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(21)

**THE INFLUENCE OF EUROPEAN
STANDARDS OF DEMOCRATIC
ELECTIONS ON THE CRIMINAL-LEGAL
PROTECTION OF THE ELECTORAL
SYSTEM OF UKRAINE**

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ABSTRACT

For the democratization of any electoral system, an important role is played by the creation of conditions for the full and free exercise of citizens' electoral rights. At the same time, responding to illegal behavior and bribery of voters during the election process plays a significant role.

Given the intensification of election processes in Ukraine, the issues related to the content of the phenomenon of bribery in a criminal offense against the electoral system are particularly relevant and require research.



The purpose of the work is to study the phenomenon of bribery in the criminal offense against the electoral system.

The research methodology is such methods as dialectical method, dogmatic (formal-logical) method, systemic-structural method, comparative-legal method, formal-logical method, generalization method, and historical-legal method.

As a conclusion of the conducted research, it can be summarized that the legislation of Ukraine is aligned with the position of most European states regarding the establishment of criminal liability for crimes against the electoral system of Ukraine within the limits of a separate norm of the Criminal Code of Ukraine. At the same time, discrepancies were found between Ukrainian and European legislation regarding the nature of the leading measures of criminal law response to the investigated crimes. A general definition of bribery in a criminal offense is given. Problematic issues of regulation prevention and detection of crimes against electoral rights are analyzed.

Keywords: bribery, election, electoral system, criminal offence, voter, provocation of bribery, crime, proof.

10-INTRODUCTION

During the election campaign, the brazen and, at the same time, the most massive violation of the election legislation, which may well distort the fair results of the elections, is voter bribery. Even though in domestic criminal legislation, such an act constitutes a separate crime, the need to study the problematic issues of criminal law protection of electoral rights and the phenomenon of bribery in criminal offenses remains relevant in the future. Therefore, the analysis of the phenomenon of criminal offense against the electoral system in this context is expedient.

Today, the negative impact of voter bribery is underestimated by scientists and practitioners. Thus, it is voter bribery that dominates among investigations in the field of election crimes, but the analysis of investigative and judicial practice proves that in today's conditions, the crime is not adequately reflected in criminal statistics, which leads to is connected, in particular, with the high latency of such acts, and therefore, the radical discrepancy between their real number and the facts of official registration. At the same time, such an inadequate assessment of the consequences of the considered crimes can lead to the possibility of penetration into the power structures of representatives of the criminal world. Therefore, it is correct to believe



that the criminalization of the voter's sale of his vote performs the function of general prevention, causing citizens to fear criminal liability and thereby exerting a preventive effect on groups of indifferent and conditionally loyal voters (Brativnyk, 2016)¹.

The tasks of the article are as follows:

- 1) find out the place of the criminal law rule on bribing a voter, a referendum participant in the system of the Special Part of the Criminal Legislation of Ukraine and international legal acts;
- 2) outline the actions that constitute the objective aspect of bribery of a voter, a referendum participant;
- 3) characterize the main measures of criminal law response to the analyzed crimes.
- 4) identify problematic issues regarding the regulation of voter bribery and the investigation of this type of crime and find out ways to solve them.

The subject of the study is social relations that arise, change, and cease during the election process, the organization of elections, the conduct of pre-election campaigning, and the exercise of citizens' electoral rights. The object of the study is bribery in a criminal offense against the electoral system.

