



MINISTRY OF FINANCE OF UKRAINE

ORDER

of July 6, 2020 No. 402

**Registered in the Ministry of
Justice of Ukraine of July 21,
2020 No. 686/34969**

On approving the Instruction for issuing materials on administrative offenses by the State Financial Monitoring Service of Ukraine officials

According to the Code of Ukraine on Administrative Offences, Article 32 of the Law of Ukraine “On preventing and counteracting to legalization (laundering) of the proceeds from crime, financing of terrorism and financing of proliferation of weapons of mass destruction” **I ORDER:**

1. To approve the Instruction for issuing materials on administrative offenses by the State Financial Monitoring Service of Ukraine officials, attached.
2. To declare as repealed the Order of the Ministry of Finance of Ukraine of April 27, 2015 No. 465 “On approving the Instruction for issuing materials on administrative offenses by the State Financial Monitoring Service of Ukraine”, registered with the Ministry of Justice of Ukraine on May 20, 2015 No. 581/27026.
3. The Department for Providing Coordination and Monitoring Work of the Ministry of Finance of Ukraine together with Legal Department of the State Financial Monitoring Service of Ukraine to ensure in accordance with the established procedure:
submitting this Order for the state registration to the Ministry of Justice of Ukraine;
publishing this Order.
4. This Order shall enter into force on the day of its official publishing.
5. Control over the execution of this Order shall be imposed on the First Deputy Minister of Finance of Ukraine D. Uliutin and the First Deputy Head of the State Financial Monitoring Service of Ukraine I. Gaievskiyi.

Minister

S. Marchenko

AGREED:

**Head of the State Financial Monitoring
Service of Ukraine**

I. Cherkaskyi

**APPROVED
Order of the Ministry of
Finance of Ukraine
July 6, 2020 No. 402**

**Registered in the
Ministry of Justice of
Ukraine
July 21, 2020 No.
686/34969**

INSTRUCTION

**for issuing materials on administrative offenses by the State Financial
Monitoring Service of Ukraine officials**

I. General provisions

1. This Instruction is developed on the basis of Article 32 of the Law of Ukraine “On preventing and counteracting to legalization (laundering) of the proceeds from crime, financing of terrorism and financing of proliferation of weapons of mass destruction” (hereinafter – the Law), Articles 221, 255 of the Code of Ukraine on Administrative Offenses (hereinafter – the Code), establishes the procedure for drawing up by the authorized officials of the SFMS and submitting to the authorities authorized to consider cases on administrative offences, the protocols and materials on administrative offences, provided for in part two of Article 166-9 of the Code.

2. The protocols on administrative offences provided for in part two of Article 166-9 of the Code are drawn up by the officials authorized by the SFMS (hereinafter – the authorized officials), if these offences by their nature do not entail criminal liability in accordance with law.

3. If the offence is committed by several persons, the protocol on administrative offence is drawn up for each person separately. In case of committing several separate administrative offences by one person, the protocols shall be drawn up for each of the offences committed.

4. The authorized officials draw up the protocols on administrative offenses for violation of law, namely for failure to submit, late submission or submission of inaccurate information related to the analysis of financial transactions that have been the object of financial monitoring, certificates and copies of documents (including those containing restricted information) at the request of the SFMS.

5. The protocols on administrative offences are drawn up in respect of officials of enterprises, institutions, organizations, citizens-entrepreneurs, who are not reporting entities.

II. Issuing materials on administrative offences

1. The protocol on administrative offence (annex 1) is provided for in part two of Article 166-9 of the Code shall be drawn up by the authorized official.

The authorized officials of the SFMS, who have the right to draw up the protocols on administrative offences, are the employees of the Department for Financial Investigations.

2. All details of the protocol on administrative offence are filled in black or blue ink, legible handwriting, the state language. It is not allowed to cross out or correct the information entered in the protocol, as well as to make additional entries after the protocol has been signed by the person in respect of whom it was drawn up.

3. When drawing up the protocol on administrative offence the part of the relevant Article of the Code shall be indicated in, according to which the administrative liability occurs.

4. When stating the circumstances of the offence, the protocol shall indicate the place and time of its commission, the essence of the offence, what illegal actions or omissions were committed by the person being brought to the administrative responsibility, and what legal provision are violated.

5. If there are witnesses to the offence and victims, their first names, last names, patronymics, and addresses of places of residence shall be entered in the protocol.

6. The authorized official is obliged to acquaint the person being brought to the administrative responsibility with his/her rights and obligations provided for by Article 268 of the Code, and the content of Article 63 of the Constitution of Ukraine, which is noted in the protocol. The person being brought to the administrative responsibility shall put a signature in the protocol on awareness of the above, and in case of refusal to put a signature - this shall be recorded in the protocol, which shall be certified by the signature of the authorized official.

7. The person being brought to the administrative responsibility is invited to provide a written explanation on the merits of the offence committed, which is entered in the protocol and certified by the signature of the person. An explanation may be attached to the protocol separately, which is recorded in this protocol.

In case of refusal of the person being brought to the administrative responsibility to provide explanations on the merits of the offence committed, the authorized official shall make a corresponding record in it.

