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Administrative liability of juveniles for smoking

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Abstract

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The research relevance is determined by the prevalence of smoking among minors, as well as by the insufficient effectiveness of administrative liability measures taken against minors if they have committed an administrative offence – smoking in prohibited places. The research aims to determine the theoretical and legal features of administrative liability and to analyse the measures taken against juvenile offenders. The research aim was achieved by a comprehensive and in-depth analysis of Ukrainian and foreign scientific sources and provisions of current legislation. The author examines the peculiarities of administrative liability of minors for smoking. It is established that, according to the current Ukrainian legislation, administrative liability of minors for smoking may be imposed on persons aged 16-18 years, and the main measure is an administrative penalty (fine) paid by parents. The author provides arguments in favour of lowering the age limit for administrative liability of minors to 13-15 years. The author substantiates the expediency of educational influence on minors through pedagogical and social training aimed at solving the problem of tobacco use among minors. It is noted that such measures will be preventive in nature and will help to reduce the number of cases when minors smoke in prohibited places and will also contribute to solving the problem of smoking among minors in general. It is emphasised

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that the issue raised in this paper is not only legal but also pedagogical, social, and medical in nature. The practical significance of the results obtained is that they identify gaps in Ukrainian legislation and provide recommendations for improving approaches to the administrative liability of minors for smoking and addressing the problem of smoking among minors

Keywords: administrative penalty; administrative offence; fine; educational measures; preventive and punitive actions

Introduction

The current state of Ukrainian society is characterised by a crisis that is only getting worse. All the events taking place in Ukraine, both social, economic, and political, have a significant impact on the behaviour of citizens, causing certain disruptions in their activities. It is instability and uncertainty that in most cases causes an increase in the number of offences among people of all ages. Administrative offences by minors have become more frequent, and they may become involved in more serious violations of the law in the future. As a result, over the years, Ukraine has been developing effective ways for the state and other bodies to respond to administrative offences committed by minors, which are generally defined as administrative liability. One of these phenomena is smoking, namely smoking in places not designated for this purpose, for which underage offenders are held administratively liable.

Smoking among minors in Ukraine is indeed a problem, and trends in recent years have been negative: one in five adolescents aged 13 to 15 smokes daily, and one in two adolescents has tried smoking at least once in their lives. Although the proportion of smokers among minors has been decreasing over the past 20 years, with 86% in 2003 and 50% in 2019 (Balakirieva *et al.*, 2019), smoking among minors is a serious educational and social problem. Given the proportion of adolescents who smoke daily, their smoking often

leads to administrative violations related to smoking in non-designated places (Law of Ukraine No. 2899-IV "On Measures...", 2005). However, the age of administrative responsibility for minors is 16-18 years (Code of Ukraine on Administrative Offences, 1984). Therefore, Ukrainian legislation has several shortcomings related to the imperfect system of punishment of minors for committing administrative offences in the context of smoking, as the age of minors who smoke is 13-18 years. This age group accounts for the majority of minors who smoke and commit administrative offences.

R. Minchenko *et al.* (2021) considered the issue of legal liability as one of the main areas of legal regulation of social relations. N. Bortnyk *et al.* (2019) note that administrative liability is a type of legal liability. The issue of legal liability of minors was considered by O. Soloviova (2022), as well as Yu. Tripak and A. Krakovska (2019). The researchers note that administrative liability is applied to persons aged 16-18 and is mainly educational in nature. The issue of administrative liability of minors for smoking has not been sufficiently studied in Ukrainian scientific sources, but some studies are available in foreign sources. P.A.W. Nuyts *et al.* (2018) examined the issue of administrative liability of minors in the context of smoking bans. R. Abouk and S. Adams (2017) highlighted the prohibition of sales of e-cigarettes to minors as a way to prevent future administrative liability.

In turn, T. Leão *et al.* (2019) explored the issue of insufficient control over adolescent smoking in Portugal and pointed out the shortcomings of Portuguese legislation. Smoking is widespread in other countries, including Australia and New Zealand, and is also associated with e-cigarette smoking, which is becoming increasingly popular among minors (Scully *et al.*, 2023). The experience of foreign scientists shows that state legislation is not always effective in the context of administrative responsibility and smoking cessation (Lidon-Moyano *et al.*, 2018). Accordingly, analysing the research of scientists, it is possible say that today this topic is not sufficiently researched, which requires updating existing works and more detailed development. The purpose of the study is to update the existing theoretical and regulatory features of administrative liability of minors for smoking, and also to establish the effectiveness of the application of measures of administrative liability of minors for smoking at the present stage.

