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PARTICULARITIES OF FORMING SUSTAINABLE LAW APPLICATION PRACTICE OF AUTHORISED ACTORS IN THEIR PERFORMANCE OF ADMINISTRATIVE INVESTIGATION

Abstract. ***Purpose.*** The purpose of the article is to clarify the particularities of forming a sustainable law application practice of authorised actors in their performance of administrative investigation. ***Results.*** With a view to establishing a sustainable law application practice of authorised actors, we propose to study certain aspects of administrative investigation by the bodies vested with the relevant powers in foreign countries. It should be noted that there are different models of understanding administrative investigation: from one that merges with pre-trial investigation (in the understanding of the Ukrainian legal space) to a separate, independent procedure (as it is in Ukraine). We consider it appropriate to briefly focus on these two models and consider them using the example of the United States and post-Soviet countries. It is revealed that, unlike Ukraine, the Code of the Republic of Moldova clearly defines the moment when proceedings on an offence are commenced. Proceedings are deemed to have been commenced from the moment of notification of the fact-finding body (fact-finding bodies include specialised bodies: Ministry of Internal Affairs, National Anti-Corruption Centre, Customs Service, Specialised Transport Authorities, State Labour Inspectorate, etc.) or establishing the commission of an offence on their initiative. ***Conclusions.*** It is concluded that the implementation of foreign experience in the field of administrative offence proceedings is generally not feasible. However, in order to improve the activities of law enforcement bodies in conducting administrative investigations, we believe it would be appropriate to supplement the CUAO with Article 252-1 "Inspection of the scene", which will regulate the performance of actors vested with the relevant powers to inspect the scene, describing it with due regard to the provisions of Article 426 of Contravention Code of the Republic of Moldova No. 218-XVI of 24 October 2008. Furthermore, in our opinion, it would be advisable to allow for the research of domestic scholars and the foreign experience of the Republic of Tajikistan and the Republic of Moldova by including Article 245-1 "Commencement of a case on administrative offences" in the CUAO, which should address the issue of the moment of commencement of a case and contain the grounds necessary for commencing a case on administrative offences. This provision is necessary because currently no unanimity of views on this issue exists in the scientific community, and the legislator does not regulate it in any way.

Key words: violation, court, criminal act, administrative offence, crime.

1. Introduction

In the current context of the ongoing reform of law enforcement bodies, their representatives in their practical activities often face insufficient legislative regulatory mechanism for certain issues, including those related to administrative investigations as the initial stage of proceedings on administrative offences, which is one of the fundamental directions of implementation of the National Police's tasks. Therefore, in our study, we consider it necessary to focus on the ways in which administrative investigations implemented in Ukraine and abroad.

The purpose of the article is to clarify the particularities of forming a sustainable law application practice of authorised actors in their performance of administrative investigation.

2. Legal regulatory framework for proceedings on administrative offences

The perspectives of some scholars on the stages of proceedings in cases of administrative offences should be reviewed briefly.

For example, O.M. Yarmak's study *Records on an administrative offence as a source of evidence in proceedings on administrative offences* proposes to distinguish the following stages of proceedings on administrative offences: 1) verification of the factual circumstances of the committed act and commencement of an administrative offence case; 2) consideration and resolution of an administrative offence case; 3) appeal against a decision on an administrative offence case or a prosecutor's submission to it; 4) enforcement of a decision on an administrative offence; 5) review of a decision on an administrative offence in case of a violation of Ukraine's international obligations (Yarmak, 2014, pp. 16-17).

Some authors refer to the stage of case commencement as the stage of "commencement and administrative investigation in the case of an administrative offence", which is the initial stage. S.S. Hnatiuk notes that it is understood as "a set of procedural actions aimed at establishing the circumstances of the offence, recording and qualifying them" (Hnatiuk, 2011, p. 63). The first phase of this stage is the preliminary administrative investigation in the case on an administrative offence.