II - THEORETICAL FRAMEWORK AND LITERATURE REVIE

To analyze the phenomenon of bribery in the criminal offense against the electoral system, the works of such scientists as: Andrushko², Berezner³,

¹ Brativnyk, O.P. (2016). Criminal-legal understanding of the characteristics of the subject of the crime provided for in Art. 160 of the Criminal Code of Ukraine. *Actual problems of domestic jurisprudence*, 6, 112-116. Retrieved from http://apnl.dnu.in.ua/6_1_2016/28.pdf

² Andrushko, P.P. (2012). *Reform of Ukrainian anti-corruption legislation in light of Ukraine's international legal obligations*. Kyiv: Attica. Retrieved from https://newjustice.org.ua/wp-content/uploads/2018/04/NJ_Syllabus_Anti-Corruption-Course_Mar-9-2017_UKR.pdf

³ Berezner, V.V. (2018). Bribery as a criminal legal concept: problems of definition and classification. *Scientific Bulletin of the International Humanitarian University*, 36, 131-138. Retrieved from https://vestnik-pravo.mgu.od.ua/archive/juspradenc36/part_2/33.pdf



The issue of reforming Ukrainian anti-corruption legislation in the light of Ukraine's international legal obligations was analyzed by Andrushko (2012)³.

Berezner (2018)⁴ investigated bribery as a criminal legal concept and drew attention to the problems of definition and classification. The author summarized what the phenomenon of bribery is, and noted the problematic issues of distinguishing bribery, provocation of bribery, and other corruption offenses.

In the study of Brativnyk (2016)⁵, attention is focused on the criminal-legal understanding of the peculiarities of the subject of the crime provided for in Art. 160 of the Criminal Code of Ukraine. Thus, the article analyzes the subjects of such a crime as bribery of a voter, a participant in a referendum, provided for in Part 1-4 of Art. 160 of the Criminal Code of Ukraine. In particular, the peculiarities of the subjects of the crime of bribing a voter, a referendum participant, were revealed.

Gryga (2020)⁶ analyzed the international experience regarding criminal liability for bribing a voter and referendum participant. The author has carried out a

¹ Chernega, Yu.O. (2019). *Liability for bribery under the criminal law of Ukraine*. Lviv: Nayka. Retrieved from https://dspace.lvduvs.edu.ua/bitstream/1234567890/3503/1/chenega_a.pdf

² Yakymova, S.V. (2015). *Extortion in connection with bribery under the criminal law of Ukraine*. Retrieved from <https://science.lpnu.ua/sites/default/files/journal-paper/2017/jun/4928/yakimova2.pdf>

³ Andrushko, P.P. (2012). *Reform of Ukrainian anti-corruption legislation in light of Ukraine's international legal obligations*. Kyiv: Attica. Retrieved from https://newjustice.org.ua/wp-content/uploads/2018/04/NJ_Syllabus_Anti-Corruption-Course_Mar-9-2017_UKR.pdf

⁴ Berezner, V.V. (2018). Bribery as a criminal legal concept: problems of definition and classification. *Scientific Bulletin of the International Humanitarian University*, 36, 131-138. Retrieved from https://vestnik-pravo.mgu.od.ua/archive/juspradenc36/part_2/33.pdf

⁵ Brativnyk, O.P. (2016). Criminal-legal understanding of the characteristics of the subject of the crime provided for in Art. 160 of the Criminal Code of Ukraine. *Actual problems of domestic jurisprudence*, 6, 112-116. Retrieved from http://apnl.dnu.in.ua/6_1_2016/28.pdf

⁶ Gryga, M. A. (2020). Criminal responsibility for bribing a voter and referendum participant: international experience. *Scientific Bulletin of the National Academy of Internal Affairs*, 1, 150-158. Retrieved from http://elar.naiu.kiev.ua/jspui/bitstream/123456789/17474/1/%D0%9D%D0%92%201%2820%29_p150-158.pdf



comparative legal analysis of the norms of the criminal legislation of some foreign countries, which establish responsibility for bribing a voter, a participant in a referendum, according to several criteria. It was found that the legislation of Ukraine is consistent with the position of the majority of European states regarding the establishment of criminal liability for such crimes within the limits of a separate norm of the Criminal Code of Ukraine. Such an analogy is also evident in the attribution of this composition in domestic legislation to crimes against the constitutional (electoral, political) rights of citizens in the context of the study of the structure of the Special Part of the Criminal Code of Ukraine. At the same time, discrepancies were found between Ukrainian and European legislation regarding the nature of the main measures of criminal law response to the investigated crimes. It is remarked that the European practice operates mostly with fines, which may be due to the lack of social need to choose stricter punishment measures. Given the high latency of bribery of a voter, a referendum participant, it is recognized as rational to introduce the exemption from criminal liability on special grounds, enshrined in the legislation of European countries, in particular, for voters or referendum participants who have voluntarily informed law enforcement agencies about the commission of such crimes.

