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Oleksii Ostapenko

Lviv Polytechnic National University,
Doctor of Law, Professor,
Professor of the Department of Administrative and Informational Law
Educational and Scientific Institute of Law,
Psychology and Innovative Education
Oleksiy.I.Ostapenko@lpnu.ua
ORCID : 0000-0002-9833-3043

Oksana Baik

Lviv Polytechnic National University,
Doctor of Law, Associate Professor,
Associate Professor of the Department of Civil Law and Process Law
Educational and Scientific Institute of Law,
Psychology and Innovative Education
Oksana.I.Bayik@lpnu.ua
ORCID : 0000-0003-4819-7722

ADMINISTRATIVE AND LEGAL ASSESSMENT OF INVALID, DISTORTED, FALSE INFORMATION ABOUT THE FACTS

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The article considers the use of words of foreign origin in administrative legislation which often consciously or unconsciously replace the words of the Ukrainian language that negatively affects the explanation of legal relations and their legal regulation. It is noted that unverified facts are published through the media, which encourages them to verify by establishing the actual existence of a fact and its legal assessment. It is stated that there are different approaches in the interpretation of the word “fact”, aimed at exercising the rights and obligations of the parties, enshrined in the relevant regulations.

Administrative and legal assessment of facts is carried out with the help of evidence of legal content which is one of the conditions for assessing their reliability and legal significance. It was found that the Code of Administrative Offenses of Ukraine deals with different methods and ways of committing illegal acts, which indicate inaccurate information and distorted data, deception and damage to business reputation, illegal use, spreading false rumors and false information.

The negative consequences of using certain words of foreign origin, which are referred to as “fake” and “fiction”, have been noted. In particular, the most important component of the activities of public authorities is the protection of the individual from encroachment on his rights by committing illegal acts that are inaccurate, untrue, distorted, false, deceptive and based on unverified facts, the legal assessment of which is fiction, similar to the word “fake”.

It is concluded that there is no stable approach in explaining the “borrowing” of foreign words in the national legal system. At the same time, this does not contradict the use of words of foreign origin, which in their content and traditions of use do not reduce, but complement the explanations and interpretations of legal relations in the state language. However, an

important condition for quality preparation of regulations and their interpretation is the use of the Ukrainian language, which has a large choice of words and terms to explain not only legal facts but also other realities.

Key words: administrative and legal protection, security, unreliability, untruth, deception, distortion, fake, fiction.

Formulation of the problem. The general principles of the Constitution of Ukraine clarify that “a person, his life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value” (Article 3) [1]. The constitutional provisions on the protection of information security are important (Article 17), the prohibition of the collection, storage, using and dissemination of confidential information about a person without his consent (Article 32). These norms of the Constitution of Ukraine are often violated not only against the individual, but also against society and the state with the artificial use of foreign words which have acquired an offensive meaning in society today. First of all, this applies to the word “fake”. The disclosure of fake information by so-called “fakers” is done by proving false, unreliable, deceptive, false information, information, data in oral, written and other forms. Through verbal and other actions the person concerned convincingly informs about the alleged facts concerning individual citizens or legal entities in order to obtain the desired result. At the same time, depending on the content of fake information, a wide range of arguments is used by means of the Ukrainian language, taking into account its ambiguity, variability and certainty.

Analysis of research and publications. Theoretical developments and analysis of the administrative legislation of Ukraine on issues related to encroachment on the rights, freedoms, security and activities of citizens, society, state testify to the relevance and reality of threats from illegal dissemination of unreliable, untrue, distorted information. In most cases, administrative liability is provided. These issues are considered in the scientific works of V. Averyanov, Yu. Bytyak, V. Bogutsky, K. Vaskivska, Yu. Vaskivsky, V. Garashchuk, V. Zuy, M. Kitsa, M. Kovaliv, T. Kolomoyets, V. Kolpakov, A. Komzyuk, Z. Kunch and others.

The purpose of the article is to analyze the administrative and legal protection of human security, society, the state from unlawful encroachments committed with the use of certain foreign words of offensive content.