In our opinion, an administrative investigation should be considered as the first mandatory stage of proceedings, which includes the following phases: preliminary administrative investigation; commencement of an administrative offence case; establishment of the circumstances of the case; records on an administrative offence.

At the stage of preliminary administrative investigation, the authorised person is tasked with establishing the presence or absence of an administrative offence in the person's act as a factual basis for commencing a case, i.e. to conduct the primary administrative and legal qualification of the act (Chyshko, 2016, p. 27).

S.S. Hnatiuk proposes to understand preliminary administrative investigation as a system of procedural actions carried out by a public administration body vested with administrative and jurisdictional powers to verify and establish the circumstances relevant to the correct decision on the presence or absence of an administrative offence, sufficient grounds for commencing an administrative offence case (Hnatiuk, 2011, p. 72).

According to K.O. Chyshko, a prerequisite for administrative and legal qualification is an unlawful act (omission), which shall be qualified as an administrative offence (misdemeanour). When qualifying an administrative offence, the prerequisite is an act or omission that is a priori an administrative offence (misdemeanour), and the essence of such qualification is to compare their elements with the signs of offences provided for by the legislation on administrative offences (Chyshko, 2016, pp. 25-26).

Following D. Bortniak, the grounds for commencing a case on administrative offences is the commission by a person of an act containing signs of an administrative offence (factual ground). The researcher argues that the available information about an offence is a reason for commencing an administrative offence case. These may include: "statements (written or oral) of witnesses, victims and other citizens; reports of officials, administration of enterprises, institutions, organisations, judicial and investigative bodies; reports of the press and other media; reports of public organisations, community courts; direct detection of the offence by an authorised person" (Bortniak, 2009, p. 180).

In other words, the analysis of scientific views enables to conclude that there are two mandatory grounds for commencing an administrative offence case: factual (presence of an administrative offence in the person's action) and formal (availability of information about the committed offence obtained by the authorised person through legal means).

At the phase of establishing the circumstances of the case, the issues of qualification of the person's act and collection of evidence in the case of administrative offences are investigated. S. S. Hnatiuk notes that the qualification of an act is one of the main tasks of an administrative investigation and acts as its determinant (Hnatiuk, 2011, p. 56). K.O. Chyshko defines the qualification of an administrative offence as the activity of a specially authorised body (official) to cognise (determine) legally significant features of an act (offence), their analysis, summarisation and comparison with the features of corpus delicti defined by the legislation on administrative offences (Chyshko, 2016, p. 24).

With regards to evidence, according to Article 251 of the Code of Ukraine on Administrative Offences, it is "any factual data on the basis thereof, in the manner established by law, the authority (official) establishes the presence or absence of an administrative offence, the guilt of the person of committing it and other circumstances relevant to the correct resolution of the case" (Code of Ukraine on Administrative Offences, 1984).

In his study, S.S. Hnatiuk proposes to divide such circumstances into two groups:

1) circumstances that are directly relevant to the decision on the presence or absence of an administrative offence;

2) circumstances that are outside the corpus delicti but are relevant for individualisation of liability (Hnatiuk, 2011, pp. 74-75).

The relevant data rely on the records on administrative offence, explanations of the per-

son held administratively liable, victims, witnesses, expert opinion, material evidence, readings of technical devices and technical means with photo and film recording functions, including those used by the person held administratively liable, or witnesses, as well as operating in an automatic mode, or means of photography, cinema, video recording, including those used by the person being held administratively liable, or witnesses, as well as operating in an automatic mode or in the mode of photography (video recording), used in supervising the implementation of rules, regulations and standards related to road safety and vehicle parking, an act of inspection and temporary detention of a vehicle, a records on the seizure of things and documents, as well as other documents (Code of Ukraine on Administrative Offences, 1984).

