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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 Drago Kos**

ON

**Draft Law “On amendment of certain legislative acts of Ukraine
as regards the improvement of legislation in the area of prevention and
counteraction to corruption”**

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1. EXECUTIVE SUMMARY

The Draft law “On amendment of certain legislative acts of Ukraine as regards the improvement of legislation in the area of prevention and counteraction to corruption” (hereinafter “the Draft Law”) submitted to the Council of Europe on 5 March 2013, represents a significant legislative step forward in the Ukrainian efforts against corruption. Its aim is to introduce changes to six existing Ukrainian laws: Code on Administrative Offences, Criminal Code, Law on Business Associations, Law on Fundamentals of the National Security of Ukraine, Law on Principles of Preventing and Counteracting Corruption, and Law on Application of Amnesty in Ukraine. These changes should bring the above-mentioned laws into compliance with international anti-corruption standards. There is real improvement in some areas: Ukraine is abolishing its heavily criticised double sanctioning of corruption offences – administrative and criminal ones; the concept of “improper advantage” is substantially revised in line with the requirements of international conventions; third party beneficiaries of corruption offences are now sanctioned.

However, there are still areas of concern:

- “requesting” a bribe is (still) not sanctioned;
- not all prescribed sanctions are effective, proportionate and dissuasive enough;
- the special defence of effective regret is (still) applied in a manner which asks for mandatory total exemption from responsibility;
- some definitions e.g. “officer of a legal entity of private law” are either missing or are not part of the Draft Law;
- special investigative method of “fictitious bribery” and incitement (entrapment) need to be further elaborated and clearly distinguished.

The recommendations contained in the present opinion have been drawn up to address the above-mentioned areas of concern and further improve this already solid Draft Law.

2. INTRODUCTION

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 certain legislative acts of Ukraine as regards the improvement of legislation in the area of prevention and counteraction to corruption” (hereinafter: “the Draft Law”) with the Council of Europe and other international standards.

The opinion has been prepared on the basis of expertise by the Council of Europe expert, Mr Drago Kos (former Chair of GRECO and former Chair of Commission for the Prevention of Corruption of the Republic of Slovenia). It considers the Draft Law in the context of the following Council of Europe anti-corruption instruments:

- Criminal Law Convention on Corruption (ETS 173);
- Additional Protocol to the Criminal Law Convention on Corruption (ETS 191);
- Resolution (97) 24 on the twenty guiding principles for the fight against corruption (Guiding Principle 2).

The opinion is based solely on the English translation of the Draft Law and the comparative table with current provisions and proposed amendments to six pieces of legislation (see Appendix I) provided by the Ukrainian authorities. Given the limited scope of the documents submitted in

English, unambiguous and conclusive decision could not be reached in some instances, in particular regarding clear definitions and distinction between different terms “person”, “officer”, “civil servant”, “officer of a legal entity of private law”. The same is relevant in relation to foreign officials and/or organisations.

Ukraine has been evaluated by the Council of Europe Group of States against Corruption (GRECO) in three evaluation rounds and the present Draft Law is aimed at implementing GRECO recommendations issued in the framework of the Third Evaluation Round on incriminations (Eval III Rep (2011) 1 E, Theme 1, 21 October 2011)¹.

The analysis is given in relation to the specific articles of the Draft Law. When there are no specific comments and no recommendations for further improvement, it is considered that the solutions brought by the Draft Law are in line with the existing international standards. Specific recommendations provided following the analysis of separate Articles of the Draft Law have been summarised into overall recommendations listed in Chapter 4 for easier reference.

3. OVERVIEW OF THE DRAFT LAW

3.1. Amendments to the Code on Administrative Offences

3.1.1. Articles 172-2 and 172-3

Articles 172-2 (Breach of limitations on the use of official status) and 172-3 (Offer or provision of illegal benefit), which introduced administrative sentences for behaviour, that is usually sanctioned in other countries through criminal law, are abolished. Since international monitoring bodies consider the duplication of the legal regime on corruption as one of the most serious concerns of the Ukrainian legislation, this solution represents a significant step forward in avoiding confusing situations while dealing with incriminated corruptive behaviour.

3.1.2. Articles 221, 250, 255 and 268

These articles which define the powers of different authorities in the area of administrative offences (judges (Article 221), prosecutors (Article 225) and empowered officials (Article 255)) or that regulate rights of persons in relation to administrative liability (Article 268), are consequently amended to comply with the above-mentioned deletion of Articles 172-2 and 172-3. Therefore, the amendments introduced by Article 1, paragraph 1 of the Draft Law become effective in the procedural sense, too.

3.2. Amendments to the Criminal Code of Ukraine

3.2.1. Article 354

This Article provides a new wording of the criminal offence initially titled as “Receiving of illegal benefit by an employee of a state enterprise, institution or organisation”. The new title of the offence is now “Subornation of an employee of an enterprise, institution or organisation”. The word “subornation” is misleading since its English meaning is more related to inciting someone to commit an offence than to bribery as such. Therefore it should be checked with the original Ukrainian wording and adapted accordingly to ensure that Article 354 deals with all-encompassing corruption not only incitement aspect.

There are different important elements of the new incrimination in Paragraph 1:

- Note No. 1 to Article 354 defines “improper advantage” as “funds or other assets, advantages, perks, services that exceed 0,5 of tax-free allowance or intangible assets

¹ [http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3\(2011\)1_Ukraine_One_EN.pdf](http://www.coe.int/t/dghl/monitoring/greco/evaluations/round3/GrecoEval3(2011)1_Ukraine_One_EN.pdf).

being offered, promised, given or received without legitimate grounds thereof". In view of the proposed limit of 0,5 of tax free allowances for tangible assets it still does not fully cover the concept of "undue advantage" as applied in ETS 173. In contrast, the Note to Articles 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369-2 and 370 complies with the standards since it does not have a minimum threshold;

- The "requested" advantage is still not covered;
- The required action from the employee defined as "performance or non-performance of any action using the position s/he occupies..." covers both Article 2 (requiring "to act or refrain from acting in the exercise of his or her functions") and Article 7 of ETS 173 (requiring "to act or refrain from acting in breach of their duties");
- Cases where advantage is intended for a third person and not only employee are covered as well;
- Both the sanctions prescribed for the basic form of the criminal offence² and the ones prescribed for the aggravated³ form of a criminal offence are too low to be perceived as dissuasive (they do not include any deprivation of liberty at all) and they are not proportionate (in particular if the aggravated and basic forms are compared). Thus they cannot be understood as "effective, proportionate and dissuasive" within the meaning of Article 19 of ETS 173.

Recommendation 1: In order to satisfactorily apply the concept of "undue advantage" as used by ETS 173, the definition of "improper advantage" in Note 1 to Article 354 should be replaced by the definition of "improper advantage" from the Note to Articles 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369-2 and 370 and supplemented by the word "requested" after the word "given".

Recommendation 2: In order to comply with the requirements of Article 19 of ETS 173, the Ukrainian authorities should revise the sanctions prescribed in Paragraphs 1 and 2 of Article 354.

Paragraph 3 of Article 354 incriminates the passive side of behaviour mentioned Paragraph 1:

- Regarding the elements of the offence that are the same as in Paragraph 1, the analysis, comments and recommendations formulated in relation to these elements are also applicable here;
- This Paragraph covers "acceptance of an offer, a promise or receipt" of improper advantage but not the "request", which makes it non-compliant with Articles 3, 4 and 8 of ETS 173. In Paragraph 4 "extortion" of improper advantage is mentioned as one of the aggravated circumstances. However, the meaning of the word "extortion" is different from the meaning of the word "request", and therefore, the problem remains. This is additionally confirmed by the definition of "extortion"⁴ contained in Note 3 to Article 354 from which it is obvious that it does not include all possible situations covered by the term "request";

² The basic offence is "punishable by a penalty in the amount of one hundred to two hundred and fifty personal tax-exempt minimum incomes or by community service for the term of up to one hundred hours, or by correctional labour for the term of up to one year" – paragraph 1 of Article 354.

³ If "committed repeatedly or by previous concert by a group of persons" this aggravated form is "punishable by a penalty in the amount of two hundred and fifty to five hundred personal tax-exempt minimum incomes or by community service for the term of one hundred to two hundred hours, or by correctional labour for the term of up to two years" - Paragraph 2 of Article 354.

⁴ Note 3 defines extortion as "demand to provide improper advantage with a threat to take actions or omit to act using one's position, authority granted, power or official position in relation to a person who provides improper advantage, or deliberate creation of conditions under which a person is compelled to provide improper advantage in order to prevent harmful consequences for their rights and legitimate interests".

- The prescribed sanctions⁵ could be hardly understood as “effective, proportionate and dissuasive” as required by Article 19 of ETS 173 due to the fact that sanctions of (short!) deprivation of liberty can only be applied for the aggravated form of a crime.

Recommendation 3: In order to satisfy the requirements of Articles 3, 4 and 8 of ETS 173 the concept of “requesting” improper advantage should be also introduced in Paragraph 3 of Article 354.

Recommendation 4: In order to satisfy the requirements of Article 19 of ETS 173, the Ukrainian authorities should increase the sanctions provided in Paragraphs 3 and 4 of Article 354.

Paragraph 5 of Article 354 revises but not sufficiently the special defence of effective regret⁶:

- Some important elements have been added for the effective regret defence to have effect (e.g. giving bribe on the basis of “extortion”, “voluntarily” reporting before being informed about suspicion of having committed a crime”). However this Paragraph still provides for a mandatory (by using the word “shall”) complete discharge of liability, which cannot address the concerns recently expressed by all international monitoring mechanisms, including GRECO⁷, clearly calling for solutions where the appropriate authority - prosecutors or judiciary – decide on the discharge and its extent on the basis of different elements (i.e. role of the individual in the conduct of the offence, time and conditions of his/her reporting, etc.).

Recommendation 5: In order to enable the authorities to decide on the real value of the voluntary reporting on bribes given by individuals and in order to avoid the possible misuse of the special defence of effective regret, the word “shall” in Paragraph 5 of Article 354 should be replaced by the word “could”.

3.2.2. Article 364-1

In Paragraphs 1 and 2 of Article 364-1 sanctions are increased but the sanction for the basic offence (Paragraph 1)⁸ is still not dissuasive enough, contrary to the new sanctions foreseen for the aggravated offence prescribed in Paragraph 2⁹.

The definition of “improper advantage” is adequate as it is identical to the one given in Note to Articles 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369-2 and 370, see also above¹⁰.

Recommendation 6: In order to satisfy the requirements of Article 19 of ETS 173, the Ukrainian authorities should increase the sanctions provided in Paragraph 1 of Article 364-1.

⁵ The basic form of criminal offence is punishable by a penalty in the amount of two hundred and fifty to five hundred personal tax-exempt minimum incomes or by community service for the term of one hundred to two hundred hours, or by correctional labour for the term of up to two years (paragraph 3 Article 354).

The aggravated form of a criminal offence (“...if committed repeatedly or by a previous concert...or combined with extortion...”) by a penalty in the amount of five hundred to seven hundred and fifty personal tax-exempt minimum incomes or by community service for the term of one hundred and sixty to two hundred and forty hours, or by correctional labour for the term of one to two years or by restraint of liberty for the term of up to three years or by confinement for the same term (paragraph 4 Article 354).

⁶ i.e. defence for individuals, who after offering, promising or providing improper advantage on the basis of the extortion voluntarily report this fact to the appropriate authorities prior to being informed about suspicion of having committed crime.

⁷ Recommendation vi in GRECO Third Round Evaluation Report No. Greco Eval III Rep (2011) 1 E, Theme 1/

⁸ “...penalty in the amount of one hundred and fifty to four hundred personal tax-exempt minimum incomes or by correctional labour for the term of up to one year, or by an arrest for the term of up to three months, or by restraint of liberty for the term of up to two years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to two years” - Paragraph 1 Article 364.

⁹ “...penalty in the amount of four hundred to nine hundred personal tax-exempt minimum incomes, or by an arrest for the term of up to six months, or by confinement for the term of three to six years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years” - Paragraph 2 Article 364.

¹⁰ See comments to Articles 354 and 368 (i.e Recommendation 1).

Recommendation 7: In order to cover all the necessary elements of the bribery offences from ETS 173 the word “requested” should be added after the word “given” in the Note to Articles 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369-2 and 370 defining “improper advantage”.

3.2.3. Article 368

This Article deals with passive bribery of Ukrainian officials in a way where Paragraph 1 sanctions acceptance of the offer or promise of the improper advantage, Paragraph 2 - receipt of the improper advantage while other paragraphs sanction aggravated form of those two basic forms of offences.