Main material presentation. The most important component of the activities of public authorities is the protection of the individual from encroachment on his rights by committing illegal acts which in their content are unreliable, untrue, distorted, false, deceptive and based on unverified facts, the legal assessment of which is fiction the word “fake”.

The word “fake” means one of the type of false information that provides facts in a distorted form. In the broadest sense, it is any forgery that someone tries to pass off as the original [2]. The spread of this word, especially as fake news, as rightly believed by Yu. Vaskivsky, K. Vaskivska, I. Kontorsky, O. Kovalska, can undermine the democratic system in the state. These authors draw attention to the fact that fakes, especially during the information war, are actively created and distributed on the Internet [3, p. 28, 29; 14].

Fake information created by deception means intentional distortion of the true state of affairs, deliberate misinformation of a natural or legal person, misleading them by reporting or withholding information about certain facts, circumstances or events. Acts committed by falsification (late Latin. Falsificato – means forgery which is expressed in intentional distortion, falsification or deliberate misinterpretation, coverage of certain phenomena, events, facts, forgery) [4, p. 960].

M. O. Kitsa, analyzing the nature and impact of fake information in Ukrainian social media, adheres to the need to define the concept of the term “fake”, its existing types and classification which is especially

important in today's information warfare [5]. Recently, foreign words have been increasingly used in the Ukrainian language and are widely used in the terminology of other countries, especially in journalism. At the same time, terminology in the legal field is also impossible without foreign words. The use of foreign words is a natural process that has its own specifics and ancient legal applicable practice. Historically, foreign-language legal terms have Latin origins because the foundations of jurisprudence are originated in ancient Rome. Words from Greek, French, German, and English entered the legal sphere which significantly influenced legal terminology and its use in the legal system of Ukraine.

For example, in the modern Ukrainian language and administrative legislation the following words of foreign origin are used: 1) English (business, budget, Internet) [6]; 2) the Greek language (amnesty, drugs, drug addiction, police) [7]; 3) Latin (arrest, discrimination, document, expert, examination, extradition, code, sanction) [8]; 4) German (guard) [9]; 5) French (arbitrator, arbitration, bureaucrat, bureaucracy, passport, report) [10].

Quite widespread unverified facts are made public through the media which encourages them to verify by establishing the actual existence of a fact and its legal assessment. There are different approaches in the interpretation of the word "fact" aimed at exercising the rights and obligations of the parties enshrined in the relevant regulations.

The President of the United States of America A. Lincoln once held the opinion that inaccurate information looked true, it must copy a fact. It is possible to deceive a part of the people all the time and also all people – some time, but it is impossible to deceive all people constantly [11, p. 343]. A completely different position is enshrined in the national legislation of Ukraine. Thus, among the basic principles of information relations an important place is occupied by: reliability and completeness of information; legality of receiving, using, disseminating information (Article 2 of the Law of Ukraine "On Information") [12]. At the same time, Art. 30 of this Law provides for exemption from liability for the expression of evaluative judgments. At the same time, there is no specification of the subjects that can be released from liability. Designation of subjects of information relations is enshrined in Art. 4 of the Law which deals with individuals and legal entities, subjects of power, associations of citizens [12]. Accordingly, these subjects of information relations have the right to express evaluative judgments about actions or inactions that do not contain factual data, also are made in the form of criticism using linguistic stylistic means, using hyperbole, allegories, satire. The position of the legislator regarding the fact that evaluative judgments are not subject to refutation and proving their truthfulness remains controversial in terms of content. Article 30 of the Law of Ukraine "On Information" [12] object of moral damage.