These proving activities are regulated in detail by the provisions of the Code of Ukraine on Administrative Offences and bylaws, such as: Order 1376 of the Ministry of Internal Affairs of Ukraine "On approval of the Instruction on processing materials on administrative offences in the Police" of November 06, 2015, Order 173 of the Central Directorate of the Security Service of Ukraine "On Approval of the Instruction on the processing materials on administrative offences in the Security Service of Ukraine" of March 22, 2017, Order 1376 of the Ministry of Internal Affairs of Ukraine "On Approval of the Instruction on processing materials on administrative offences in police bodies" of November 06, 2015, Order 2702/5 of the Ministry of Justice "On approval of the Instruction on processing materials on administrative offences by officials of authorised probation bodies" of August 17, 2018, Order 3/02-15 of the Ukrainian Parliament Commissioner for Human Rights of February 16, 2015, Joint Order 1452/735 of the Ministry of Internal Affairs of Ukraine and the Ministry of Health of Ukraine "On approval of the Instruction on the procedure for detecting signs of alcohol, drug or other intoxication or being under the influence of medications, reducing attention and speed of reaction in vehicle drivers" of November 09, 2015, Resolution No. 17 of the Cabinet of Ministers of Ukraine of 16 January 2012 "On approval of the procedure for storage of things and documents seized in the course of proceedings on administrative offences," Procedure for temporary withdrawal of a driver's licence for a vehicle and its return: Resolution No. 1086 of the Cabinet of Ministers of Ukraine of 17 December 2008, Law of Ukraine "On Measures to Counteract Illegal Trafficking in Narcotic Drugs, Psychotropic Substances, Precursors and Their Abuse" No. 62/95-VP of 15 February 1995, Resolution No. 1103 of the Cabinet of Ministers of Ukraine "On approval of the procedure for referring vehicle drivers for examination to detect the state of alcohol, drug or other intoxication or being under the influence of drugs reducing attention and reaction speed, and conducting such examination" of December 17, 2008.

With regards to the phase of records on an administrative offence, it should be noted that this aspect is regulated by Articles 254-256 of the Code of Ukraine on Administrative Offences and a number of by-laws, such as the Order 1376 of the Ministry of Internal Affairs of Ukraine "On approval of the Instruction on processing materials on administrative offences in police bodies" of November 06, 2015, Order 2702/5 of the Ministry of Justice "On approval of the Instruction on processing materials on administrative offences by officials of authorised probation bodies" of August 17, 2018, Order No. 3/02-15 of the Ukrainian Parliament Commissioner for Human Rights of February 16, 2015, which approved the Procedure for processing materials on administrative offences, the Order 1161 of the Ministry of Emergencies of Ukraine "On approval of the Instruction on processing materials on administrative offences by the State Service of Mining Supervision and Industrial Safety of Ukraine" of September 03, 2012, etc.

According to S.S. Hnatiuk, the information entered into the records on administrative offences is usually grouped into:

Information that characterise the administrative offence (place, time and nature of the offence committed);

Circumstances that characterise the identity of the suspect (surname, name, patronymic, age, property status, place of residence and work, identity document);

Information regarding the form of the records (date and place of drawing up, position, surname, name and patronymic of the authorised official, names and addresses of witnesses and victims, if any) (Hnatiuk, 2011, pp. 76-77).

Relying on the analysis of sources, most scholars agree that records on an administrative offence are the only ground for commencing proceedings on an administrative offence, as its preparation gives an account of the event of the offence (Yesimov, Kryzhanovskyi, Kryzhanovska, 2016, p. 37), and are the document that completes the stage of commencing a case and preliminary clarification of its circumstances (Yarmak, 2014, pp. 16-17). In addition, the records on an administrative offence are "a document that has evidentiary value in a case in presence of establishing the factual data provided for in Article 251 of the Code of Ukraine

on Administrative Offences" (Yesimov, Kryzhanovskyi, Kryzhanovska, 2016, p. 109).

