant is released from serving punishment with probation as provided for in Articles 75 through 79 and 104 of the Criminal Code of Ukraine, the operative part of the judgment shall specify the duration of the probation period, duties imposed on the convicted person, as well as the labor collective or person assigned, upon their consent or request, the duty to supervise him and to carry out educational work in his respect.

Whenever a milder punishment is imposed than specified by law, in stating the awarded sanction the court shall refer to Article 69 of the Criminal Code of Ukraine.

If the defendant is found guilty but is released from serving punishment, the court shall state this in the operative part of the judgment.

Whenever the defendant is released from serving punishment with probation as provided for in Articles 75 through 79 and 104 of the Criminal Code of Ukraine, the operative part of the judgment shall specify the duration of the probation period, duties imposed on the convicted person, as well as the labor collective or person assigned, upon their consent or request, the duty to supervise him and to carry out educational work in his respect.

Whenever a milder punishment is imposed than specified by law, in stating the awarded sanction the court shall refer to Article 69 of the Criminal Code of Ukraine.

Article 505. Circumstances to be ascertained during pre-trial investigation in criminal proceedings in respect of application of compulsory medical measures

1. During pre-trial investigation in criminal proceedings in respect of application of compulsory medical measures, the following shall be ascertained:

- 1) time, place, means, and other circumstances of the commission of a socially dangerous act or criminal offence;
- 2) commission of this socially dangerous act or criminal offence by the person concerned;
- 3) existence of this person's mental disorder in the past, degree and nature of mental disorder or mental disease at the time of commission of the socially dangerous act or criminal offence, or at the time of pre-trial investigation;
- 4) behavior of the person both before and after the commission of the socially dangerous act or criminal offence;
- 5) the danger which the person presents is in consequence of his mental state, for himself/herself and for other persons, as well as well as the likelihood of such person causing other serious damage;
- 6) nature and amount of damage caused by the socially dangerous act or criminal offence.

Article 505. Circumstances to be ascertained during pre-trial investigation in criminal proceedings in respect of application of compulsory medical measures

1. During pre-trial investigation in criminal proceedings in respect of application of compulsory medical measures, the following shall be ascertained:

- 1) time, place, means, and other circumstances of the commission of a socially dangerous act or criminal offence;
- 2) commission of this socially dangerous act or criminal offence by the person concerned;
- 3) existence of this person's mental disorder in the past, degree and nature of mental disorder or mental disease at the time of commission of the socially dangerous act or criminal offence, or at the time of pre-trial investigation;
- 4) behavior of the person both before and after the commission of the socially dangerous act or criminal offence;
- 5) the danger which the person presents is in consequence of his mental state, for himself/herself and for other persons, as well as well as the likelihood of such person causing other serious damage;
- 6) nature and amount of damage caused by the socially dangerous act or criminal offence;
- 7) the circumstances which prove that money, valuables and other property which are subject to special confiscation, were acquired as a result of a socially dangerous act or criminal offence and/or are proceeds from such property or were intended (used) to induce a person to commit a socially dangerous crime or criminal offence, to finance and/or to materially support a socially dangerous act or criminal offence, or to reward its committing, or are objects of a socially dangerous act or criminal offence including removed from circulation, or found, manufactured, adapted or used as means or tools for committing a socially dangerous act of criminal offence.