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**PROVING CORRUPTION IN THE INVESTIGATIVE AND JUDICIAL PRACTICE  
OF UKRAINE: PROBLEMS AND SOLUTIONS**

The work is based on the analysis of the scientific literature, criminal and criminal procedural legislation of Ukraine, which regulates public relations associated with the identification, detection, investigation and judicial review of cases of illegal benefit by officials, on the precedents of the European Court of Human Rights on this issue, as well as the study and summarizing the materials of 200 criminal cases on illegal benefits considered by the courts of Ukraine in 2015-2019. It has been established that proof of corruption offences in criminal proceedings is the activity of the subjects of criminal proceedings, which consists of collecting, assessing and verifying factual data in order to establish circumstances relevant to the investigation. At the same time, procedural and tactical mistakes, as well as abuses on the part of prosecution agents, which lead to deficiencies in the process of proving the guilt of officials who commit corruption offences, are very common in the practice of the Ukrainian law enforcement agencies in this area.

**Key words:** *investigation of corruption offences, proof of corruption, fight against corruption, criminal investigation, illegal benefit.*

*Original article*

**Introduction**

The fight against corruption is currently one of the most important tasks for law enforcement agencies of Ukraine. The future of the state largely depends on success in this struggle. Corruption is a global threat to the sustainable development of modern societies [1]. According to the Transparency International movement, Ukraine ranks 126th out of 180 countries in terms of corruption perception index in 2019<sup>1</sup>. It should be noted that offences such as obtaining illegal benefits from officials are sufficiently complex to be identified and investigated. It is due to a number of reasons,

such as the circular interest of all participants in concealing the events, the high social status of the offenders, their corrupt relations with other authorities, etc. In addition, a special feature of Ukraine is that large-scale reforms have been recently carried out in many areas of public life, including criminal procedural legislation and the organization of the work of law enforcement agencies. Together with the positive aspects, these changes led to a decrease in the efficiency of the detection and investigation of corruption crimes due to gaps in the legislation and lack of experience of investigators and prosecutors in new conditions. After the entry into force of the new Criminal Procedural Code of Ukraine in 2012, a certain experience has been accumulated in the investigation and consideration of criminal cases in courts on obtaining illegal benefits.

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<sup>1</sup> CPI 2019 Global Highlights // Transparency International. URL: <https://www.transparency.org/cpi2019?/news/feature/cpi-2019> (Accessed 6 March 2021).

However, there has been no detailed scientific analysis of the evidentiary problems in this category of cases since then and until now. Such an analysis has to develop suggestions aimed at formulating recommendations to address existing legislative gaps, as well as difficulties related to the organization of pre-trial investigations and the holding of public prosecutions in court.

### **Theoretical framework**

The issues of evidence in criminal cases involving corruption offences are not sufficiently studied in Ukraine. In the modern period, the main attention was paid to the development of the content of the subject matter of evidence in criminal proceedings on corruption offenses [2], the improvement of the criminalistic methods of their investigation [3], the problems of organizing the initial stage of the investigation of obtaining illegal benefits by officials [4; 5]. Thus, it was possible to formulate recommendations on general issues of conducting a pre-trial investigation of corruption crimes, in particular, to systematize the circumstances to be proved, to reveal the lists of initial and subsequent investigative actions and tactical features of their conduction. However, the procedural and tactical irregularities and mistakes that, in the modern period, have occurred in the evidence of this category of cases and have made it impossible to solve the tasks of criminal proceedings have not been identified. Their reasons have not been established. Nevertheless, when prosecuting individuals for criminal corruption due to the severity of the possible punishment, it is especially important not to allow unfounded accusations, to excessively use coercive measures, to resort to provocations and falsifications. The success of the evidence in court also depends on the strict observance by the prosecution of the procedural rules at the pre-trial investigation stage.

*The purpose of the article* is to identify and reveal the problems of collecting, verifying and evaluating evidence in criminal proceedings on obtaining of illegal benefits by officials and to identify the ways to solve them.

### **Methodology**

We have studied the scientific literature on the problems of proving corruption, analyzed the criminal and criminal procedural legislation of Ukraine that regulates public relations associated with the identification, disclosure, investigation and judicial review of cases of obtaining illegal benefits by officials, as well as the precedents of the European Court of Human Rights on this issue. We also examined the materials of 200 criminal

cases heard by the courts of Ukraine in 2015–2019, where officials authorized to fulfill the functions of the state or local government were held liable for obtaining illegal benefits. The study of the materials of criminal proceedings was carried out in order to clarify the current state of affairs in the field of proving the guilt of the defendants, typical difficulties and mistakes made by the prosecution during the pre-trial investigation and the presentation of evidence in court.