Researcher O.M. Yarmak argues that the records on administrative offence are a comprehensive source of evidence, as they "contain information obtained from various sources and is the most important among the means by which the facts are established, the presence or absence of an administrative offence in the person's act, the person's guilt of committing it, and other circumstances relevant to the correct resolution of the case". It is underlined that the records are of evidentiary value only if they are drawn up "by an authorised person in compliance with the requirements for its content and form established by law" (Yarmak, 2014, pp. 12-16).

In essence, the administrative investigation stage is completed by drawing up records on an administrative offence and submitting the case file for consideration as appropriate.

To sum up, it can be noted that in Ukraine, the procedure for administrative investigation as the first stage of proceedings on administrative offences includes: detection of an administrative offence, deterrence of the offence (if it is still ongoing), collection of evidence, its evaluation, giving an account of the fact of committing an offence by drawing up records on an administrative offence and transfer of the case file for consideration by the relevant authorities. Another phase of this stage should be considered as ensuring proceedings in cases of administrative offences by implementing the measures specified in Chapter 20 of the CUAO, if necessary. Based on their essence, it can be concluded that this phase is optional, since interim measures are applied only "in cases directly provided for by the laws of Ukraine, in order to deter administrative offences, when other measures of influence and identification have been exhausted, identification, records on an administrative offence if it is impossible to draw them up at the scene, if records are mandatory, ensuring timely and correct consideration of cases and enforcement of decisions on administrative offences" (Code of Ukraine on Administrative Offences, 1984).

3. Foreign experience of administrative investigation

With a view to establishing a sustainable law application practice of authorised actors, we propose to study certain aspects of administrative investigation by the bodies vested with the relevant powers in foreign countries. It should be noted that there are different models of understanding administrative investigation: from one that merges with pre-trial investigation (in the understanding of the Ukrainian legal space) to a separate, independent procedure (as it is in Ukraine). We believe it is appropriate to briefly discuss these two models and consider them on the example of the United States and post-Soviet countries.

With regard to the experience of foreign countries, it is difficult to draw a parallel with Ukraine in the field of administrative investigation, since Western countries, such as most European countries, the United States of America, Canada, etc., do not have legislation regulating liability for purely administrative offences. To be more precise, it is not customary to distinguish administrative offences in the sense in which they are regulated by Ukrainian legislation. Some authors note that most European countries have laws of a "mixed nature", i.e. those that combine substantive and procedural law in the field of administrative offences (Germany, Switzerland, Austria, Italy, Portugal). However, the regulatory framework for administrative liability is often not separated from criminal and criminal procedure legislation and the procedure of bringing to justice for committing an administrative offence is based on them (Zarosylo, 2002, p. 7).

Furthermore, administrative investigations, for example in the United States, are defined as non-criminal investigations related to employee misconduct or actions. Criminal investigations, on the other hand, are initiated on the basis of information about a crime, misdemeanour and/or violation of a federal, state or local criminal law. Administrative investigations, unlike criminal investigations, are usually not adversarial in nature, are conducted primarily through interviews rather than interrogations, and do not affect a person's liberty (Conducting Administrative Investigations: Participant Guide, 2006).

In addition, the procedure for placing administrative liability on a person differs significantly in these countries. Below are examples based on federal and local laws of the United States of America.

As a rule, the procedure for considering a case of administrative offences in these countries includes a court as a party to consideration. Such a procedure always entails entering information about the commission of an offence into a citizen's personal file (criminal record). However, in some US states (Utah, Illinois), a new procedure has been introduced whereby the court is excluded from the administrative investigation if certain conditions are met. It can be argued that this process is carried out under a simplified procedure.

The fact that a person has violated the law is the ground for a Notice of Violation (Violation Notice, hereinafter referred to as the Notice). The Notice means any written communication from a public authority about a violation of a law

or regulation, whether it is a letter, memorandum, legal or administrative request, or other written communication (Definition of Violation Notice, 2012). As a rule, it will immediately state: 1) the alleged violation; 2) the date, time and place that the alleged violation occurred; and 3) what your options are with regard to payment, mandatory appearance at a hearing, or the opportunity to request a hearing to contest (fight) the violation (The Hearing Process, 2018). In other words, the Notice certifies the fact that a person has committed an offence and is the ground for consideration of the case and subsequent prosecution for an administrative offence. It should be noted that the issuance of such Notice does not require the personal presence of the offender, it may be sent by mail.

