

The Supreme Court endangers electronic declarations again

10.02.2020

On January 28, 2020, the Supreme Court of Ukraine [upheld](#) the decision of the Court of Appeal of Cherkasy region, which had cancelled the conviction regarding the tax inspector for failure to submit e-declaration because of her religious beliefs. Such decisions threaten to fail the e-declaration system and, therefore, threaten fight against corruption in Ukraine, according to the Anti-Corruption Action Center.

As it became known to experts of the AntAC thanks to the Register of Court Decisions, the employee of Uman Tax Inspectorate did not submit the e-declaration in 2016 as required by the law. She was accused of committing the crime and the case was sent to the court.

It turned out that the inspector had deliberately refused to receive the Electronic Signature (ES) which was necessary to submit the declaration. According to her, submitting electronic declaration contradicts her religious beliefs, so she submitted the paper declaration.

However, Danyila Chornenka, the judge of Monastyrshche District Court of Cherkasy region, rejected these arguments and [found](#) the inspector guilty. The judge made the conclusion that the inspector had the opportunity to receive the ES in alternative way that would not violate her religious rights, but the latter failed to do so.

Instead, the Court of Appeal of Cherkasy region [cancelled](#) the decision, with which the Supreme Court also agreed. Conclusions of judges raise questions because they took into account arguments regarding submission of paper declaration, which is not provided by the law. Instead, other options regarding submission of e-declaration, as stated in the decision, were not considered.

“This is a very dangerous practice, because this decision, in fact, provides the right not to submit the e-declaration with impunity. The purpose of such steps is to kill the e-declaration. Therefore, it is difficult to call it protection of human rights. It seems that one of the most effective mechanisms for preventing corruption is being killed whenever it is possible”, stated Olena Shcherban, the Board Member at the Anti-Corruption Action Center.

We would like to emphasize that conscious failure to submit declaration is criminal offence according to article 366-1 of the Criminal Code of Ukraine. Officials are threatened with maximum 2 years of imprisonment for this and ban to hold relevant positions during 2 years.

This is not the first decision of this type of the Supreme Court. On September 10, 2019, the Supreme Court of Ukraine [upheld](#) the decision of the Court of Appeal, which had cancelled the conviction against the police

inspector from Dnipro for failure to submit declaration before dismissal.

The Supreme Court justified its decision by the fact that the prosecutor had not provided evidence that the police officer had known about his duty to submit the declaration on the day of his dismissal. Although, it is doubtful that the law enforcement officer, who must know the law and who has submitted the e-declaration every year, may not have been aware of the fact of submission such document before his dismissal.

Instead, at the end of 2019, the High Anti-Corruption Court [upheld](#) the conviction for not submitting the declaration regarding Nadiya Posunsi, former judge of the Court of Appeal of Dnipropetrovsk region. She deliberately did not submit several annual declarations in 2015-2018, as well as the declaration before her dismissal.