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Theoretical and legal fundamentals of administrative offences prevention

Abstract. The relevance of the research of the institute for administrative offences prevention is stipulated by the increasing trend of administrative offences, emergence of new types of administrative offences and the need to minimize possible harmful consequences for society. In view of the above, the purpose of the article was to analyse the theoretical and legal fundamentals of administrative offence prevention in order to formulate proposals for improving its legal regulation and implementation practice. The following set of methods is used in the course of the research: dogmatic, comparative, statistical, hermeneutical, systemic and functional. The composition of an administrative offence and its significance for the development of measures to prevent administrative offences are analysed. The author examines the existing doctrinal approaches to defining the essence of the terms “prevention of administrative offences” and “averting of administrative offences”, due to the lack of their clear legislative interpretation. Despite the fact that prevention of administrative offences and averting of administrative offences are aimed at ensuring compliance with the law, it is established that prevention focuses on general measures to avoid the commission of offences, while averting is aimed at specific individuals or groups of individuals in order to avoid the recurrence of administrative offences. The author identifies the absence of a unified legislative act which would enshrine the mechanism of administrative offences prevention. The author distinguishes the legal acts regulating the institution of administrative offences prevention at the legislative and subordinate levels. As a result of the analysis of the controversial aspects of the legal framework for administrative offences prevention, the author formulates proposals for improving the institute of administrative offences prevention. The practical significance of the results obtained is that the research is of a theoretical and applied nature, and its conclusions and proposals can be used in law-making to improve legislative and other regulations on legal support for the institution of administrative offences prevention, in research activities for further scientific analysis of the areas of improvement of legal regulation of administrative offences prevention, as well as in the educational process of higher education institutions during lectures and practical classes

Keywords: illegal act; prevention of offences; averting of offences; legal regulation; public order; rights and freedoms of citizens

INTRODUCTION

Ensuring law and order is fundamental to the effective functioning of the state and its development. The functioning of the rule of law contributes to stability and

security in society, as people feel confident that their rights and interests are protected from violations. It is worth noting that most foreign countries do not have

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codes on administrative offences. This is due to the fact that historically administrative offences were regulated by criminal law.

Instead, Ukraine adopted the Code of Ukraine on Administrative Offences¹, which regulates public relations in matters of bringing to administrative responsibility. Administrative offences are on the rise in Ukraine, are harmful, especially if they are widespread, violate public order or cause significant damage to society. In view of the above, the state policy should be aimed not only at punishing those who commit administrative offences, but also at preventing their massive spread and minimizing possible consequences for society. In this context, it should be noted that in Ukraine, preventive activities are not comprehensive and are carried out chaotically. Despite the growing number of administrative offences, the country lacks a unified system of bodies engaged in prevention activities. Aspects of expediency of legal regulation of prevention of administrative offences within a single legislative act, definition of measures and system of subjects of prevention of administrative offences remain debatable.

S. Petkov *et al.* (2023) investigated the problematic issues of legal regulation of military administrative offences (in particular, those related to abuse of power or official position by a military officer, as well as drinking alcohol, low-alcohol beverages or use of narcotic drugs, psychotropic substances or their analogues by servicemen, persons liable for military service and reservists). As a result of the analysis of the identified shortcomings, it is proposed to implement a number of measures to prevent the commission of military administrative offences. O. Ilnytslyi and N. Ilkiv (2023) explored the challenges faced by the public administration system under martial law. The researchers highlighted the need to use alternative means of communication with citizens regarding the legal regime and restrictions of martial law in order to ensure mutual understanding between public authorities and citizens.

D. Giulmagomedov *et al.* (2023) analysed the process of achieving efficiency in the activities of pre-trial investigation bodies, identifying the main criteria that affect it. The researchers drew attention to the negative aspects of management activities that are unable to ensure the quality of the functions performed by law enforcement agencies. In addition, the researchers propose measures to introducing changes in the management activities of law enforcement agencies. Y. Nazar *et al.* (2023) defined state control as one of the ways of strengthening the

high level of discipline and legality in society, and drew attention to the role of administrative guarantees of human rights in the process of such control. L.H. Chystokletov *et al.* (2023) noted the need to develop measures aimed at preventing information risks in the national security system through the prism of various biological threats. The authors pointed out the need to prevent a decline in the quality of life and economic activity, as well as to prevent the unauthorised dissemination of medical information, which depends on the development of the public administration mechanism. O. Ostapenko *et al.* (2022) pointed out that administrative and legal regulation in Ukraine needs to be significantly improved. When analysing administrative offences in the financial sector, the researchers drew attention to administrative liability and the need to prevent the commission of such administrative offences. A.O. Volkova (2020) drew attention to certain aspects of preventing administrative offences in the information sphere. The researcher notes that one of the components of the preventive mechanism for administrative offences in the information sphere is to establish the causes of these offences.