Acceptance of the offer or promise of the improper advantage by “officers” is incriminated in Paragraph 1, whereby:

- The concept of “improper advantage” has been already discussed above¹¹;
- “improper advantage” can be offered or promised to a third person and not only to the officer;
- Sanctions for this offence do not satisfy the conditions set by Article 19 of ETS 173 which provides for “effective, proportionate and dissuasive” sanctions. The part on “arrest” is especially problematic since it does not even allow for the extradition of the offender, where the basic condition is imprisonment (arrest)¹² of at least one year¹³.

The same is applicable to Paragraph 2. The sanctions are slightly increased¹⁴ but insufficiently to comply with Article 19 of ETS 173, in particular due to the fact that extradition still cannot be applied.

Recommendation 8: In order to satisfy the requirements of Article 19 of ETS 173, the Ukrainian authorities should increase the sanctions provided in Paragraph 1 of Article 368.

In Paragraphs 3, 4 and 5 sanctions for aggravated forms are provided.

Generally, three very important issues have to be mentioned in relation to Article 368:

- “requesting” improper advantage is not incriminated, which is not compliant with Article 3 of ETS 173. The concept of “extortion” defined in Note 3 (listed under Article 354) and yet applicable to Article 368, is different from the concept of “requesting”. This has been already discussed above¹⁵ and represents a significant problem;
- Despite criticism expressed in Paragraph 69 of the GRECO evaluation report, Ukraine has still not increased sanctions for basic forms of this criminal offence as described in Paragraphs 1 and 2;
- The Ukrainian authorities have opted for two different incriminations for passive bribery of public officials: first, for the “acceptance of an offer or promise of the improper advantage” and second, for the “receipt of the improper advantage”. As there are no international

¹¹ See comments to Articles 354 and 364 (i.e. Recommendation 1).

¹² Also, clear definition / explanation of different types of liberty deprivation would be helpful, namely of the arrest / confinement / imprisonment.

¹³ “penalty in the amount of one seven hundred and fifty to one thousand personal tax-exempt minimum incomes or by correctional labour for the term of one to two years, or by an arrest for the term of up to six months, or by confinement for the term of up to three years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years” - Paragraph 1 Article 368.

¹⁴ “penalty in the amount of one thousand to one thousand and five hundred personal tax-exempt minimum incomes or by an arrest for the term of three to six months, or by confinement for the term of two to four years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years” - Paragraph 2 Article 368.

¹⁵ See comments to Paragraph 3 of Article 354 (i.e. Recommendation 3).

standards concerning this issue, and although there are not many countries that have such an approach, the Ukraine is free to choose it. However, this distinction makes sense only if it is based on the difference between the social danger of acceptance of an offer or promise of the improper advantage and the social danger of receipt of it; if receipt is really considered more socially dangerous than the acceptance of an offer or promise (at least in the theoretical sense), then this separation makes sense. If not, the separation could be avoided;

Recommendation 10: In order to satisfy the requirement of Article 3 of ETS 173 the concept of “requesting” improper advantage should also be introduced to Article 368.

3.2.4. Article 368 – 3

This Article deals with active and passive bribery of officers in a private sector.

In Paragraph 1 active bribery is incriminated:

- The term “officer of a legal entity of private law” is not defined in this Draft Law;
- The concept of “improper advantage” has been correctly defined as specified in the Note to Articles 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369-2 and 370 and already discussed above¹⁶;
- “improper advantage” can be offered, promised or provided for the third person as well and not only the officer;
- Prescribed sanctions do not appear to be dissuasive enough¹⁷.

Recommendation 11: The Ukrainian authorities should ensure that there is a definition of the term of “officer of a legal entity of private law”.

Recommendation 12: In order to satisfy the requirements of Article 19 of ETS 173, the Ukrainian authorities should increase the sanctions provided in Paragraph 1 of Article 368-3.

As to Paragraph 3, comments are the same as for Paragraph 1, with the exception of the recommendation on sanctions, which in Paragraph 3 are effective, dissuasive and proportionate enough¹⁸:

- Contrary to the standards set in Article 8 of ETS 173 the concept of “requesting” of improper advantage is not even mentioned here.

Recommendation 13: In order to satisfy the requirements of Article 8 of ETS 173 the concept of “requesting” improper advantage should also be introduced to Paragraph 3 of Article 368-3.

Paragraph 5 of Article 368-3 introduces special defence of effective regret for individuals, who after offering, promising or providing improper advantage on the basis of the extortion voluntarily report this fact to the appropriate authorities. Since the text of this provision is the same as the text of the provision of Paragraph 5 of Article 354, same comments and analysis apply here, too.

¹⁶ See comments to Articles 354 and 364 (i.e. Recommendation 1).

¹⁷ “penalty in the amount of one hundred and fifty to four hundred personal tax-exempt minimum incomes or by community service of one hundred to two hundred hours, or by restraint of liberty for the term of up to two years, or by confinement for the same term” - Paragraph 1 Article 368-3.

¹⁸ “penalty in the amount of five hundred to seven hundred and fifty personal tax-exempt minimum incomes or by correctional labour for the term of up to two years, or by an arrest for the term of up to six months, or by restraint of liberty for the term up to three years, confinement for the same term, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years” - Paragraph 3 Article 368-3.

Recommendation 14: In order to enable the authorities to decide on the real value of voluntary reporting on bribes given by individuals and in order to avoid the possible misuse of the special defence of effective regret, the word “shall” in Paragraph 5 of Article 368-3 should be replaced by the word “could”.

3.2.5. Article 368 – 4

This Article deals with active and passive bribery of persons providing public services and is obviously based on the Ukrainian authorities intention to be in compliance with the requirements of the Additional Protocol to the Criminal Law Convention on Corruption (hereinafter: “ETS 191”).

In Paragraph 1 active bribery of persons providing public services is incriminated:

- This Paragraph relates to “an auditor, notary, appraiser or another person, who is not a public official or an official of local self-government, but is engaged in professional activities related to provision of public services, including services as an expert, an arbitration manager, an independent mediator, a member of labour arbitration, arbitrator”. Contrary to ETS 191, this Article does not explicitly mention “jurors”. The reason may be that the Ukrainian law does not have them as a separate category; however the open-ended definition of “persons providing public services” enables the conclusion that there are no problems due to the lack of explicit provision on jurors in the Draft Law since it can encompass them as well. What might be a problem is the question if this definition in addition to national also covers foreign arbitrators and jurors; unfortunately, the material provided by the Ukrainian authorities cannot lead to the conclusive inference;
- The concept of “improper advantage” has been already discussed above¹⁹;
- The category of a third person has been added as well in addition to person providing public services;
- Prescribed sanctions are not dissuasive enough²⁰.

Recommendation 15: In order to satisfy the requirements of Article 19 of ETS 173, the Ukrainian authorities should increase the sanctions provided in Paragraph 1 of Article 368-4.

In Paragraph 3 passive bribery of persons providing public services is incriminated:

- Basic characteristics of this Paragraph are the same as the ones of Paragraph 1. Therefore, the same comments, analysis and recommendations as above apply here too, apart from the ones related to the prescribed sanctions, since they are in line with the requirements of Article 19 of ETS 173²¹;
- In addition and contrary to the standards set in Article 3 of ETS 191, the concept of “requesting” of improper advantage is not even mentioned here²².

Recommendation 16: In order to satisfy the requirements of Article 3 of ETS 191 the concept of “requesting” improper advantage should also be introduced in Paragraph 3 of Article 368-4.

¹⁹ See Recommendations 1 and 7 ()

²⁰ “...penalty in the amount of one hundred and fifty to four hundred personal tax-exempt minimum incomes or by community service of one hundred to two hundred hours, or by restraint of liberty for the term of up to two years, or by confinement for the same term” - Paragraph 1 Article 368-4.

²¹ “...penalty in the amount of one seven hundred and fifty to one thousand personal tax-exempt minimum incomes or by correctional labour for the term of one to two years, or by an arrest for the term of up to six months, or by restraint of liberty for the term of two to five years, or by confinement for the same term, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years” - Paragraph 3 Article 368-4.

²² See Recommendations 1 and 7.

Paragraph 5 of Article 368-4 introduces special defence of effective regret. Since the text of this provision is the same as the text of the provision of Paragraph 5 of Article 354, the same comments and analysis apply here too.

Recommendation 17: In order to enable the authorities to decide on the real value of voluntarily reporting on bribes given by individuals and in order to avoid possible misuse of special defence of effective regret, the word “shall” in Paragraph 5 of Article 368-4 should be replaced by the word “could”.

3.2.6. Article 369

This Article deals with incrimination of active bribery of “officers”.

In Paragraph 1 an offer or a promise of the improper advantage to an “officer” is incriminated, whereby:

- The concept of “improper advantage” has been already discussed above²³;
- “improper advantage” can now be offered or promised for a third person as well, not only the officer;
- Sanctions for this offence appear to satisfy the conditions set by Article 19 of ETS 173, which call for “effective, proportionate and dissuasive” sanctions²⁴.

In Paragraph 2 provision of the improper advantage to an officer is incriminated, whereby all the elements discussed in relation to Paragraph 1 are the same here. Therefore, the same analysis, comments and recommendation apply here, too.

In Paragraphs 3, 4 and 5 sanctions for different aggravated circumstances are provided²⁵.

Ukrainian authorities have (alike to solution in Article 368) created two different incriminations for the active bribery of public officials: first, for the “offer or promise of the improper advantage” and second, for the “provision of the improper advantage”. See relevant comments to Article 368 above.

Paragraph 6 of Article 369 comprises special defence of effective regret. Since the text of this provision is the same as the text of the provision of Paragraph 5 of Article 354, the same comments and analysis apply here too.

Recommendation 18: In order to enable the authorities to decide on the real value of voluntary reporting on bribes given by individuals and in order to avoid the possible misuse of the special defence of effective regret, the word “shall” in Paragraph 6 of Article 369 should be replaced by the word “could”.

²³ See comments to Articles 354 and 364.

²⁴ “...penalty in the amount of two hundred and fifty to five hundred personal tax-exempt minimum incomes or by community service of one hundred and sixty to two hundred and forty hours, or by restraint of liberty for the term of up to three years, or by confinement for the same term” - Paragraph 1 Article 369.

²⁵ “...punishable by confinement for a term of three to six years with the penalty in the amount of five hundred to one thousand personal tax-exempt minimum incomes and with or without forfeiture of the property” -

“...punishable by confinement for a term of four to eight years, with or without forfeiture of property” - Paragraph 4 Article 369.

“...punishable by confinement for a term of five to ten years, with or without forfeiture of the property” - Paragraph 5 Article 369.

3.2.7. Article 369-2

This Article deals with trading in influence. The proposed amendments add some elements to the existing texts:

- On the active side, the element of “promising” is being added;
- On the passive side, the elements of “acceptance of offer and promise” and “receipt” are being added;
- Element of a “third party” beneficiary is being added in all paragraphs;
- Additional sanction of imprisonment for the term of up to two years is being added in Paragraph 1²⁶;
- There is no concept of “requesting improper advantage” in Paragraphs 2 and 3, which incriminate passive side of trading in influence. However, it has to be mentioned that an “offer or a promise to perform influence for the provision of (improper) advantage” is incriminated in Paragraph 2 and “acceptance of an offer, promise or receipt of improper advantage combined with demanding such advantage” is incriminated in Paragraph 3. It would be interesting to see how this wording functions in practice since both paragraphs might also be understood as covering the “request” for improper advantage;
- Notwithstanding the above, there is still room for improvement. The solution in Paragraph 2 (“an offer or a promise to perform influence for the provision of (improper) advantage”) still does not fully cover the meaning of the word “request”, and the one in Paragraph 3 (“acceptance of an offer, promise or receipt of improper advantage combined with demanding such advantage”) incriminates only a completed criminal agreement: both elements, improper advantage or its offer or promise and its acceptance (receipt), have to exist cumulatively. Therefore, request as such, which is clearly requested by Article 12 of ETS 173, cannot be sanctioned according to Paragraph 3.

Recommendation 19: The Ukrainian authorities should ensure that the passive side of abuse of influence (Paragraphs 2 and 3 of Article 369-2) is construed in such a way as to cover unambiguously instances, where improper advantage for the abuse of influence has been requested.