8. The protocol shall be signed by the authorized official and the person being brought to the administrative responsibility, and may also be signed by witnesses and victims (if any).

In case of refusal of the person being brought to the administrative responsibility to sign the protocol, the authorized official makes about it the corresponding record which is certified with his/her signature and signatures of witnesses (if any).

The person being brought to the administrative responsibility shall have the right to add to the protocol the explanations and remarks on the content of the protocol, as well as to state the reasons for refusal to sign it.

9. The materials confirming the fact of committing the administrative offence are attached to the protocol.

Each document shall have its details (date, name, signatures, etc.), contain accurate information and meet the legal requirements.

10. The drawn up protocol and other materials confirming the fact of commission of the administrative offence are formed in the case which is formalized in accordance with the established procedure. The case of the administrative offence together with the cover letter of the SFMS within three days from the date of its drawing up is sent to the district (district in the city, city or city district) court at the place of the administrative offence commission.

11. The authorized official of the SFMS, who has the right to draw up the protocols on administrative offences, draws up the protocol on administrative offences in two copies, signs each of the copies and proposes them to be signed by the person being brought to the administrative responsibility, and/or to provide explanations and remarks on the protocol content.

12. The cases on administrative offenses provided for in part two of Article 166-9 of the Code are considered by the judges of the district court (district in the city, city or city district) court in accordance with Article 221 of the Code.

III. The procedure for filing the case on administrative offence

1. Issuing materials on administrative offence is provided by the authorized official who drew up the protocol.

2. The protocol no later than the next day after its drawing up shall be registered by the authorized official in the Journal of registration of the protocols on administrative offences (annex 2), the pages of which shall be bound and numbered, as well as sealed with the seal of the SFMS.

3. The accounting of the protocols is carried out within each quarter of the calendar year separately.

4. The protocol form is made in a typographic way and has a series and number.

5. Accounting of the issuance of forms of the protocols is conducted in the Journal of issuance of forms of the protocols on administrative offences (annex 3).

6. The Journal of issuance of forms of the protocols on administrative offences and the Journals of registration of the protocols on administrative offences are kept for the period established by the legislation of Ukraine.

**Director of Department
for Provision
Coordination and Monitoring
Work**

Y. Koniushenko

Annex 1
to the Instruction for issuing materials
on administrative offences by the
State Financial Monitoring Service of
Ukraine officials (paragraph 1 of
section II)

STATE FINANCIAL MONITORING SERVICE OF UKRAINE

**PROTOCOL
on administrative offence**

" ____ " _____ 20__

(place of drawing up of
the protocol)

I, the authorized official of the State Financial Monitoring Service of Ukraine,

(position, surname, name, patronymic)

according to the Articles 254, 255, 256 of the Code of Ukraine on Administrative
Offences, drew up this protocol that

(place, time and essence of the offence, legal act,

which provides for the responsibility for this offence)

Witnesses to the offence:

Victim:

**Information about the person being brought to the administrative
responsibility:**

Surname, name, patronymic

Date, place of birth

Place of residence, telephone number

Place of work, position, date of appointment

Identity document (type, series, number, by whom and when issued),

Taxpayer's registration card number or series and passport number (for individuals who due to their religious beliefs in the prescribed manner refused to accept the taxpayer's registration card number and have the appropriate mark in the passport)

Citizen _____ **is explained the content of Article 63 of the Constitution of Ukraine, as well as his (her) rights and obligations under Article 268 of the Code of Ukraine on Administrative Offences** *(has the right to: get acquainted with the case materials, give explanations, submit evidence, file a petition; during the proceedings to use the legal assistance of a lawyer, other specialist in the field of law, who by law has the right to provide legal assistance in person or on behalf of a legal entity, speak in his/her native language and use services of an interpreter if he/she does not speak the language of the proceedings; to appeal the decision on the case).*

Signature _____

Explanations of the person being brought to the administrative responsibility (may be attached):

Attached to the protocol:

**Signature of the person being brought to the administrative responsibility
and who received one copy of the protocol:**

Signatures of witnesses, if any: 1. _____
2. _____

Protocol shall be submitted for consideration to

(full name of the court)

Authorized official of the SFMS _____
(signature) (initials,
surname)

Annex 2
to the Instruction for
issuing materials on
administrative
offences by the State
Financial Monitoring
Service of Ukraine
officials
(paragraph 2 of
section III)

JOURNAL
for the registration of the protocols on administrative offences

No.	Series, number and date of drawing up the protocol	Date and place of the offence commission	Information about the person being brought to the administrative responsibility			Position, surname, initials of the person who drew up the protocol	Note
			surname, name, patronymic	position	place of work		
1	2	3	4	5	6	7	8
				Annex 3 to the Instruction for issuing materials on administrative offences by the State Financial Monitoring Service of Ukraine officials (paragraph 5 of section III)			

JOURNAL
for issuance of forms of the protocols on administrative offences

No.	Date of issue of forms of the protocols	Series and numbers of the protocols issued, from _____ to _____	Number of issued protocol forms (in words)	Surname, name, patronymic and signature of the recipient	Note
1	2	3	4	5	6