Materials and Methods

A comprehensive analysis of the chosen topic was made possible by a detailed study of existing scientific works by Ukrainians, in particular I. Chaplia (2021), O. Soloviova (2022), and foreign authors, including P.A.W. Nuyts *et al.* (2022), M. Scully *et al.* (2023), and others. In the course of the research, the author studied in detail the modern works of scholars who served as a source of up-to-date information on the issue of administrative liability of minors. Foreign sources served as the basis for obtaining relevant information on underage smoking, measures of influence and health consequences of this harmful habit. The main methods used in the study are formal logical method, formal legal method, method of analysis and synthesis. The formal logical method was used to study in detail the issues of administrative

liability of minors for smoking by identifying the following key components: “legal liability”, “administrative liability”, “administrative liability of minors”, and “administrative liability for smoking”. Given the insufficient research on the issue of administrative liability of minors for smoking, the study used the synthesis method, which allowed identifying the most important provisions of the above concepts which served as the basis for establishing the specific features of the concept under study. The method of analysis was used to update the existing scientific research which identifies the main provisions of administrative liability and administrative liability of minors. In addition, this method was useful in analysing the existing approaches to determining the methods of administrative influence applied to minors and which can be applied in the event of an administrative offence related to smoking. The method of analysis was also used in the course of the study of the current Ukrainian legislation on the administrative liability of minors, as well as the current anti-tobacco legislation. The method of synthesis combined with the formal legal method allowed us to identify existing gaps in Ukrainian legislation regarding administrative measures applied to minors for smoking.

An important component of the study was the review of current Ukrainian legislation on administrative liability, as well as anti-tobacco legislation. The study was based primarily on the Code of Ukraine on Administrative Offences (1984). The analysis of the Code allowed us to identify the main provisions of administrative liability of minors, measures of influence that can be applied to them in case of smoking, etc. In addition, the Law of Ukraine “On Measures to Prevent and Reduce the Use of Tobacco Products and Their Harmful Effects on the Health of the Population” (2005) was analysed, which identified the

existing restrictions on smoking in public places, the violation of which is the basis for bringing minors to administrative responsibility. The provisions of the Law of Ukraine “On Amendments to Some Laws of Ukraine Regarding Public Health Protection from the Harmful Effects of Tobacco” (2021) were also studied, which allowed to establishment of updated conditions for administrative liability for smoking, both for adults and minors. The conclusions of the study are based on legal acts (Code of Ukraine on Administrative Offences, 1984) and research by Ukrainian scholars on the administrative liability of minors for smoking.

Results and Discussion

Juvenile delinquency of various kinds is quite widespread in Ukraine. Juveniles with certain deviations in social norms of behaviour, juveniles prone to deviance, those from dysfunctional families, etc. all have a significant tendency to commit illegal acts. Delinquency among children and adolescents is a real social and legal problem not only for Ukraine but also for the whole world, so an important legal issue is to bring minors to justice for illegal actions of various kinds that they have committed, including administrative liability.

In the context of administrative liability research, scholars consider the issue of legal liability. Legal liability is an important element of legal regulation of public relations, which consists of exercising a targeted influence on the behaviour of individuals through certain legal measures. The purpose of such regulation is to protect public relations from any unlawful violations, which are carried out through coercive measures and thus lead to the ordering of public relations (Minchenko *et al.*, 2021). Therefore, legal liability is applied when a person commits a certain non-criminal offence, which results in the application of measures of influence of a different nature to the person.

According to N. Bortnyk *et al.* (2019), administrative liability is the most common type of legal liability. Administrative liability is important in terms of ensuring the stability of public life and enhancing the guarantees of protection of citizens' rights, becoming a significant effective legal means of influencing social relations. In the context of administrative liability of minors, it should be noted that O. Soloviova (2022) defines this concept as “a form of state response to administrative offences committed by persons under the age of majority, expressed in the application of specific administrative penalties to them, provided for by the sanctions of the violated norms, and at the same time as a specific obligation of minors to bear the adverse consequences determined by law associated with the application of these legal measures”. Thus, administrative liability is one of the most effective methods of influencing a minor who has committed an administrative offence, which results in legal measures being applied, depending on the offence committed.

In general, administrative liability is one of the most common types of legal liability used as a state response to an administrative offence committed by a person, which is the application of administrative coercive measures to the offender (Chaplia, 2021). V. Opryshko (Opryshko & Shulzhenko, 2003) notes that administrative liability is the application of an administrative penalty by an authorised body or official to a person who has committed an offence. However, by its very nature, this offence does not entail criminal liability under the applicable law. At the same time, administrative liability is the responsibility for committing an administrative offence. Such liability is a negative reaction of the state to the unlawful behaviour of individuals (and in some cases legal entities), which occurs through the

establishment of appropriate rules, prohibitions, and sanctions against violators adequate to the violation (Mikhrovska, 2023).

