

UDC 342.9: 336.761

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SPECIFIC FEATURES OF ADMINISTRATIVE LIABILITY FOR VIOLATING REQUIREMENTS OF LEGISLATION ON FUNCTIONING OF STOCK EXCHANGES IN UKRAINE

Abstract. Purpose. The purpose of the article is to determine the specific features of administrative liability for violating the requirements of legislation on the functioning of stock exchanges in Ukraine.

Results. The author formulates the elements of an administrative offence in the field of stock exchanges: 1) an object – public relations in the stock market; 2) an objective party – violation of requirements, procedures and rules of stock exchanges and financial reporting rules; 3) an actor – a stock market participant; 4) a subjective party – intentional or negligent actions that caused violation of legislation on the functioning of stock exchanges or intentional violations of financial reporting requirements. The specific features of administrative cases for violations of the legislation on the functioning of stock exchanges in Ukraine are as follows: – the National Securities and Stock Market Commission is the entity that makes the administrative offence record; – the administrative record is standard and includes information about stock market participants, the essence of the administrative offence, explanations of stock market participants, and other circumstances of the case; – the law establishes a special time limit for consideration of these categories of administrative cases (15 days); – the case is considered in the presence of a stock market participant; – based on the results of consideration of the case materials, the authorised actor may make two types of decisions in the form of a resolution: 1) closure of the case (in case of absence of an offence); 2) conviction of the offender and imposition of an administrative penalty. **Conclusions.** Administrative liability for violating the requirements of the legislation on the functioning of stock exchanges in Ukraine is a type of legal liability that is imposed on stock market participants in the manner prescribed by law for committing administrative offences related to violations of the requirements of the stock market legislation and the financial reporting procedure, which may result in financially negative consequences for stock market participants. The main specific feature of administrative liability in the field of stock exchanges in Ukraine is the offenders in this field, as the law provides for administrative liability of stock market participants for violating the requirements of the law and administrative liability of officials of the National Securities and Stock Market Commission in case of violation of the law in the exercise of their official powers. The object of an administrative offence by officials of the National Securities and Stock Market Commission is the management procedure in the field of stock exchanges.

Key words: administrative penalty, administrative coercion, offence, offender.

1. Introduction

Nowadays, the most common type of legal liability in the Ukrainian legal system is administrative liability. Moreover, administrative liability is one of the most effective legal instruments in combating the most widespread unlawful acts, such as administrative offences. Their main feature is that they are part of a wide range of relations regulated by administrative law. These legal relations arise in the field of public administration, economics, socio-cultural and administrative-political construction, entrepreneurial activity, as well

as control and supervision, both in the internal organisational activities of the state mechanism and in extra-departmental activities. Therefore, the study of the institution of administrative liability is one of the main areas of administrative and legal research. Developing a definition of this concept is one of the main problems of the future administrative legislation. This definition, which is not enshrined in the current law, can only reflect the subjective opinion of scholars (Zaiats, 2012).

The importance of administrative liability is primarily explained by the fact that administra-

tive offences are among the most common of all types of offences. And although the public danger (harmfulness) of each individual administrative offence is small, the total number of administrative offences poses a significant threat to the state and society and requires an adequate response. Administrative liability also plays an important preventive role. Administrative liability has a number of specific features that distinguish it from other types of legal liability. For example, it is applied for torts that do not pose a great public danger, that is, administrative offences, and in some cases its measures may also be applied in case of exemption from criminal liability, that is, for acts that contain signs of crimes that do not pose a great public danger (Shchukin, 2014).

The purpose of the article is to determine the specific features of administrative liability for violating the requirements of legislation on the functioning of stock exchanges in Ukraine.