The purpose of the article was comprehensive research of the institute of administrative offences prevention based on the analysis of its theoretical foundations and legal consolidation at the legislative and subordinate levels. In order to achieve this goal, the following tasks are set: to analyse the essence of the term “prevention of administrative offences” and its correlation with the term “averting of administrative offences”; to characterise the legal support of the institute of prevention of administrative offences at the legislative and subordinate levels; to propose a set of measures to improve the institution of preventing administrative offences in Ukraine.

MATERIALS AND METHODS

To achieve the goal and fulfil the objectives of the research, the author used an appropriate set of methods. The dogmatic method made it possible to analyse the theoretical and legal foundations of administrative offence prevention, and to interpret the terms of the institution of offence prevention, and as a result, the author identified the need for its proper legal consolidation. In particular, it is established that legal regulation of administrative offence prevention is carried out at the legislative and subordinate levels. Using the comparative method, the author identified the differences between prevention and averting of offences. The use of this method was due to the fact that at the legislative

¹ Code of Ukraine on Administrative Offenses No. 80731-X. (1984, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.

level and in legal science there is no single interpretation of the term “prevention of administrative offences”. Moreover, it is often identified or compared with the term “averting of offences”.

The statistical method was the basis for collecting, processing and highlighting the state of spread of administrative offences under Articles 173-184 of the Code of Ukraine on Administrative Offences¹ for 2019 and 2022 years. Statistical data is provided for each of the articles separately and includes: the number of persons who committed administrative offences; the number of detected administrative offences; the number of administrative protocols drawn up; the number of decisions considered and made. The information on administrative offences made it possible to state the tendency of spreading administrative offences, increasing their types, and therefore the expediency of identifying the causes and conditions that lead to their commission.

The hermeneutic method helped to clarify the legal acts regulating certain aspects of administrative offence prevention. Given the fact that there is no single legal act in Ukraine which would contain a comprehensive regulation of all aspects of administrative offence prevention (state policy in the field of administrative offence prevention, the system of entities authorized to prevent administrative offences, the specifics of the process of identifying the causes and conditions which lead to the commission of administrative offences, the system of measures to prevent administrative offences depending on the type of administrative right), the author used the hermeneutic method to identify the specific aspects of administrative offences. In particular, attention was paid to the provisions of the Constitution of Ukraine², the Code of Ukraine on Administrative Offences³, the Law of Ukraine No. 580-VIII⁴, the Law of Ukraine No. 876-VII⁵, the Law of Ukraine No. 280/97-VR⁶, the Order of the Ministry of Family, Youth and Sports of Ukraine, the Ministry

of Internal Affairs of Ukraine No. z0917-09⁷, Order of the Ministry of Internal Affairs of Ukraine No. z0686-18⁸.

Using the systemic and functional methods, the institute of administrative offence prevention is researched through the prism of its various elements, which contributed to the consideration of the institute of administrative offence prevention as an integral system. In particular, the analysis of the elements of an administrative offence made it possible to identify their significance for the development of measures to prevent administrative violations. In order to form a vision of the institution of preventing administrative offences, the author examined the provisions of legal acts establishing the subjects involved in preventing administrative offences and their powers. In addition, the systemic and functional methods helped to identify the controversial provisions regarding the expediency of adopting a single special law in the field of prevention of administrative offences.

RESULTS AND DISCUSSION

Corpus delicti of an administrative offence and its significance for the development of measures to prevent administrative violations. Measures to prevent administrative offences are an important element of the modern legal system aimed at ensuring law and order, security and economic development of society. They help to avoid potentially negative consequences of administrative offences that may pose a threat to public welfare. In addition, measures to prevent administrative offences contribute to creating conditions for more effective anti-corruption. This is because by identifying and addressing the causes of administrative offences, the possibility of abuse of power and corrupt practices can be reduced. Another reason for researching ways to prevent administrative offences is that they help to maintain public trust in the legal system.

¹ Code of Ukraine on Administrative Offenses No. 8073-X. (1984, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.

² Constitution of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>.

³ Code of Ukraine on Administrative Offenses No. 8073-X. (1984, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.

⁴ Law of Ukraine No. 580-VIII “On the National Police”. (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.

⁵ Law of Ukraine No. 876-VII “On the National Guard of Ukraine”. (2014, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/876-18#Text>.

⁶ Law of Ukraine No. 280/97-VR “On Local Self-Government in Ukraine”. (1997, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80#Text>.

⁷ Order of the Ministry of Family, Youth and Sports of Ukraine, Ministry of Internal Affairs of Ukraine No. z0917-09 “On the Approval of the Instructions on the Procedure for the Interaction of Structural Units Responsible for the Implementation of the State Policy on the Prevention of Violence in the Family, Services for Children, Centers of Social Services for Family, Children and Youth and Relevant Units of the Internal Affairs Bodies on Matters of Implementation of Measures to Prevent Violence in the Family”. (2009, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/z0917-09#Text>.

