

# Liability for Violating the Procedure for Airspace Usage by Unmanned Aircraft in Ukraine

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*The article presents a theoretical review and a new solution to the scientific problem of determining the nature and characteristics of liability for violation of the procedure for the airspace usage by unmanned aircraft, of characterising the concept and elements of liability, which has enabled to prove a number of new scientific provisions and conclusions aimed at improving the legislation establishing legal liability in the field under study. It is noted that, due to adopting a number of legal and regulations, important steps have been taken during the independence of Ukraine to improve the legal situation with regard to the airspace usage by aircraft. However, some substantive issues still remain to be properly addressed in this field nowadays. These are the legislative regulatory mechanism for the use of unmanned aerial vehicles, which makes the study presented relevant. It is noted that the current legislation establishes two key types of legal liability for violation of the use of airspace by unmanned aerial vehicles, in particular: criminal and administrative. However, it was emphasized that it is also expedient to distinguish a separate type of liability – disciplinary, which applies to persons who use unmanned aircraft in the performance of their labor (official) function.*

*Keywords: atmosphere, airspace, aircraft, aerial vehicle, unmanned aerial vehicles, liability, legal liability, legal regulatory framework, aviation activities.*

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## Introduction

The real challenges and the active digitalisation in society generate new problems at both the legislative and theoretical levels. For example, the need to improve the legal framework for the use of unmanned aerial vehicles, which are now used not only for entertainment and sports activities but also by different branches of business, for law enforcement, defense and national security, has recently been increasingly raised in academic circles and State authorities. However, despite the considerable attention of scientists, many issues, related to the airspace usage by unmanned aerial vehicles in general and legal liability for violations of the law in this field in particular, are of concern today.

The issues of the legal regulatory framework for airspace usage at the beginning of the 20<sup>th</sup> century were hardly violated and were exclusively theoretical (Moskalenko, 2017: 96; Kozlovsky & Boyarskaya, 2009). Although it should be noted that the desire to conquer the air has been shown by man since ancient times when they dreamed of flight, then fairy tales about “carpet-aircraft” appeared and later became a reality. It is no coincidence that legends such as the Daedalus and Icarus have appeared, where man has risen to clouds on man-made wings. In Kyiv Rus, the first chronicles of people’s desire and attempts to take over the airspace are connected to the Nestor-Chronicler, but they were more a fiction and an unfulfilled dream at the time (Bagan, 2018).

The gradual scientific and technological progress of mankind has led to the development of the transport sector. The legal regulatory framework for aviation took place together with scientific research in various sectors of public life and the economic development of States and society. On 5 June 1783, brothers Joseph and Etienne Montgolfier launched the first public flight of a hot-air balloon, which they had long worked on. In November 1782, in the French town of Annonay, brothers Joseph and Étienne Montgolfier, for the first time, made a silk balloon of one-cubic-meter capacity. This is the beginning of the development of the aviation industry and the need for its legal and administrative framework. However, there was no legal regulatory framework for airspace usage and flights at that time, as this had not been required yet. Over time, vehicle traffic in the air grew due to stronger inter-State connections (Moskalenko, 2017: 96).

However, on 23 April 1784, France imposed a ban on flights over the city without permission in France. In other words, it can be considered that the legal regulatory framework for aviation security began from that time. In 1889, in Paris, the International Aeronautical Congress considered the ownership of balloons, the liability of aeronauts, the ownership of balloons, and the rescue of balloons and their crews. In 1900, the French jurist P. Foshil proposed a code of international air navigation. In 1902, at the University of Brussels at a scientific conference, the category “air law” was first used (Todorov et al., 2005: 308, 320; Moskalenko, 2017: 96; Lopatynska et al., 2020).

In view of the rapid development of aviation and the airspace usage by States for civilian and military purposes, the problem of the legal regulatory framework for relations on the use of that space has become a topical issue of practice. In view of this, the issue of the sovereignty of the state over its airspace arose. Consequently, an important provision in the doctrine and jurisprudence of air law was the recognition and consolidation of the full and exclusive sovereignty of a State over its airspace (Todorov et al., 2005: 334-337; Kozlovsky & Boyarskaya, 2009).