2. Regulatory framework for the functioning of stock exchanges in Ukraine

The first special law to define the terms and procedure for issuing securities and to regulate intermediary activities in the organisation of securities circulation was the Law of Ukraine "On Securities and the Stock Exchange" of 18 June 2001. This Law did not contain the concept of liability for securities market violations, and it does not mention the concept of liability for such violations or any of the grounds for such liability. The Law of Ukraine "On Securities and Stock Exchange" provides for only the issuer's liability for compensation of losses caused by inaccurate information about securities (Article 37 of the Law) (Law of Ukraine On Securities and Stock Exchange, 1991). Based on the analysis of the activities of the state body that directly performed the control function at that time – the Securities and Stock Market Commission (now the NSSMC), the researchers determined that the most common violations of the requirements of the current legislation by stock market participants were: non-registration or untimely registration of information on the issue of shares; lack of public disclosure of information about their activities; violation of the terms and procedure for open subscription to shares; failure to sell and cancel shares repurchased from shareholders. It was proposed to solve these problems by introducing a system of financial responsibility. Although the SSMSC had already had experience of collecting fines at that time, they were too small compared to the profits of the offenders (Kuznietsova, 2021).

For example, the liability of legal entities for securities market offences was first envisaged by the special Law of Ukraine "On State Regulation of the Securities Market in Ukraine".

Article 11 of the Law provides for financial sanctions to be imposed on legal entities by the NSSMC for stock market offences (Law of Ukraine On State Regulation of Capital Markets and Organized Commodity Markets, 1996). Adopted in 2006, the Law of Ukraine "On Securities and Stock Market", aimed at regulating relations arising from the placement, circulation of securities and professional activities in the stock market, in order to ensure the openness and efficiency of the stock market, does not contain any detailed characteristics of liability for offences in the securities market (Law of Ukraine On State Regulation of Capital Markets and Organized Commodity Markets, 1996).

The Law of Ukraine "On State Regulation of Capital Markets and Organised Commodity Markets" defines liability for offences in the capital markets and/or organised commodity markets, in particular, the National Securities and Stock Market Commission imposes financial sanctions on legal entities for: 1) placement of securities without registration of their issue in accordance with the procedure established by law; 2) performance by a legal entity of a transaction (transactions) related to the direct conduct of professional activities in the capital markets and organised commodity markets, for which a relevant licence is required, without a licence to conduct the relevant type of activity within the framework of such professional activities; 3) failure to provide an investor in securities (including a shareholder) with information on the issuer's activities within the limits provided by law, or providing him/her with false information upon his/her written request; 4) untimely provision of information to investors in financial instruments at their written request; 5) failure to publish, publish incomplete information and/or publish false information; 6) failure to publish, publish incomplete information and/or publish false information in the publicly available information database of the National Securities and Stock Market Commission on the securities market; 7) failure to submit, submit incomplete information and/or submit false information to the National Securities and Stock Market Commission; 7-1) failure to submit, submit incomplete information or submit false information by the bond issuer or the person providing collateral, whose obligation to submit is established by law; 8) failure to comply with or untimely execution of decisions of the National Securities and Stock Market Commission; 9) violation by the Central Securities Depository or a depository institution of the procedure for conducting depository activities; 9-1) violation by the bondholder administrator or a person responsible for holding a meeting of bondholders of their duties

under the law; 9-2) violation by the bond issuer of its obligation to appoint a bondholder administrator; 11) intentional actions that have signs of manipulation in organised markets; etc. (Law of Ukraine On State Regulation of Capital Markets and Organized Commodity Markets, 1996).

The list of administrative offences that may be committed by stock exchange entities is contained in a large number of laws and regulations issued by various public authorities. Moreover, in some cases, certain elements are repeated 3 times in different acts, which is not a sign of the effectiveness of the regulatory framework in this field of social relations. Exchange activities, and, accordingly, offences committed in the course of their implementation, are a rather monolithic and indivisible concept. This, in turn, requires systematisation of the legislation regulating administrative liability for offences committed in the field of exchange activities (Myniuk, 2011).

In addition to imposing financial penalties for offences, the National Securities and Stock Market Commission (the "NSSMC") may terminate or revoke a licence. In addition to imposing financial sanctions for violations, the NSSMC may revoke the certificate of registration of an association as a self-regulatory organisation of capital markets issued to such association. The decision of the National Securities and Stock Market Commission to impose a penalty in the form of a fine shall become effective on the business day following the day of such decision. If the decision of the National Securities and Stock Market Commission to impose a penalty in the form of a fine is not executed or challenged in court within one month from the date of its entry into force, such decision shall acquire the status of an enforcement document, be executed by the National Securities and Stock Market Commission in accordance with the requirements of the Law of Ukraine "On Enforcement Proceedings" and be submitted to the state enforcement service for enforcement in accordance with the law (Law of Ukraine On State Regulation of Capital Markets and Organized Commodity Markets, 1996).