⁸ Order of the Ministry of Internal Affairs of Ukraine No. z0686-18 “On the Approval of the Instructions for Organizing the Work of Juvenile Prevention Units of the National Police of Ukraine”. (2017, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/z0686-18#Text>.

Pursuant to Article 9(1) of the Code of Ukraine on Administrative Offences, an administrative offence (misdemeanour) is an unlawful, culpable (intentional or negligent) act or omission that infringes upon public order, property, rights and freedoms of citizens, the established order of governance and for which the law provides for administrative liability¹. Administrative offences are characterised by a number of specific features that form their legal elements. It should be noted that, depending on the legal properties, there is a distinction between those features that have legal significance and those that do not. In turn, legally significant features may be included in the legal composition of an offence (so-called constructive features), while others are not included in such a composition (for example, circumstances that mitigate or aggravate liability, etc.). The composition of an administrative offence is a set of main, defining features that are identified by the legislator as typical, necessary and at the same time sufficient to bring a person to legal liability (Kubakh, 2019).

In general, legal science distinguishes four elements of an offence: object, objective side, subject, and subjective side, which are characteristic of the administrative law branch. Describing the object as an element of an administrative offence, it should be noted that it is the social relations encroached upon by an unlawful act. From the above legislative definition, it can be established that the object is public order, property, rights and freedoms of citizens, and the established order of governance. At the same time, a significant clarification is needed: the object of an administrative offence is public relations in the field of public administration, which are regulated by administrative law and protected by administrative liability measures (Samofalov, 2020). As noted by M.V. Volchenko (2022), in the legal literature, the objective side is defined as an element of the offence that includes the features that determine the act of external behaviour of the offender. The content of the objective side of the offence is made up of such features as the act (action or inaction), its harmful consequences, the causal link between the act and the consequences, place, time, setting, method, tools and means of committing the offence.

With regard to the third element of an administrative offence, it should be noted that there is no legislative definition of the concept of a subject of an administrative offence. At the same time, in the theory of administrative law, the research of the essence of this concept has repeatedly aroused scientific interest. Thus, in particular, K.Ye. Tsabeka (2020) noted scientific positions according

to which the subject of an administrative offence is a person who committed it, who has reached a certain age and is sane. Analyzing administrative offences and liability, researchers A.M. Kulish and O.M. Reznik (2019) defined that the subjective side of an administrative offence is an internal, psychological attitude of a person to a socially harmful act committed by him/her and its consequences. The psychological content of the subjective side is revealed through such legal features as guilt, motive and purpose.

Having analysed the elements of an administrative offence, it should be noted that their significance for the development of measures to prevent administrative violations lies in the several aspects. Firstly, the definition of the object could help to identify which areas require special control and regulation (for example, if the object is public order, then prevention measures can be aimed at maintaining public safety and counteracting undesirable behaviour). Secondly, the objective perspective allows for a focus on specific situations and contexts, which helps to develop effective, context-specific prevention measures. Another aspect is that identification of the subject makes it possible to understand which groups or categories of people may be prone to offences, which in turn helps to develop preventive measures aimed at these groups. Understanding the subjective side allows to identify the factors that motivate people to commit offences and develop prevention measures aimed at strengthening ethical and legal norms.

Doctrinal approaches to defining the essence of the terms “prevention of administrative offences” and “averting of administrative offences”. The need to pay attention to the prevention of administrative offences is enshrined in law. Pursuant to Article 6 of the Code of Ukraine on Administrative Offences², executive authorities and local self-government bodies, public organisations and labour collectives develop and implement measures aimed at preventing administrative offences. In this regard, it is advisable to define the term “prevention of administrative offences” for a correct understanding of the measures, subjects and directions in this area. It should be noted that both at the legislative level and in legal science there is no single interpretation of the term “prevention of administrative offences”. Moreover, it is often identified or compared with the term “averting of offences”. In view of the above, the peculiarities of the functioning of each concept should be highlighted.

The researcher A.O. Volkova (2020) noted that the administrative law doctrine establishes the provision

¹ Code of Ukraine on Administrative Offences No. 8073-X. (1984, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.

² Ibidem, 1984.

that prevention of administrative delinquency should be the activity of formal and informal formations and individuals organised by the state, which is carried out on the basis of and for the implementation of laws with a view to eliminating the causes and conditions which contribute to administrative misconduct and ensure the formation of law-abiding behaviour of citizens in the field of public administration. Particular attention in the context of the research of prevention of administrative offences under martial law is paid by B.O. Logvinenko (2022), who notes that among the measures to prevent administrative offences under martial law, it is extremely important to prioritise the organisation and implementation of preventive measures. Thus, the emphasis should be shifted to those problematic issues, the escalation of which can cause mass unrest, panic among the population, destabilisation of the situation in the service area, and harm people's lives and health.