It should be noted that the problem of optimizing the legal basis of liability for violations of the procedure for the airspace usage by unmanned aerial vehicles has not been the subject of a separate comprehensive scientific study. Only in a fragmentary way did the study of the more general issues of airspace usage address certain aspects of the subject matter.

Therefore, the absence of comprehensive monographic studies on the problem and the existence of many gaps and shortcomings in the legislation in force, providing liability for violations of the procedure for the airspace usage by unmanned aerial vehicles, makes the study relevant and timely.

### **The genesis of the legal and regulatory framework for airspace usage by aircraft**

In order to clearly define the potential and appropriate areas for further improvement and development of the legal framework for airspace usage by unmanned aerial vehicles, it is necessary to turn to the study of the historical background of the legal support for airspace usage by aircraft.

The problem of amending current legislation and making new legislation regulating the process of air transport, including international air transport, became acute immediately after the proclamation of State sovereignty of Ukraine. The declaration of freedom of business has resulted in a relatively large number of aircraft operators, most of whom are engaged in air transport. In fact, the State monopoly on this type of activity, which in the USSR was carried out by only one airline Aeroflot, was abolished. Consequently, a regulatory framework for air carriers and other transport stakeholders was required (Bagan, 2018). A number of measures were taken by the Ukrainian authorities to resolve these and other problems regulating airspace usage. In particular, the Air Code of Ukraine (1993 Code) was adopted in 1993 (Air, 1993).

The 1993 Code established that Ukraine has full and exclusive sovereignty over the airspace of Ukraine, which is part of the territory of Ukraine. The airspace of Ukraine is located above the land and water territory of Ukraine, including its territorial waters (territorial sea). According to Article 2 of the 1993 Code, it regulates the activities of users of the airspace of Ukraine with a view to meeting the interests of Ukraine and its citizens and ensuring the safety of aviation. The definition of aviation as an industry was established as follows: all types of enterprises, organizations and institutions activities are aimed at an enabling environment for man to use airspace by means of aircraft. The state, in accordance with the Code, regulates the activities of civil aviation through the central transport authority and the relevant aviation authorities in the following areas: civil aviation development; aviation safety oversight; certification, registration and licensing; management of airspace and air traffic services; provision of search and rescue for aircraft in distress; protection of Ukraine's aviation from acts of unlawful interference in its activities; scientific support for aviation activities and ensuring its safety, both by industry and interindustry scientific and scientific organizations and aviation enterprises; promotion of foreign economic and international legal activities of civil aviation.

In addition, provisions of the 1993 Code established the legal bases for the activities of users of Ukrainian airspace and the economic and commercial activities of aviation, aviation rules, and the legal status of aircraft, aerodromes and airports, the procedure for certifying and admitting air routes, aircraft flights, transportation and aviation work, etc. (Sobakar, 2016: 71).

Section XVI of the 1993 Code separately provided for liability for violations of the legislation governing the airspace usage. Therefore, article 89 provided for that all legal entities

and individuals engaged into the use of Ukrainian airspace, development, manufacture, repair and use of aircraft, economic and commercial activities, the servicing of air traffic, the ensuring of aviation safety of Ukraine, as well as its management and supervision, shall be subject to liability stipulated by the current legislation of Ukraine (Air, 1993). However, this law has not specified the types of liability, nature, and scope of sanctions. It should be noted that the 1993 Code made no mention of unmanned aerial vehicles, their status, and their use. Although the 1944 Chicago Convention, which had already contained a reference to unmanned aerial vehicles, as noted above, was ratified by Ukraine in 1992.

Subsequently, Ukraine adopted a number of other legal and regulatory instruments of different legal forces, in one way or another relating to the airspace usage by aircraft and aviation security. Over the years, however, the updating of the Air Code has become increasingly urgent. Since 1993, Ukraine has already become a member of the European Civil Aviation Conference (ECAC) and the European Organization for the Safety of Air Navigation (Eurocontrol), a candidate for the JAA membership, which, accordingly, requires amendments to Ukraine's aviation legislation. Nevertheless, the Code, in force at that time, from the very beginning has contained and still contains the concepts of Soviet air law and does not focus on the requirements of international law, even after it has been supplemented and amended. Five amendments to the current Air Code have been made during the entire period (Kozlovsky & Boyarskaya, 2009).