For comparison, the Code of Ukraine on Administrative Offenses (hereinafter – the Code of Administrative Offenses) provides for administrative liability of citizens and officials for violating information relations on: illegal use of insider information (Articles 163-9 of the Code of Administrative Offenses); violation of the procedure for disclosure of information on the stock market (Articles 163-11 of the Code of Administrative Offenses); providing knowingly unreliable information in applications for termination of copyright and (or) related rights committed using the Internet (Articles 164-18 of the Code of Administrative Offenses); violation of the procedure for providing information necessary for the assessment of fiscal risks, and failure to take measures in the field of fiscal risk management (Articles 164-19 of the Code of Administrative Offenses); illegal use of information that became known to a person in connection with the performance of official or other powers specified by law (Articles 172-8 of the Code of Administrative Offenses); violation of the legislation on printed mass media (Articles 186-6 of the Code of Administrative Offenses); non-compliance with the legal requirements of officials of the State Service for Special Communications and Information Protection of Ukraine (Articles 188-31 of the Code of Administrative Offenses); violation of legislation in the field of personal data protection (Articles 188-39 of the Code of Administrative Offenses); failure to publish the answer to the information disseminated in relation to the subject of the election process (Articles 212-11 of the Code of Administrative Offenses).

The general consideration of the essence of the fact contains the signs testifying to existence and reliability of events, the phenomena in the real reality [13, p. 345; 782]. At the same time, the normative and legal consolidation of facts indicates the possibility of their legal assessment and the emergence of relations on this basis depending on the object and subject of legal regulation. Thus, a legal fact can determine the phenomena of reality enshrined in the rules of law which are the object / subject of legal influence and regulation.

Administrative and legal assessment of inaccurate, false, distorted and other information which is a condition and cause of administrative offenses affects the qualification of illegal acts or omissions and bringing the perpetrator to administrative responsibility. For example, in the Criminal Code of Ukraine there are a number of articles that provide for liability for illegal acts or omissions committed by fraud (Article 190 of the Criminal Code of Ukraine), tax evasion, fees (mandatory payments) (Article 212 of the Criminal Code of Ukraine), fraud with financial resources (Article 222 of the Criminal Code of Ukraine), illegal collection for use or use information constituting a commercial or banking secret (Article 231 of the Criminal Code of Ukraine), disclosure of banking secrecy (Article 232 of the Criminal Code of Ukraine), illegal use of insider information (Article 232-1 of the Criminal Code of Ukraine), concealment of information about the issuer (Article 232-2 of the Criminal Code of Ukraine) [14].

The Code of Ukraine on Administrative Offenses enshrines different methods of committing illegal acts that indicate inaccurate information and distorted data (Articles 41, 53-2, 164-18, 166-4, 166-6, 188-9, 188-11, 188-14 of the Code of Administrative Offenses), on deception and damage to business reputation (Articles 155-2, 164-3 of the Code of Administrative Offenses), on illegal use, dissemination of false rumors and false information (Articles 172-8, 173-1, 185-5 of the Code of Administrative Offenses) [15].

M. G. Shulga is of the opinion that in order to combat administrative offenses which include the above administrative-tort actions it is necessary to use both means of persuasion and means of coercion [16, p. 157, 158]. It should be noted that in the formation of fake materials to ensure the “constructiveness” of its construction and “perfection” used functional varieties of literary or “domestic” language with characteristic linguistic and stylistic and structural-genre features, the presence of which is due to the interests of the person concerned.

Among the set of techniques and methods by which to determine the provability or inaccuracy of the facts presented by the person, in some cases used fiction which contains a legal regulation that is used to invalidate certain actions that infringe on the object of legal regulation. General understanding of the concept of “fiction” (Latin – *fictio*) – 1) fiction, non-existent, deceptive; 2) legal technique which distorts the real reality which has nothing to do with fiction, deception, forgery [17, p. 677; 685]. In addition, the word “fiction” means something that does not correspond to reality, does not exist or is pretended to be valid for a specific purpose; deception; fake; fictional provision, fictional set of opinions, provisions that are issued for a specific purpose as valid; the same as fiction [18, p. 677].

The legal aspect of fiction is characterized by the fact that in violation of administrative-legal relations by using fake information of legal content, the person encroaches on the property and non-property rights of citizens and legal entities, their honor, dignity and business reputation. Rebuttal of unreliable information is carried out by the person who disseminated the information and in the same way in which it was disseminated [4, p. 307]. At the same time, the guilty person is brought to administrative responsibility for these illegal actions. This person is referred to in the “Great Explanatory Dictionary of the modern Ukrainian language” by the word “fake” – a specialist in computer counterfeiting [18, p. 671] which creates and disseminates false, falsely deceptive and unreliable and false information by covering it in the media. Unfortunately, today such information is often used against individual citizens, society and the state which causes great harm in various spheres of human life.