Researchers L.O. Makhova and A.O. Vyprytskyi (2019) in their research on the averting of administrative offences in public places proposed the following hierarchy of averting elements: the averting direction; groups of averting measures that implement the practical application of the main areas of offence averting; averting measure; averting complex; averting programmes. K. Pisotska (2023) paid special attention to the averting of juvenile delinquency during martial law in Ukraine. In her research, she points out that the averting of juvenile delinquency is a crucial aspect of maintaining order and security in peacetime. However, in wartime, the role of juvenile prevention units becomes even more important, as, in addition to their daily tasks, juvenile police officers face new challenges caused by armed aggression. The priority areas of work are, on the one hand, the averting of juvenile delinquency, and, on the other hand, the creation of a safe environment for children, evacuation from dangerous cities where active hostilities are taking place. One of the main tasks of the police is to prevent administrative offences, prevent children from being involved in war crimes, and to work with children on averting work with youth movements (it should be explained that such actions are subject to both administrative and criminal liability).

One of the main shortcomings of the system of averting of juvenile delinquency is the problem of legal regulation. Despite the wide range of legal provisions regulating the activities of actors involved in the averting of youth crime, they are characterised by inconsistency, contradictory content of legal acts, inadequacy of legislation to protect the interests of minors, failure to take into account the state and peculiarities of crime and the political course of the state in general. For example, considerable attention is paid to the observance of children's rights and the protection of their interests, as

provided for in international legislative documents ratified by Ukraine. This determines the general course of Ukraine towards restorative justice, alternative systems of responding to juvenile delinquency, which provide an individual approach to the child. In turn, the lack of integrity of the averting system is primarily manifested in legislation. By looking at the list of actors involved in the prevention of juvenile delinquency, the duplication of functions, which creates organisational disputes within the system, is identified. Accuracy in the legislative definition of competences and delineation of functions of the subjects of averting activities will lead to more effective performance of these functions (Muranenko, 2019).

Another area of public relations that researchers focus on in the context of the need to prevent offences is the area of taxes and fees. It should be noted that information and analytical activities of state bodies are of great importance due to their influence on tax offenders by appropriate measures. In other words, it is about counteracting, averting and deterring such offences. These factors can be united by the concept of "counteraction to offences", which covers almost all areas of activity of the state, society and citizens that can have a positive impact on the offender, certain types of offences, and specific acts. This, in turn, combines a set of general social and special administrative measures (Trynchuk, 2023). Researchers S.O. Baranov and S.P. Rybachenko (2022) conceptualized offense prevention as a distinct form of social management directed at safeguarding the integrity of legal norms. This approach involves devising and executing specific measures to identify and mitigate the root causes and circumstances of offenses, along with implementing preventive actions targeting individuals predisposed to illegal conduct.

Commenting on the proposed scientific approaches to defining the essence of the terms "prevention of administrative offences" and "averting of administrative offences", it should be noted that the authors have done a deal of generalising work, but made several systemic mistakes. Firstly, prevention of administrative offences and averting of administrative offences are two approaches to ensure order and compliance with the law, but they have different emphasis and nature. Secondly, prevention of administrative offences is aimed at eliminating factors that may lead to the commission of an administrative offence. The main emphasis is on taking measures in advance to avoid situations that lead to violations of the law. Preventive measures may include education, training, information campaigns, improvement of living conditions, legislative reform, institutional changes, etc. Finally, averting of administrative offences is aimed at those individuals or groups who are at increased risk of committing an administrative offence.

Avertive measures may include surveillance, monitoring of certain categories of citizens, restriction of access or opportunities for those who have previously committed administrative offences, as well as other measures to avoid recurrence of violations.

Legal regulation of the institute of prevention of administrative offences in Ukraine. At the constitutional level, there are provisions that are fundamental to the formation of the institution of crime prevention in Ukraine. In particular, Article 60 of the Constitution of Ukraine¹ stipulates that no one is obliged to execute manifestly criminal orders or instructions. The giving and execution of a manifestly criminal order or instruction is subject to legal liability. This provision contributes to the creation of a legal framework for the prevention of offences in the following ways:

1. By establishing the principle of executing only lawful orders or instructions, the use of power within the law and the inviolability of citizens' rights are ensured.

2. Guaranteeing the right to refuse to comply with instructions or orders if they are clearly criminal serves as a tool to prevent administrative offences.

3. Providing for legal liability for the execution of manifestly criminal orders or instructions creates a deterrent that may influence a person's decision to execute or refuse to execute manifestly criminal orders or instructions.

Another provision that serves as a basis for preventing administrative offences in the field of finance is Article 67 of the Constitution of Ukraine². The provision establishes the obligation of everyone to pay taxes and fees in the manner and amounts established by law. All citizens annually submit declarations of their property status and income for the previous year to the tax inspectorates at their place of residence in accordance with the procedure established by law. This provision contributes to the prevention of offences in the following ways:

1. The requirement to submit asset and income declarations promotes transparency of financial transactions. This helps to avoid shadow transactions, the withdrawal of funds abroad, and prevents tax evasion.