3.2.8. Article 370

This Article prescribes “provocation of subornation” by an officer as a criminal offence. Content of this Article is highly questionable since many countries apply so-called “fictitious bribery” as one of the special investigative methods in the fight against corruption. This is a situation where law-enforcement agencies create conditions for the act of bribery but without influencing the intent of the suspects by inciting them. Inciting individuals to commit bribery is considered to be so-called “entrapment”, which in majority of countries is forbidden and sanctioned – but not only with criminal sanctions. Some countries sanction it with criminal sanctions, the others with disciplinary sanctions, some countries establish only the inadmissibility of the evidence collected through entrapment and some combine some or all of the sanctions.

It is widely known that without special investigative methods, including “fictitious bribery”, there is no effective fight against corruption. Therefore, Article 370 might be extremely harmful for Ukrainian efforts in the fight against this phenomenon. The *actus reus* of the offence – “intentional creation by an officer of circumstances and conditions which cause offering, promising or provision of improper advantage....” as described in Article 370 is much wider than the traditional definition

²⁶ Before the prescribed sanction was “...penalty in the amount of two hundred to five hundred personal tax-exempt minimum incomes, or by restraint of liberty for a term of two to five years”; now “... or by confinement for the term of up to two year” was added - Paragraph 1 Article 369-2.

of the entrapment and thus may lead to unjustified sanctioning of the use of the special investigative method (SIM).

Recommendation 20: The Ukrainian authorities should further elaborate the issue, making the distinction between entrapment and special investigative method clear and unambiguous, and ensuring that the incrimination of the “provocation of subornation” in Article 370 is construed in such a way as to cover only instances, where law-enforcement officers are inciting individuals to commit bribery offence(s) (entrapment).

3.3 Amendments to the Law of Ukraine “On Fundamentals of the National Security of Ukraine”

The Draft Law deletes the words “of bribery” in Article 7. As a consequence, instead of the wording “spread of corruption, of bribery in public authorities” the new wording is “spread of corruption in public authorities”, which is narrower than the previous text since it refers only to public sector corruption and not to corruption in general.

3.4 Amendments to the Law of Ukraine on Principles of Preventing and Counteracting Corruption

The Draft Law brings some changes to the above-mentioned Law:

- In Article 1 new definition of “improper advantage” is introduced, which follows the definition given in the Note to Articles 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369-2 and 370. As in the text of the Note, changes to Article 1 of the Law of Ukraine on Principles of Preventing and Counteracting Corruption also do not include the word “requested”. Therefore the comments to Article 354 are applicable here as well²⁷;
- In Article 4, Paragraph 1, subparagraph 4 a new definition of “officials and employees of legal entities” as persons liable for corruption offences is introduced. They will be held responsible only in cases of “acceptance of an offer, promise, or receipt of improper advantage” but not in a case of “requesting” improper advantage;
- In Article 4, Paragraph 1, subparagraph 5 a new and proper definition of “natural persons” as persons liable for corruption offences is being introduced.

Recommendation 21: In order to cover all the necessary elements of the bribery offences from ETS 173 the word “requested” should be added after the word “given” in the new definition of “improper advantage” in the first paragraph of Article 1 of the Law of Ukraine on Principles of Preventing and Counteracting Corruption.

Recommendation 22: In order to cover all the necessary elements of the bribery offences from ETS 173 “request or” should be added before the words “receipt of improper advantage by such persons” in Article 1, Paragraph 1, subparagraph 4.

3.5 Amendments to the Law of Ukraine “On Application of Amnesty in Ukraine”

Article 4 of the Law on Application of Amnesty specifies/enumerates categories of persons who cannot be granted amnesty based on the offence for which s/he has been convicted. In the previous version amnesty was prohibited in the case of “the receipt of the bribe”, and those words are replaced by the words “for the receipt of an improper advantage by an officer”. This narrows down the category that is excluded from amnesty, as it is limited to “officers” only and consequently allows for the application of amnesty to much wider circle of convicted persons.

²⁷ See Recommendation 1.

Recommendation 23: The previous wording should be kept. Broadening the possibility for amnesty is undermining the efforts of successfully fighting corruption.

4. OVERALL RECOMMENDATIONS

The key findings may be summarised in the following overall recommendations:

Overall recommendation 1:

In order to satisfactorily apply the concept of “undue advantage” as used by ETS 173, the definition of “improper advantage” in Note 1 to Article 354 of the Criminal Code should be replaced by the definition of “improper advantage” from the Note to Articles 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369-2 and 370, and supplemented by the word “requested” after the word “given”.

Overall recommendation 2:

In order to satisfy the requirements of Article 19 of t ETS 173, the Ukrainian authorities should increase the sanctions provided in the following provisions of the Criminal Code:

- Paragraphs 1, 2, 3 and 4 of Article 354;
- Paragraph 1 of Article 364-1;
- Paragraphs 1 and 2 of Article 368;
- Paragraph 1 of Article 368-3;
- Paragraph 1 of Article 368-4.

Overall recommendation 3:

In order to satisfy the requirements of Articles 3, 4 and 8 of ETS 173 the concept of “requesting” improper advantage should be also introduced in the following provisions of the Criminal Code:

- Paragraph 3 of Article 354;
- Article 368;
- Paragraph 3 of Article 368-3;
- Paragraph 3 of Article 368-4;
- Paragraphs 2 and 3 of Article 369-2;
- Note with a definition of “improper advantage” to Articles 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369-2 and 370

and also:

- New definition of “improper advantage” in the first Paragraph of Article 1 of the Law of Ukraine on Principles of Preventing and Counteracting Corruption;
- Article 1, Paragraph 1, subparagraph 4 of the Law of Ukraine on Principles of Preventing and Counteracting Corruption.

Overall recommendation 4:

In order to enable the authorities to decide on the real value of voluntary reporting on bribes given by individuals and in order to avoid the possible misuse of the special defence of effective regret, the word “shall” should be replaced by the word “could” in the following articles:

- Paragraph 5 of Article 354;
- Paragraph 5 of Article 368-3;
- Paragraph 5 of Article 368-4;
- Paragraph 6 of Article 369.

Overall recommendation 5:

The Ukrainian authorities should ensure that incrimination of “provocation of subornation” in Article 370 is construed in such a way as to cover only instances, where law-enforcement officers incite individuals to commit bribery offence(s) (entrapment) and not for instances that represent the legitimate use of one of very efficient special investigative methods.

5. APPENDIX I

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

5.1 Draft Law "On amendment of certain legislative acts of Ukraine as regards the improvement of legislation in the area of prevention and counteraction to corruption"

DRAFT

Introduced by the
Cabinet of Ministers of Ukraine

M. AZAROV

_____, 2012

LAW OF UKRAINE

On amendment of certain legislative acts of Ukraine as regards the improvement of legislation in the area of prevention and counteraction to corruption

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 Code of Ukraine on Administrative Offences (Official Journal of the Verkhovna Rada of the USSR, 1984, annex to No. 51, p. 1122):

1) Articles 172² and 172³ shall be deleted;

2) in Article 221, in the second paragraph of Article 250, in subparagraphs 1 and 11 of the first paragraph of Article 255 and in the second paragraph of Article 268, numerals "172²" shall be replaced by numerals "172⁴".

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

1) Article 354 shall be rendered in the following wording:

"Article 354. Subornation of an employee of an enterprise, an institution or an organization

1. An offer or a promise given to an employee of a enterprise, an institution or an organization regardless of its ownership form, who is not an officer, to provide him/her or a third person with improper advantage, as well as the provision of such advantage, for performance or non-performance by the employee of any actions using the position he/she occupies, in the interests of the person who offers, promises or provides such advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of one hundred to two hundred and fifty personal tax-exempt minimum incomes or by community service for the term of up to one hundred hours, or by correctional labour for the term of up to one year.

2. These same actions committed repeatedly or by previous concert by a group of persons, –

shall be punishable by a penalty in the amount of two hundred and fifty to five hundred personal tax-exempt minimum incomes or by community service for the term of one hundred to two hundred hours, or by correctional labour for the term of up to two years.

3. Acceptance of an offer, a promise or receipt by an employee of an enterprise, an institution or an organization regardless of its ownership form, who is not an officer, of improper advantage for oneself or a third person, for performance or non-performance of any actions using the position he/she occupies at the enterprise, institution or organization, in the interests of the person who offers, promises or provides such advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of two hundred and fifty to five hundred personal tax-exempt minimum incomes or by community service for the term of one hundred to two hundred hours, or by correctional labour for the term of up to two years.

4. Actions provided for by paragraph three of the present Article, committed repeatedly or by previous concert by a group of persons or combined with extortion of improper advantage, –

shall be punishable by a penalty in the amount of five hundred to seven hundred and fifty personal tax-exempt minimum incomes or by community service for the term of one hundred and sixty to two hundred and forty hours, or by correctional labour for the term of one to two years, or by restraint of liberty for the term of up to three years, or by confinement for the same term.

5. A person who offered, promised or provided improper advantage shall be discharged from criminal liability, if there has been an extortion of improper advantage in relation to such person, and if after the offer, promise or provision of improper advantage, such person, prior to being informed about a suspicion of having committed a crime, voluntarily reported on the incident to an authority where officers are authorised by law to report on any suspicion.

Note. 1. In this Article improper advantage shall be understood as funds or other assets, advantages, perks, services that exceed 0,5 of tax-free allowance or intangible assets being offered, promised, given or received without legitimate grounds therefor.

2. In Articles 354, 368, 368³, 368⁴ and 369 of the present Code, a crime shall be found to be repeated if committed by a person who had previously committed any of the crimes provided for by these Articles.

3. In Articles 354, 368, 368³ and 368⁴, extortion of improper advantage should be understood as a demand to provide improper advantage with a threat to take actions or omit to act using one's position, authority granted, power, or official position in relation to a person who provides improper advantage, or deliberate creation of conditions under which a person is compelled to provide improper advantage in order to prevent harmful consequences for their rights and legitimate interests.";

2) in Article 364¹:

the second paragraph of paragraphs one and two shall be rendered in the following wording:

"shall be punishable by a penalty in the amount of one hundred and fifty to four hundred personal tax-exempt minimum incomes or by correctional labour for the term of up to one year, or by an arrest for the term of up to three months, or by restraint of liberty for the term of up to two years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to two years";

"shall be punishable by a penalty in the amount of four hundred to nine hundred personal tax-exempt minimum incomes or by an arrest for the term of up to six months, or by confinement for the term of three to six years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years";

the note shall be rendered in the following wording:

"Note. In Articles 364¹, 365², 368, 368², 368³, 368⁴, 369, 369² and 370 of the present Code, improper advantage should be understood as monetary funds or other property, benefits, privileges, services, intangible assets being offered, promised, given or received without legitimate grounds therefor".

3) the second paragraph of paragraphs one and two of Article 365¹ shall be rendered in the following wording:

"shall be punishable by correctional labour for the term of up to one year or by restraint of liberty for the term of up to three years, or by confinement for the term of up to three years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years";

"shall be punishable by restraint of liberty for the term of up to five years or by confinement for the term of four to seven years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years";

4) in Article 365²:

the second paragraph of paragraphs one and two shall be rendered in the following wording:

"shall be punishable by correctional labour for the term of up to two years

or by an arrest for the term of up to six months, or by restraint of liberty for the term of up to three years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years";

"shall be punishable by restraint of liberty for the term of up to five years or by confinement for the term of three to five years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years";

in the second indent of paragraph three the words "by a penalty in the amount of ten thousand to twenty thousand personal tax-exempt minimum incomes" shall be replaced by the words "by confinement for the term of five to eight years";

5) Article 368 shall be rendered in the following wording:

"Article 368. Acceptance of an offer, a promise or receipt of an improper advantage by an officer

1. Acceptance by an officer of an offer or a promise to provide improper advantage to such officer or a third person for performance or non-performance by such officer of any action using the power provided or official position which he/she occupies in the interests of the person who offers or promises improper advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of seven hundred and fifty to one thousand personal tax-exempt minimum incomes or by correctional labour for the term of one to two years, or by an arrest for the term of up to six months, or by confinement for the term of up to three years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years.

2. Receipt by an officer of improper advantage for oneself or a third person for performance or non-performance of any action using the power provided or official position which he/she occupies in the interests of a person providing the improper advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of one thousand to one thousand and five hundred personal tax-exempt minimum incomes or by an arrest for the term of three to six months, or by confinement for the term of two to four years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years.

3. An act provided for by the second paragraph of the present Article, the subject of which was improper advantage on a significant scale, –

shall be punishable by a penalty in the amount of one thousand and five hundred to two thousand personal tax-exempt minimum incomes or by confinement for the term of three to six years, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years.