Having studied the materials of criminal proceedings in cases of obtaining illegal benefit, we divided them into two groups of 100 cases: 1) cases where the accused pleaded guilty, the evidence was not investigated in court and/or an agreement between the prosecutor and the accused was approved; 2) cases where the accused did not plead guilty and the trial was conducted. At the same time, it was logical for the court to convict for the first category of cases. Then, as in 25 % of the cases of the second group, the sentence was acquittal. It is those cases, where the problems related to the shortcomings in the legal regulation of criminal and criminal procedural legislation, mistakes in law enforcement, organizational difficulties leading to a decrease in the effectiveness of the fight against corruption crimes were most clearly manifested.

### **Results and discussion**

A corruption crime in Ukraine is the accept of a promise, offer or receipt of illegal benefit by an official that entails liability under the Art. 368 of the Criminal Code of Ukraine. In accordance with the Council of Europe Criminal Law Convention on Corruption, these actions are interpreted as «active bribery of domestic public officials»<sup>1</sup>. Pre-trial investigation authorities during 2015–2019 initiated 3,475 criminal proceedings under this Article, where only 1,156 (33 %) were sent to the courts with indictments. In addition, it should be noted that a large number of such crimes remains undetected. According to criminologists, corruption crimes are characterized by the highest level of latency [6].

According to the Art. 91 of the Criminal Procedural Code of Ukraine, it is necessary to prove the time, place, method of obtaining illegal benefits in the course of an investigation of corruption crimes, to prove circumstances that confirm that money, valuables and other property were obtained as a result of a criminal offense and/or

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<sup>1</sup> Criminal Law Convention on Corruption. Strasbourg, 27.I.1999 // Council of Europe. URL: <https://rm.coe.int/168007f3f5> (Accessed 6 March 2021).

were income from such property. The most important task is to establish that money, valuables and other property are obtained as a result of a corruption offense. Property according to the United Nations Convention may be tangible or intangible, movable or immovable, expressed in things or in rights, as well as legal documents or assets confirming ownership or interest in such assets<sup>1</sup>.

Proving in corruption-related cases is difficult because both parties to the transaction do not often want the crime to be detected. Thus, in the course of the investigation, the main objective of proving is to establish the objective factual circumstances of the crime<sup>2</sup>. The most frequently used and effective means of proving corruption crimes, such as accepting an offer, promise or obtaining illegal benefit by an official, are investigative (search) actions, which can be open or covert. They are carried out both separately and in combination (in the form of tactical operations). The comprehensive conduct of investigative actions is the most effective at the initial stage of the investigation, when the tasks of recording the circumstances of a criminal event and the involvement of certain individuals are solved. Moreover, it is necessary to highlight the monitoring of a person, thing or place, audio-video surveillance of a person or place, taking information from transport telecommunication networks, electronic information systems and monitoring the commission of a crime in the form of a special investigative experiment among the tacit investigative (search) actions. Besides, such open investigative actions like interrogation, crime scene search, examination of documents, examination, simultaneous interrogation of two or more already interrogated persons, person's identification, presentation of things for identification, investigative experiment, conducting forensic examinations are carried out as in this category of cases.

The procedure of proving includes a number of sequential stages: collecting (searching, detecting, recording), verifying and evaluating (relevance, admissibility, reliability) evidence in order to establish the circumstances of the crime.

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<sup>1</sup> United Nations Convention against Corruption : General Assembly Resolution 58/4 of 31 October 2003 // United Nations. URL: [https://www.unodc.org/documents/brussels/UN\\_Convention\\_Against\\_Corruption.pdf](https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf) (Accessed 6 March 2021).

<sup>2</sup> Corruption. A Glossary of International Criminal Standards // OECD. URL: <http://www.oecd.org/corruption/anti-bribery/39532693.pdf> (Accessed 6 March 2021).