For example, in Chicago, Illinois, the following procedure is used to prosecute administrative offences. When an authorised person determines that a violation of the law has occurred, he or she sends (in person or by mail) to the party responsible for the alleged violation the Notice, which sets out information about the suspected offence.

Thereafter, the authorised municipal service (e.g. police, Department of Construction, Streets and Sanitation, tax service, health or consumer services, etc.) sends a copy of the Notice to the Department of Administrative Hearings (hereinafter referred to as the Department) for a decision.

The Department does not investigate, prosecute, or support public prosecution of a case. Other city departments or divisions charged with protecting the public safety, health and welfare may file a claim with the Department based on observations or investigations made by a police officer, city inspector or enforcement officer. Therefore, issues regarding the receipt of the Notice should be directed to the department that issued it. A hearing officer shall be present at every hearing. The hearing officer is a licensed Illinois attorney appointed by the Department director to preside over the hearing as an independent and impartial "judge". If the person ignores the Notice, a hearing officer may enter a Default Judgment against him/her based on the evidence presented. A "Default Judgment" is similar to a Judge's order in that it can be used to place a lien on one's property, garnish one's wages and/or affect one's credit. (The Hearing Process, 2018).

Another example is the city of Spanish Fork, Utah, which has introduced a new programme for people who violate municipal ordinances, which only addresses certain categories of administrative offences. This programme provides citizens who have received the Notice with the opportunity to pay an administrative fee rather than a fine to the court. The main purpose of this programme is to allow those individuals who have committed a violation the opportunity to pay a lower fee than would have been paid at the District Court. It also changes the severity of the violation from a criminal act to an administrative violation which will not show on a person's criminal history. Most of these violations will be issued for animal, parking problems and zoning issues. Violations can be issued by Spanish Fork Police Officers or other City Employees. There will still be some animal violations that will be cited into District Court. This procedure mainly concerns administrative offences against animals, parking violations and zoning violations. Violations can be recorded by police officers or other authorised city officials.

After receiving the Notice, a person can pay the administrative fee in three ways: in person at the police station, by sending a postal order to the Police Department or by credit card over the phone. The fee is payable within 14 days from the date of the violation, and if not paid within this period, the documents are transferred to the local court for consideration. For a first-time offence, the fee will range from $10 to $100, for a repeat offence from $25 to $400, depending on the type of offence (Administrative Violations, 2017).

However, in some countries there are regulatory provisions governing issues related to administrative investigations that are similar to the national legislation of Ukraine. As a rule, this applies to Ukraine's neighbouring countries of the Commonwealth of Independent States, or the so-called "post-Soviet space" countries.

For example, the Contravention Code of the Republic of Moldova No. 218-XVI of 24 October 2008 in part 2 of Article 374 states that proceedings on offences are activities, carried out by an authorised body with the participation of the parties and other persons with rights and obligations, aimed at establishing the fact of the offence, considering and resolving the case of the offence, identifying the causes and conditions that have contributed to the commission of the offence.

At the same time, unlike Ukraine, the Code of the Republic of Moldova clearly defines the moment when proceedings on an offence are commenced. Proceedings are deemed to have been commenced from the moment of notification of the fact-finding body (fact-finding bodies include specialised bodies: Ministry of Internal Affairs, National Anti-Corruption Centre, Customs Service, Specialised Transport Authorities, State Labour Inspectorate, etc.) or establishing the commission of an offence on their initiative.

Establishing the event of an offence means the activities performed by the official examiner to collect and submit evidence of an offence, to decide on the consideration of an offence based on the official examiner's statement or to draw up records on an offence and to impose a penalty for the offence or to refer, if necessary, the case to an officer authorised to consider it within the body to which the reporting entity belongs, to a court or other body for consideration (Contravention Code of the Republic of Moldova, 2008).

