

## MISCONDUCT IN OFFICE

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**Summary:** The subject of this paper is legal description of misconduct in office in our criminal legislation. Related to the very subject, we believe it is necessary to change the Criminal Code in the sense of narrowing the group of persons that could appear as perpetrators. Consistent implementation of legality and legal security principles requires the regulations according to which only legal person can realize this offence. The idea of necessity to erase this criminal act from the Criminal Code (because of lack of definition of alternatively regulated execution act) is not justified for two interdependent reasons: first, the existence of common criminal act does not impede the punishment for special offences, on condition that all conditions anticipated by the law are fulfilled (*lex specialis derogat legi generali*). Second, disregarding efforts made by the legislator, it is not realistic to expect every single procedure pointed against official duty to be regulated as criminal act. This criminal act is executed at the moment of performing the forbidden consequence, that is, when perpetrator obtains any benefit for himself or other physical or legal person by committed action, causes any damage, or seriously violates another person's rights. When it comes to establishing benefits, damages, or violation of people's right, we believe that it is necessary to use only objective criteria, although our literature at some points supports opposite standpoints. Comparative legal analysis of criminal acts against public administration in the Spanish Criminal Code points at the fact that in this country another concept of criminal acts regulation is accepted.