2. The obligation to file declarations and pay taxes also contributes to the fight against corruption. The verification of declarations and compliance with tax obligations enables the state to detect illegal schemes and tax evasion, which helps to prevent the commission of offences.

Article 129 of the Constitution of Ukraine³ establishes the fundamental principles of judicial proceedings. These principles include the equality of all participants in the judicial process before the law and the court, the requirement to establish proof of guilt, the adversarial nature of the proceedings allowing the parties to present evidence and arguments, the presence of a prosecutor to support public prosecution in court, the right to defense for the accused, the requirement for the trial to be public and recorded by technical means, the need for a reasonable timeframe for the court to consider the case, the right to appeal and, in certain cases specified by law, to file a cassation appeal against the court decision, and the binding nature of the court decision. In addition, the perpetrators of contempt of court or judge are held legally liable. Analysing this provision, it can be stated that it serves to prevent the commission of administrative offences that encroach on the established order of governance by participants in the judicial process. In particular, the principle of equality before the law excludes the possibility of unlawful interference in the judicial process or favouring one party. This helps to prevent corruption or other forms of influence on the judicial process. Another aspect is that publicity contributes to public control over the trial, which can prevent possible misconduct or misbehaviour of participants in the trial. Moreover, the existence of liability for contempt of court or judge serves as a tool to prevent administrative offences that infringe on the established order of governance.

At the legislative level, the importance of preventing the commission of administrative offences is enshrined in Article 6 of the Code of Ukraine on Administrative Offences⁴ also. The Article proposes a systematic approach to preventing administrative offences, covering various levels of government and public structures, which allows for a comprehensive and effective approach to preventing offences. The Article gives local self-government bodies and local state administrations the authority to manage the activities of administrative commissions and other bodies accountable to them, which can ensure effective control over the implementation of tasks to prevent administrative offences. At the same time, there are certain shortcomings that may have a negative impact on the process of preventing administrative offences. Firstly, the Article does not provide specific mechanisms for the implementation of certain tasks, which may lead to misunderstandings in the process of

¹ Constitution of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>.

² Ibidem, 1996.

³ Ibidem, 1996.

⁴ Code of Ukraine on Administrative Offences No. 8073-X. (1984, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.

their implementation. Secondly, the Article provides for measures to prevent offences, but they are not specified. This may make it difficult to assess the effectiveness and efficiency of the measures taken. Finally, insufficient definition of the role and functions of civic organisations and labour collectives can lead to discrepancies in their participation in crime prevention. In addition, the need

to take measures to prevent administrative offences is confirmed by the fact that in recent years, Ukraine has seen a trend towards the spread of administrative offences, as evidenced by the statistics for 2019 and 2022 years (for example, under Articles 173-184 of the Code of Ukraine on Administrative Offences¹), as shown in Table 1 and Table 2.

Table 1. Information on administrative offences under Articles 173-184 of the Code of Ukraine on Administrative Offences for 12 months of 2019

Articles of the Code of Ukraine on Administrative Offences	Identified persons who committed administrative offences	Detected administrative offences	Among them	
			Administrative protocols drawn up	Decisions considered and made
173	47,263	53,213	53,209	32,193
173-1	86	89	89	48
173-2	76,186	109,345	109,332	70,096
174	343	345	344	192
175-1	251,896	275,886	6,241	4,554
176	24,752	32,890	748	723
177	14,608	20,237	561	554
178(1)	373,386	379,272	4,914	3,725
178(2)	66,726	68,921	412	336
179	769	824	786	396
180	2,607	2,908	1,361	793
180-1	176	203	202	143
181	123	130	121	49
181-1	913	1,557	970	391
182 (1)	11,610	11,869	1,671	855
183	45,568	56,242	9,475	4,080
184	33,184	39,111	38,544	25,311
184-1	2	2	2	1
184-2				

Note: data on Article 184-2 are not available as it was not provided by the Department of Information and Analytical Support of the National Police of Ukraine

Source: compiled by the author based on the data provided by the Department of Information and Analytical Support of the National Police of Ukraine (Document of National Police of Ukraine No. 36zi,37zi/27/02/2-2023..., 2023)

Table 2. Information on administrative offences under Articles 173-184 of the Code of Ukraine on Administrative Offences for 12 months of 2022

Articles of the Code of Ukraine on Administrative Offences	Identified persons who committed administrative offences	Detected administrative offences	Among them	
			Administrative protocols drawn up	Decisions considered and made
173	38,090	43,174	43,171	27,789
173-1	75	75	75	54
173-2	85,314	120,533	120,530	81,041
173-4(1)	40	47	47	33
173-4(2)	2	2	2	1
173-4(3)	53	54	54	33
173-4(4)	8	8	8	3
173-4(5)	5	5	5	3
174	415	415	415	306
175-1(1)	258,149	261,494	4,005	2,806
175-1(2)	34,309	51,385	177	127
176	34,307	48,371	163	137

¹ Code of Ukraine on Administrative Offences No. 8073-X. (1984, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.