The securities market has established a number of sanctions that may be imposed on legal entities, but the law does not define their affiliation with certain forms of economic and legal liability of legal entities or the type of legal liability in general. For example, this is clearly stipulated in Article 20 of the Law of Ukraine "On the Basis of Social Protection of Disabled Persons in Ukraine", which states that "...enterprises, institutions, organisations where the average number of employees with disabilities is less than the standard, shall pay admin-

istrative and economic sanctions annually". There is no such certainty regarding the forms of economic and legal liability in the securities market (Chasovnykov, 2019).

The law application practice shows the absence of a unified approach to classifying sanctions imposed on the securities market as administrative and economic sanctions. In one case, the courts, in upholding administrative claims, referred to the fact that financial sanctions were imposed not for conducting business activities, but for violations on the securities market in accordance with the Law of Ukraine "On State Regulation of the Securities Market in Ukraine", therefore, the reference to Article 250 of the Commercial Code of Ukraine (the "CCU") in terms of the time limits for bringing a legal entity to liability is unlawful; the disputed legal relations are not the subject matter of the CCU in accordance with its Articles 1-42. In other cases, the courts satisfied claims on similar grounds, concluding that the sanctions provided for by the Law of Ukraine "On State Regulation of the Securities Market in Ukraine" are administrative and economic sanctions (Chasovnykov, 2019).

According to D. Chasovnykov, administrative and economic sanctions for offences in the securities market are a system of organisational, legal or property measures defined by law and applied by an authorised state body to business entities with a special status for violation of the rules and conditions of activities in the securities market during the placement, circulation and accounting of securities, and are aimed at punishing offenders, stopping the offence or eliminating its consequences (Chasovnykov, 2019).

The objects of offences in stock exchange activities are mostly social relations directly related to the organised circulation of securities within the framework of stock exchange activities (in particular, maintaining a register of holders of registered securities; disclosure of information on the stock market; conducting transactions with securities, etc.) Only stock exchanges and universal exchanges are entitled to carry out such activities (Myniuk, 2011).

The Law of Ukraine "On State Regulation of Capital Markets and Organized Commodity Markets" also defines the principles of liability of the National Securities and Stock Market Commission and its officials (Law of Ukraine On State Regulation of Capital Markets and Organized Commodity Markets, 1996). Administrative liability of legal entities is always liability to the state represented by its authorised jurisdictional bodies. In its relations with legal entities, a state body is a public authority vested by the state with the relevant competence and per-

forming a state power function. In this case, the state body is interested only in the implementation and proper execution of regulatory provisions by the legal entity; it does not act in relation to the legal entity as a customer or consumer of its services, works and goods. By their status, public jurisdictional bodies often also have the rights of a legal entity, but these are relations of unequal entities in terms of differentiation of powers. The parties involved in legal relations of administrative responsibility are legally unequal. Neither is there equality of status of the subject of liability and the state body, nor is there a relationship of direct subordination between them (Slubskiy, 2011).

Administrative liability of legal entities extends to all legal relations, regardless of their sectoral affiliation, in which the administrative and legal method of regulating social relations is expressed. Such sectors traditionally include land, environmental and financial law. This gives grounds to recognise as controversial judgements on financial, environmental, land and some other types of liability, since all these are essentially the same legal relations that are formed in the process of administrative liability, the subjects of which in many cases are legal entities (organisations) (Slubskiy, 2011).

According to the Law of Ukraine "On State Regulation of Capital Markets and Organised Commodity Markets", officials of the National Securities and Stock Market Commission are liable for non-performance or improper performance of their official duties in accordance with the procedure established by the legislation of Ukraine. Damage caused to participants in capital markets and organised commodity markets by unlawful actions of the National Securities and Stock Market Commission in the exercise of its control and regulatory powers shall be fully compensated by the state in accordance with applicable law (Law of Ukraine On State Regulation of Capital Markets and Organized Commodity Markets, 1996).