The issue of administrative liability was also addressed by I. Hrytsenko (2008). According to the author, administrative liability is a type of legal liability that implies a negative response of the state, represented by its competent authorities, to a certain category of offences, in particular administrative misdemeanours. According to the researcher, the perpetrators of the offence must answer to the competent state authorities for their unlawful actions and be subject to administrative penalties following the established procedure.

According to O. Shchukin (2014), administrative liability is a special type of legal liability. It is also a specific form of adequate state response to

unlawful acts committed by individuals or legal entities. The features used to classify administrative liability are as follows:

- 1) the basis for administrative liability is a certain administrative offence that is not particularly socially dangerous;
- 2) special means of administrative influence - administrative penalties;
- 3) the existence of systems of administrative jurisdiction bodies that can apply penalties and, accordingly, bring offenders to justice;
- 4) a special procedure for the implementation of administrative liability (Levenets, 2012).

Moreover, in addition to the definitions and features of administrative liability, it is necessary to note that in academic circles, its principles are also mentioned (Fig. 1).

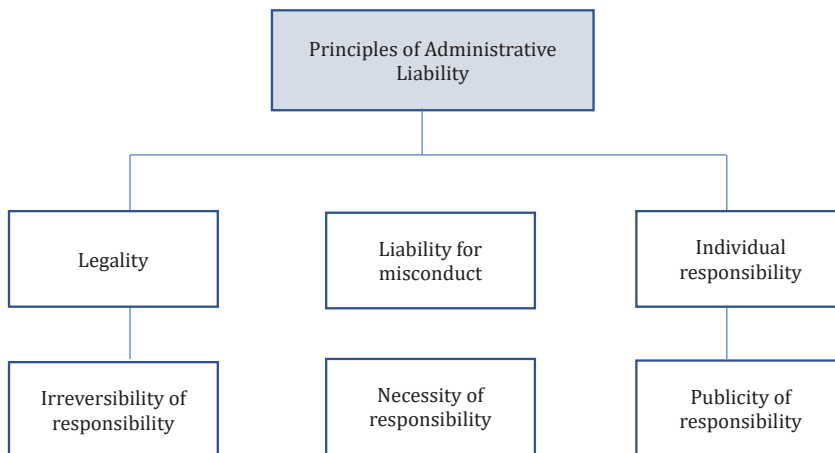


Figure 1. Principles of Administrative Liability

Source: compiled by the author based on the Code of Ukraine on Administrative Offenses (1984)

According to some sources, administrative liability of minors is a measure aimed at administrative penalties imposed by a court, as well as certain types of educational influence used in the context of administrative offences committed by minors (Kovalchuk, 2003; Chernetskyi, 2008). It

can be concluded that administrative liability of minors is a system of administrative penalties and special measures of influence applied to minors aged 16 to 18 years in case of committing an administrative offence. The purpose of the application is to punish the offence, prevent new offences

and educate a person in the spirit of legality and intolerance of unlawful behaviour. It is from the age of 16 that a citizen in Ukraine can be held liable for administrative or criminal offences, even though a person is considered a minor from the age of 14 (Soloviova, 2022).

Administrative liability concerning minors has certain peculiarities, which are specified in the regulations and current legislation. First of all, they are related to the age of minors at which they can be held liable, as well as to the measures that can be used in a particular case. In general, the features and signs of administrative liability of minors, according to O. Rieznik (2019), are as follows:

1) the age of administrative liability is 16 years. This practice is acceptable under Ukrainian law, but a person is considered a minor from the age of 14. All of this means that from the age of 14, a person may be punished with a certain type of administrative liability for committing an offence, but, according to the law, he or she cannot bear this punishment on his or her own. Although the number of offences committed by persons aged 14 and over is increasing every year, the age of administrative liability has not yet been changed;

2) predominance of the educational nature of administrative liability. Administrative liability is the liability for minor offences that do not pose a particular threat or harm to society. Therefore, in the case of an administrative offence, certain areas of educational influence are mainly applied to a minor: an obligation to apologise to the victim publicly or otherwise; a warning; a reprimand or a severe reprimand; placing the minor under the supervision of parents or persons in loco parentis, or under the supervision of a teaching or labour collective with their consent, as well as to individuals at their request. These measures are preventive in nature and are not aimed at directly

punishing the minor who committed the administrative offence, but at re-educating him or her and forming an appropriate attitude to such offences, which is preventive and allows for the prevention of such actions.

The use of educational influence is fully justified, as an administrative offence is often a precursor to more serious crimes committed by minors. At the same time, it is possible to develop a sense of administrative responsibility in a minor, which will have a positive impact on his or her upbringing.