A search at the first stage is carried out in the manner prescribed by law for evidence that characterizes the event of a corruption offense. The necessary information is contained, first of all, in the traces of a criminal event. Ideal traces are preserved in the memory of witnesses, suspects (accused) as representations of the circumstances of the commission of a corruption crime. Material traces include objects discovered during an investigative action, for example, money that is the object of illegal benefit, clothing or other items that were in the possession or use of the suspect and containing chemical substances that marked the object of illegal benefit.

The search for evidence is carried out by conducting investigative (search) and covert investigative (search) actions, demanding and obtaining things, documents, information, expert opinions, audit reports and acts of inspections, other procedural actions from government agencies, local authorities, enterprises, institutions and organizations, officials and individuals<sup>3</sup>. In particular, it is possible to establish the location of tangible objects during the interrogation of witnesses, which may be physical evidence; to identify persons who are aware of the circumstances of the commission of a corruption crime, etc. In addition, the use of information obtained through confidential cooperation is an important mean of finding evidence. Such cooperation may involve, for example, a person who is an employee of an institution, where officials systematically commit corruption offenses. Thereafter, such a person, having knowledge of the circumstances, when the relevant offences were committed, in particular the persons who committed them (who commit them), the extent of the illegal benefit, etc., shall make it available to the pre-trial investigation authorities, which the latter use to locate and record evidence.

The result of a search is the discovery of evidence that is relevant to the circumstances of a corruption offence. Facts confirming the commission of a corruption crime, namely the subject of illegal benefit, witnesses, documents certifying the powers of an official (for example, orders of local and central executive authorities; charters of enterprises, institutions or organizations; employment contracts; orders for the appointment and determination of service duties; job descriptions, etc.), as well as reflecting the actions of an

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<sup>3</sup> Кримінальний процесуальний кодекс України : Закон України від 13.04.2012 № 4651-VI // База даних «Законодавство України» / Верховна Рада України. URL: <https://zakon.rada.gov.ua/laws/show/4651-17> (Accessed 6 March 2021).

official, performed in the interests of other persons for a fee.

The final form of collecting evidence in criminal proceedings on corruption offenses is the recording of evidence in the procedural form prescribed by law. It should be noted that in cases of this category it is extremely important to properly record the fact of the commission of a corruption act (receipt, provision of illegal benefit, agreement of the participants on the subject of illegal benefit, its amount, etc.). It is possible through the use of technical means of video recording, since it is impossible to reflect all the actual circumstances of the commission of a corruption crime in the minutes of investigative and covert investigative (search) actions (for example, nodding to an official who thus accepts an offer or a promise of illegal benefit).

The recording of factual circumstances in criminal cases of corruption crimes has features. Prior to transferring the item of illegal benefit to the official, the item is inspected, its individual characteristics are recorded in the minutes (for example, the money indicates the series, banknote number, nominal value), a photo image of the item is attached to the inspection report. During this investigative action, funds are marked with a chemical substance, a sample of which is attached to the materials of criminal proceedings for the purpose of further expert research. It is also important to properly equip the subject who will transfer the money with the technical means of covert audio and video recordings, with the help of which it will be possible to record all the circumstances of the commission of a corruption crime. The noted recording is usually carried out by the applicant, that is, by a person who does not have special skills in its implementation. Therefore, an important point is to instruct the applicant about the minimum and maximum distance that he must be at the time of documenting the receipt of illegal benefits, the necessary illumination of the room, blocking noise interference in order to completely record the conversation, record additional information by which you can determine the time and place of the corruption crime, etc. Recording should be carried out in such a way that subsequently it is easy to identify participants. Properly carrying out these measures will establish the circumstances of the commission of a corruption crime and bring the perpetrators to justice.

Evaluation of obtained evidence includes the establishment of their relevance (information refers to the crime), admissibility (evidence obtained by legal means) and reliability (information is true), which are closely interrelated.

However, the relevance and admissibility of evidence does not predetermine its reliability, since in some cases the evidence may be unreliable due to the presence of certain facts or circumstances, for example, the interest of witnesses, accused persons, and other persons in the results of criminal proceedings (a witness who was in hostile relations with the suspect, testified that he had seen the latter receiving the object of illegal benefit), incompetence, dishonesty of the investigator (during the examination the investigator could use improper packing of money, did not record the series and numbers of banknotes), etc.