In other words, the main feature of administrative liability in the field of stock exchanges in Ukraine is the offenders in this field, as the law provides for administrative liability of stock market participants for violation of the law and administrative liability of officials of the National Securities and Stock Market Commission in case of violation of the law in the exercise of their official powers. The object of an administrative offence by officials of the National Securities and Stock Market Commission is the management procedure in the field of stock exchanges.

The qualifying features of administrative liability are: 1) grounds for administrative liability – an administrative offence (misdemeanour)

that does not pose a great public danger; 2) availability of a special set of administrative enforcement tools – administrative penalties; 3) availability of a system of administrative jurisdiction bodies, which, in accordance with the powers defined by law, have the right to apply administrative penalties and bring offenders to justice; 4) special procedure for the implementation of administrative liability (Levenets, 2012).

In Ukraine, the National Securities and Stock Market Commission issued Decision No. 405 of 28 July 2020 approving the Rules for handling cases on violation of the requirements of the legislation on capital markets and organised commodity markets, the application of sanctions or other measures of influence, which determine the procedure and terms for consideration by the National Securities and Stock Market Commission of cases on violation of the legislation on protection of financial services consumers by citizens, officials and legal entities, on capital markets and organised commodity markets, including the system of accumulative pension provision and the procedure for disclosure of financial statements together with the auditor's report (hereinafter referred to as the legislation on capital markets and organised commodity markets) (Decision of the National Securities and Stock Market Commission on the approval of the Rules for handling cases on violation of the requirements of the legislation on capital markets and organized commodity markets, the application of sanctions or other measures of influence, 2020).

3. Liability for violation of the requirements of the legislation on the functioning of stock exchanges in Ukraine

The Code of Ukraine on Administrative Offences provides for penalties for the following offences: placement of securities without registration of their issue or violation of the procedure for issuing securities (Article 163); concealment of information about the issuer's activities (Article 163-5); failure to submit documents required by the legislation on the depository system of Ukraine (Article 163-6); activities in the stock market or in the accumulative pension system without a licence (Article 163-7); manipulation of the stock market (Article 163-8); illegal use of insider information (Article 163-9); violation of the procedure for making changes to the system of depository accounting of securities (Article 163-10); violation of the procedure for disclosure of information in the stock market or in the system of accumulative pension provision (Article 163-11); violation of the terms of issuance of bills of exchange (Article 163-12) (Kuznietsova, 2021).

In our opinion, the following elements of an administrative offence in the field of the functioning of stock exchanges can be formulated:

1) an object – public relations in the stock market;

2) an objective party – violation of requirements, procedures and rules of stock exchanges and financial reporting rules;

3) an actor – a stock market participant;)

4) a subjective party – intentional or negligent actions that caused violation of legislation on the functioning of stock exchanges or intentional violations of financial reporting requirements.

Proceedings on administrative offences, consideration of cases on administrative offences, the procedure for imposing administrative penalties and enforcement of decisions are carried out in accordance with the requirements of the Code of Ukraine on Administrative Offences. The authorised person considers the case of an offence and makes a decision in the case in accordance with the law and evaluates the evidence according to his/her internal conviction based on a comprehensive, full and objective examination of all the circumstances of the case in their totality, guided by the law and legal consciousness. Cases of offences against citizens or officials are considered on the basis of protocols on administrative offences (Decision of the National Securities and Stock Market Commission on the approval of the Rules for handling cases on violation of the requirements of the legislation on capital markets and organized commodity markets, the application of sanctions or other measures of influence, 2020).

The record, together with the person's explanation and documents related to the case, shall be sent within three working days to the authorised person for consideration of the case on the offence. The case on an offence shall be considered within fifteen days from the date of receipt of the record and other case materials by the authorised person entitled to consider the case. The case on an offence shall be considered in the presence of the person being liable. When imposing a penalty, the nature of the offence, the identity of the offender, the degree of his or her guilt, property status, as well as circumstances mitigating and aggravating liability are considered (Decision of the National Securities and Stock Market Commission on the approval of the Rules for handling cases on violation of the requirements of the legislation on capital markets and organized commodity markets, the application of sanctions or other measures of influence, 2020).

