

defence, independence of the country, and its constitutional order. Therefore the legislator included them into the 1<sup>st</sup> chapter of Special Part of the Criminal Code of Ukraine.

#### **Reference:**

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2. Про державну таємницю: Закон України від 21.01.1994 - №3855-XII – Відомості Верховної Ради України – 1994 - №16 – ст.. 93 - [Електронний ресурс] – Режим доступу: <http://zakon0.rada.gov.ua/laws/show/3855-12>

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### **EARLY TERMINATION OF PRESIDENT’S POWERS IN UKRAINE: PROBLEMS OF LEGAL REGULATION**

In the structural organization of Ukraine the President occupies a special place, as he personifies the state, speaks on its behalf and provides coordinated functioning of the whole state mechanism.

The status of the President of Ukraine is set up by the norms of the Constitution of Ukraine, which determine his place and role in the system of state authorities; fix the order of replacement of the President’s post; provide constitutional and legal responsibility for treason and other crimes; define functions and powers of the President of Ukraine.

The President of Ukraine is elected for the term of five years. His powers, as a rule, are terminated after this period. The President of Ukraine shall exercise his powers until the assumption of office by the newly elected President of Ukraine.

At the same time, the early termination of the powers of the President of Ukraine is possible in the presence of the grounds provided by the Constitution of Ukraine and in adherence to the constitutionally determined procedure.

According to Article 108 of the Constitution of Ukraine, the authority of the President shall be subject to an early termination in cases of:

- 1) resignation;
- 2) inability to exercise presidential authority for health reasons;
- 3) removal from office by the procedure of impeachment;
- 4) his/her death.

The resignation should be understood as termination of the President's authority on his own initiative. The resignation of the President of Ukraine shall enter into force from the moment when he personally announces the statement of resignation at the session of Verkhovna Rada of Ukraine.

Inability to exercise presidential authority for health reasons in accordance with Article 110 should be established at the session of the Verkhovna Rada of Ukraine and confirmed by the decision, taken by the majority of its constitutional composition on the basis of medical opinion.

The President of Ukraine as the head of state does not bear political or legal responsibility for his actions. However, in special cases the President of Ukraine shall be liable, which is provided by article 111 of the Constitution of Ukraine – he may be removed from the office by the Verkhovna Rada of Ukraine in compliance with the procedure of impeachment if he commits treason or other crime.

Impeachment is considered one of the most difficult procedures for early termination of the powers of the President. Reasons for this are participation in this procedure of the Verkhovna Rada of Ukraine, the Constitutional Court of Ukraine, the Supreme Court of Ukraine, presence of several stages, rather high quantitative composition of the parliament, which is necessary for making the final decision.

According to Article 111, the issue of the removal of the President of Ukraine from the office in compliance with the procedure of impeachment shall be initiated by the majority of the constitutional membership of the Verkhovna Rada of Ukraine.

The Verkhovna Rada of Ukraine shall establish the ad hoc investigating commission, composed of a special prosecutor and special investigators to conduct investigation.

The conclusions and proposals of the ad hoc investigating commission shall be considered at the meeting of the Verkhovna Rada of Ukraine.

On the grounds of the presented information, the Verkhovna Rada of Ukraine shall, by at least two-thirds of its constitutional membership, adopt a decision to bring charges against the President of Ukraine.

The decision on the removal of the President of Ukraine from the office in compliance with the procedure of impeachment shall be adopted by the

Verkhovna Rada of Ukraine by at least three-quarters of its constitutional membership upon the review of the case by the Constitutional Court of Ukraine, and receipt of its opinion on the observance of the constitutional procedure of investigation and consideration of the case of impeachment, and upon the receipt of the opinion of the Supreme Court of Ukraine to the effect that the acts, of which the President of Ukraine is accused of, contain elements of treason or other crime.

Then the Chairman of the Verkhovna Rada of Ukraine officially informs the President of Ukraine about his removal from the office and promptly publishes the act of the Verkhovna Rada through the media.

The duties of the President of Ukraine, for the period pending the elections and the assumption of the office by the next President of Ukraine, shall be vested on the Prime Minister of Ukraine. The Prime Minister of Ukraine, for the period of discharge of the duties of the President of Ukraine, may not exercise the powers stipulated by items 2, 6, 8, 10, 11, 12, 14, 15, 16, 22, 25, 27 of Article 106 of the Constitution of Ukraine.

In case of Verkhovna Rada's rejection of the resolution to remove the President of Ukraine from the office in the order of impeachment the Chairman of the Verkhovna Rada of Ukraine:

1) announces the termination of the procedure of impeachment and gives an order regarding the publication of this in the newspaper "Holos Ukrainy";

2) declares the termination of the powers of the ad hoc investigating commission;

3) apologizes to the President of Ukraine on behalf of the Verkhovna Rada.

Generally, the early termination of the powers of the President of Ukraine is possible only if there are grounds provided by the Constitution of Ukraine and adherence to the constitutionally determined procedure. The procedure itself is quite complicated, as the President of Ukraine occupies a special place in the system of state authorities. He personifies the state, speaks on its behalf and provides coordinated functioning of the whole state mechanism.