Table 2. Continued

Articles of the Code of Ukraine on Administrative Offences	Identified persons who committed administrative offences	Detected administrative offences	Among them	
			Administrative protocols drawn up	Decisions considered and made
177	22,474	34,459	211	200
178(1)	375,842	38,2320	4,673	3,439
178(2)	69,207	71,878	267	189
178(3)	3,100	3,694	3,622	1,981
179	355	387	374	174
180	3,917	4,653	1,150	565
180-1	105	129	100	50
181(1)	124	124	124	60
181(2)	3	3	3	1
181(3)				
181-1(1)	456	488	255	78
181-1(2)	112	220	158	79
182(1)	31,234	31,681	659	382
182(2)	254	288	217	121
183	67,449	83,040	3,214	1,694
183-1	444	453	452	313
184(1)	23,836	27,182	27,173	18,089
184(2)	2,734	4,039	4,037	2,694
184(3)	3,517	3,716	3,716	2,676
184(4)	162	167	167	116
184(7)				
184-1				
184-2	2	2	2	2
184-3	16	17	17	7

Note: data on Articles 181(3), 184(7), 184-1 are not available as it was not provided by the Department of Information and Analytical Support of the National Police of Ukraine

Source: compiled by the author based on the data provided by the Department of Information and Analytical Support of the National Police of Ukraine (Document of National Police of Ukraine No. 36zi,37zi/27/02/2-2023..., 2023)

The Law of Ukraine No. 580-VIII¹ establishes provisions regarding the fundamentals of preventing administrative offenses. According to Article 2(1) of this law, the police are tasked with providing police services in several key areas, including ensuring public safety and order, protecting human rights and freedoms, safeguarding the interests of society and the state, combating crime, and offering assistance services to individuals who require such support due to personal, economic, social reasons, or emergency situations, within the limits prescribed by law. Ensuring public safety and order includes an active police presence in public places, interaction with the public and timely response to events that may disturb public order. Public safety contributes to the creation of a safe environment that makes it difficult to commit administrative offences. Moreover, ensuring the protection of human rights and freedoms,

as well as the interests of society and the state, should contribute to the creation of a stable society in which the level of administrative offences should be reduced. Another aspect is that assistance to people in difficult life circumstances can prevent their potential involvement in administrative offences or other negative phenomena. The police can provide social and psychological support, help resolve conflicts and otherwise reduce the social causes of administrative offences.

The National Guard of Ukraine is also vested with functions in the area of offences prevention. According to the Article 12(1)(3) of Law of Ukraine No. 876-VII², the National Guard of Ukraine, is obliged to take measures aimed at preventing and detecting criminal (administrative) offences. Provisions aimed at preventing administrative offences are also contained in the Law of Ukraine No. 280/97-VR³. In accordance with Article 38, the

¹Law of Ukraine No. 580-VIII "On the National Police". (2015, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/580-19#Text>.

²Law of Ukraine No. 876-VII "On the National Guard of Ukraine". (2014, March). Retrieved from <https://zakon.rada.gov.ua/laws/show/876-18#Text>.

³Law of Ukraine No. 280/97-VR "On Local Self-Government in Ukraine". (1997, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80#Text>.

executive bodies of village, town and city councils have the following delegated powers: to take the necessary measures in accordance with the law in case of emergency to ensure state and public safety and order; to resolve issues on holding meetings, rallies, demonstrations and demonstrations, sports, entertainment and other mass events in accordance with the law; to control the maintenance of public safety and order during their holding. Local self-government bodies have additional powers related to the prevention of administrative offenses. These include establishing rules, in accordance with the law, for improving the territory of a settlement, ensuring cleanliness and order within it, regulating trade in markets, and enforcing rules on noise levels in public places, violations of which incur administrative liability. These bodies also make decisions on combating natural disasters, epidemics, and epizootics, violations of which also result in administrative liability.

It should also be noted that there are legal acts regulating certain issues of prevention and detection of administrative offences at the subordinate level. In particular, the Order of the Ministry of Ukraine for Family, Youth and Sports and the Ministry of Internal Affairs of Ukraine No. z0917-09¹ was approved. This departmental act serves as a tool for preventing administrative offences related to domestic violence. For the proper implementation of the state policy on the prevention of domestic violence, the powers are assigned to the structural units responsible in this area. Firstly, coordination of activities of children's services, centres of social services for families, children and youth and internal affairs agencies on the prevention of domestic violence is provided. Secondly, keeping records of data on organisations, institutions and establishments working to prevent domestic violence and the services they provide to organise the provision of necessary assistance to family members where violence has been committed or against whom there is a real threat of violence, is foreseen. Thirdly, cooperation with NGOs (non-governmental organization) and citizens' associations to prevent domestic violence is envisaged. Finally, organising seminars, roundtables, conferences and other events on the prevention of domestic violence is stated.