3) in the case of administrative liability of minors, severe methods of deprivation or restriction of freedom and rights are not applied, unlike to persons who have already reached the age of 18. For example, administrative arrest is not applied to minors. Such rules are in line with international norms that prohibit or minimise the isolation of minors, i.e., the temporary restriction of their freedom and rights in case of violation of the law;

4) in certain cases, minors may be punished for committing an administrative offence on the general grounds specified in the current legislation;

5) administrative liability is judicial in nature, and cases can be heard only at the place of residence of the minor who committed the offence;

6) in some cases, parents/guardians are also responsible for the commission of the offence, in which case a fine is imposed and paid by them;

7) if the offender is unable to defend the rights in the case of an offence due to physical and/or mental disability, parents/guardians may participate in the representation of the offender's interests;

8) in case of detention of a minor for committing an administrative offence, it is mandatory to notify parents/guardians. However, in general, the detention of such a person in the absence of a representative is not acceptable in law;

9) administrative penalties cannot be used as a substitute for criminal liability, so a minor aged 16 to 18 should be punished accordingly for committing serious crimes.

Table 1 shows the sanctions applied to minors aged 16 to 18 who have committed administrative offences under Article 24-1 of the Code of Administrative Offences (1984).

Table 1. Measures of influence used in the context of administrative liability of minors

Measures of influence applied to minors	Measure peculiarities
An obligation to publicly or otherwise apologise to the victim	The least severe measure of influence. It is applied if the minor has acknowledged the unlawfulness of the behaviour, and its social harm and repented. In this case, the publicity of the apology implies that it is made in the presence of other persons, and not in personal communication with the victim. It can be applied if the smoking of a minor caused direct harm to another person who witnessed this action.
Warn	It is a more severe measure. It is an oral announcement by an administrative jurisdiction body of an official conviction on behalf of the state of a minor offender and his or her behaviour, which was manifested in the commission of an administrative offence that does not pose a significant public danger. However, given the lack of punitive and preventive impact, the effectiveness of this measure is not sufficient in terms of preventing smoking and smoking in public places.
Reprimand or severe reprimand	Measures of moral and psychological influence are applied in case of systematic failure by minors to comply with the established rules of conduct and commit offences that indicate the formation of anti-social attitudes. This type of penalty is the most severe, in which case the state severely condemns the actions of the minor who committed the administrative offence.
Placement of a minor under the supervision of parents or persons in loco parentis, or the supervision of a teaching or labour collective with their consent, as well as to individuals at their request	Responsibility for a minor is assumed by persons who exercise a certain educational influence. The effectiveness of this measure of influence depends on the relationship of the juvenile offender with these persons, their influence in these relationships, etc.

Source: compiled by the author based on the Code of Ukraine on Administrative Offences (1984)

Measures of influence on minors have the following characteristics: a) the main purpose of the application is education (correction) of the offender; 6) the ground is committing an administrative offence; c) they are applied only to a person with legal capacity; d) a common procedural procedure for application (established by administrative jurisdiction bodies in the procedure for proceedings on administrative offences) (Prodaievych, 2006). These measures should cover all available ways of influencing the

offender in the person of a minor: educational, punitive, restorative, compensatory, preventive, and warning (Kryzhanovska, 2016).

For committing administrative offences, including smoking in an inappropriate place, minors may be subject to the following penalties: an obligation to compensate for the damage caused; imposition of a fine on a minor who works independently; placement of a minor in a special medical and educational institution, except for a dispensary for drug addicts; placement of a minor

in a special educational institution in case of committing socially dangerous acts or malicious and systematic violation of the rules of social behaviour (She The application of these measures depends on the nature of the offence committed by the minor. For administrative offences, including smoking in non-designated places, measures that are a type of administrative penalty are often

applied. In general, administrative penalties are a measure of responsibility applied to educate a person who has committed an administrative offence, as well as to prevent the commission of new offences by the offender and other persons (Code of Ukraine on Administrative Offences, 1984). The types of administrative penalties that can be imposed on minors are shown in Figure 2.

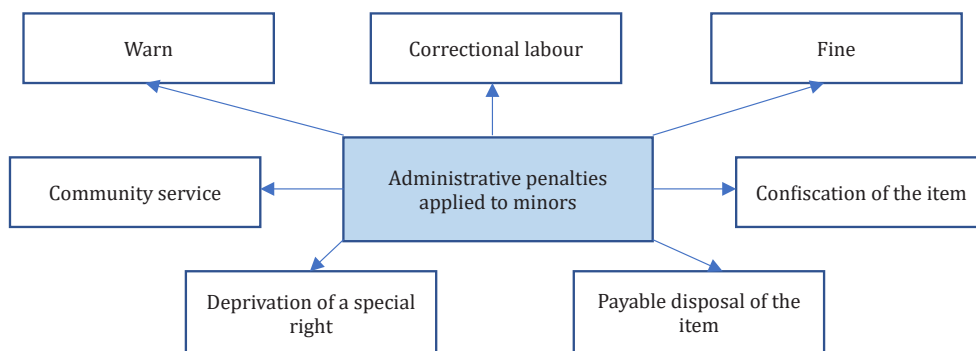


Figure 2. Administrative penalties applied to minors

Source: compiled by the author based on the Code of Ukraine on Administrative Offences (1984)