Relative, admissible and reliable evidence from the sufficiency of evidence, which characterizes a certain set of them. Accordingly, each evidence should be objectively related to other evidence, since all of them are the result of a criminal offense, and their various circumstances are reflected in them. So, if there is only one testimony of a witness in criminal proceedings, who saw the fact of transferring funds, or a victim who claims that there was a fact of extortion of illegal benefit in relation to him, then this information without corroborating with other evidence, holding the officer criminally liable cannot be sufficiently substantiated. The guilt of a suspect (accused) can be proved only if there is a body of evidence confirming the commission of a corruption crime: the victim's testimony of extortion by an official; testimony of witnesses about the existence of an object of illegal benefit, videos recording the circumstances of the transfer of the object of illegal benefit; material evidence – the subject of illegal benefit, the clothes of the suspect, where the chemical substance marking the money is contained; the conclusion of the examination of audio and video materials confirming that the voice belongs to the suspect and excluding the editing of the recording; conclusion of the examination of special chemicals on the same chemical composition of the substance in cash (illegal benefit), clothes of the suspect (accused), rinses from his hands and a sample of the substance left in advance, etc.

One of the common forms of verification of evidence in most corruption crimes is the interrogation of witnesses who were present at the discovery and examination of the subject of illegal benefit. The testimonies of these persons verify the conformity of the minutes of the investigative (search) action, during which they were present as witnesses, to the actual circumstances of its conduct. Also, in order to verify the circumstances of the commission of a corruption crime and eliminate disagreements in the testimony, to obtain truthful testimonies and to find out the reasons for the disagreements, two or more already

interrogated persons are simultaneously interrogated and an investigation experiment.

As a result of studying the materials of criminal proceedings on illegal benefit, we can highlight the most common mistakes made by the prosecution. Typical examples of procedural mistakes are:

- conducting investigative (search) actions before entering information into the Unified Register of Pre-trial Investigations (violation of the Art. 214 of the Criminal Procedural Code of Ukraine);

- the adoption of a deliberately false report of a corruption crime and the inclusion of false information in the Unified Register of Pre-trial Investigations;

- violation of the rules for detaining a suspect and improper explanation of the rights of a detainee (the Art. 208 of the Criminal Procedural Code of Ukraine);

- providing materials (minutes with attachments of audio and video records, copies of documents, etc.) as evidence, where there is no evidence related to the evidence (violation of the Art. 84 of the Criminal Procedural Code of Ukraine);

- the use of materials, where there are contradictions between the information recorded in the minutes and audio and video recordings (violation of the Articles 104, 105 of the Criminal Procedural Code of Ukraine);

- inclusion of the minutes of interrogation of a witness in the list of evidence who was later recognized as a suspect (violation of the Art. 87 of the Criminal Procedural Code of Ukraine);

- inconsistencies in the dates and place of preparation of the procedural documents (the Art. 104 of the Criminal Procedural Code of Ukraine);

- lack of appendices to the minutes of covert investigative (search) actions (the Art. 252 of the Criminal Procedural Code of Ukraine);

- conducting an inspection of the scene of the incident instead of a search, or unreasonably conducting a search without determining an investigating judge (violation of the Articles 234, 237 of the Criminal Procedural Code of Ukraine);

- violation of the rules of jurisdiction (the Art. 216 of the Criminal Procedural Code of Ukraine).

The noted significant procedural violations entail the restriction of the rights of the suspect, enable the defense to deny the fact of a corruption offense or the guilt of the suspect, and the court to reject the materials collected at the pre-trial investigation as unacceptable evidence.

Tactical and organizational mistakes of investigative (search) actions include:

- the lack of a detailed description of the subject of illegal benefit in the inspection and search minutes, which does not allow to precisely establish this subject by individual characteristics;

- the use of low-quality equipment or the presence of significant interference with audio and video recordings at the time of monitoring the commission of a crime, which does not allow the use of records to identify participants in the transaction;

- untimely or poor-quality preparation for inspection or search, which does not allow to quickly detect material traces of a crime.

These shortcomings do not make it possible to reliably establish certain circumstances of a corruption crime.

In addition to the above, a number of procedural mistakes of proving require more detailed explanations due to their widespread use, the need to eliminate, develop a clear and unambiguous position aimed at the formation of unified approaches in law enforcement practice.