4. An act provided for by the second or third paragraph of the present Article, the subject of which was improper advantage on a large scale, or such committed by an officer occupying a position of responsibility, or by previous concert by a group of persons, or if repeated, or combined with extortion of improper advantage, –

shall be punishable by confinement for a term of five to ten years with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years and with forfeiture of property.

5. An act provided for by the second, third or fourth paragraph of the present Article, the subject of which was improper advantage on an especially large scale, or such committed by an officer occupying a position of particular responsibility, –

shall be punishable by confinement for a term of eight to twelve years with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years and with forfeiture of property.

Note. 1. An improper advantage on a significant scale shall be an advantage amounting to a hundred and more times the personal tax-exempt minimum income; an improper advantage on a large scale shall be an advantage amounting to two hundred and more times the personal tax-exempt minimum income; an improper advantage on an especially large scale shall be an advantage amounting to five hundred and more times the personal tax-exempt minimum income.

2. In Articles 368, 369 and 382 of the present Code, officers occupying position of responsibility shall mean persons specified under subparagraph 1 in the Note to Article 364, whose positions, in accordance with Article 25 of the Law of Ukraine "On the State Service", are classified as belonging to categories three, four, five and six, as well as judges, prosecutors and investigators, heads and deputy heads of state authorities, bodies of local self-government, structural subdivisions and units thereof. In Articles 368, 369 and 382 of the present Code, officers occupying a position of particular responsibility shall mean persons specified under the first paragraph of Article 9 of the Law of Ukraine "On the State Service", and persons whose positions, in accordance with Article 25 of the Law of Ukraine "On the State Service", are classified as belonging to categories one and two.";

6) in the first indent of the first paragraph of Article 368² the word "of bribery" shall be replaced by the words ", specified in Article 368 of the present Code,";

7) Articles 368³, 368⁴ and 369 shall be rendered in the following wording:

"Article 368³. Subornation of an officer of a legal entity of private law, regardless of its organizational and legal form.

1. An offer or a promise given to an officer of a legal entity of private law, regardless of its organizational and legal form, to provide such officer or a third

party with improper advantage, as well as provision of such advantage for performance by such officer of actions or his/her omission to act using the authority granted to such officer in the interests of the person who offers, promises or provides such advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of one hundred and fifty to four hundred personal tax-exempt minimum incomes or by community service one hundred to two hundred hours, or by restraint of liberty for the term of up to two years, or by confinement for the same term.

2. These same actions committed repeatedly or by previous concert by a group of persons or by an organized group, –

shall be punishable by a penalty in the amount of three hundred and fifty to seven hundred personal tax-exempt minimum incomes or by restraint of liberty for the term of up to four years, or by confinement for the same term.

3. Acceptance of an offer, a promise or receipt by an officer of a legal entity of private law, regardless of its organizational and legal form, of improper advantage for oneself or a third person for performance of actions or omission to act using the authority granted to such officer in the interests of the person who offers, promises or provides such advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of five hundred to seven hundred and fifty personal tax-exempt minimum incomes or by correctional labour for the term of up to two years, or by an arrest for the term of up to six months, or by restraint of liberty for the term of up to three years, or by confinement for the same term, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to two years.

4. Actions provided for by paragraph three of the present Article, committed repeatedly or by previous concert by a group of persons or combined with extortion of improper advantage, –

shall be punishable by confinement for the term of three to seven years with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years and with forfeiture of property.

5. A person who offered, promised or provided improper advantage shall be discharged from criminal liability, if there has been an extortion of improper advantage in relation to such person, and if after the offer, promise or provision of improper advantage, such person prior to being informed about a suspicion of having committed a crime, voluntarily reported on the incident to an authority where officers are authorised by law to report on any suspicion.

Article 368⁴. Subornation of a person providing public services

1. An offer or a promise given to an auditor, a notary, an appraiser, or another person who is not a public official or an official of local self-government, but is engaged in professional activities related to provision of

public services, including services as an expert, an arbitration manager, an independent mediator, a member of labour arbitration, arbitrator (during execution of such functions), to provide him/her or a third party with improper advantage, as well as the provision of such advantage, for performance by a person providing public services of actions or omission to act using the authority granted to such person in the interests of the person who offers, promises or provides such advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of one hundred and fifty to four hundred personal tax-exempt minimum incomes or by community service one hundred to two hundred hours, by restraint of liberty for the term of up to two years, or by confinement for the same term.

2. These same actions committed repeatedly or by previous concert by a group of persons or by an organized group, –

shall be punishable by a penalty in the amount of three hundred and fifty to seven hundred personal tax-exempt minimum incomes or by restraint of liberty for the term of up to four years, or by confinement for the same term.

3. Acceptance of an offer, a promise or receipt by an auditor, a notary, an expert, an appraiser, an arbitrator or another person engaged in professional activities related to provision of public services, as well as by an independent mediator or an arbiter during consideration collective labour disputes, of improper advantage for oneself or a third person for performance of actions or omission to act using the authority granted to such officer in the interests of the person who offers, promises or provides such advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of seven hundred and fifty to one thousand personal tax-exempt minimum incomes or by correctional labour for the term of one to two years, or by an arrest for the term of up to six months, or by restraint of liberty for the term of two to five years, or by confinement for the same term, with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years.

4. Actions provided for by paragraph three of the present Article, committed repeatedly or by previous concert by a group of persons or combined with extortion of improper advantage, –

shall be punishable by confinement for the term of four to eight years with the deprivation of the right to occupy certain offices or engage in certain activities for the term of up to three years and with forfeiture of property.

5. A person who offered, promised or provided improper advantage shall be discharged from criminal liability, if there has been an extortion of improper advantage in relation to such person, and if after the offer, promise or provision of improper advantage, such person prior to being informed about a suspicion of having committed a crime, voluntarily reported on the incident to an authority where officers are authorised by law to report on any suspicion.

Article 369. An offer, a promise or provision of improper advantage to an officer

1. An offer or a promise given to an officer to provide such officer or a third person with improper advantage for performance or non-performance by an officer of any action using the power provided or official position which he/she occupies in the interests of the person who offers or promises improper advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of two hundred and fifty to five hundred personal tax-exempt minimum incomes or by community service for the term of one hundred and sixty to two hundred and forty hours, or by restraint of liberty for the term of up to three years, or by confinement for the same term.

2. Provision to an officer or a third person of improper advantage for performance or non-performance by an officer of any action using the power provided or official position which he/she occupies in the interests of a person providing the improper advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of five hundred to seven hundred and fifty personal tax-exempt minimum incomes or by restraint of liberty for the term of two to four years, or by confinement for the same term.

3. An act provided for by the second paragraph of the present Article, if repeated, –

shall be punishable by confinement for a term of three to six years with a penalty in the amount of five hundred to one thousand personal tax-exempt minimum incomes and with or without forfeiture of property.

4. An act provided for by the second or third paragraph of the present Article, if the improper advantage was provided to an officer occupying a position of responsibility or was committed by previous concert by a group of persons, –

shall be punishable by confinement for a term of four to eight years with or without forfeiture of property.

5. An act provided for by the second, third or fourth paragraph of the present Article, if the improper advantage was provided to an officer occupying a position of particular responsibility or was committed by an organized group of persons or by a member thereof, –

shall be punishable by confinement for a term of five to ten years with or without forfeiture of property.

6. A person who offered, promised or provided improper advantage shall be discharged from criminal liability, if there has been an extortion of improper advantage in relation to such person, and if after the offer, promise or provision of improper advantage, such person prior to being informed about a suspicion of having committed a crime, voluntarily reported on the incident to an authority

where officers are authorised by law to report on any suspicion.";

8) in Article 369²:

in the first paragraph:

indent one after the word "Offer" shall be supplemented with the word ", promise", and with the words "or for provision of such advantage to a third person" after the word "advantage";

in the second indent, the word "shall be punishable (*singular*)" shall be replaced by the word "shall be punishable (*plural*)", and after the word "years" the indent shall be supplemented with the words ", or by confinement for the term of up to two years";

in the second paragraph:

in the first indent, the words "Obtaining improper advantage" shall be replaced by the words "Acceptance of an offer, a promise or receipt of improper advantage for oneself or a third person", and after the word "offer" the indent shall be supplemented with the words "or a promise";

in the second indent, the word "shall be punishable (*singular*)" shall be replaced by the words "shall be punishable (*plural*)";

in the third paragraph:

in the first indent, the words "Obtaining improper advantage" shall be replaced by the words "Acceptance of an offer, a promise or receipt of improper advantage for oneself or a third person";

in the second indent, the word "shall be punishable (*singular*)" shall be replaced by the word "shall be punishable (*plural*)";

9) the title and the first indent of the first paragraph of Article 370 shall be rendered in the following wording:

"Provocation of subornation";

"Provocation of subornation, i.e. intentional creation by an officer of circumstances and conditions which cause offering, promising or provision of improper advantage, or acceptance of an offer, promise or receipt of such advantage in order to then expose the person who offered, promised, or provided improper advantage or accepted the offer, promise or received such advantage, –".

3. In the third sentence of paragraph three of Article 23 of the Law of Ukraine "On Business Associations" (Official Journal of the Verkhovna Rada of Ukraine, 1991, No. 49, p. 682; 1998, No. 18, p. 89; 1999, No. 26, p. 213; 2003, No. 30, p. 247; 2004, No. 23, p. 320; 2005, No. 16, p. 263; 2010, No. 46, p. 539) the word "bribery" shall be replaced by the words "obtaining improper advantage".

4. In indent nine of Article 7 of the Law of Ukraine "On Fundamentals of

the National Security of Ukraine" (Official Journal of the Verkhovna Rada of Ukraine, 2003, No. 39, p. 351) the words ", of bribery" shall be deleted.

5. In the Law of Ukraine "On Principles of Preventing and Counteracting Corruption" (Official Journal of the Verkhovna Rada of Ukraine, 2011, No. 40, p. 404; Official Journal of Ukraine, 2012, No. 62, p. 2510):

1) indent seven of the first paragraph of Article 1 shall be rendered in the following wording:

"improper advantage shall mean monetary funds or other property, benefits, privileges, services, intangible assets being offered, promised, given or received without legitimate grounds therefor;"

2) subparagraph 4 of the first paragraph of Article 4 shall be replaced by two subparagraphs of the following wording:

"4) officials and employees of legal entities – in case of acceptance of an offer, a promise, or receipt of improper advantage by such persons, or receipt by persons, specified under subparagraphs 1 and 2 of the first paragraph of the present Article, receipt from such persons, or receipt of improper advantage by other persons with the participation of such persons ;

5) natural persons – in case of receipt by persons, specified under subparagraphs 1 – 4 of the first paragraph of the present Article, of improper advantage from such persons, or receipt of improper advantage by other persons with the participation of such persons."

6. In the second paragraph of Article 4 of the Law of Ukraine "On Application of Amnesty in Ukraine" (Official Journal of the Verkhovna Rada of Ukraine, 1996, No. 48, p. 263; 2011, No. 51, p. 580) the words "of a bribe" shall be replaced by the words "of an improper advantage by an officer".

II. Final provisions

1. The present Law shall come into force on the day following its publication.

2. The Cabinet of Ministers shall ensure alignment of regulatory legal acts of ministries and other central executive bodies of Ukraine with the present Law within three months from the date of publication of the present Law.

3. The Office of the Prosecutor General of Ukraine shall be recommended to align its regulatory legal acts with the present Law.