These measures, like others provided for in the case of administrative liability, are also educational in nature, as they are aimed at correcting and educating the person who committed the administrative offence. Their use is also appropriate when minors commit smoking-related offences. In the context of adults and minors, administrative penalties may be different: an adult will have the status of a person who has been held administratively liable within a year, but the application of penalties to minors does not generate such legal consequences. In addition, the researchers believe that the measures of educational influence applied to minors do not have the form of administrative penalties. Instead, these measures are preventive and educational in nature, serve as a substitute for administrative penalties and make

it possible to prevent future commission of more serious offences. In addition, these measures provide an opportunity to promote the formation of high moral qualities and strengthen the educational impact on the immediate environment (Zahumennyk, 2008).

Administrative liability of minors for smoking can be applied only in certain cases, the main one being smoking in places prohibited for this purpose. According to Article 13 (2) of the Law of Ukraine "On Measures to Prevent and Reduce the Use of Tobacco Products and Their Harmful Effects on the Health of the Population" (2005), the smoking ban applies to the following places: elevators and payphones; premises and territories of healthcare facilities; playgrounds; premises and territories of sports and fitness facilities, etc.

Accordingly, smoking is prohibited in many public places, and if minors commit an administrative offence in the context of smoking, they should be held administratively liable. In addition, it should be noted that smoking is prohibited in the premises of enterprises, institutions, and organisations of all forms of ownership; in hotels and other places of residence; in dormitories, airport stations, etc. Smoking in such places is permitted if there are specially designated smoking areas.

Accordingly, smoking by adolescents in such places may result in administrative liability. In this case, administrative liability will take the form of an administrative penalty (fine). The amount of the fine is set depending on the offence committed: if it is committed for the first time, the fine will be 1000 UAH, for a repeated offence, a fine of 10000 UAH will be imposed. In addition, according to Article 175 of the Code of Ukraine on Administrative Offences (1984), the fine for smoking in a non-designated place (committed for the first time) should be in the amount of three to ten tax-free minimum income. If the offence is committed repeatedly, the fine should be in the amount of ten to twenty tax-free minimum incomes.

According to the updated anti-tobacco legislation (Law of Ukraine "On Amendments to Some Laws of Ukraine Regarding Public Health Protection from the Harmful Effects of Tobacco", 2021), administrative liability for smoking applies not only to tobacco products in the form of cigarettes but also to the following: e-cigarettes; smokeless tobacco products (sticks for IQOS or glo); hookahs; herbal smoking products. In addition, administrative liability should be imposed in case of smoking tobacco and herbal products in any public place. Minors who have committed such offences should be held administratively liable on a general basis, but Ukrainian legislation does not specify that these measures can be applied specifically to minors.

Scientific research that focuses on the issue of administrative liability for smoking does not specify the grounds for bringing an underage person to administrative responsibility. However, part 2 of Article 307 of the Code of Ukraine on Administrative Offences (1984) states that if a minor aged sixteen to eighteen who has committed an administrative offence has no official income, the fine should be collected from the parents or persons in loco parentis. Thus, if a minor offender has no official income, the fine should be paid by the parents, which, in turn, makes it impossible for the minor to bear full responsibility from a moral point of view since he or she will not feel fully guilty.

The age of administrative responsibility for minors, including for smoking, is 16-18 years. Given that adolescents start smoking at the age of 13-15, the age of administrative responsibility should be changed. This will make it possible not only to punish minors for committing an administrative offence but also to use educational influence. Underage smoking is not only a legal issue, but also a pedagogical and social problem, so there is a need to apply educational measures first and foremost. However, O. Chernetskyi (2008) notes that the measures of educational influence applied to minors are insufficient, so there is a need to change them to other, more effective ones:

- 1) disclosure of information about an administrative offence committed by a minor for external condemnation of his/her illegal activity by the society. As a result, the minor will be under moral pressure from society, which will help to avoid committing an administrative offence in the future;

- 2) limiting the leisure activities of minors and establishing certain requirements and prohibitions on their behaviour, such as visiting entertainment venues, participating in certain

types of leisure activities, including driving a motor vehicle, limiting their stay outside the place of residence during certain times of the day, travelling to other settlements without the permission of a special state body, and the obligation to report for registration to the responsible law enforcement officers. In this case, the restriction of the minor's actions will also become part of the psychological pressure that will influence the minor and be used as a preventive and punitive measure.