1. Violation by the prosecution party of the procedure established by the criminal procedural law for initiating pre-trial investigation materials to the defense party<sup>1</sup>. This mistake is very common, and currently the courts of Ukraine have issued many sentences, where the materials of covert investigative (search) actions were recognized as unacceptable evidence due to the refusal of investigators and prosecutors to provide access to them to the defense before sending the criminal case to court. The refusal of the prosecution to declassify not only directly the minutes of covert investigative (search) actions, but also the documents that served as the basis for their conduction, is interpreted as a significant violation of the suspect's rights to defense and a fair trial [7]. It is justified in the decisions of domestic courts, taking into account the practice of the European Court of Human Rights<sup>2</sup>.

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<sup>1</sup> Там само.

<sup>2</sup> Case of Edwards and Lewis v. the United Kingdom (Applications nos. 39647/98 and 40461/98) // HUDOS. URL: <http://hudoc.echr.coe.int/fre?i=001-67226> (Accessed 6 March 2021); Case of Jasper v. the United Kingdom (Application no. 27052/95) // HUDOS. URL: <http://hudoc.echr.coe.int/eng?i=001-58495> (Accessed 6 March 2021); Case of Ramanauskas v. Lithuania (Application no. 74420/01) // HUDOS. URL: <http://hudoc.echr.coe.int/eng?i=001-84935> (Accessed 6 March 2021); Case of Bannikova v. Russia (Application no. 18757/06) // HUDOS. URL: <http://hudoc.echr.coe.int/eng?i=001-101589> (Accessed 6 March 2021).

2. Violation by the prosecution of the procedure for obtaining permission to conduct covert investigative (search) actions. In accordance with Part 2 of the Art. 246 of the Criminal Procedural Code of Ukraine, the majority of covert investigative (search) actions can be carried out only in cases of serious or especially serious crimes. The receipt of illegal benefits without qualified features is a moderate offense<sup>1</sup>. However, in investigative practice, there are often cases when law enforcement agencies in order to record the circumstances of a crime unreasonably begin an investigation on the grounds of a more serious crime and carry out covert investigative (search) actions. Subsequently, the courts recognize the obtained evidence as unacceptable.

3. Violation of the requirements of the procedural legislation and organizational mistakes made by the prosecution when monitoring the commission of a crime (the Art. 271 of the Criminal Procedural Code of Ukraine), audio, video control of a person (the Art. 260 of the Criminal Procedural Code of Ukraine) or place (the Art. 270 of the Criminal Procedural Code of Ukraine). These covert investigative (search) actions are most important for proving illegal benefit. However, among the reasons for the failure of the prosecution in criminal cases, there are examples of carrying out these actions without legal grounds (without the consent of the investigator with the prosecutor or the permission of the investigating judge), the facts of the lack of minutes or gross procedural mistakes in compiling them.

The above investigative mistakes are unlawful or unreasonable acts that do not contain features of a criminal offense [8]. It is necessary to distinguish the abuses of operative officers, investigators and prosecutors from investigative mistakes, which are deliberate offenses that occur during the investigation of corruption crimes. These actions are manifested in obtaining evidence of illegal benefit by incitement by law en-

forcement officials and/or their secret agents. These actions are the provocation [9] and entail criminal liability in accordance with the Art. 370 of the Criminal Code of Ukraine, and the evidence obtained under such conditions is recognized by the court as unacceptable evidence. Such court decisions meet the criteria developed in the practice of the European Court of Human Rights<sup>2</sup>.

### Conclusions

Based on the study, it should be concluded that evidence in criminal proceedings about corruption offenses is the activity of the subjects of the criminal process, which consists of collecting (searching, identifying and recording), assessment (relevance, admissibility, reliability of an evidence and sufficiency of its totality) and verification (obtaining new information to verify already obtained evidence) of evidence to establish circumstances relevant to the pre-trial investigation and the court hearing of this category of cases.

Procedural and tactical mistakes, as well as abuses by representatives of the prosecution (operative officers, investigators, prosecutors), which lead to gaps in the process of proving the guilt of officials committing corruption crimes are very common in the practice of Ukrainian law enforcement agencies in this area. Most of these violations are associated with the organization and conduction of covert investigative (search) actions. The reasons for these mistakes are lack of knowledge or misunderstanding by investigators and prosecutors of the requirements of criminal procedural legislation, the lack of their experience in applying new material and procedural rules, insufficient tactical recommendations for conducting tacit investigative (search) actions and the lack of a single judicial practice on controversial issues. In some cases, there are deliberate violations of the law with the aim to identify corrupt officials through incitement by law enforcement officials and / or their secret agents.