That is why, in May 2011, the Verkhovna Rada adopted the new Air Code of Ukraine (2011), which entered into force in September of the same year. The new Code adopted an updated approach to resolving a number of issues in the airspace usage (Kosse, 2011). The adoption in 2011 of the new Air Code of Ukraine was due to deepening cooperation between our State and foreign countries, primarily European countries, and the need to implement international standards at the national level on the airspace usage by aircraft and the safety of civil aviation. Ukraine should take into account international regulatory requirements in this field, since it is a full member of the International Civil Aviation Organization (ICAO), the European Civil Aviation Conference (ECAC), the European Organization for the Safety of Air Navigation (Eurocontrol) and is a candidate for membership in the Joint Aviation Authority (JAA), part of powers thereof have been transferred to the European Aviation Security Agency (EASA) (Kosse, 2011).

Positive aspects of the 2011 Code are 1) differentiation of government and civil aviation; 2) streamlining of aviation regulatory and supervisory functions and the organization of public administration; 3) the Authorized body for civil aviation, who implements public policy and strategy for the development of aviation in Ukraine, and is responsible for State regulation of civil aviation activities; 4) resolution of issues relating to the financing of general State expenditure on civil aviation; 5) implementation of public policy on licensing; State control of the activities of civil aviation enterprises of all forms of ownership related to the provision of services for the transport of passengers and cargo by air, in accordance with uniform rules and regulations; 6) in contrast to the previous Code of 1993, the new one provides for penalties for offences against entities of aviation in a very specific way rather than superficially. However, the 2011 Code does not guide other types of liability clearly and meaningfully.

It should be noted that the 2011 Code (articles 1, 39) refers to unmanned aerial vehicles, although the Code does not specifically regulate the airspace usage by these vessels.

In order to fully implement international requirements and standards in the sector under study, as well as to eliminate gaps and other shortcomings of the Code, a number of important

legal regulations have been adopted in recent years, such as: Law of Ukraine 1965-VIII “On the State programme of aviation safety of civil aviation” of 21 March 2017; Resolution 954 of the CMU “On approval of the Regulation on the airspace usage of Ukraine” of 6 December 2017; Order 637 of the Ministry of Infrastructure of Ukraine “On approval of the Procedure for imposing and punishing fines for violation of the requirements of the legislation on air transport” of 26 December 2011; Order 430/210 of the State Aviation Service of Ukraine, Ministry of Defence of Ukraine “On approval of the Aviation Rules of Ukraine “Rules of Use of Air Space of Ukraine”” of 11 May 2018, etc. The adoption of these and other legal instruments enable a number of important steps have been taken to improve the legal framework for the airspace usage by aircraft.

However, some substantive issues still remain to be properly addressed in this field today. This applies in particular to the legal regulatory framework for the use of unmanned aerial vehicles, which makes the study relevant. In general, it should be noted that, during the years of independence, Ukraine has taken many positive and useful steps towards the formation and development of national legislation on the airspace usage by aircraft. Despite the rather slow pace of change and transformation, as well as some problems in this field, generally, our state is on the right track. Comprehensive and informative theoretical studies on problematic issues of the legal regulatory framework for the airspace usage by aircraft should make the process of improving and developing legislation in this field more constructive and qualitative.

### **The concept, types of and grounds for liability for violations of the procedure for the airspace usage by unmanned aerial vehicles**

The airspace usage, especially by unmanned aerial vehicles, requires the legislator to take a specific approach to establish liability for violations in current legislation in this field. In general, responsibility is a category of ethics and law that reflects the special social, moral and legal development of the individual towards society (humanity as a whole). It is characterised by the fulfilment of moral duty and legal norms.

