

Decriminalisation of illicit enrichment: possible solutions

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On February 26, the Constitutional Court found unconstitutional the article 368-2 of the Criminal Code of Ukraine on criminal liability for illicit enrichment. The decision came in force the day it was adopted.

All legal consequences of the decision are already enacted, including the closure of all existing 65 criminal cases into illicit enrichment and amnesty for all officials who have acquired illicit assets in the past five years.

The main arguments of the Constitutional Court were that the crime of illicit enrichment violates the presumption of innocence and imposes the burden of proof on the defence party. However, both national and international experts refuted these arguments.

Nevertheless, any future wording of the crime of illicit enrichment that will reflect principles laid by the UN Convention against Corruption will be at risk of repetitive cancellation by another decision of the Constitution Court.

Below are available options for bringing officials to liability for unjustified assets.