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### **СТЕПАНЮК Р. Л., КИКИНЧУК В. В., ЩЕРБАКОВСКИЙ М. Г. ДОКАЗЫВАНИЕ КОРРУПЦИИ В СЛЕДСТВЕННОЙ И СУДЕБНОЙ ПРАКТИКЕ УКРАИНЫ: ПРОБЛЕМЫ И ПУТИ РЕШЕНИЯ**

Проанализированы научная литература, уголовное и уголовное процессуальное законодательство Украины, регулирующие общественные отношения, связанные с выявлением, раскрытием, расследованием и судебным рассмотрением дел о получении неправомерной выгоды должностными лицами, прецеденты Европейского суда по правам человека, а также изучены и обобщены материалы 200 уголовных дел о получении неправомерной выгоды, рассмотренные судами Украины в 2015–2019 гг. Установлено, что доказывание в уголовных производствах о коррупционных преступлениях является деятельностью субъектов уголовного производства, заключающейся в собирании, оценке и проверке фактических данных для установления обстоятельств, имеющих значение для расследования. При этом в практике правоохранительных органов Украины в этой сфере весьма распространенными являются процессуальные и тактические ошибки, а также злоупотребления со стороны представителей стороны обвинения, которые приводят к пробелам в процессе доказывания вины должностных лиц, совершающих коррупционные преступления.

**Ключевые слова:** *расследование коррупционных преступлений, доказывание коррупции, борьба с коррупцией, уголовное расследование, неправомерная выгода.*

### **СТЕПАНЮК Р. Л., КИКИНЧУК В. В., ЩЕРБАКОВСЬКИЙ М. Г. ДОКАЗУВАННЯ КОРУПЦІЇ У СЛІДЧІЙ І СУДОВІЙ ПРАКТИЦІ УКРАЇНИ: ПРОБЛЕМИ ТА ШЛЯХИ ВИРІШЕННЯ**

В Україні на сьогодні боротьба з корупцією є одним з основних завдань правоохоронних органів, оскільки рівень поширення цього негативного явища залишається настільки високим, що загрожує розвитку держави. При цьому одержання неправомірної вигоди посадовими особами належить до найбільш складних для виявлення та розслідування корупційних злочинів. Крім того, в Україні в останні роки проходять кардинальні реформи в галузі правового регулювання кримінального правосуддя й організації роботи правоохоронних органів. У таких умовах виникли проблеми із проведенням досудового розслідування у справах про корупційні злочини, що обумовлює необхідність виявлення причин цих проблем, їх аналізу й узагальнення з метою напрацювання рекомендацій щодо поліпшення якості роботи слідчих і прокурорів під час збирання, перевірки й оцінки доказів у кримінальному провадженні.

Проаналізовано наукову літературу, кримінальне та кримінальне процесуальне законодавство України, що регулює суспільні відносини, пов'язані з виявленням, розкриттям, розслідуванням і судовим розглядом справ про одержання неправомірної вигоди посадовими особами, прецеденти Європейського суду з прав людини, а також вивчено й узагальнено матеріали 200 кримінальних справ про одержання неправомірної вигоди, розглянутих судами України у 2015–2019 рр.

Встановлено, що доведення у кримінальних провадженнях про корупційні злочини є діяльністю суб'єктів кримінального провадження, яка полягає у збиранні, оцінці та перевірці фактичних даних для встановлення обставин, що мають значення для розслідування. При цьому у практиці правоохоронних органів України в цій сфері досить поширеними є процесуальні і тактичні помилки, а також зловживання з боку представників сторони обвинувачення, які призводять до прогалин у процесі доведення провини посадових осіб, які вчиняють корупційні злочини. Найбільша кількість цих порушень пов'язана з організацією та проведенням негласних слідчих (розшукових) дій. Їх основними причинами є недостатнє знання або неправильне розуміння слідчими і прокурорами вимог кримінального процесуального законодавства, відсутність у них досвіду застосування нових матеріальних і процесуальних норм, недостатність тактичних рекомендацій щодо проведення негласних слідчих (розшукових) дій, відсутність єдиної судової практики щодо спірних питань. У деяких випадках мають місце навмисні порушення закону з метою викриття корупціонерів шляхом підбурювання з боку працівників правоохоронних органів і/або їх негласних агентів.

**Ключові слова:** розслідування корупційних злочинів, доведення корупції, боротьба з корупцією, кримінальне розслідування, неправомірна вигода.