Of scientific interest is also the provision governing the inspection of the scene (location, premises, things, documents, animals, human or animal corpses) by an authorised person. Article 426 establishes the purpose (detection of traces of an offence, material evidence and to establish the circumstances of the offence or other circumstances relevant to the proper resolution of the case) and the limits of the inspection of the scene. Thus, the official examiner inspects visible objects and, if necessary, allows access to them to the extent that does not violate human rights. If necessary, the person conducting the procedural activity, personally or with the help of a specialist in the relevant field, takes measurements, photographs, films, video recordings, drawings and diagrams, makes casts and prints. The site of inspection may be delimited by the staff of specialised public order and security units of the General Inspectorate of Police of Moldova.

Objects and documents found at the scene shall be examined on site, and the results of the examination shall be recorded in documentation on that action. If it is impossible to make copies, make photo or video recordings, or take samples of objects that are information carriers within the on-site examination or there are obstacles to such actions, the objects and documents that are material evidence shall be seized. To do this, the objects and documents are placed in a bag, the bag is sealed and signed, and this fact shall be indicated in the documentation on seizure. The package is opened in the presence of the offender or his/her representative (Contravention Code of the Republic of Moldova, 2008).

It is interesting that the legislation of the Republic of Tajikistan, namely the Procedural Code on Administrative Offences of the Republic of Tajikistan, contains provisions regulating the circumstances to be proved (Article 49), as well as the issue of commencing a case on administrative offences (Article 81).

The circumstances to be proved include: the presence of an administrative offence; the person who committed the offence; the person's guilt; circumstances mitigating and/or aggravating administrative liability; the nature and extent of the damage caused by the administrative offence; circumstances that preclude proceedings on an administrative offence; the existence of grounds for transferring materials on an administrative offence for consideration at the place of residence, work or study; causes and conditions contributing to the commission of the administrative offence; other circumstances relevant to the correct resolution of the case on administrative offences (Code of Procedure on Administrative Offences of the Republic of Tajikistan, 2013).

If such grounds are absent, the authorised official reviewing the administrative offence materials shall issue a reasoned decision to refuse to commence an administrative offence case.

In addition, Tajik legislation, unlike the national legislation of Ukraine, in Article 82 of the Code clearly indicates the moment of commencement of an administrative offence case. It is considered to be the moment of adoption of a ruling or decision on the commencement of an administrative offence case. The decision or ruling on the commencement of an administrative offence case shall specify the time and place of its preparation, position, and surname, the name and patronymic of the person who drew up the decision or ruling, the grounds for commencing an administrative offence case, data indicating the presence of an administrative offence event, and the article of the Code of the Republic of Tajikistan on Administrative Offences, which provides for liability for the administrative offence in question and a note on familiarisation with the rights and obligations of the individual, official or representative of the legal entity in respect of which the decision or ruling on the offence was issued (Code of Procedure on Administrative Offences of the Republic of Tajikistan, 2013).

It should be noted that in the Republic of Tajikistan, an administrative investigation is understood to be somewhat different from that in Ukraine, namely, it is carried out if, after detection of an administrative offence in the field of antitrust, banking, currency, tax and customs legislation, legislation on natural monopolies, on ensuring sanitary and epidemiological safety of the population, on environmental protection, on traffic rules, on transport, on state regulation of production and turnover of ethyl alcohol and alcoholic beverages, as well as tobacco products, fire safety, advertising legislation, copyright and related rights, consumer protection, elections and referendums, licensing of certain types of activities, requiring expert examination and other time-consuming procedural actions.

In addition, the law establishes the duration of the review (one month with the possibility of extension up to two months, and in certain cases up to three months) and stipulates that upon its completion, records on an administrative offence are drawn up or a decision is made to terminate the case on an administrative offence (Code of Procedure on Administrative Offences of the Republic of Tajikistan, 2013).