**Chairman
of the Verkhovna Rada of
Ukraine**

5.2 Comparative table to the Draft Law of Ukraine “On amendment of certain legislative acts of Ukraine as regards the improvement of legislation in the area of prevention and counteraction to corruption”

Contents of the provision (norm) of existing legislative act	Contents of the respective provision (norm) in the draft legislative act
Code of Ukraine on Administrative Offences	
<p>Article 172². Breach of Limitations on the Use of Official Status</p> <p>Any breach by a person of limitations provided for by the law on the use of official powers and of the associated opportunities that resulted in gaining illegal benefit in the amount not exceeding five tax exempt minimum incomes of citizens, or in connection with accepting a promise/offer of such benefits for the person him/herself or for other persons –</p> <p>shall entail the imposition of fine in the amount of fifty to one hundred and fifty tax-exempt minimum incomes of citizens, concurrently with confiscation of illegal gains in tangible form.</p> <p>Any breach by a person of limitations provided for by the law on the use of official powers and of the associated opportunities that resulted in gaining of illegal benefit in the amount not exceeding one hundred tax-exempt minimum incomes of citizens, or in connection with accepting a promise / offer of such benefit for the person him/herself or for other persons –</p> <p>shall entail the imposition of fine in the amount of one hundred and fifty to five hundred tax-exempt minimum incomes of citizens, concurrently with confiscation of illegal gains in tangible form.</p> <p>Notes. 1. Deemed “subjects of offences” in this Article shall be persons stipulated in Clauses 1 – 3 of part one in Article 4 of the Law of Ukraine "On Principles of Preventing and Counteracting Corruption."</p> <p>2. In Articles 172² and 172³, “illegal benefit” shall mean pecuniary funds or other assets, advantages, perks, services, and non-material assets that are without any legal grounds promised, offered, provided, or received, without payment or at a price below the minimum market price.</p>	<p>Shall be deleted</p>

<p>Article 172³. Offer or Provision of Illegal Benefit</p> <p>Offer or provision to a public servant of illegal benefit directly to one person or other in the amount not exceeding five tax-exempt minimum incomes of citizens, including at a price below the minimum market price,</p> <p>–</p> <p>shall entail the imposition of fine in the amount of fifty to one hundred and fifty tax-exempt minimum incomes of citizens.</p> <p>Offer or provision to a public servant of illegal benefit directly to one person or other in the amount not exceeding one hundred tax-exempt minimum incomes of citizens, including at a price below the minimum market price, –</p> <p>shall entail the imposition of fine in the amount of one hundred and fifty to five hundred tax-exempt minimum incomes of citizens.</p> <p>Note. In this Article, “public servant” shall mean a person stipulated in Clauses 1 – 3 of part one in Article 4 of the Law of Ukraine "On Principles of Preventing and Counteracting Corruption.</p>	<p>Shall be deleted</p>
<p>Article 221. Rayon, District in City, and City or City-Rayon Courts (Judges)</p> <p>Judges of rayon, district in city, and city or city-rayon courts shall hear cases on administrative offences stipulated by part one of Article 41, Articles 41¹ through 41³, 42¹ through 42³, part one of Article 44, Articles 44¹, 46¹, 46², 51, and 51², parts two, four, and five of Article 85, Articles 85¹, 88 through 88², 90, 91, 92¹, 96¹, 98, and 101 through 103, part one of Article 106¹, Articles 106² and 107¹, part two of Article 112, parts four and seven of Article 121, part four of Article 122, Articles 122², 122⁴, and 122⁵, part two and three of Article 123, Article 124, part four of Article 127, Article 127¹, Article 130, part three of Article 133, Article 135¹, Article 139, part four of Article 140, Article 146, part two of Article 154, Article 155¹, parts one, three, and four of Article 156, Articles 160, 162 through 162³, 163¹ through 163⁴, part 2 of Article 163⁷, 163¹², 164, 164³, 164⁵ through 164¹⁶, 166¹ through 166⁴, 166¹ through 166⁴, part two one, two, nine and ten of Article 166⁶, 166⁷ through 166¹², 166¹⁴ through 166¹⁸, 171², 172² through 172⁹, 173 through 173², 174, and 177², part three of Article 178, parts one, two, and three of Article 181, part two of Article 182, Articles 184 through 185¹¹, 186⁵ through 186⁷, 187, 188, 188¹, 188¹³, 188¹⁴, 188¹⁶, 188¹⁷, 188¹⁹, 188²², 188²⁵, 188²⁷, 188²⁸, 188³¹, 188³², 188³³, 188³⁴, and</p>	<p>Article 221. Rayon, District in City, and City or City-Rayon Courts (Judges)</p> <p>Judges of rayon, district in city, and city or city-rayon courts shall hear cases on administrative offences stipulated by part one of Article 41, Articles 41¹ through 41³, 42¹ through 42³, part one of Article 44, Articles 44¹, 46¹, 46², 51, and 51², parts two, four, and five of Article 85, Articles 85¹, 88 through 88², 90, 91, 92¹, 96¹, 98, and 101 through 103, part one of Article 106¹, Articles 106² and 107¹, part two of Article 112, parts four and seven of Article 121, part four of Article 122, Articles 122², 122⁴, and 122⁵, part two and three of Article 123, Article 124, part four of Article 127, Article 127¹, Article 130, part three of Article 133, Article 135¹, Article 139, part four of Article 140, Article 146, part two of Article 154, Article 155¹, parts one, three, and four of Article 156, Articles 160, 162 through 162³, 163¹ through 163⁴, part 2 of Article 163⁷, 163¹², 164, 164³, 164⁵ through 164¹⁶, 166¹ through 166⁴, 166¹ through 166⁴, part two one, two, nine and ten of Article 166⁶, 166⁷ through 166¹², 166¹⁴ through 166¹⁸, 171², 172⁴ through 172⁹, 173 through 173², 174, and 177², part three of Article 178, parts one, two, and three of Article 181, part two of Article 182, Articles 184 through 185¹¹, 186⁵ through 186⁷, 187, 188, 188¹, 188¹³, 188¹⁴, 188¹⁶, 188¹⁷, 188¹⁹, 188²², 188²⁵, 188²⁷, 188²⁸, 188³¹, 188³², 188³³, 188³⁴, and</p>

<p>188³⁵, 188³⁸, 188³⁹, 188⁴⁰, 188⁴¹, part one of Article 189¹, Articles 189³, 190, 191, 193, and 195¹ through 195⁶, part one of Article 203, Articles 204 through 206¹, and 212² through 212²⁰ of this Code, as well as cases on administrative offences committed by persons aged between sixteen and eighteen".</p>	<p>188³⁵, 188³⁸, 188³⁹, 188⁴⁰, 188⁴¹, part one of Article 189¹, Articles 189³, 190, 191, 193, and 195¹ through 195⁶, part one of Article 203, Articles 204 through 206¹, and 212² through 212²⁰ of this Code, as well as cases on administrative offences committed by persons aged between sixteen and eighteen".</p>
<p>Article 250. Prosecutor's supervision over enforcement of laws in proceedings on cases of administrative offences</p> <p>...</p> <p>In proceedings on cases of administrative offence stipulated by Articles 172² through 172⁹ of this Code, the participation of public prosecutor in court hearing on the case shall be compulsory.</p>	<p>Article 250. Prosecutor's supervision over enforcement of laws in proceedings on cases of administrative offences</p> <p>...</p> <p>In proceedings on cases of administrative offence stipulated by Articles 172⁴ through 172⁹ of this Code, the participation of public prosecutor in court hearing on the case shall be compulsory.</p>
<p>Article 255. Persons entitled to draw up protocols on administrative offenses</p> <p>In cases on administrative offences considered by bodies envisaged in Articles 218-221 of this Code, the protocols on administrative offences shall be drawn up by:</p> <p>1) the empowered officials of:</p> <p>bodies of internal affairs (part one of Article 44, Articles 44¹, 46¹, 46², 51, 51², and 92, part one of Article 106¹, Article 106², parts four and seven of Article 121, parts three and four of Article 122, Articles 122², 122⁴, and 122⁵, part two and three of Article 123, Article 124, part four of Article 127, part one and two of Article 127¹, Article 130, part three of Article 133, Article 136 (on road traffic offences), Article 139, part four of Article 140, Articles 148, 151, 152, 154, 155, 155² through 156², 159, 160, 162 through 162³, 164 through 164¹¹, 164¹⁵, 164¹⁵, 165¹, 165², 166¹⁴-166¹⁸, 172² through 172⁹, 173 through 173², 174, Article 175¹ (with the exception of offences committed in places banned by decisions of relevant village, settlement, or city council), Articles 176, 177, 178 through 181¹, 181³ through 185², 185⁴ through 185⁹, 186, 186¹, 186³, 186⁵ through 187, 188²⁸, 189 through 196, part one of Article 203, Article 204, 205 through 206¹, 212⁶, 212⁷, 212⁸, 212¹⁰, 212¹², 212¹³, 212¹⁴, and 212²⁰);</p> <p>...</p> <p>bodies of the Security Service of Ukraine (Article 164 (as regards offences in the realm of economic activity the licenses for the conduct of which are issued by this Service)), Articles 172² through 172⁹, 195⁵, 212² (apart from clause 9 of part one), 212⁵ and 212⁶);</p> <p>...</p>	<p>Article 255. Persons entitled to draw up protocols on administrative offenses</p> <p>In cases on administrative offences considered by bodies envisaged in Articles 218-221 of this Code, the protocols on administrative offences shall be drawn up by:</p> <p>1) empowered officials of:</p> <p>bodies of internal affairs (part one of Article 44, Articles 44¹, 46¹, 46², 51, 51², and 92, part one of Article 106¹, Article 106², parts four and seven of Article 121, parts three and four of Article 122, Articles 122², 122⁴, and 122⁵, part two and three of Article 123, Article 124, part four of Article 127, part one and two of Article 127¹, Article 130, part three of Article 133, Article 136 (on road traffic offences), Article 139, part four of Article 140, Articles 148, 151, 152, 154, 155, 155² through 156², 159, 160, 162 through 162³, 164 through 164¹¹, 164¹⁵, 164¹⁵, 165¹, 165², 166¹⁴-166¹⁸, 172⁴ through 172⁹, 173 through 173², 174, Article 175¹ (with the exception of offences committed in places banned by decisions of relevant village, settlement, or city council), Articles 176, 177, 178 through 181¹, 181³ through 185², 185⁴ through 185⁹, 186, 186¹, 186³, 186⁵ through 187, 188²⁸, 189 through 196, part one of Article 203, Article 204, 205 through 206¹, 212⁶, 212⁷, 212⁸, 212¹⁰, 212¹², 212¹³, 212¹⁴, and 212²⁰);</p> <p>...</p> <p>bodies of the Security Service of Ukraine (Article 164 (as regards offences in the realm of economic activity the licenses for the conduct of which are issued by this Service)), Articles 172⁴ through 172⁹, 195⁵, 212² (apart from clause 9 of part one), 212⁵ and 212⁶);</p> <p>...</p>

<p>bodies of the State Tax Service (Articles 51², 155¹, 162¹, 162², 163¹ through 163⁴, 163¹², 163¹³, 164, 164⁵, 166¹⁶, 166¹⁷, 172² through 172⁹, and 177²);</p> <p>...</p> <p>managing bodies of the Military Law and Order Service in the Armed Forces of Ukraine (on offences committed by military servicemen, persons subject to military service, and reservists in the period of training assembly (muster), as well as by employees of the Armed Forces of Ukraine during the performance of their service duties – Articles 44, part two and three of Article 123, 172² through 172⁹, 173, 174, 178, 182, 184¹, 185 and 185⁷);</p> <p>...</p> <p>11) public prosecutor or a person from the staff of the public prosecutor's office authorized to do so by the public prosecutor (part three of Article 127¹, Articles 172² through 172⁹, 188³², 188³⁵, and 212³ (except of the breaches of right for information according to the Law of Ukraine "On Bar Association and Lawyer's Activity"));</p> <p>...</p>	<p>bodies of the State Tax Service (Articles 51², 155¹, 162¹, 162², 163¹ through 163⁴, 163¹², 163¹³, 164, 164⁵, 166¹⁶, 166¹⁷, 172⁴ through 172⁹, and 177²);</p> <p>...</p> <p>managing bodies of the Military Law and Order Service in the Armed Forces of Ukraine (on offences committed by military servicemen, persons subject to military service, and reservists in the period of training assembly (muster), as well as by employees of the Armed Forces of Ukraine during the performance of their service duties – Articles 44, part two and three of Article 123, 172⁴ through 172⁹, 173, 174, 178, 182, 184¹, 185 and 185⁷);</p> <p>...</p> <p>11) public prosecutor or a person from the staff of the public prosecutor's office authorized to do so by the public prosecutor (part three of Article 127¹, Articles 172⁴ through 172⁹, 188³², 188³⁵, and 212³ (except of the breaches of right for information according to the Law of Ukraine "On Bar Association and Lawyer's Activity"));</p> <p>...</p>
<p>Article 268. Rights of the person brought to administrative liability</p> <p>...</p> <p>When a case is being heard on administrative offence stipulated by part one of Article 44, Articles 51, 146, 160, 172² through 172⁹, and 173, part three of Article 178, Articles 185 and 185¹, and Articles 185⁷ and 187 of this Code, the attendance of the person who is brought to administrative liability, shall be compulsory. In case of failure to respond to a summons from a body of internal affairs or a judge of a rayon, district in city, city, or city-rayon court, the person concerned may be delivered to court by the body of internal affairs (the militia) in a compulsory process.</p>	<p>Article 268. Rights of the person brought to administrative liability</p> <p>...</p> <p>When a case is being heard on administrative offence stipulated by part one of Article 44, Articles 51, 146, 160, 172⁴ through 172⁹, and 173, part three of Article 178, Articles 185 and 185¹, and Articles 185⁷ and 187 of this Code, the attendance of the person who is brought to administrative liability, shall be compulsory. In case of failure to respond to a summons from a body of internal affairs or a judge of a rayon, district in city, city, or city-rayon court, the person concerned may be delivered to court by the body of internal affairs (the militia) in a compulsory process.</p>
<p>Criminal Code of Ukraine</p>	
<p>Article 354. Receiving of illegal benefit by an employee of a state enterprise, institution or organization</p> <p>Illegal receiving of any material consideration or benefit of a significant amount, by way of extortion, by an employee of a state enterprise, institution or organization, who is not an official, in return</p>	<p>Article 354. Subornation of an employee of an enterprise, an institution or an organization</p> <p>1. An offer or a promise given to an employee of a enterprise, an institution or an organization regardless of its ownership form,</p>

for any actions or omission through abuse of his/her position at the enterprise, institution or organization, -

shall be punishable by the fine up to 70 tax-free minimum incomes, or correctional labor for a term up to two years, or restraint of liberty for a term up to three years, or imprisonment for a term up to three years.