The imposition of an administrative penalty is the final measure (form) among other measures of administrative coercion, as it materialises the legal assessment given to the offence

and the personality of the offender in the process of considering the case and making a relevant decision on it. As a result of the application of an administrative penalty, the guilty party suffers burdensome material or moral consequences. The logical extension of the protective concept of administrative liability is the punitive concept, according to which an administrative penalty imposed for an administrative offence and being a measure of liability, is inherently a punishment of the offender for committing an unlawful, punishable and culpable act. An administrative penalty is a coercive response to an unlawful act, punishment of the perpetrator, that is, the application of penalties in the form of certain deprivations, material, moral, and personal restrictions (Bosak, Doinik, 2021).

Administrative liability measures are applied by the body (official) authorised to consider an administrative offence case, essentially in accordance with the general rules for imposing administrative penalties and in accordance with the special conditions provided for by the legislation on administrative offences (Bosak, Doinik, 2021).

Having considered the case on an offence, the authorised person shall make a decision in the case. The decision of the authorised person in the case shall be drawn up in the form of a decision. The decision in the case of an administrative offence shall be signed by the authorised person who considered the case and sealed. In the case of an administrative offence, the authorised person shall make one of the following decisions: a) to impose an administrative penalty; b) to close the case on an administrative offence. The decision in the case is announced immediately after the end of the case consideration. Within three days, a copy of the decision is delivered against a receipt or sent by registered mail with acknowledgement of receipt and/or, if the person has an official email address, to the official email address of the person against whom it was issued (Decision of the National Securities and Stock Market Commission on the approval of the Rules for handling cases on violation of the requirements of the legislation on capital markets and organized commodity markets, the application of sanctions or other measures of influence, 2020).

An appeal against a decision to impose an administrative penalty is made in accordance with Chapter 24 of the Code of Ukraine on Administrative Offences. The decision to impose a sanction for an offence against a legal entity (except for the imposition of a financial sanction) may be appealed to the central office of the NSSMC by the person against whom it was issued within fifteen business days from

the date of receipt of the decision. In case the specified period is missed for valid reasons, this period may be extended by the Chairman of the NSSMC at the request of the person against whom the sanction was imposed. The application for extension of the time limit for appealing against the decision to impose a sanction, submitted again, shall not be accepted for consideration, and the complainant shall be notified thereof by a letter signed by the Chairman of the NSSMC. A decision to impose a sanction for an offence against legal entities that imposes a penalty in the form of a fine may be appealed in court in the manner prescribed by law. A complaint or request for extension of the time limit for appealing a decision to impose a sanction (except for the imposition of a financial sanction) shall be sent by mail and/or e-mail: info@nssmc.gov.ua (Decision of the National Securities and Stock Market Commission on the approval of the Rules for handling cases on violation of the requirements of the legislation on capital markets and organized commodity markets, the application of sanctions or other measures of influence, 2020).

In our opinion, the specific features of administrative cases for violations of the legislation on the functioning of stock exchanges in Ukraine are as follows:

- the National Securities and Stock Market Commission is the entity that makes the administrative offence record;
 - the administrative record is standard and includes information about stock market participants, the essence of the administrative offence, explanations of stock market participants, and other circumstances of the case;
 - the law establishes a special time limit for consideration of these categories of administrative cases (15 days);
 - the case is considered in the presence of a stock market participant;
 - based on the results of consideration of the case materials, the authorised actor may make two types of decisions in the form of a resolution: 1) closure of the case (in case of absence of an offence); 2) conviction of the offender and imposition of an administrative penalty;
 - суб'єкт правопорушення має право оскаржити рішення по справі.
- the offender has the right to appeal the decision in the case.

With regard to the trends in the development of administrative and legal framework for the functioning of stock exchanges in Ukraine, A.O. Bosak and Yu.V. Doinik propose to increase liability for offences in the stock market, especially in terms of penalties for the absence or inaccuracy of information on the activities of issuers, disclosure of insider

information and failure to comply with decisions of the NSSMC and the Antimonopoly Committee of Ukraine (Bosak, Doinik, 2021).