Conclusions. It should be noted that there is no stable approach in explaining the “borrowing” of foreign words in the national legal system. At the same time, this does not contradict the use of words of foreign origin which in their content and traditions of use do not reduce but complement the explanations and interpretations of legal relations in the state language.

Today there is a so-called “fashion” to “modernize” the Ukrainian language in words that acquire offensive content and have a negative moral, social and economic impact on the performance of individuals and legal entities. At the same time, an important condition for quality preparation of regulations and their interpretation is the use of the Ukrainian language which has a wide choice of words and terms to explain not only legal facts but also other realities.

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Олексій Остапенко

Національний університет “Львівська політехніка”,
доктор юридичних наук, професор,
професор кафедри адміністративного та інформаційного права
Навчально-наукового інституту права, психології та інноваційної освіти
Oleksiy.I.Ostapenko@lpnu.ua
ORCID : 0000-0002-9833-3043

Оксана Байк

Національний університет “Львівська політехніка”,
доктор юридичних наук, доцент,
доцент кафедри цивільного права та процесу
Навчально-наукового інституту права, психології та інноваційної освіти
Oksana.I.Bayik@lpnu.ua
ORCID : 0000-0003-4819-7722

АДМІНІСТРАТИВНО-ПРАВОВА ОЦІНКА НЕДОСТОВІРНОЇ, ПЕРЕКРУЧЕНОЇ, ФАЛЬШИВОЇ ІНФОРМАЦІЇ ПРО ФАКТИ

Розглянуто питання використання в адміністративному законодавстві слів іншомовного походження, якими досить часто свідомо чи несвідомо замінюють слова української мови, що негативно впливає на пояснення правових відносин та їх правове регулювання. Зазначено, що неперевірені факти оприлюднюються через засоби масової інформації, що спонукає здійснювати їх перевірку шляхом встановлення реальної наявності того чи іншого факту та його правової оцінки. Вказано, що існують різні за змістом підходи у поясненні слова “факт”, спрямовані на реалізацію прав і обов’язків сторін, закріплених у відповідних нормативно-правових актах.

Адміністративно-правова оцінка фактів здійснюється за допомогою доказів правового змісту, що є однією з умов оцінки їх достовірності та юридичної значимості. З’ясовано, що у Кодексі України про адміністративні правопорушення йдеться про різні за змістом прийоми і способи вчинення протиправних дій, які свідчать про недостовірну інформацію та перекручені дані, про обман та шкоду діловій репутації, про незаконне використання, поширення неправдивих чуток та неправдивої інформації.

Зауважено про негативні наслідки від використання окремих слів іншомовного походження, що позначаються як “фейк” та “фікція”. Зокрема, найважливішою складовою діяльності органів державної влади є захист особи від посягань на її права шляхом вчинення протиправних дій, які за своїм змістом є недостовірними, неправдивими, перекрученими, фальшивими, обманливими і ґрунтуються на неперевірених фактах, правова оцінка яких є фікцією, позначення якої є аналогічним зі словом “фейк”.

Зроблено висновок про те, що сталого підходу в поясненні “запозичення” іншомовних слів у національній правовій системі немає. Водночас це не суперечить використанню слів іншомовного походження, які за своїм змістом і традиціями застосування не зменшують, а доповнюють пояснення і тлумачення правових відносин, що вчиняються, державною мовою. Однак важливою умовою якісної підготовки нормативно-правових актів та їх тлумачення є використання української мови, що має великий за змістом вибір слів і термінів для пояснення не лише юридичних фактів, але й інших явищ реальної дійсності.

Ключові слова: адміністративно-правовий захист, безпека, недостовірність, неправда, обман, перекручення, фейк, фікція.