Note: For the purposes of this Article, illegal benefits of a significant amount shall mean any illegal benefits which equal or exceed 2 tax-free minimum incomes.

who is not an officer, to provide him/her or a third person with improper advantage, as well as the provision of such advantage, for performance or non-performance by the employee of any actions using the position he/she occupies, in the interests of the person who offers, promises or provides such advantage, or in the interests of a third person –

shall be punishable by a penalty in the amount of one hundred to two hundred and fifty personal tax-exempt minimum incomes or by community service for the term of up to one hundred hours, or by correctional labour for the term of up to one year.

2. These same actions committed repeatedly or by previous concert by a group of persons, –

shall be punishable by fine in the amount of two hundred and fifty to five hundred tax-exempt minimum incomes of citizens or by community service for the term of one hundred to two hundred hours, or by correctional labour for the term of up to two years.

3. Acceptance of an offer, a promise or receipt by an employee of an enterprise, an institution or an organization regardless of its ownership form, who is not an officer, of improper advantage for oneself or a third person, for performance or non-performance of any actions using the position he/she occupies at the enterprise, institution or organization, in the interests of the person who offers, promises or provides such advantage, or in the interests of a third person –

shall be punishable by fine in the amount of two hundred and fifty to five hundred tax-exempt minimum incomes of citizens or by community service for the term of one hundred to two hundred hours, or by correctional labour for the term of up to two years.

4. Actions provided for by part three of this Article, committed repeatedly or in previous collusion of a group of persons or combined with extortion of improper advantage, –

shall be punishable by a penalty in the amount of five hundred to seven hundred and fifty tax-exempt minimum incomes of citizens or by community service for the term of one hundred and sixty to

	<p>two hundred and forty hours, or by correctional labour for the term of one to two years, or by restraint of liberty for the term of up to three years, or by imprisonment for the same term.</p> <p>5. A person who offered, promised or provided illegal benefit shall be discharged from criminal liability, if there has been an extortion of illegal benefit in relation to such person, and if after the offer, promise or provision of illegal benefit, such person, prior to being notified of the suspicion of having committed a crime, voluntarily reported on the occurrence to the authority where officers are authorised by law to notify on any suspicion.</p> <p>Note. 1. In this Article illegal benefit shall be understood as funds or other assets, advantages, perks, services that exceed 0,5 of tax-free minimum income of citizens or intangible assets being offered, promised, given or received without legitimate grounds therefore.</p> <p>2. In Articles 354, 368, 3683, 3684 and 369 of this Code, a crime shall be found to be repeated if committed by a person who had previously committed any of the crimes provided for by the said Articles.</p> <p>3. In Articles 354, 368, 3683 and 3684, extortion of illegal benefit should be understood as a demand to provide illegal benefit with a threat to take actions or omit to act using one's position, authority granted, power, or official position in relation to a person who provides illegal benefit, or deliberate creation of conditions under which a person is compelled to provide illegal benefit in order to prevent harmful consequences for their rights and legitimate interests.</p>
<p>Article 3641. Abuse of Official Authority by an Officer of a Private Law Legal Entity Irrespective of Organizational-Legal Form</p> <p>1. Abuse of official authority, that is, deliberate, with the purpose of gaining illegal benefits for him/herself or for other persons, use contrary to the interests of the private law legal entity concerned irrespective of the organizational-legal form thereof, by an officer of such legal entity of his/her authority, where such use caused substantial damage to the protected by law rights or interests of individual citizens, or state or community interests, or interests of legal entities, –</p>	<p>Article 3641. Abuse of Official Authority by an Officer of a Private Law Legal Entity Irrespective of Organizational-Legal Form</p> <p>1. Abuse of official authority, that is, deliberate, with the purpose of gaining illegal benefits for him/herself or for other persons, use contrary to the interests of the private law legal entity concerned irrespective of the organizational-legal form thereof, by an officer of such legal entity of his/her authority, where such use caused substantial damage to the protected by law rights or interests of individual citizens, or state or community interests, or interests of legal entities, –</p>

<p>shall be punishable by fine in the amount of five hundred to two thousand tax-exempt minimum incomes of citizens, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to two years.</p> <p>2. Same action, if caused grave consequences, – shall be punishable by fine in the amount of ten thousand to twenty thousand tax-exempt minimum incomes of citizens concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years</p> <p>Note. In Articles 364¹, 365², 368², 368³, 368⁴, and 369² of this Code illegal benefit means pecuniary funds or other assets, advantages, perks, services, or non-material assets that are without lawful grounds promised, offered, given, or received without payment or at a price below minimum market price.</p>	<p>shall be punishable by fine in the amount of one hundred and fifty to four hundred tax-exempt minimum incomes of citizens, or by corrective labor for a term of up to one year, or by imprisonment for a term of up to three months, or by restriction of freedom for a term of up to two years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to two years.</p> <p>2. Same action, if caused grave consequences, – shall be punishable by fine in the amount of four hundred to nine hundred tax-exempt minimum incomes of citizens, or by detention for a term of up to six months, or by imprisonment for a term of three to six years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.</p> <p>Note. In Articles 364¹, 365², 368, 368², 368³, 368⁴, and 369, 369² and 370 of this Code illegal benefit means pecuniary funds or other assets, advantages, perks, services, or non-material assets that are without lawful grounds promised, offered, given, or received.</p>
<p>Article 365¹. Exceeding of Authority by an Officer of a Private Law Legal Entity Irrespective of Organizational-Legal Form</p> <p>1. Exceeding of authority, that is, deliberate commitment by an officer of a private law legal entity irrespective of organizational-legal form of actions that clearly transgress the limits of accorded authority, where such actions caused substantial damage to the protected by law rights or interests of individual citizens, or state or community interests, or interests of legal entities,– shall be punishable by fine in the amount of three thousand to five thousand tax-exempt minimum incomes of citizens concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.</p> <p>2. Same action, if caused grave consequences, – shall be punishable by fine in the amount of ten thousand to twenty thousand tax-exempt minimum incomes of citizens, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.</p>	<p>Article 365¹. Exceeding of Authority by an Officer of a Private Law Legal Entity Irrespective of Organizational-Legal Form</p> <p>1. Exceeding of authority, that is, deliberate commitment by an officer of a private law legal entity irrespective of organizational-legal form of actions that clearly transgress the limits of accorded authority, where such actions caused substantial damage to the protected by law rights or interests of individual citizens, or state or community interests, or interests of legal entities,– shall be punishable by corrective labor for a term of up to one year, or by restriction of freedom for a term of up to three years, or by imprisonment for a term of up to three years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.</p> <p>2. Same action, if caused grave consequences, – shall be punishable by restriction of freedom for a term of up to five years, or by imprisonment for a term of four to seven years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.</p>

<p>Article 365². Abuse of Authority by Persons Who Render Public Services</p> <p>1. Abuse of their authority by an auditor, notary, appraiser, or other person who is a not a civil servant or an official of local government but engages in professional activities involving the rendering of public services including services of an expert, arbitration manager, independent broker, member of labor arbitration, or arbitrator (during the performance of these functions), with the purpose of gaining illegal benefit for him/herself or for other persons, if caused substantial damage to the protected by law rights or interests of individual citizens, or state or community interests, or interests of legal entities, -</p> <p>shall be punishable by fine of one thousand to three thousand tax-exempt minimum incomes of citizens concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.</p> <p>2. Same action, committed in respect of a minor or a disabled person, a person of advanced age, or repeatedly, -</p> <p>shall be punishable by fine of three thousand to ten thousand tax-exempt minimum incomes of citizens concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.</p> <p>3. Actions stipulated by parts one or two of this Article, if caused grave consequences, -</p> <p>shall be punishable by fine of ten thousand to twenty thousand tax-exempt minimum incomes of citizens concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with or without confiscation of property.</p>	<p>Article 365². Abuse of Authority by Persons Who Render Public Services</p> <p>1. Abuse of their authority by an auditor, notary, appraiser, or other person who is a not a civil servant or an official of local government but engages in professional activities involving the rendering of public services including services of an expert, arbitration manager, independent broker, member of labor arbitration, or arbitrator (during the performance of these functions), with the purpose of gaining illegal benefit for him/herself or for other persons, if caused substantial damage to the protected by law rights or interests of individual citizens, or state or community interests, or interests of legal entities, -</p> <p>shall be punishable by corrective labor for a term of up to two years, or by imprisonment for a term of up to six months, or by restriction of freedom for a term of up to three years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.</p> <p>2. Same action, committed in respect of a minor or a disabled person, a person of advanced age, or repeatedly, -</p> <p>shall be punishable by restriction of freedom for a term of up to five years, or by imprisonment for a term of three to five years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.</p> <p>3. Actions stipulated by parts one or two of this Article, if caused grave consequences, -</p> <p>shall be punishable by imprisonment for a term of five to eight years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with or without confiscation of property.</p>
<p>Article 368. Acceptance of a Bribe</p>	<p>Article 368. <u>Acceptance of an offer, a promise or receipt of an illegal benefit by an officer</u></p> <p>1. Acceptance by an officer of an offer or a promise to provide illegal benefit to such officer or a third person for performance or non-performance by such officer of any action using the power provided or official position which he/she occupies in the interests of the person who offers or promises illegal benefit, or in the interests of a third person –</p> <p>shall be punishable by fine in the amount seven hundred and</p>

1. Acceptance by an officer, **in any form, of a bribe** for the **performance or non-performance** in the interests of the bribe-giver, or in the interests of a third party, of any action with the use of authority or official position entrusted to him/her, –

shall be punishable by fine in the amount **five hundred to seven hundred and fifty** tax-exempt minimum incomes of citizens, or by **corrective labor for a term of up to one year**, or by detention for a term of **up to six months**, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.

2. Acceptance of **a bribe** in substantial amount –

shall be punishable by fine in the amount of **seven hundred and fifty to one thousand five hundred** tax-exempt minimum incomes of citizens, or by imprisonment for a term of two to five years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.

3. **Acceptance of a bribe** in large amount, or by an officer who occupies a position of responsibility, or in previous collusion of a group of persons, or repeatedly, or combined with the demanding of **bribe**, –

shall be punishable by imprisonment for a term of five to ten years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with confiscation of property.

4. **Acceptance of a bribe** in especially large amount, or by an officer who occupies a position of special responsibility, –

shall be punishable by imprisonment for a term of eight to twelve years, concurrently with deprivation of the right to hold certain positions or

fifty to one thousand tax-exempt minimum incomes of citizens or by correctional labour for the term of one to two years, or by an arrest for the term of up to six months, or by confinement for the term of up to three years, with the deprivation of the right to hold certain positions or engage in certain activities for the term of up to three years.

2. Receipt by an officer of **illegal benefit for oneself or a third person** for **performance or non-performance** of any action using the power provided or official position which he/she occupies in the interests of a person **providing the illegal benefit**, or in the interests of a third person –

shall be punishable by fine in the amount of **one thousand to one thousand and five** hundred tax-exempt minimum incomes of citizens or by an arrest for the term of **three to six months**, or by **imprisonment for the term of two to four years**, with the deprivation of the right to hold certain positions or engage in certain activities for the term of up to three years

3. **An action provided for by part two of this Article, the subject of which was illegal benefit** in substantial amount, –

shall be punishable by fine in the amount of **five hundred to two thousand** tax-exempt minimum incomes of citizens, or by imprisonment for a term of **three to six years**, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.