In our opinion, the amount of the fine is quite low, in accordance with Article 163-8 of the Code of Administrative Offences "Manipulation of Organised Markets", in particular, intentional actions that have signs of manipulation of organised markets established in accordance with the legislation on capital markets and organised commodity markets – entail a fine of one hundred to five hundred tax-free minimum incomes for individuals who have committed such actions. The same actions committed by a group of persons or by a person who has been subjected to an administrative penalty for an offence under part one of this Article within a year shall be punishable by a fine of five hundred to seven hundred and fifty tax-free minimum incomes.

4. Conclusions

Therefore, administrative liability for violating the requirements of the legislation on the functioning of stock exchanges in Ukraine is a type of legal liability that is imposed on stock market participants in the manner prescribed by law for committing administrative offences related to violations of the requirements of the stock market legislation and the financial reporting procedure, which may result in financially negative consequences for stock market participants.

The main specific feature of administrative liability in the field of stock exchanges in Ukraine is the offenders in this field, as the law provides for administrative liability of stock market participants for violating the requirements of the law and administrative liability of officials of the National Securities and Stock Market Commission in case of violation of the law in the exercise of their official powers. The object of an administrative offence by officials of the National Securities and Stock Market Commission is the management procedure in the field of stock exchanges.

References:

- Zaiats, R.Ya. (2012). Poniattia ta oznaky administratyvnoi vidpovidalnosti [Concepts and signs of administrative responsibility]. *Naukovi zapysky Lvivskoho universytetu biznesu ta prava – Scientific notes of the Lviv University of Business and Law*, 8, 17-20 [in Ukrainian].
- Shchukin, O.M. (2014). Do pytannia kontseptualizatsii poniattia administratyvnoi vidpovidalnosti [To the issue of conceptualization of the concept of administrative responsibility]. *Yurydychnyi visnyk – Legal Bulletin*, 3, 73-78 [in Ukrainian].
- Zakon Ukrainy Pro tsinni papery i fondovu birzhu : vid 18 cherv. 1991 r. №1201-XII [Law

of Ukraine On Securities and Stock Exchange: dated June 18, 1991 No. 1201-XII]. (1991). *rada.gov.ua*. <https://zakon.rada.gov.ua/laws/show/1201-12#Text> [in Ukrainian].

Kuznietsova, Ye.A. (2021). Finansovo-pravove rehuliuвання діяльності професійних учасників ринку цінних паперів [Financial and legal regulation of the activities of professional participants in the securities market]. *Extended abstract of Doctor's thesis*. Kyiv: Derzhavnyi naukovo-doslidnyi instytut Ministerstva vnutrishnikh sprav Ukrainy [in Ukrainian].

Zakon Ukrainy Pro derzhavne rehuliuвання rynkiv kapitalu ta orhanizovanykh tovarnykh rynkiv: vid 30 zhovt. 1996 [Law of Ukraine On State Regulation of Capital Markets and Organized Commodity Markets: dated October 30, 1996 No. 448/96-BP]. (1996). *rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/448/96-%D0%B2%D1%80#Text> [in Ukrainian].

Муніук, О.Ю. (2011). Suchasnyi stan ta perspektyvy vdoskonalennia administratyvno-pravovoi vidpovidalnosti u sferi birzhovoi diialnosti [The current state and prospects for improving administrative and legal responsibility in the field of exchange activity]. *Forum prava – Law forum*, 1, 664-669. [in Ukrainian].

Chasovnykov, D. (2019). On the notion of the administrative and economic sanctions for the offence in the securities market. *Law Review of Kyiv University of Law*, 2, 114-120. [in English].

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Slubskiy, I.Y. (2011). Poniattia administratyvnoi vidpovidalnosti yurydychnykh osib: pravovyi analiz [Concept of administrative responsibility of legal entities: legal analysis]. *Visnyk Kharkivskoho natsionalnogo universytetu vnutrishnikh sprav – Concept of administrative responsibility of legal entities: legal analysis*, 4, 280-289. [in Ukrainian].