4. Conclusions

Therefore, it can be concluded that the implementation of foreign experience in the field of administrative offence proceedings is generally not feasible. However, in order to improve the activities of law enforcement bodies in conducting administrative investigations, we believe it would be appropriate to supplement the CUAO with Article 252-1 "Inspection of the scene", which will regulate the performance of actors vested with the relevant powers to inspect the scene, describing it with due regard to the provisions of Article 426 of Contravention Code of the Republic of Moldova No. 218-XVI of 24 October 2008.

Furthermore, in our opinion, it would be advisable to allow for the research of domestic scholars and the foreign experience of the Republic of Tajikistan and the Republic of Moldova by including Article 245-1 "Commencement of a case on administrative offences" in the CUAO, which should address the issue of the moment of commencement of a case and contain the grounds necessary for commencing a case on administrative offences. This provision is necessary because there is currently no unanimity of views on this issue in the scientific community, and the legislator does not regulate it in any way.

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ОСОБЛИВОСТІ ФОРМУВАННЯ СТАЛОЇ ПРАВОЗАСТОСОВНОЇ ПРАКТИКИ УПОВНОВАЖЕНИХ СУБ'ЄКТІВ У СФЕРІ ЗДІЙСНЕННЯ НИМИ АДМІНІСТРАТИВНОГО РОЗСЛІДУВАННЯ

Анотація. ***Мета.*** Метою статті є з'ясування особливостей формування сталої правозастосовної практики уповноважених суб'єктів у сфері здійснення ними адміністративного розслідування. ***Результати.*** З метою формування сталої правозастосовної практики уповноважених суб'єктів пропонуємо дослідити окремі аспекти здійснення адміністративного розслідування органами, наділеними відповідними повноваженнями, у зарубіжних країнах. Слід зазначити, що наявні різні моделі розуміння адміністративного розслідування: від такої, що зливається з досудовим розслідуванням (у розумінні українського правового простору) до відокремленого самостійного процесу (як це відбувається на території України). Вважаємо за доцільне коротко зупинитись на цих двох моделях і розглянути їх на прикладі США та пострадянських країн. З'ясовано, що, на відміну від України, Кодекс Республіки Молдова чітко визначає момент початку провадження про правопорушення. Провадження вважається розпочатим з моменту доведення до відома констатуючого суб'єкта (до констатуючих суб'єктів належать спеціалізовані органи: Міністерство внутрішніх справ, Національний центр по боротьбі з корупцією, Митна служба, Спеціалізовані органи в галузі транспорту, Державна інспекція праці тощо) або встановлення ним за власною ініціативою вчинення правопорушення. ***Висновки.*** Зроблено висновок, що імплементація закордонного досвіду у сфері провадження у справах про адміністративні правопорушення загалом не видається доцільною. Проте з метою вдосконалення діяльності правоохоронних органів щодо здійснення адміністративних розслідувань вважаємо слушним доповнити Кодекс України про адміністративні правопорушення статтею 252-1 «Огляд місця події», яка регулюватиме діяльність суб'єктів, що наділені відповідними повноваженнями щодо огляду місця події, описуючи її із врахуванням положень статті 426 Кодексу Республіки Молдова «Про правопорушення» від 24 жовтня 2008 року № 218-XVI. Також, на нашу думку, буде доцільно врахувати дослідження вітчизняних науковців і закордонний досвід Республіки Таджикистан та Республіки Молдова шляхом включення до Кодексу України про адміністративні правопорушення статті 245-1 «Порушення справи про адміністративні правопорушення», в межах якої має бути вирішене питання моменту порушення справи та міститиме підстави, необхідні для порушення справи про адміністративні правопорушення. Це положення необхідне, оскільки на сьогодні у наукових колах відсутня єдність поглядів на це питання, а законодавець жодним чином його не регулює.

Ключові слова: порушення, суд, кримінальне діяння, адміністративне правопорушення, злочин.

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