3) the obligation to attend law enforcement training programmes, which are regulated. Such training programmes are aimed at forming the legal culture of the juvenile offender, which is intended to prevent the commission of offences of this nature in the future.

Such measures consist of preventive and punitive actions, i.e., in the case of systematic commission of administrative offences by a minor, it is possible to fully prevent more serious measures – not only through educational influence but also by restricting their activities and leisure time. Nevertheless, educational measures in the case of underage smoking are quite effective. Their advantages are that adolescents not only receive information about the unlawful nature of their actions but also change their attitude to smoking as a phenomenon that is harmful not only to society but also, above all, to their health. Special anti-smoking programmes developed by medical professionals can be preventive measures to prevent smoking among minors (Ilchenko & Fialkovska, 2018). In addition, it is necessary to use elements of medical care to help treat nicotine dependence in minors. However, such measures cannot be compulsory and should be used only as recommendations (Chapliak *et al.*, 2018).

One of the possible ways to improve administrative liability of minors for smoking is not only

to introduce changes in the process of applying administrative penalties (fines) but also to make educational measures mandatory in the form of attending special trainings and groups where specialists in the field of psychology and social work will influence the tobacco addiction of minors. Such measures should be included in the list of measures to be applied in case of administrative liability of minors for smoking.

It should be noted that the results obtained in this study prove the insufficient effectiveness of Ukrainian legislation in terms of administrative measures applied to minors as a result of smoking. Domestic researchers do not consider the issue of administrative liability for minors in this case. However, paying attention to the available research that addresses the issue of administrative liability of minors in general, the following can be determined:

✓ The age of administrative responsibility under Ukrainian law is 16-18 years. However, a large proportion of minors smoke at the age of 13-15, so there is a need to amend Ukrainian legislation to reduce the age of administrative responsibility. This opinion is shared by O. Soloviova (2022), who emphasises the need to reduce the age of administrative responsibility to 14 years. Such changes will have a positive impact on reducing smoking and reducing the number of administrative offences committed by minors as a result of their smoking. In this case, it is necessary to agree with O. Riezniak (2019), who notes that it is necessary to pay attention not only to the age of the offender but also to the nature of the administrative offence committed;

✓ Legislation and research do not define measures that are applied in case of administrative liability for smoking to minors. Thus, there is no clear definition of measures in case of which general measures of influence provided for by the

Code of Ukraine on Administrative Offences are applied for the commission of such an administrative offence. In this case, there is a need to create a system of measures that can be used in case of administrative liability of minors for smoking. These measures should be primarily educational in nature, and it is important to involve teachers and psychologists who will work with minors in groups and individually, thus forming a proper attitude towards smoking, administrative offences and lifestyle in general;

✓ Smoking is not a serious administrative offence, so minors cannot be subjected to harsh administrative measures that will have the opposite effect, thus leading to personal injury and in no way affecting the further commission of an administrative offence.

Thus, this and previous studies are important for identifying the shortcomings of Ukrainian legislation and providing recommendations for improving approaches to imposing administrative liability on minors for smoking.

Conclusions

Considering the aforesaid, the following conclusions can be drawn. Administrative liability of minors for smoking applies to minors aged 16-18 who have committed an administrative offence, in particular, smoking in public places not designated for this purpose. In this case, minors are subject to measures of influence determined considering the specifics of the administrative offence committed by them. It is determined that, given the prevalence of smoking among minors, the age of administrative liability should be reduced to 13-15 years, since about 50% of adolescents aged 13-15 have tried smoking and, therefore, may potentially commit such an administrative offence. It was found that there is a need to amend Ukrainian legislation in the

context of lowering the age of administrative responsibility for minors.

Administrative liability measures applied to minors for smoking should be educational in nature. Paying a fine is ineffective, as adolescents do not pay it on their own and, as a result, feel innocent of committing an administrative offence. Alternative measures may include mandatory psychological, educational, and social measures aimed at addressing the problem of smoking among minors and, accordingly, be preventive.

The research objective was fully achieved. The author identifies the existing peculiarities of Ukrainian legislation in the context of administrative liability for smoking, updates the existing scientific research, and points out the need to amend the legal regulation of administrative liability of minors for smoking and changes in the context of administrative measures applied in this case.

The results obtained serve as a basis for further improvement of Ukrainian legislation in the area of administrative liability of minors for smoking. There is a need to reduce the age of administrative liability and increase the educational nature of the administrative liability measures applied, which will reduce the proportion of minors who smoke and reduce the number of cases of violations of the law by minors in the context of smoking. Given the insufficient development of this topic in the scientific community, it is necessary to further develop an effective system of administrative measures to be applied in case of bringing minors to administrative responsibility for smoking.