The evolution of the development of the electoral legislation of Ukraine became the object of research by Didenko (2019)¹. The author's article reveals the peculiarities of the formation of the election legislation of Ukraine since the declaration of independence of our state. Certain trends and regularities of its evolutionary path of development and certain stages and positive dynamics towards the stability of the electoral legislation of Ukraine in recent years are singled out. The scientist emphasized the importance of the Election Code of Ukraine for streamlining

¹ Didenko, O. M. (2019). Evolution of the development of the electoral legislation of Ukraine. *Scientific Bulletin of the Luhansk State University of Internal Affairs named after E. O. Didorenko*, 4, 35–45. Retrieved from <https://journal.lduvs.lg.ua/index.php/journal/article/view/873>



this area of legislation, harmonizing it with existing international standards in this area, as well as identifying promising directions for improving election legislation (Law 396-IX, 2019¹).

Zinchenko and Shevchenko (2020)² carried out a general description of criminal offenses against electoral, labor, and other personal rights and freedoms of a person and a citizen (Articles 157–184 of the Criminal Code of Ukraine).

In the work of Kostytskyi (2017)³, the grounds and conditions of criminalization of bribing a voter or referendum participant were analyzed. The author concluded that the mechanism of criminalization (which is a process and a result at the same time) consists in the assessment of an act (which is determined by reasons for criminalization and is characterized by the ability to cause significant damage to the objects of criminal and legal protection or to create a real threat of causing such damage) in terms of compliance the principles of criminalization (as scientifically based criteria) in order to establish the appropriateness of criminal punishment. In the author's opinion, the text of the Criminal Code of Ukraine needs further changes and revisions.

The problematic issues of implementing the provisions of international anti-corruption conventions in the legislation of Ukraine on criminal responsibility were

¹ Law 396-IX, Election Code. The Verkhvna Rada of Ukraine dated December 19, 2019. Retrieved from <https://zakon.rada.gov.ua/laws/card/396-20>

² Zinchenko, I. O., & Shevchenko, E. V. (2020). General characteristics of criminal offenses against electoral, labor and other personal rights and freedoms of a person and a citizen (Articles 157–184 of the Criminal Code of Ukraine). Criminal offenses against the electoral rights of citizens (Articles 157–160 of the Criminal Code). *Bulletin of the Criminal Law Association of Ukraine*, 2(14), 366–406. Retrieved from <http://webcache.googleusercontent.com/search?q=cache:vGSU568j2oEJ:vakp.nlu.edu.ua/article/view/218751/219460+&cd=8&hl=ru&ct=clnk&gl=mt&client=safari>

³ Kostytskyi, V.V. (2017). Grounds and conditions of criminalization of bribing a voter or referendum participant. *Legal bulletin*, 4, 91-109. Retrieved from http://www.lawbulletin.oduvs.od.ua/archive/2017/4_2017/12.pdf



analyzed by Kubalskyi (2010)¹. The author also provides the experience of certain foreign states and suggests ways to improve Ukrainian legislation in the specified area.

Ways of hindering the exercise of the right to vote or the right to participate in the election process are explored in the work of Matyushkov (2019)². Odolko I.V., Odolko S.V. (2013)³, in their work, noted the public danger of corrupt acts.