4. **An action provided for in part two and three of this Article, the subject of which was illegal benefit in large amount**, or committed by an officer who occupies a position of special responsibility, or by previous concert by a group of persons, or repeated, or with demand of

engage in certain activities for a term of up to three years and with confiscation of property.

Notes. 1. Deemed a „**bribe in substantial amount**” shall be such bribe that exceeds **by five** and more times the tax-exempt minimum income of citizens, “in large amount”, **such** bribe that exceeds by two hundred and more times the tax-exempt minimum income of citizens, and “in especially large amount”, **such** bribe that exceeds by five hundred and more times the tax-exempt minimum income of citizens.

2. Officers who hold a position of responsibility are persons stipulated by Clause 1 of the Note to Article 364, whose positions according to Article 25 of the Law of Ukraine "On Public Service" were rated among the third, fourth, fifth, and sixth categories, as well as judges, public prosecutors and investigation officers, heads and deputy heads of the bodies of state authority and management, of local government bodies, and of structural subdivisions and units thereof. Officers who hold a position of special responsibility are persons stipulated in part one of Article 9 of the Law of Ukraine "On Public Service", and persons whose positions according to Article 25 of the Law of Ukraine "On Public Service", were rated among the first and second categories.

3. “**Repeated**” in Article 368 of this Code means a crime committed by a person who already committed before any of the crimes stipulated by this Article, or crimes stipulated by Articles 3683, 3684, and 369 of this Code.

4. “**Demanding bribe**” means demanding on the part of an officer of a bribe accompanied by a threat to perform or not to

illegal benefit, –

shall be punishable by imprisonment for a term of five to ten years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with confiscation of property.

5. A deed provided for in part two, three or four of this Article, the subject of which was illegal benefit in especially large amount, or committed by an officer who occupies a position of special responsibility,

–

shall be punishable by imprisonment for a term of eight to twelve years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with confiscation of property.

Notes. 1. Deemed “**illegal benefit in substantial amount**” shall be the **benefit** that **exceeds** by one hundred and more times the tax-exempt minimum income of citizens, “in large amount”, **such** that exceeds by two hundred and more times the tax-exempt minimum income of citizens, and “in especially large amount”, **such** that exceeds by five hundred and more times the tax-exempt minimum income of citizens.

2. Officers who hold a position of responsibility **in Articles 368, 369 and 382 of this Code** are persons stipulated by Clause 1 of the Note to Article 364, whose positions according to Article 25 of the Law of Ukraine "On Public Service" were rated among the third, fourth, fifth, and sixth categories, as well as judges, public prosecutors and investigation officers, heads and deputy heads of the bodies of state authority and management, of local government bodies, and of structural subdivisions and units thereof. Officers who hold a position of special responsibility **in Articles 368, 369 and 382 of this Code** are persons stipulated in part one of Article 9 of the Law of Ukraine "On Public Service", and persons whose positions according to Article 25 of the Law of Ukraine "On Public Service", were rated among the first and second categories

Shall be deleted

<p>perform, with the use of authority or official position, such actions as may inflict damage to the rights or legitimate interests of the bribe-giver, or a deliberate creation by an officer of conditions where a person is forced to give bribe in order to forestall harmful consequences in respect to his/her rights and legitimate interests.</p>	
<p>Article 368². Unlawful Enrichment 1. Obtainment by an officer of illegal benefit in substantial amount or transfer by the officer of such benefit to close relatives, in the absence of signs of bribery (unlawful enrichment) – ...</p>	<p>Article 368². Unlawful Enrichment 1. Obtainment by an officer of illegal benefit in substantial amount or transfer by the officer of such benefit to close relatives, in the absence of signs, provided for in Article 368 of this Code, (unlawful enrichment) – ...</p>
<p>Article 368³. Commercial subornation of an Officer of a Private Law Legal Entity Irrespective of Organizational-Legal Form 1. Offer, provision, or transfer to an officer of a private law legal entity irrespective of organizational-legal form, of illegal benefit for the performance of actions or lack of action with the use of entrusted authority in the interests of those who provides or transfers such benefit, or in the interests of third parties – shall be punishable by fine in the amount of five hundred to one thousand tax-exempt minimum incomes of citizens. 2. Same actions committed repeatedly or in previous collusion by a group of persons or by an organized group, – shall be punishable by fine in the amount of three thousand to five thousand tax-exempt minimum incomes of citizens. 3. Acceptance by an officer of a private law legal entity irrespective of organizational-legal form, of illegal benefit for the performance of actions or lack of action with the use of entrusted authority in the interests of those who provides or transfers such benefit, or in the interests of third parties –</p>	<p>Article 368³. Subornation of an Officer of a Private Law Legal Entity Irrespective of Organizational-Legal Form 1. Offer or promise to an officer of a private law legal entity irrespective of organizational-legal form, to provide her/him or to the third party with illegal benefit, as well as provision of such benefit for the performance of actions by the said officer or lack of his/her actions with the use of entrusted authority in the interests of those who offers, promises or provides such benefit, or in the interests of third parties – shall be punishable by fine in the amount of fifty to four hundred tax-exempt minimum incomes of citizens, or by community service for the term of one hundred to two hundred hours, or by restriction of freedom for a term of up to two years, or by imprisonment for the same term. 2. Same actions committed repeatedly or in previous collusion by a group of persons or by an organized group, – shall be punishable by fine in the amount of three hundred and fifty to seven hundred tax-exempt minimum incomes of citizens, or by restriction of freedom for a term of four years, or by imprisonment for the same term. 3. Acceptance of the offer, promise or receipt by an officer of a private law legal entity irrespective of organizational-legal form, of illegal benefit for himself/herself or third party for the performance of actions or lack of action with the use of entrusted authority in the interests of those who offers, promises or provides such benefit, or in the interests of third parties –</p>

<p>shall be punishable by fine in the amount of five thousand to eight thousand tax-exempt minimum incomes of citizens, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to two years.</p> <p>4. Actions stipulated by part three of this Article, committed repeatedly or in previous collusion by a group of persons, or accompanied by demanding of illegal benefit, –</p> <p>shall be punishable by fine in the amount of ten thousand to fifteen thousand tax-exempt minimum incomes of citizens, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with confiscation of property.</p> <p>5. A person who offered, provided, or transferred illegal benefit, shall be relieved of criminal liability if in respect to him/her the demanding of illegal benefit took place, or if after the offer, provision, or transfer of the illegal benefit, the person voluntarily reported on the occurrence, prior to the institution of criminal case against this person, to a body vested by law with the right to institute criminal case.</p> <p>Notes. 1. Deemed “repeated” in Articles 368³ and 368⁴ shall be a crime committed by a person who previously committed any of the crimes stipulated by this Article, as well as by Articles 368 and 369 of this Code.</p> <p>2. Deemed “demanding” in accordance with part four of Articles 368³ and 368⁴ of this Code shall be the demand to provide or transfer illegal benefit accompanied with a threat to perform or not to perform actions with the use of official authority, addressed to the person who provides or transfers illegal benefit, or the deliberate creation by the person who performs managing functions in a private law legal entity, of conditions under which a person is forced to provide or transfer illegal benefit in order to forestall harmful consequences to his/her rights and legitimate interests.</p> <p>Article 368⁴. Subornation of Person Rendering Public Services</p>	<p>shall be punishable by fine in the amount of five hundred to seven hundred and fifty tax-exempt minimum incomes of citizens, or by correctional labour for the term up to two years, or by an arrest for the term up to six months, or restriction of freedom for a term up to three years, or by imprisonment for the same term, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to two years.</p> <p>4. Actions stipulated by part three of this Article, committed repeatedly or in previous collusion by a group of persons, or accompanied by demanding of illegal benefit, –</p> <p>shall be punishable by the imprisonment for the term of three to seven years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with confiscation of property.</p> <p>5. A person who offered, promised, or provided illegal benefit, shall be relieved of criminal liability if in respect to him/her the demanding of illegal benefit took place and after an offer, promise or provision of the illegal benefit, the person voluntarily reported on the occurrence, prior to his/her notifying of the suspicion on the commission of the crime, to a body, the official of which according to the law has the right to institute criminal case.</p> <p>Shall be deleted</p> <p>Article 368⁴. Subornation of Person Rendering Public Services</p>
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1. Offer, provision, **transfer** to an auditor, notary, appraiser, or other person who is not a state officer or an official of local government, but **performs** professional activities involving the rendering of public services including services of expert, arbitration manager, independent broker, member of labor arbitration tribunal, or arbitrator (during the performance of these functions), of illegal benefit for the performance of actions or lack of action with the use of entrusted authority in the interests **of the person who** offers, provides, or **transfers** such benefit, or in the interests of **third parties** –

shall be punishable by fine in the amount of **five hundred to one thousand** tax-exempt minimum incomes of citizens.

2. Same actions committed repeatedly, or in previous collusion by a group of persons or by an organized group, –

shall be punishable by fine of **three thousand to five thousand** tax-exempt minimum incomes of citizens.

3. **Acceptance** by an auditor, notary, expert, appraiser, arbitrator or other person who **engages in** professional activities involving the rendering of public services, as well as by an independent broker or arbitrator **in deliberations** on collective labor disputes, of illegal benefit for the performance of actions or lack of action with the use of entrusted authority in the interests of the **person who** provides **or** transfers such benefit, –

shall be punishable by fine of **five thousand to ten thousand** tax-exempt minimum incomes of citizens, concurrently with the deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.

1. Offer **or promise** to an auditor, notary, appraiser, or other person who is not a state officer or an official of local government, but **performs** professional activities involving the rendering of public services including services of expert, arbitration manager, independent broker, member of labor arbitration tribunal, or arbitrator (during the performance of these functions), **to provide him/her or third party with illegal benefit, as well as provision of such benefit** for the performance of actions or lack of action **from part of person who renders public services** with the use of entrusted authority in the interests **of the person who** offers, **promises, or transfers** such benefit, or in the interests of **third parties** –

shall be punishable by fine in the amount of **one hundred and fifty to four hundred** tax-exempt minimum incomes of citizens, or **by community service for the term of one hundred to two hundred hours, or by restriction of freedom for a term of up to two years, or by imprisonment for the same term.**

2. Same actions committed repeatedly, or in previous collusion by a group of persons or by an organized group, –

shall be punishable by fine in the amount of three hundred and fifty to seven hundred tax-exempt minimum incomes of citizens, **or by restriction of freedom for a term of up to four years, or by imprisonment for the same term.**

3. **Acceptance of the offer, promise or receipt** by an auditor, notary, expert, appraiser, arbitrator or other person who **engages in** professional activities involving the rendering of public services, as well as by an independent broker or arbitrator **in deliberations** on collective labor disputes, of illegal benefit **for himself/herself or third party** for the performance of actions or lack of action with the use of entrusted authority in the interests of the **person who offers, promises or provides such benefit, or in the interests of third parties** –

shall be punishable by fine in the amount of **seven hundred and fifty to one thousand** tax-exempt minimum incomes of citizens, **or by correctional labour for the term of one to two years, or by an arrest for the term up to six months, or restriction of freedom for a term up to five years, or by imprisonment for the same term,** concurrently with