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None.

Conflict of Interest

None.

References

- [1] Abouk, R., & Adams, S. (2017). Bans on electronic cigarette sales to minors and smoking among high school students. *Journal of Health Economics*, 54, 17-24. doi: [10.1016/j.jhealeco.2017.03.003](https://doi.org/10.1016/j.jhealeco.2017.03.003).
- [2] Balakirieva, O.M., Pavlova, D.M., Nguyen, N.-M.K., Levtsun, O.H., Pyvovarova, N.P., Sakovych, O.T., & Fliarkovska, O.V. (2019). *Smoking, use of alcohol and drugs among adolescents studying: Distribution and trends in Ukraine: According to the results of a 2019 study within the framework of the international project "European survey of students on the use of alcohol and other drugs – ESPAD"*. Kyiv: Obnova Kompani.
- [3] Bortnyk, N., Khoshymyn, I., & Esimov, S. (2019). Administrative responsibility for non-compliance of legal requirements of officials of the authorized departments of the National police. *Journal of Lviv Polytechnic National University. Series: Legal Sciences*, 23, 59-67. doi: [10.23939/law2019.23.059](https://doi.org/10.23939/law2019.23.059).
- [4] Chaplia, I. (2021). [Features of the administrative responsibility of minors](#). In *Legal system of Ukraine under conditions of European integration: A view of a student's youth: The book of abstracts of V international scientific student conference* (pp. 70-73). Ternopil: West Ukrainian National University.
- [5] Chapliak, A.R., Romaniv, O.R., & Nad, V.Ya. (2018). [Problems of prevention of smoking among teenagers](#). *Economy and Legislation of Health Care*, 2, 142-143.
- [6] Chernetskyi, O.L. (2008). [Concept and of feature of the administrative responsibility of minors: Theoretic-legal questions](#). *Forum Prava*, 1, 439-444.
- [7] Code of Ukraine on Administrative Offenses. (1984, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/80731-10#Text>.
- [8] Hrytsenko, I. (2008). Formation of scientific views on the institution of administrative responsibility. *Journal of the National Prosecution Academy of Ukraine*, 1, 45-50.
- [9] Ilchenko, S., & Fialkovska, A. (2018). A personalized approach to the prevention of smoking in adolescents. *ScienceRise: Medical Science*, 21, 35-38. doi: [10.15587/2519-4798.2018.121691](https://doi.org/10.15587/2519-4798.2018.121691).
- [10] Kovalchuk, Yu.I. (2003). Features of the administrative responsibility of minors. *Law of Ukraine*, 6, 111-114.
- [11] Kryzhanovska, V.A. (2016). [Administrative liability in administrative law in Ukraine: Current understanding and new approaches](#) (PhD thesis, Lviv Polytechnic National University of Ministry of Education and Science of Ukraine, Lviv, Ukraine).
- [12] Law of Ukraine No. 1978-IX "On Amendments to Some Laws of Ukraine Regarding Public Health Protection from the Harmful Effects of Tobacco". (2021, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/1978-20#Text>.
- [13] Law of Ukraine No. 2899-IV "On Measures to Prevent and Reduce the Use of Tobacco Products and Their Harmful Effects on the Health of the Population". (2005, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/2899-15#Text>.
- [14] Leão, T., Kunst, A.E., Schreuders, M., Lindfors, P., Kuipers, M.A., Perelman, J., & SILNE-R Group. (2019). Adolescents smoking environment under weak tobacco control: A mixed methods study for Portugal. *Drug and Alcohol Dependence*, 204, article number 107566. doi: [10.1016/j.drugalcdep.2019.107566](https://doi.org/10.1016/j.drugalcdep.2019.107566).