Pavshuk (2020)⁴ explored new approaches to campaigning in Ukraine: an analysis of the Election Code of Ukraine. It was concluded that the change in approaches to the conduct of pre-election campaigning with the adoption of the Election Code of Ukraine is obvious, although not as radical as one might wish. In the author's opinion, the consolidation and definition of the content of such principles of electoral law as the principle of voluntariness, the principles of personal and one-time voting, and the principle of fair elections are positive. Their importance for the democratization of the election process as a whole and the conduct of pre-election campaigning is significant. In addition, in the context of pre-election campaigning, the amendment is the complete cancellation of the permissible value of goods and services that can be provided to voters during the election campaign, so that the actions of candidates

¹ Kubalskyi, V.N. (2010). Problematic issues of implementation of the provisions of international anti-corruption conventions in the legislation of Ukraine on criminal responsibility. *Constitutional state*, 21, 365-369. Retrieved from <http://dspace.nbuv.gov.ua/handle/123456789/36865>

² Matyushkova, T.P. (2019). Ways of obstructing the exercise of the right to vote or the right to participate in the election process (analysis of judicial and investigative practice). *Procedural and technical forensic support of pre-trial investigation*, 1, 105-108. Retrieved from https://univd.edu.ua/general/publishing/konf/28_11_2019/pdf/36.pdf

³ Odnolko, I.V., & Odnolko, S.V. (2013). Social danger of corruption. *Actual problems of criminal liability*, 1, 509-511. Retrieved from http://irbis-nbuv.gov.ua/cgi-bin/irbis_nbuv/cgiirbis_64.exe?C21COM=2&I21DBN=UJRN&P21DBN=UJRN&IMAGE_FILE_DOWNLOAD=1&Image_file_name=PDF/Vnapu_2015_4

⁴ Parasyuk, N. M. (2014). Illegal actions with information contained in the database of the State Register of Voters, election documents, referendum documents and ballot boxes: a criminal legal assessment. *Scientific Bulletin of Kherson State University*, 6(1), 170-175. Retrieved from <https://jrn1.nau.edu.ua/index.php/UV/article/view/11814/15705>



are not qualified as bribery of voters, as well as the introduction of the concept of covert campaigning.

In the work of Parasyuk (2014)¹, a criminal-legal assessment of illegal actions was carried out with information contained in the database of the State Register of Voters, election documents, referendum documents, and ballot boxes.

Ryzak (2014)² analyzed the criminal liability for bribing an official of a legal entity under private law. The study by Chernega (2019)³ draws attention to the responsibility for bribery under the criminal law of Ukraine. Yakymova (2015)⁴ investigated the phenomenon of extortion in connection with bribery under the criminal law of Ukraine.

III –RESEARCH METHODOLOGY

During the study of the phenomenon of bribery in criminal offenses, general philosophical, general scientific, and special methods were used.

With the help of the dialectical method, in particular, the distinction between the provocation of bribery and incitement to the commission of a criminal offense was made, the difference between the provocation of bribery and the legitimate activity of law enforcement agencies in the investigation of corruption criminal offenses was

¹ Parasyuk, N. M. (2014). Illegal actions with information contained in the database of the State Register of Voters, election documents, referendum documents and ballot boxes: a criminal legal assessment. *Scientific Bulletin of Kherson State University*, 6(1), 170-175.

² Ryzak, Y.V. (2014). *Criminal liability for bribery of an official of a legal entity of private law: Abstract of the dissertation for obtaining the scientific degree of candidate of legal sciences*. Kyiv: National Academy of the Prosecutor's Office of Ukraine.

³ Chernega, Yu.O. (2019). *Liability for bribery under the criminal law of Ukraine*. Lviv: Nayka. Retrieved from https://dspace.lvduvs.edu.ua/bitstream/1234567890/3503/1/chernega_a.pdf

⁴ Yakymova, S.V. (2015). Extortion in connection with bribery under the criminal law of Ukraine. Retrieved from <https://science.lpnu.ua/sites/default/files/journal-paper/2017/jun/4928/yakimova2.pdf>



established, taking into account the practice of the European Court of Human Rights during elections and pre-election campaigning.