Liability covers the philosophical and sociological issue of the relationship between a person’s abilities and capabilities to act (as author) and more specific issues: the capacity of a person to act consciously, voluntarily fulfil certain requirements and tasks assigned; make the right moral choice, achieve a certain result (Bodnarchuk, 2016).

Therefore, it would be fair to suggest that the category of “liability” is multifaceted, which determines its use in a large number of fields of scientific knowledge, in particular:

1. In ethics, liability is a certainty, reliability, honesty towards oneself and others; it is awareness and willingness to admit that the result you obtain in your deeds and actions is the consequence of your deeds (actions) (Lukasheva, 1986: 683). As an ethical category, liability has several meanings: what a person is responsible for and to whom he/she is accountable. In this aspect, it is possible to highlight the responsibility of a person to oneself (making a choice “choose oneself” and bear the responsibility), responsibility for concrete deeds to other people, responsibility to mankind and the world (responsible for all). To be responsible is to think about others and the consequences of your deeds – whether they do harm to others (Baranova, 2015).
2. In sociology, liability is the responsibility of the individual (expressing the objectively necessary relationship between oneself and the community) to assess

one's intentions and to conduct himself or herself in accordance with standards reflecting the interests of social development and, in the event of their violation, (acts of irresponsibility) must be reported to the public and subject to public condemnation (measures of public coercion) or punishment (measures of State coercion) for anti-social conduct (Lipinsky & Khachaturov, 2007: 20; Podorozhnyi, 2016).

3. In psychology, liability refers to the various forms of control exercised by a person over its activities in terms of compliance with the rules and regulations adopted (Karpukhin, 2001).
4. In philosophy, liability is a social and philosophical concept that reflects the objective-historical nature of the relationship between the individual and society, the individual and the social group formed in the course of satisfying mutual demands.

As a rule, according to the field of activity, liability is grouped into political, legal (juridical), moral, and depending on the actor, – individual, group, collective, etc. Liability is made due to those demands, society, the social group, the collective set. Absorbed by the individual, they become the basis of the motivation of one's behaviour. The formation of the personality implies a sense of responsibility, which becomes its main feature. Of particular importance is responsibility for certain activities in transitional societies that are in a state of maximum volatility, where the slightest fluctuations (in this case, they may be the actions of one individual) may lead to undesirable social bifurcations (Danilyan & Taranenko, 2003).

The study by F. Hyder is of interest, because he, as a criterion of responsibility, accepts the ability to withstand provocative circumstances, differentiates the direct consequences of action from unintentional but supposed. He identifies the following stages of liability: generalized liability, where the individual is responsible for any consequences of such acts in which he or she participated or in which he or she was involved in any way; own liability, where the individual is responsible only for what he has done directly, regardless of the result (incidental, intentional or presumptive); differentiated liability, where the actor is responsible for any intended result of the action, whether or not it has been intentional; conscious liability where the individual is responsible not only for his or her intentions and the consequences of their realization, but also for the importance that he or she attaches to external factors which, as a result, affect the result of the action in one way or another; full liability in which the individual is fully responsible for the course, results and consequences of the act, whatever the circumstances of the act (Savchin, 1997: 346; Patynok, 2012).

Therefore, we can state that liability is a broad and wide-ranging scientific category that is used in virtually every sector of public life and, in its most general form, represents a special relationship between the individual and the performance of his or her duties, as well as being responsible for his or her actions. It is fair to say that the concept of liability has been most explored from the legal perspective, which has given rise to a considerable number of approaches to its interpretation.

Consequently, the review of scientific positions reveals that legal liability for violating the procedure for the airspace usage by unmanned aerial vehicles is a measure of State coercion, which is applicable to the person for violation of legal regulations in the airspace usage. For the offender, legal liability means applying negative sanctions against him or her aimed at condemning his or her misconduct. It should be noted that current legislation provides two key types of legal liability for violations of the procedure for the airspace usage by unmanned

aerial vehicles, including criminal and administrative liability. However, it is emphasized that it is also appropriate to distinguish a separate liability – disciplinary – that applies to persons using drones in the exercise of their work (official) function.