Another departmental regulatory act is the Order of the Ministry of Internal Affairs of Ukraine No. z0686-18²,

governs the activities of the National Police of Ukraine concerning the identification and mitigation of factors that contribute to the commission of administrative and criminal offenses by children. Section II of the Order outlines the main tasks of the juvenile prevention units, which include conducting preventive activities to deter children from committing criminal and administrative offenses, identifying underlying causes and conditions, and taking measures within their authority to address them. These units also maintain preventive records of children at risk of offending and implement individual prevention measures with them, as well as work to prevent and combat domestic violence involving children and child abuse.

Having studied the system of regulatory legal acts in the field of prevention of administrative offences, the following features and generalisations can be identified. Firstly, the issue of preventing administrative offences is given attention at both the legal and subordinate levels. Secondly, there is an extensive and diverse range of legal acts regulating various aspects of preventing administrative offences and the absence of a single law in this area. Finally, there is no comprehensive vision of the legislator and departmental institutions in preventing administrative offences in various spheres of public relations, and therefore there is uneven legal support for the prevention of administrative offences.

Controversial aspects of the legal framework for the administrative offences prevention. An important aspect of the proper functioning of the administrative offence prevention system is its clear legal certainty. Based on the analysis of the legal regulation of the institute of prevention of administrative offences, it should be revealed that there is no single law in this area, which leads to a discussion in the scientific community and in the law application process. In this regard, attention should be paid to the scientific positions of researchers who have studied the expediency of adopting a special law in the field of prevention of administrative offences.

L. Gachak-Velychko (2021) noted that during the years of independence, a significant number of legal acts aimed at creating a system of bodies responsible for the prevention of child abuse was adopted. However, according to statistics, the effectiveness of these acts has been and remains low. The author mentioned the

¹Order of the Ministry of Family, Youth and Sports of Ukraine, Ministry of Internal Affairs of Ukraine No. z0917-09 "On the Approval of the Instructions on the Procedure for the Interaction of Structural Units Responsible for the Implementation of the State Policy on the Prevention of Violence in the Family, Services for Children, Centers of Social Services for Family, Children and Youth and Relevant Units of the Internal Affairs Bodies on Matters of Implementation of Measures to Prevent Violence in the Family". (2009, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/z0917-09#Text>.

²Order of the Ministry of Internal Affairs of Ukraine No. z0686-18 "On the Approval of the Instructions for Organizing the Work of Juvenile Prevention Units of the National Police of Ukraine". (2017, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/z0686-18#Text>.

absence of a single regulatory act regulating the prevention of offences – the Law of Ukraine “On Prevention of Offences in Ukraine”, although the issue of the expediency of adopting such a legislative act has been repeatedly raised and drafts of such an act have been submitted. Also, K.Yu. Muranenko (2020) emphasised the need to concentrate in a separate legal act (the Law of Ukraine “On Prevention of Offences”) legal norms on the prevention of offences, including administrative ones, and in the future – to allocate a separate branch of law to ensure the prevention of offences.

The analysis of mentioned scientific positions makes it possible to identify the following advantages and disadvantages of adopting a single legislative act which would comprehensively regulate the issues of administrative offences prevention. On the one hand, the existence of a single legislative act that would regulate all aspects of administrative offence prevention can really help in defining consistent norms, systemic vision and understanding of this area. At the same time, if it is necessary to amend various aspects of administrative offence prevention, this process may be quite complicated, given the volume and diversity of areas of social relations that require the definition of mechanisms for preventing administrative offences within them. On the other hand, detailing different aspects of administrative offence prevention in several legal acts allows for a better focus on legal support for specific areas and easier amendments if necessary. At the same time, such laws may have different levels of detail and provide different standards, which may lead to ambiguity and certain contradictions in the administrative offence prevention system.

In view of the above advantages and disadvantages, it should be noted that regulation of various aspects of the administrative offence prevention system by several legal acts is more appropriate and justified, but sectoral legislation and coordination in this area need to be improved. It is necessary to focus on the proper implementation of the existing legal norms in the field of prevention of administrative offences. To this end, the set of measures to implement is proposed. In particular, it is important to focus on identifying potential risks, developing and implementing preventive measures to prevent all types of administrative offences. In addition, conducting educational campaigns for citizens, businesses and other stakeholders on laws, regulations and consequences of administrative offences is essential for raising awareness of the need for and content of preventive activities. Another proposal is to improve the skills of law enforcement officers in the field of preventing administrative offences. Finally, it is significant to provide for expenditures from the state and local budgets to finance activities to prevent administrative offences.