The dogmatic (formal-logical) method was used, in particular, to characterize the objective and subjective features of the phenomenon of bribery, and to analyze the qualifying feature of bribery as a criminal offense.

The systemic-structural method is applied to classify the determinants of bribery, to determine the directions of prevention of these criminal offenses, to consider the criminological characteristics of the criminal who committed bribery. Also, the systemic-structural method helped to characterize the specifics of bribery as a criminal offense against the electoral system.

The application of the comparative legal method helped to carry out a comparative legal study of the basis of criminal liability for bribery in the Criminal Code of Ukraine and in the criminal codes of certain foreign countries, as well as the regulation of voter bribery in Ukraine and abroad.

Formal and logical methods played an equally significant role in the conducted research. Thus, formal-logical techniques and methods are based on formal logic, a science that studies forms, thoughts and the forms of their combinations, deviating from the specific content of judgments. Formal logic includes a number of methods and methods of cognition, the most important of which are analysis and synthesis, induction and deduction (from the particular to the general, from the general to the particular), comparison, analogy, hypothesis, proof. Therefore, the application of the above methods helped to analyze the empirical material (in particular, the decisions of the courts of Ukraine and the practice of the European Court of Human Rights).

With the help of the method of generalization, the positions of legal scholars in relation to the investigated problem were systematized and analyzed.

The historical-legal method is used in the process of addressing the genesis of the subject of research and analysis of the phenomenon of chronological sequence.



Therefore, with the help of the historical and legal method, the genesis of the rule on bribery of voters and responsible persons in the criminal legislation of Ukraine was traced.

IV – RESULTS AND DISCUSSION

The Constitution of Ukraine regulates the free expression of the will of citizens in elections and referenda, and the protection of democratic principles and norms of electoral law. To implement the mentioned guarantee, the legislator singled out key provisions according to which elections to state authorities and local self-government bodies are free and take place based on universal, equal, and direct suffrage by secret ballot, based on the free will of voters. To exclude the possibility of pressure on voters and to guarantee the principle of equality of candidates and electoral political parties and associations, legislative restrictions and prohibitions are established when conducting pre-election campaigning, in particular, bribing voters.

In general, it is worth noting that the criminal-legal institution of responsibility for bribery itself appeared in Ukraine as a result of the fulfillment by our state of international legal obligations, the essence of which was aimed at fighting and countering corruption. However, the scientific doctrine rightly notes that "the problem of implementing international legal acts into domestic legislation, including criminal legislation, is extremely difficult, since these acts themselves are based on the recommendations of the criminal law of the USA, England, and Continental Europe, and therefore their mechanical reproduction in domestic legislation is undesirable" (Andrushko, 2012)¹. Provisions that correspond to the rules and traditions of the legislative technique of a foreign legislator are not characteristic of national legislation and require appropriate editing, technical processing, and

¹ Andrushko, P.P. (2012). *Reform of Ukrainian anti-corruption legislation in light of Ukraine's international legal obligations*. Kyiv: Attica. Retrieved from https://newjustice.org.ua/wp-content/uploads/2018/04/NJ_Syllabus_Anti-Corruption-Course_Mar-9-2017_UKR.pdf



bringing them into compliance with the established rules of law-making activity in Ukraine.

Scientists note that "under bribery as a criminal offense, the international anti-corruption conventions understand not only the actions of giving and receiving a bribe (author – illegitimate benefit), but also a promise, the offer of an improper advantage in active bribery, and, accordingly, the acceptance of promises and offers in passive bribery" (Article 15 of the UN Convention against Corruption (United Nations, 2003)¹, Article 2, 3 of the Criminal Convention of the Council of Europe on Combating Corruption (Council of Europe, 1999)², Article 8 of the UN Convention against Transnational Organized Crime (United Nations, 2000)³, but a bribe offer is also issued" (Kubalskyi, 2010)⁴ (author – illegitimate gain).