The specificity of liability for violations of the airspace usage by unmanned aerial vehicles is as follows (Boldyreva, 2019):

1. It is characterized by a special subject of liability and by the range of public authorities empowered to prosecute.
2. The commission of an offence precedes the incurring of liability, which in turn has a specific structure, namely the object, the subject, the objective and the subjective sides.
3. It is aimed at punishing the guilty persons, which means that it is only retrospective.

The study of liability for violations of the procedure for the airspace usage by unmanned aerial vehicles requires to focus on the grounds and conditions for such liability. In fact, liability in a purely legal, that is, retrospective (negative) aspect, arises only on clearly defined grounds. In the dictionary literature, the term “ground” is interpreted as:

1. The lower, supporting part of an object, structure; the base.
2. The main thing on which something is based.
3. What explains, justifies the acts, behaviour, etc., of someone (Large, 2005: 572; Dictionary, 200: 332).

Therefore, the ground for liability under consideration is what makes the existence of the concept necessary, what justifies the need and justifies the application of appropriate measures and penalties to individuals.

The sole and factual ground for legal liability is the commission of an offence that constitutes an offence.

The offence is a set of the grounds specified in the law, where a dangerous or harmful act is considered to be a specific offence. Such characteristics are objective and subjective (Kolodii & Oliinyk, 2009). Objective characteristics are an object and an objective aspect, and subjective ones are a subject and subjective aspect.

Therefore, the analysis of the articles of the current Ukrainian Code on Administrative Offences (articles 111 and 112) and the Criminal Code of Ukraine (articles 281 and 282) enables to distinguish public relations with regard to air safety as an object of unlawful encroachment (Scientific, 2017: 152-155; Criminal, 2001). Air flight safety, according to the AC of Ukraine, is a state in which the risk of damage or harm is limited to an acceptable level (Air, 2011). Flight safety is further developed in the Instruction on the Procedure for monitoring the financial and economic viability of operators’ compliance with aviation safety rules and regulations (On Approval, 2005). However, an examination of the Content of the Regulations on the use of Ukrainian airspace reveals that violations in this field infringe not only on relations on ensuring the safety of flight and protecting the life and health of citizens, but also on relations on State border protection, ensuring national and economic security. Consequently, we believe that the object of offences in the airspace usage by unmanned aerial vehicles is public relations to ensure the proper (legal and safe) use of airspace by unmanned aerial vehicles. With regard to these relations, established requirements are being implemented for the organization of the use of Ukrainian airspace in the interests of national security and the economy in order to meet the needs of airspace users, ensuring the safety of the airspace usage (On Approval, 2017). Therefore, the danger of the disruption of these social relations is that it

increases the risks of harm to life, health, property, other rights and legitimate interests, as well as to the rights and interests of the state and society in general.

One of the objective aspect features of violations of the procedure for the airspace usage by unmanned aerial vehicles is that the acts (omissions) constituting the content of the offence are provided for both in the UCoAO and in the by-law, namely in Resolution 954 of CMU “On approval of the Regulation on use of air space of Ukraine” of 6 December 2017. Therefore, according to article 111 of the Code, violations may take the form of (Code, 1984):

1. The placement in the aerodrome area of any signs and devices similar to the identification signs and devices adopted for the identification of aerodromes, or the burning of pyrotechnic articles without the permission of the airport or aerodrome administration, or the establishment of facilities, contributing to a massive gathering of birds hazardous to flights of aircraft.
2. Failure to comply with the rules on the placement of night and day identification signs or devices on buildings and structures.
3. Damage to aerodrome equipment, aerodrome sign, aircraft and their equipment.
4. Pass or drive through the territory of airports (other than air terminals), aerodromes, radio and light facilities without proper authorization.
5. Flights in violation of aviation regulations.