Levenets, Yu.O. (2012). Poniattia administratyvnoi vidpovidalnosti [Concept of administrative responsibility]. *Aktualni problemy vitchyznanoi yurysprudentsii – Actual problems of domestic jurisprudence*, 3, 54-62 [in Ukrainian].

Rishennia Natsionalnoi komisii z tsinnykh papiriv ta fondovoho rynku Pro zatverdzhennia Pravyi rozghliadu sprav pro porushennia vymoh zakonodavstva pro rynky kapitalu ta orhanizovani tovarni rynky, zastosuvannia sanktsii або inshykh zakhodiv vplyvu: vid 28 lyp. 2020 roku № 405 [Decision of the National Securities and Stock Market Commission on the approval of the Rules for handling cases on violation of the requirements of the legislation on capital markets and organized commodity markets, the application of sanctions or other measures of influence: dated July 28, 2020 No. 405]. (2020). *rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/z0966-20#Text> [in Ukrainian].

Bosak, A.O., Doinik, Yu.V. (2021). Fondovyi rynek Ukrainy: perspektyvy rozvytku i svitovyi dosvid derzhavnogo rehuliuвання [The stock market of Ukraine: development prospects and world experience of state regulation]. *Lvivska natsionalna politekhnika – Lviv National Polytechnic*, 3, 290-303 [in Ukrainian].

ОСОБЛИВОСТІ АДМІНІСТРАТИВНОЇ ВІДПОВІДАЛЬНОСТІ ЗА ПОРУШЕННЯ ВИМОГ ЗАКОНОДАВСТВА ЩОДО ФУНКЦІОНУВАННЯ ФОНДОВИХ БІРЖ В УКРАЇНІ

Анотація. Мета. Метою статті є визначення особливостей адміністративної відповідальності за порушення вимог законодавства щодо функціонування фондових бірж в Україні. **Результати.** Сформовано склад адміністративного правопорушення у сфері функціонування фондових бірж: 1) об'єкт – суспільні відносини у сфері фондового ринку; 2) об'єктивна сторона – порушення вимог, процедур та правил функціонування фондових бірж та правил фінансової звітності; 3) суб'єкт – учасник фондового ринку; 4) суб'єктивна сторона – умисні або необережні дії, які спричинили порушення законодавства щодо функціонування фондових бірж або умисні порушення вимог фінансової звітності. Особливостями адміністративних справ за порушення вимог законодавства щодо функціонування фондових бірж в Україні є: – суб'єктом складення протоколу про адміністративне правопорушення є Національна комісія з цінних паперів та фондового ринку; – адміністративний протокол є стандартний та включає відомості про учасників фондового ринку, суть адміністративного правопорушення, пояснення учасників фондового ринку, інші обставини справи; – законодавством встановлений спеціальний строк розгляду цих категорій адміністративних справ (15 днів); – розгляд справи відбувається в присутності учасника фондового ринку; – за результатами розгляду матеріалів справи уповноважений суб'єкт може прийняти два види рішень у формі постанови:

1) закриття справи (в разі відсутності складу правопорушення); 2) визнати винним суб'єкта правопорушення та накласти на нього адміністративне стягнення. **Висновки.** адміністративна відповідальність за порушення вимог законодавства щодо функціонування фондових бірж в Україні – це вид юридичної відповідальності, до якої у встановленій законодавством процедурі притягуються учасники фондового ринку за вчинення адміністративних правопорушень, пов'язаних з порушенням вимог законодавства про фондовий ринок та порядку фінансової звітності, з настанням для учасників фондового ринку фінансово-негативних наслідків. Основною особливістю адміністративної відповідальності у сфері функціонування фондових бірж в Україні є суб'єкти вчинення правопорушень у цій сфері, адже законодавством передбачена адміністративна відповідальність учасників фондового ринку за порушення вимог законодавства та адміністративна відповідальність посадових осіб Національної комісії з цінних паперів та фондового ринку, в разі порушення ними законодавства під час здійснення посадових повноважень. Об'єктом адміністративного правопорушення посадових осіб Національної комісії з цінних паперів та фондового ринку є порядок управління у сфері функціонування фондових бірж.

Ключові слова: адміністративне стягнення, адміністративний примус, правопорушення, правопорушник.