CONCLUSIONS

The analysis of the institution of administrative offences prevention allows drawing the following conclusions. For effective, unambiguous application of legislation in the field of administrative offences prevention, a clear, unified legislative definition of the term “prevention of administrative offences” and its distinction from similar concepts is necessary. A comparative analysis of the terms “prevention of administrative offences” and “averting of administrative offences” has revealed several differences. Prevention of administrative offences is aimed at eliminating factors that may lead to the commission of an administrative offence. The focus is on taking measures in advance to avoid situations that lead to violations of the law. Preventive measures may include education, training, information campaigns, improvement of living conditions, legislative reform, institutional changes, etc. Averting of administrative offences is aimed at those individuals or groups of individuals who are at increased risk of committing an administrative offence. This may include control, warning and taking measures against specific individuals or groups, restricting access or opportunities for those who have previously committed administrative offences, as well as other measures to avoid recurrence of violations.

Although both approaches are aimed at ensuring compliance with the law, deterrence focuses on general measures to avoid the occurrence of violations, while averting is more focused on specific individuals or groups of individuals to avoid the recurrence of administrative offences. The institute of preventing administrative offences is complex, given the diversity of administrative offences and entities authorised to carry out activities to prevent administrative offences. This has led to the creation of a system of legal acts regulating the prevention of administrative offences, and therefore there is no single legislative act in this area. As a result of the analysis of the expediency of adopting a special law in the field of prevention of administrative offences, regulation of various aspects of the administrative offence prevention system by several legal acts seems to be more justified, but it is noted that sectoral legislation and coordination activities in this area need to be improved.

For the purpose of proper legal regulation of the institute of administrative offences prevention the following set of measures is proposed to be implemented: identifying potential risks that cause the commission of all types of administrative offences, resulting in the development of a system of preventive measures to prevent absolutely all types of administrative offences, taking into account their specific features; developing educational campaigns to explain laws, rules and consequences of administrative offences in order to raise

awareness of the need for and content of preventive activities; improving the skills of law enforcement officers in the field of preventing administrative offences; providing for expenditures from the state and local budgets to finance activities to prevent administrative offences. Relevant for further scientific research is the analysis of the peculiarities of the reasons prompting the commission of various administrative offences, improvement of the powers of the subjects of administrative

offence prevention and their cooperation, and the development of measures to prevent administrative offences in wartime.

None.

None.

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CONFLICT OF INTEREST

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Теоретико-правові основи запобігання адміністративним правопорушенням

Анотація. Актуальність дослідження інституту запобігання адміністративним правопорушенням зумовлена тенденцією поширення адміністративних правопорушень, появою нових їх видів та необхідністю мінімізації можливих шкідливих наслідків для суспільства. У зв'язку із зазначеним, метою статі був аналіз теоретичних та правових засад запобігання адміністративним правопорушенням для формування пропозицій щодо удосконалення його правового регулювання та практики здійснення. Під час проведення дослідження використано наступний комплекс методів: догматичний, порівняльний, статистичний, герменевтичний, системно-функціональний. У статті проаналізовано склад адміністративного правопорушення і виокремлено його значення для формування заходів запобігання адміністративним правопорушенням. Досліджено доктринальні підходи до визначення сутності термінів «запобігання адміністративним правопорушенням» та «профілактика адміністративних правопорушень», у зв'язку із відсутністю їх чіткого законодавчого тлумачення. Незважаючи на те, що запобігання адміністративним правопорушенням і профілактика адміністративних правопорушень спрямовані на забезпечення додержання закону, встановлено, що запобігання акцентується на загальних заходах для уникнення вчинення правопорушень, тоді як профілактика більше спрямована на конкретних осіб чи груп осіб з метою уникнення повторення адміністративних правопорушень. Виявлено відсутність єдиного законодавчого акту, який би закріплював механізм запобігання адміністративним правопорушенням. Виокремлено нормативно-правові акти, які регулюють інститут запобігання адміністративним правопорушенням на законодавчому та підзаконному рівнях. У результаті проведеного аналізу дискусійних аспектів правових основ запобігання адміністративним правопорушенням сформовано пропозиції щодо вдосконалення інституту запобігання адміністративним правопорушенням. Практичне значення отриманих результатів полягає у тому, що дослідження має теоретико-прикладний характер, а його висновки та пропозиції можуть бути використаними у правотворчості для удосконалення законодавчих та інших нормативних актів щодо правового забезпечення інституту запобігання адміністративним правопорушенням, у науково-дослідній діяльності для подальшого наукового аналізу напрямів вдосконалення правового регулювання запобігання адміністративним правопорушенням, а також у навчальному процесі закладів вищої освіти під час проведення лекційних та практичних занять

Ключові слова: протиправне діяння; запобігання правопорушенням; профілактика правопорушень; правове регулювання; громадський порядок; права і свободи громадян