Of particular interest to us is the latter, that is, flights in violation of aviation regulations. Obviously, this legal provision is blanket, meaning that it does not refer to specific manifestations of such violations, which leads to recourse to other legal regulations. Therefore, in accordance with Article 127 of the AC of Ukraine and Part 46 of Resolution 954 of the CMU “On approval of the Regulation on the airspace usage of Ukraine” of 6 December 2017, violations of the procedure for the airspace usage of Ukraine include (Air, 2011; On Approval, 2017):

1. The airspace usage without application, authorization and/or conditions for its use, except as provided for in this Regulation.
2. Non-compliance with the conditions for the use of Ukrainian airspace or with the flight plan (deviation from the route, the specified level of flight, take-off or landing of an aircraft from an unplanned (on an unplanned) or closed aerodrome, a permanent aerodrome/heliport, etc.) without the authorization or coordination of the air traffic service (air traffic control) authority, except in the case of an accident.
3. The flight of the group of aircraft exceeding the number specified in the application.
4. Violation of requirements concerning the procedure for crossing the State border and a flight in a zone with a special regime for the use of Ukrainian airspace.
5. The flight of an aircraft in the prohibited zone or restricted-flight zones and in the temporarily reserved airspace of Ukraine during their use without authorization.
6. The flight of an aircraft which does not respond to a request from a State radar recognition system other than an aircraft, where State recognition radar equipment is not available, or which returns with defective State recognition radar equipment from aerodromes, landing sites/heliports, where repair of such equipment is not possible.
7. Failure to comply with the requirements to inform the monitoring bodies of compliance with the procedure for the use of Ukrainian airspace concerning flights and other activities involving the use of Ukrainian airspace.

It should be noted that some of these acts are not considered offences if flights are performed using unmanned aircraft up to 20 kg inclusive. In particular, flights of such types of unmanned aircraft are carried out: without submitting applications for the airspace use, without obtaining permits for the airspace use, without informing the Air Forces of the Armed Forces of Ukraine, the Integrated Civil-Military ATM System (ICMS) and the State Border Service of Ukraine, air traffic services and air traffic control. However, the following conditions should be met:

- a) Flights are performed without crossing of the state border of Ukraine;
- b) Flights are performed outside the established airspace use prohibitions and restrictions, except as provided for in the Regulation on airspace use;
- c) Flights are performed neither closer than 5 km from the external boundaries of runways of aerodromes, nor closer than 3 km from the external boundaries of the runway of landing sites/heliport unless agreed with the operator of landing sites/heliport operator;
- d) Flights are performed not closer than 500 meters from manned aircraft;
- e) Flights not performed over: (1) assemblies of people at open-air and tight city construction; (2) the objects (zones) defined by the Ministry of Defence of Ukraine, the Ministry of Infrastructure of Ukraine, the Ministry of Internal Affairs of Ukraine, the State Border Guard Service of Ukraine, the Security Service of Ukraine, the National Police of Ukraine, the National Guard of Ukraine, the State Fiscal Service of Ukraine, the Foreign Intelligence Service of Ukraine, the State Protection Department of Ukraine, other military formations and law-enforcement structures formed in accordance with the laws of Ukraine and in respect of which protection / State protection is carried out (subject to the indication of the territory surrounding these objects with information signs of prohibition on unmanned aircraft flight and/or by announcing the limits of such prohibition), except for flights authorized by the above-mentioned authorities;
- f) Flights are performed within visual line of sight (VLOS);
- g) Maximum fly altitude: (1) 120 m above the ground (water) surface outside CTR, AFIZ, ATCA, ATCZ, specially designated zones and routes, other specially reserved portions of airspace of State aviation; (2) 50 m above the ground (water) surface within the limits of CTR, AFIZ, ATCA, ATCZ, specially established zones, reserved airspace to provide flights on specially designated State flight routes or if the information on the actual status of elements of the airspace structure at the time of flight is not available; 50 m above terrestrial (water) surface within the limits of CTR, AFIZ, ATCA, ATCZ, specially designated zones, other reserved portions of airspace, if there is no information on the actual status of elements of the airspace structure where flight is planned; (3) 50 m above static obstacles at a horizontal distance of not more than 100 m from obstacles such as a deviation from the above-mentioned height limitations, at the request of the owner of such object;
- h) The operating speed of unmanned aircraft is not more than 160 km/h.