- [15] Levenets, Yu.O. (2012). [Concept of administrative responsibility](#). *Actual Problems of Native Jurisprudence*, 3, 54-62.
- [16] Lidón-Moyano, C., Fu, M., Pérez-Ortuño, R., Ballbè, M., Feliu, A., Martín-Sánchez, J.C., Matilla-Santander, N., Pascual, J.A., Fernández, E., & Martínez-Sánchez, J.M. (2018). Impact of the Spanish smoking legislation among smokers: A longitudinal study with biomarkers in Barcelona (Spain). *Addictive Behaviors*, 87, 101-108. [doi: 10.1016/j.addbeh.2018.06.023](#).
- [17] Mikhrovska, M.S. (2023). Administrative Law: From state administration to human-centeredness. *Analytical and Comparative Jurisprudence*, 2, 240-244. [doi: 10.24144/2788-6018.2023.02.40](#).
- [18] Minchenko, R., Lutsyuk, P., Kamensky, D., Kolodin, A., & Shamota, O. (2021). Civil and criminal liability in the field of transport relations: the impact of the Covid-19 pandemic. *Amazonia Investiga*, 10(40), 212-221. [doi: 10.34069/AI/2021.40.04.21](#).
- [19] Nuyts, P.A.W., Kuijpers, T.G., Willemsen, M.C., & Kunst, A.E. (2022). How can a ban on tobacco sales to minors be effective in changing smoking behaviour among youth? – A realist review. *Preventive Medicine*, 115, 61-67. [doi: 10.1016/j.ypmed.2018.08.013](#).
- [20] Opryshko, V.F., & Shulzhenko, F.P. (Eds.). (2003). *Jurisprudence*. Kyiv: Kyiv National Economic University.
- [21] Prodaievych, V.O. (2006). [Measures of administrative influence applied to minors: The concept and place of the system of measures of administrative coercion](#). *University Scientific Notes*, 2, 195-199.
- [22] Rieznik, O.M. (2019). Features of administrative liability of minors. *Law and Safety*, 73(2), 53-57. [doi: 10.32631/pb.2019.2.08](#).
- [23] Scully, M., Greenhalgh, E., Bain, E., Wakefield, M., Durkin, S., & White, V. (2023). E-cigarette use and other risk factors associated with tobacco smoking susceptibility among Australian adolescents. *Australian and New Zealand Journal of Public Health*, 47(5), article number 100076. [doi: 10.1016/j.anzjph.2023.100076](#).
- [24] Shchukin, O. (2014). [Conceptualization of the notion of administrative responsibility](#). *Scientific Works of National Aviation University. Series: Law Journal "Air and Space Law"*, 3, 73-78.
- [25] Shestak, L. (2021). Problems of legal regulation of application of measures of administrative liability to juveniles. *Scientific Bulletin of the International Humanities University. Series: Jurisprudence*, 50, 18-21. [doi: 10.32841/2307-1745.2021.50.4](#).
- [26] Soloviova, O.M. (2022). Administrative responsibility of minors: Whether changes are necessary. *Juridical Scientific and Electronic Journal*, 12, 316-322. [doi: 10.32782/2524-0374/2022-12/74](#).
- [27] Tripak, Yu.R., & Krakovska, A.Ye. (2019). [Juvenile administrative responsibility](#). *Bulletin of Student Scientific Society*, 11 (Vol. 1), 23-28.
- [28] Zahumennyk, V.I. (2008). Administrative responsibility. Problems and ways to overcome them. *Prosecutor's Office Bulletin*, 2, 70-77.

Адміністративна відповідальність неповнолітніх за куріння

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Анотація

Актуальність роботи зумовлено поширенням куріння серед неповнолітніх, а також недостатня ефективність заходів адміністративної відповідальності, що вживаються стосовно неповнолітніх у разі, якщо вони вчинили адміністративне правопорушення – куріння в заборонених місцях. Мета дослідження – визначити теоретико-правові особливості адміністративної відповідальності та проаналізувати заходи, що вживаються щодо неповнолітніх порушників. Досягнення поставленої мети стало можливим завдяки комплексному та всебічному аналізу українських та закордонних наукових джерел та норм чинного законодавства. Розглянуто особливості адміністративної відповідальності неповнолітніх за куріння. Встановлено, що згідно з нормами українського чинного законодавства, адміністративна відповідальність неповнолітніх за куріння може бути застосована до осіб 16-18 років, а основним заходом виступає адміністративне стягнення (штраф), який сплачують батьки. Надано аргументи на користь зниження вікових меж настання адміністративної відповідальності неповнолітніх до 13-15 років. Обґрунтовано доцільність виховного впливу на неповнолітніх шляхом проведення педагогічних та соціальних тренінгів, спрямованих на вирішення проблеми тютюнопаління серед неповнолітніх. Зазначено, що такі заходи матимуть превентивний характер та допоможуть зменшити кількість випадків, коли неповнолітні курять у недозволенних місцях, а також сприятимуть вирішенню проблеми куріння серед неповнолітніх загалом. Наголошено, що порушене в роботі питання має не лише правовий, але й педагогічний, соціальний та медичний характер. Практичне значення отриманих результатів полягає в тому, що вони виявляють прогалини українського законодавства та надають рекомендації щодо вдосконалення підходів до настання адміністративної відповідальності неповнолітніх за куріння та розв'язання проблеми тютюнокуріння серед неповнолітніх осіб

Ключові слова: адміністративне стягнення; адміністративне правопорушення; штраф; заходи виховного характеру; превентивно-каральні дії