<p>4. An action stipulated by part three of this Article, committed repeatedly or in previous collusion by a group of persons or accompanied with demanding of illegal benefit, –</p> <p>shall be punishable by fine of twelve thousand to eighteen thousand tax-exempt minimum incomes of citizens, concurrently with the deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with confiscation of property.</p> <p>5. A person who offered, provided, or transferred illegal benefit, shall be relieved of criminal liability if in respect to him/her the demanding of illegal benefit took place, or if after the offer, provision, or transfer of the illegal benefit, the person voluntarily reported on the occurrence, prior to the institution of criminal case against this person, to a body vested by law with the right to institute criminal case.</p>	<p>deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years.</p> <p>4. An action stipulated by part three of this Article, committed repeatedly or in previous collusion by a group of persons or accompanied with demanding of illegal benefit, –</p> <p>shall be punishable by the imprisonment for the term of four to eight years, concurrently with deprivation of the right to hold certain positions or engage in certain activities for a term of up to three years and with confiscation of property.</p> <p>5. A person who offered, promised, or provided illegal benefit, shall be relieved of criminal liability if in respect to him/her the demanding of illegal benefit took place and after an offer, promise or provision of the illegal benefit, the person voluntarily reported on the occurrence, prior to his/her notifying of the suspicion on the commission of the crime, to a body, the official of which according to the law has the right to notify of the suspicion.</p>
<p>Article 369. Offer or <u>Giving of Bribe</u></p> <p>1. Offer of bribe –</p> <p>shall be punishable by fine in the amount of one hundred to two hundred and fifty tax-exempt minimum incomes of citizens, or by restriction of freedom for a term of up to two years.</p> <p>2. Giving of bribe –</p> <p>shall be punishable by fine in the amount of two hundred and fifty to seven hundred and fifty tax-exempt minimum incomes of citizens, or by restriction of freedom for a term of two to five years.</p>	<p>Article 369. An offer, <u>a promise</u> or provision of <u>illegal benefit to an officer</u></p> <p>1. An offer or a promise to an officer to provide such officer or a third party illegal benefit for the performance or non-performance by an officer of any action using the power provided or official position which he/she occupies in the interests of the person who offers or promises illegal benefit, or in the interests of a third party –</p> <p>shall be punishable by fine in the amount of two hundred and fifty to five hundred tax-exempt minimum incomes of citizens or by community service for the term of one hundred and sixty to two hundred and forty hours, or by restriction of freedom for the term of up to three years, or by imprisonment for the same term.</p> <p>2. Provision to an officer or a third party of illegal benefit for performance or non-performance by an officer of any action using the power provided or official position which he/she occupies in the interests of a person providing the illegal benefit, or in the interests of a third party –</p> <p>shall be punishable by fine in the amount of five hundred to seven hundred and fifty tax-exempt minimum incomes of citizens or by restriction of freedom for the term of two to four years, or by</p>

<p>3. Giving of bribe committed repeatedly, –</p> <p>shall be punishable by imprisonment for a term of three to six years, concurrently with fine in the amount of between five hundred and one thousand tax-exempt minimum incomes of citizens and with or without confiscation of property.</p> <p>4. Giving of bribe to an officer who occupies a position of responsibility, or in previous collusion of a group of persons –</p> <p>shall be punishable by imprisonment for a term of four to eight years, with or without confiscation of property.</p> <p>5. Giving of bribe to an officer who occupies a position of special responsibility, or by an organized group of persons, or by a member of such group –</p> <p>shall be punishable by imprisonment for a term of five to ten years, with or without confiscation of property.</p> <p>6. A person who offered or gave bribe, shall be relieved of criminal liability if in respect to him/her the demanding of bribe took place, or if after the giving of bribe, the person voluntarily reported on the occurrence, prior to his/her notification of the suspicion, to a body vested by law with the right to notify of the suspicion.</p> <p>Note. “Repeated” in Article 369 means a crime committed by a person who previously committed such crime or any of the crimes stipulated by Articles 368, 368³ or 368⁴ of this Code.</p>	<p>imprisonment for the same term.</p> <p>3. An action stipulated by part two of this Article committed repeatedly, –</p> <p>shall be punishable by imprisonment for a term of three to six years with fine in the amount of five hundred to one thousand tax-exempt minimum incomes of citizens and with or without confiscation of property.</p> <p>4. An action stipulated by part two or three of this Article, if the illegal benefit was provided to an officer occupying a position of responsibility or was committed in previous collusion by a group of persons, –</p> <p>shall be punishable by imprisonment for a term of four to eight years, with or without forfeiture of property.</p> <p>5. An action stipulated by part two, three or four of this Article, if the illegal benefit was provided to an officer occupying a position of responsibility or was committed in previous collusion by a group of persons or its member,–</p> <p>shall be punishable by imprisonment for a term of five to ten years with or without confiscation of property.</p> <p>6. A person who offered, promised, or provided illegal benefit, shall be relieved of criminal liability if in respect to him/her the demanding of illegal benefit took place and after an offer, promise or provision of the illegal benefit, the person voluntarily reported on the occurrence, prior to his/her notifying of the suspicion on the commission of the crime, to a body, the official of which according to the law has the right to notify of the suspicion.</p> <p>Shall be deleted</p>
<p>Article 369². Abuse of Influence</p> <p>1. Offer or provision of illegal benefit to a person who offers or promises (consents) for such benefit to influence the adoption of a decision by a person who is authorized to perform state function, –</p>	<p>Article 369². Abuse of Influence</p> <p>1. Offer, promise or provision of illegal benefit to a person who offers or promises (consents) for such benefit or for provision of such benefit to the third party to influence the adoption of a decision by a person who is authorized to perform state function, –</p>

<p>shall be punishable by fine in the amount of two hundred to five hundred tax-exempt minimum incomes of citizens, or by restriction of freedom for a term of two to five years.</p> <p>2. Acceptance of illegal benefit for influencing the adoption of a decision by a person who is authorized to perform state function, or offer to exert such influence for the provision of such benefit –</p> <p>shall be punishable by fine in the amount of seven hundred and fifty to one thousand five hundred tax-exempt minimum incomes of citizens, or by imprisonment for a term of two to five years.</p> <p>3. Acceptance of illegal benefit for influencing the adoption of a decision by a person who is authorized to perform state function, combined with demanding such benefit, –</p> <p>shall be punishable by imprisonment for a term of three to eight years with confiscation of property.</p> <p>...</p>	<p>shall be punishable by fine in the amount of two hundred to five hundred tax-exempt minimum incomes of citizens, or by restriction of freedom for a term of two to five years, or by imprisonment for the term of up to years.</p> <p>2. Acceptance of an offer, promise or receipt of illegal benefit for himself/herself or third party for the influence on the adoption of a decision by a person who is authorized to perform state function, or offer or promise to perform influence for provision of such benefit –</p> <p>shall be punishable by fine in the amount of seven hundred and fifty to one thousand five hundred tax-exempt minimum incomes of citizens, or by imprisonment for a term of two to five years.</p> <p>3. Acceptance of an offer, promise or receipt of illegal benefit for himself/herself or third party for the influence on the adoption of a decision by a person who is authorized to perform state function, combined with demanding such benefit, –</p> <p>shall be punishable by imprisonment for a term of three to eight years with confiscation of property.</p> <p>...</p>
<p>Article 370. Provocation of a Bribe or of Commercial Subornation</p> <p>1. Provocation of a bribe or of commercial subornation, that is, deliberate creation by an officer of circumstances and conditions that call forth the offering or acceptance of a bribe or illegal benefit, in order to subsequently expose the person who gave or received the bribe or illegal benefit, –</p> <p>shall be punishable by restriction of freedom for a term of up to five years, or by imprisonment for a term of two to five years, concurrently with fine in the amount of two hundred and fifty to five hundred tax-exempt minimum incomes of citizens.</p> <p>...</p>	<p>Article 370. Provocation of subornation</p> <p>1. Provocation of subornation, that is, deliberate creation by an officer of circumstances and conditions that call forth the offering, promising or provision of such benefit, in order to subsequently expose the person who offered, promised, provided illegal benefit or accepted an offer, promise or received such benefit, –</p> <p>shall be punishable by restriction of freedom for a term of up to five years, or by imprisonment for a term of two to five years, concurrently with fine in the amount of two hundred and fifty to five hundred tax-exempt minimum incomes of citizens.</p> <p>...</p>

Law of Ukraine "On Economic Partnerships"

Article 23. Management Bodies of a Partnership and their Officials

...
 People's deputies of Ukraine, members of the Cabinet of Ministers of Ukraine, heads of central and other executive bodies, military men, deputies of local councils working there on a permanent basis, officials of public prosecutor's office, courts, bodies of national security or internal affairs, state notaries, as well as officials of public and local authorities cannot be officials of the management bodies of the partnership, save in cases when state officials carry out management of the shares (interests, equity participations) which are state property, and represent state interests in the supervisory board or auditing commission of the partnership. The persons who are prohibited by the court against conducting certain activities, cannot be officials of those partnerships which conduct such activity. The persons who have uncanceled conviction of theft, **bribery** and other mercenary crimes cannot fill management positions in partnerships, as well as positions related to material responsibility.

...

Article 23. Management Bodies of a Partnership and their Officials

...
 People's deputies of Ukraine, members of the Cabinet of Ministers of Ukraine, heads of central and other executive bodies, military men, deputies of local councils working there on a permanent basis, officials of public prosecutor's office, courts, bodies of national security or internal affairs, state notaries, as well as officials of public and local authorities cannot be officials of the management bodies of the partnership, save in cases when state officials carry out management of the shares (interests, equity participations) which are state property, and represent state interests in the supervisory board or auditing commission of the partnership. The persons who are prohibited by the court against conducting certain activities, cannot be officials of those partnerships which conduct such activity. The persons who have uncanceled conviction of theft, **receiving illegal benefit** and other mercenary crimes cannot fill management positions in partnerships, as well as positions related to material responsibility.

...

Law of Ukraine "On Principles of National Security of Ukraine"	
<p>Article 7. Threats to National Interests and National Security of Ukraine</p> <p>At present stage the main objective and potential threats to national security of Ukraine, stability in the society are:</p> <p>...</p> <p>in the sphere of national security:</p> <p>...</p> <p>spread of corruption, bribery in public authorities, accretion of business and politics, organized criminal activity;</p> <p>...</p>	<p>Article 7. Threats to National Interests and National Security of Ukraine</p> <p>At present stage the main objective and potential threats to national security of Ukraine, stability in the society are:</p> <p>...</p> <p>in the sphere of national security:</p> <p>...</p> <p>spread of corruption, bribery in public authorities, accretion of business and politics, organized criminal activity;</p> <p>...</p>
Law of Ukraine "On Principles of Prevention and Counteraction to Corruption"	
<p>Article 1. Definition of Terms</p> <p>1. In this law the terms shall be used in the following meaning:</p> <p>...</p> <p>illegal benefit means any pecuniary or other assets, advantages, privileges, services, intangible assets, which with no legal grounds are promised, offered, provided or received at no cost or at a lower than the minimal market price.</p> <p>...</p>	<p>Article 1. Definition of Terms</p> <p>1. In this law the terms shall be used in the following meaning:</p> <p>...</p> <p>illegal benefit means any pecuniary or other assets, advantages, privileges, services, intangible assets, which are promised, offered, provided or received without legal grounds for that.</p> <p>...</p>
<p>Article 4. Persons Liable for Corruption Offenses</p> <p>1. The persons liable for corruption offenses are as follows:</p> <p>...</p> <p>4) officials of legal entities, natural persons in case of receipt from them of illegal benefits by persons stipulated in points 1, 2 of this Article, or upon participation of these persons by other persons.</p>	<p>Article 4. Persons Liable for Corruption Offenses</p> <p>1. The persons liable for corruption offenses are as follows:</p> <p>...</p> <p>4) officials and employees of legal entities – in case of acceptance of an offer, promise, or receipt of illegal benefit by such persons, or receipt from them by persons stipulated in points 1 and 2 of part one of this Article of illegal benefit, or upon participation of such persons by other persons of illegal benefit;</p> <p>5) natural persons – in case of receipt from them by persons stipulated in points 1 – 4 of part one of this present Article, of illegal benefit, or upon participation of such persons by other persons of illegal benefit.</p>

Law of Ukraine "On Application of Amnesty in Ukraine"

Article 4. Amnesty may not be applied to:

....

Amnesty shall also not be applied in respect of persons condemned for intended murder; torture; forced donorship; illegal deprivation of freedom or kidnapping; taking of hostages; human trafficking or other illegal deal involving a human being; for crimes against sexual freedom and sexual inviolability of the individual; robbery; extortion; breach of traffic safety rules or vehicles exploitation resulted in the death of the victim or caused severe bodily injures, committed by the person in the state of alcohol intoxication or in state provoked by the abuse of narcotic or other stupefying substances, or by the person who left the place of traffic incident; **for the receipt of the bribe**; use of mass destruction weapons; genocide; infringement on life of the representative of a foreign state; piracy; mercenarism.

Стаття 4. Амністія не застосовується до:

....

Амністія не застосовується до осіб, засуджених за умисне вбивство; катування; примусову донорство; незаконне позбавлення свободи або киднапінг; утримання в полоні; торгівлю людьми або інше незаконне угоду, що стосується людини; за злочини проти сексуальної свободи та сексуальної неприкосновенності особи; розбій; шантаж; порушення правил безпеки дорожнього руху або експлуатації транспорту, що призвело до смерті потерпілого або завдало тяжких тілесних ушкоджень, вчинених особою в стані алкогольного сп'яніння або в стані, спровокованому вживанням наркотиків або інших заспокулюючих речовин, або особою, яка залишила місце дорожнього інциденту; **за отримання хабаря**; використання зброї масового знищення; геноцид; порушення життя представника держави іноземної держави; піратство; наймацтво.