The position is expressed that "bribery is the most typical and widespread form of corrupt behavior in Ukraine, in particular not only in the public, but also the private sectors of the economy and management, which significantly hinders Ukraine on the way to European integration, the development of a social legal state, and the formation of a renewed civil society" (Chernega, 2019)⁵.

In the context of criminally punishable encroachment on the electoral system of Ukraine or the electoral or referendum rights of citizens, bribery is understood as:

¹ United Nations. (2003). Convention against Corruption. Retrieved from https://zakon.rada.gov.ua/laws/show/995_c16

² Council of Europe. (1999). Criminal Convention on Combating Corruption. Retrieved from https://zakon.rada.gov.ua/laws/show/994_101

³ United Nations. (2000). Convention against Transnational Organized Crime. Retrieved from https://zakon.rada.gov.ua/laws/show/995_789

⁴ Kubalskyi, V.N. (2010). Problematic issues of implementation of the provisions of international anti-corruption conventions in the legislation of Ukraine on criminal responsibility. *Constitutional state*, 21, 365-369. Retrieved from <http://dspace.nbuv.gov.ua/handle/123456789/36865>



- acceptance of an offer, promise, or receipt by a voter, referendum participant, member of the election commission or referendum commission, official observer for himself or a third party of an illegal benefit for committing or not committing any actions related to the direct exercise of his electoral rights, rights to participate in the referendum;

- offering, promising, or providing a voter or referendum participant, candidate, member of the election commission or referendum commission with an improper benefit for taking or not taking any actions related to the direct exercise of one's right to vote, the right to participate in a referendum;

- providing voters, referendum participants, and legal entities with an unlawful benefit, which is accompanied by pre-election campaigning or referendum campaigning, mentioning the name of the candidate, the name of the political party that nominated the candidate in the relevant elections, or using the image of the candidate, the symbols of the political party that nominated the candidate in the relevant elections.

To better understand, increase the level of legal awareness of voters, and prevent the bribery of the latter during local elections in 2020, the Central Election Commission provided an official clarification on the prohibition and responsibility for bribery of voters, where it was stated that bribery of voters as part of a criminal offense should understand:

"- acceptance of an offer, promise or receipt by a voter for himself or a third party of an unlawful benefit for committing or not committing any actions related to the direct exercise of his electoral rights;

- offering, promising, or providing a voter with an undue benefit for committing or not committing any actions related to the direct exercise of his right to vote;

- providing voters with an undue benefit, accompanied by pre-election campaigning, mentioning the name of the candidate, the name of the political party



that nominated the candidate in the relevant elections, or using the image of the candidate, the symbols of the political party that nominated the candidate in the relevant elections" (Resolution 258, 2020)¹.

The subject of a criminal offense as part of the act provided for in Art. 160 of the Criminal Code of Ukraine is formed as its mandatory feature and represents an unlawful benefit (Law 2341-III, 2001)².

Moreover, the understanding of unlawful benefit in the context of a corrupt act includes money or other property, advantages, benefits, services, intangible assets, and any other benefits of an intangible or non-monetary nature that are offered, promised, given or received without legal grounds, this definition is given in the aforementioned Law of Ukraine "On Prevention of Corruption" and in the note to Art. 3641 of the Criminal Code of Ukraine (Law 1700-VII, 2014³; Law No. 2341-II, 2001⁴). The illegal benefit in the case of bribery as a criminal offense against the electoral system is "food, alcoholic beverages and tobacco products, regardless of their value, as well as money, goods (except campaign materials defined by law), services, works, benefits, benefits, gift certificates, securities, loans, lottery tickets, other tangible and intangible assets, the value of which exceeds 0.06 of the tax-free minimum income of citizens, which are offered, promised, provided to candidates, voters, referendum participants or members of the election commission, the referendum commission or received by the specified persons".

