

SOME THEORETICAL QUESTIONS OF FINANCIAL OFFENCE IN APPLLYING FOR VOLATION OF AVIATION LEGISLATION

Question of financial offence deeply and scalene probed in legal financial literature during great while. The specific of concept foresees research of this question and by lawyers by theorists, and financiers, and those, who is engaged in a criminal and administrative right. But a look exactly of financiers to this question is important theoretical payment in scientific developments of institute of offence. In legal literature confessedly is approach after which offence is foundation 154 of legal responsibility. Thus, for every type of legal responsibility main, system the concept of proper depict comes forward a formative element. From the review of right, offence is the display of tyranny, to neglect of those rules, which are approved and set the state for maintenance of social order and providing of rights, freedoms and legal interests of citizens [1, p. 138]. In modern scientific literature there is not the unique decision of concept «offence», by investigation what the different understanding of his essence is both in general theoretic and in of a particular branch, researches. Formulation scientifically – the grounded decision of «offence», him the legislative fixing and realization in law activity acquires today the special actuality in connection with the sharp increase of amount of offences and inability of law enforcement authorities always effectively on them to react [1, p. 142]. The legislation of Ukraine was contained by the concept of financial offence. It was formulated in p. of a 1.5.3 Instruction about the order of lead through of revisions and verifications by the organs of government controlrevision service in Ukraine, ratified the order of Main control-revision administration of Ukraine from 03.10.1997 № 121: «financial offence is an action or inactivity of public, local self-government, subjects of ménage all patterns of ownership, associations of citizens, public servants, citizens of Ukraine and foreign citizens, investigation of which was become by nonfulfillment financially legal norms, authorities». At the use of such approach of realization of financial offence established in the case of violation financially legal norms. With acceptance of the Budgetary code of Ukraine, a legislator formulated the concept of

budgetary offence - failure to observe of budgetary process a participant set this code et all normatively legal by the acts of order of drafting, consideration, assertion, making alteration, implementation of budget or report, about implementation of budget (item 16). During the analysis of operating normatively legal find the bases of Ukraine next decisions of financial offence. Analyzing nature of general concept of offence, scientists, as a rule, select the followings signs of offence: offence always is an act (by an action or inactivity); always winy act; an act is publicly dangerous and illegal, that which conflicts with the norms of right; act for the finance of which legal responsibility is foreseen. The next sign of offence is acknowledge illegal of act, that violation of norm of right. Not every act is offence, but only that which is accomplished despite legal orders, that breaks the law. It is or violation of prohibitions, or non-fulfillment of duties. The last sign of offence is punish ability. Under «punish ability» understand the condition of application to the person which accomplished financial offence, negative legal consequences which are contained in financially legal approvals. A separate idea deserves 155 attention In. Lisenko, which suggests to go near the problem of selection of financial offence, taking into account composition of offence, which is the aggregate of signs the presence of which grounds to consider a that or other act offence. At once becomes clear that this composition is not engulfed the types of offences generally accepted and described in a law. After the object of him it is impossible to attribute to civil, and after a subjective side and subject – to administrative offence. It is the special type of offence, the fiancé of which is foreseen by attracting to the special kind of responsibility with application of unique type of punishment, – financial approvals. The row of domestic scientists selects financial offence in the structure of illegal acts. Will mark that majority, both domestic and Russian, scientists are probed financial offence within the framework or tax responsibility, or budgetary, whether in the field of currency legal relationships. Independence of financial offences is determined and in an administrative law also. Separate from them the sphere of administrative offences, not because of position of p. 22 st. 92 Constitutions of Ukraine, financial offences in a theory and practice are selected in the sphere of administrative delict. For research of financial offence the advanced studies have an important value of K. Voronova. It characterizes composition of offence which includes the followings elements in detail: object of offence; objective side of offence; subject of offence; subjective side of offence. To her mind, by the general object of financial offences well-regulated the norms of financial right public relations in the field of financial activity of the state, that in the process of

forming, distributing and use of money, mean of budgets and state having a special purpose funds. These relations are in public legal, well-regulated imperative financially legal by norms. Consequently, we have a sufficient scientific ground of necessity of existence of such legal category as financial offence, and the legislative selection of financial offence in an independent kind will have an important value for confirmation of independence of all institutes financially legal to responsibility.

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Кунєв Ю.Д., д.ю.н., професор

Національний авіаційний університет, м. Київ, Україна

Колотило М.В., здобувачка вищої освіти,

Чернівецький національний університет імені Юрія Федьковича, м. Чернівці, Україна

АДМІНІСТРАТИВНА ВІДПОВІДАЛЬНІСТЬ ЗА ПОРУШЕННЯ РЕГУЛЯТИВНИХ НОРМ

З першого погляду деліктне регулювання діяльності використовує достатньо стандартний підхід, опису моделі дій, які вважаються деліктом – тобто відхиленням від норми. Але правове регулювання діяльності використовує більш складні моделі потрібні для регулювання, де створюється модель діяльності як норма, а потім модель діяльності як відхилення від норми. Деліктне регулювання передбачає створення одночасно двох моделей норм