In other cases, unmanned aircraft weighing below 20 kg inclusive and all operations of unmanned aircraft weighing more than 20 kg without exception, are performed within specially defined zones and routes complying with the requirements for submitting applications for airspace usage, obtaining permits and condition of airspace usage, informing the appropriate

units of Air Forces of the Armed Forces of Ukraine, the units of the State Border Guard Service of Ukraine, the ICMS units, the ATS units (On Approval, 2018).

Therefore, violations of the Regulations governing the airspace usage by unmanned aerial vehicles can take the form of active actions in violation of the regulations, prohibitions in this field and passive forms, i.e., omission of actions required by law with regard to the legality and safety of the use of unmanned aerial vehicles in the airspace of Ukraine.

It should also be noted that the offences under study are composed technically. That is, harmful consequences are not a necessary element of their objective aspect, only the fact that a person has committed action (acts, omissions) is sufficient in violation of legal requirements.

The offender is a criminal individual or legal entity that has committed offences in the airspace usage by unmanned aerial vehicles. It should be noted that under the legislation in force, only financial sanctions may be applied to legal entities, as is clear from article 127 of the Air Code of Ukraine. However, administrative and criminal liability is imposed on individuals, including officials, for violations being investigated.

The entities, liable for offences committed in the field under study, are airspace users, such as the directors of aircraft enterprises, organizations, owners or external pilots of unmanned aircraft, other persons planning or carrying out aviation activities to use unmanned aerial vehicles (Code, 1984).

Next, the subjective aspect of the offence implies the offender's mental attitude to the acts (omissions) committed and their consequences. That is, the subjective elements of the offence are the guilt, motive and purpose of the offence. In addition, the guilt is a constitutive (attributive) element of the subjective aspect of the offence, and its main forms are intent and negligence, manifested in the committed offence (Administrative, 2004: 433). An administrative offence shall be admitted intentional when the person who has committed it has been aware of the unlawful nature of his/her act or omission, provided for its harmful consequences and desired or knowingly allowed these consequences to occur (Code, 1984). Accordingly, an administrative offence shall be admitted negligent when the person who has committed it contemplated possible harmful consequences of his/her act or omission, but recklessly counted on their averting or has not foreseen the possibility of such consequences, although he/she should and could have provided for them (Code, 1984).

Therefore, the current state of affairs in the legal regulatory mechanism for liability for violations of the airspace of unmanned aerial vehicles requires improvement in a number of aspects, such as clarification of the requirements for the object and the subject of the offences in this field; settlement of the ways in which offences are committed and their harmful consequences; expansion of the range of administrative penalties for such offences, etc.

## **Conclusions**

Therefore, liability for violations of the rules governing the airspace usage by unmanned aerial vehicles requires a specific approach to making the legal regulatory framework for the matter. An efficient legal regulatory framework for the sector determines compliance with key principles of liability such as legality, the rule of law, expediency, justice, etc. Undoubtedly, this is an important guarantee of respect for the rights and freedoms of both the offender in question and the person authorized to prosecute the offender.

It is proved that legal liability for violating the procedure for the airspace usage by unmanned aerial vehicles is a measure of State coercion, which is applicable to the person

for violation of legal regulations in the airspace usage. For the offender, legal liability means applying negative sanctions against him or her aimed at condemning his or her misconduct. It is noted that current legislation provides two key types of legal liability for violations of the procedure for the airspace usage by unmanned aerial vehicles, including criminal and administrative liability. It is emphasised, however, that it is also appropriate to distinguish a separate liability – disciplinary – that applies to persons using drones in the exercise of their work (official) function.

With a view to improving legislation, which establishes the legal principles of liability for violations of the procedure for the airspace usage by unmanned aerial vehicles, it is proposed: 1) to define conceptual principles for the control of the airspace usage by unmanned aerial vehicles and liability for offences in this field; 2) to regulate by law the scope of actors liable for violations of the procedure for the airspace usage by unmanned aerial vehicles; 3) to authorize officials of the National Police and the border guards to draw up reports on offences in this field; 4) to expand the scope of penalties for offences in this field.

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