¹ Resolution 258, On the Clarification on the prohibition of the provision of funds, whether free of charge or on preferential terms, goods, services, works, securities, loans, lotteries, other tangible assets (indirect bribery) during local elections on October 25, 2020. Central Election Commission dated September 14, 2020. Retrieved from <https://zakon.rada.gov.ua/laws/show/v0258359-20#top>

² Law 2341-III, Criminal Code. The Verkhvna Rada of Ukraine dated April 5, 2001. Retrieved from <https://zakon.rada.gov.ua/laws/card/2341-14>

³ Law 2341-III, Criminal Code. The Verkhvna Rada of Ukraine dated April 5, 2001. Retrieved from <https://zakon.rada.gov.ua/laws/card/2341-14>

⁴ Law 1700-VII, On prevention of corruption: of Ukraine dated October 14, 2014. Retrieved from <https://zakon.rada.gov.ua/laws/show/1700-18>



The Law of Ukraine "On Prevention of Corruption" includes illegality among the essential signs of illegal gain; property and intangible or non-monetary nature of the benefit; appointment of an unlawful benefit; conditionality of improper benefit due to the possibilities of the status of a special subject (Law 1700-VII, 2014¹).

The illegality of the benefit means that the special entity has no right to receive such a reward, does not transfer an equivalent amount of money or property in return, or does not perform work or provide services of equivalent value. That is, illegality means that a person does not have a valid right to property, services, or other benefits of a property nature.

Therefore, an illegal benefit as a subject of voter bribery is something that a person illegally offers, promises, or provides, and is the subject of a criminal offense provided for in Art. 160 of the Criminal Code of Ukraine, accepts an offer, promise, or receives for certain behavior, which is possible within the framework of the existence of the latter's special status.

Thus, we propose to define bribery as a criminal and illegal agreement, i.e. a set of interconnected acts of socially dangerous behavior of an active and passive nature, which consists of the offer, promise, or transfer of an unlawful benefit from one party and the acceptance of such an offer, promise or receipt from the other, for the performance of certain behavior by one of the persons (for the performance or non-performance of any actions related to the direct exercise of his electoral rights, the right to participate in the referendum), which is determined by the possibilities of his special status, place and time, which is possible exclusively within the framework of the election process.

¹ Law 2341-III, Criminal Code. The Verkhvna Rada of Ukraine dated April 5, 2001. Retrieved from <https://zakon.rada.gov.ua/laws/card/2341-14>



V – CONCLUSIONS

As a result of the study of the phenomenon of bribery in the criminal offense against the electoral system, the following conclusions were made:

1) Illegal benefit as the subject of voter bribery should be understood as what a person illegally offers, promises, or provides, and the subject of a criminal offense provided for in Art. 160 of the Criminal Code of Ukraine, accepts an offer, promise, or receives for certain behavior, which is possible within the framework of the existence of the latter's special status.

2) The phenomenon of bribery can be defined as a criminal-illegal agreement, i.e. a set of interconnected acts of socially dangerous behavior of an active and passive nature, which consists of an offer, promise, or transfer of an undue benefit from one party and the acceptance of such an offer, promise or receipt from the other, for the performance by one of the persons of certain behavior, which is determined by the possibilities of her special status, place and time, which is possible only within the framework of the election process.

3) Taking into account the legislative constructions, where bribery is one of the ways of preventing the exercise of election and referendum rights, in some countries the subject of bribery is regulated in detail. At the same time, in the definition of undue advantage, following Ukrainian legislation, there are signs of the use of international experience, oriented to a broad approach to the definition of this concept: funds or other property, advantages, benefits, services or intangible assets, the value of which exceeds three percent of the subsistence minimum for able-bodied persons

So, taking into account the aim and objectives of the research, it is fair to say that the objectives of the research have been fully achieved.



Regarding further scientific research, we consider it necessary to conduct a study of the international legal analysis of the regulation of the phenomenon of bribery.

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