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Foreign Experience of Special Criminal Proceedings

Article provides research of criminal proceedings carried out under specific circumstances – trial in absentia – in criminal process of European states. Proposals on the Criminal Procedure Code of Ukraine amending with regard to special criminal proceedings are made. Trials in absentia have been constantly attempted to establish in Ukraine since 2014. Analysis of modern Ukrainian criminal process, specific criminal institutes and development perspectives is not complete without thorough study of relevant foreign institutions with fixed traditions and criminal procedure peculiarities.

The research topic was chosen due to its direct connection to current transformation of criminal process in Ukraine in the context of European standards. As a European state Ukraine must not ignore progressive ideas and at the same time to keep its legal traditions fixed in the course of time. One of the aims for the trial in absentia to become a routine domestic practice was announced as opportunity to turn the flow of illegal finance from foreign deposits to Ukraine. But the procedure itself is very complicated and may be initiated only under conditions defined by the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (1990) with the court decision available – presence of accused person must gradually become a secondary requirement for the court to sustain a sentence.

It is considered that establishment of institute of special pre-trial investigation of criminal offences has become a requirement in relation to harmonization of Criminal Procedure Code of Ukraine with norms of the Convention for the Protection of Human Rights and Fundamental Freedoms. International practice proves that trial in absentia is applied only in separate states – EU and CIS members – to ensure the irreversibility of criminal responsibility.

Keyword: special criminal proceedings; the accused; the right to appeal; retrial; personal involvement; mandatory participation of defense counsel; extradition.