MINISTRY OF INTERNAL AFFAIRS OF UKRAINE
NATIONAL ACADEMY OF INTERNAL AFFAIRS

APPLICATION OF ENGLISH LANGUAGE IN THE TEACHING OF CRIMINAL LEGAL DISCIPLINES

Interuniversity Scientific and Practical Internet Conference
(Kyiv, June 14, 2018)

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УДК 388:34
А 43

Recommended to print by the Scientific and Methodical Board of the National Academy of Internal Affairs (on 13 June 2018, Protocol № 10)

All materials submitted to the author's edition.

А 43 Application of English Language in the Teaching of Criminal Legal Disciplines [Text] : Materials of Interuniversity Scientific and Practical Internet Conference (Kyiv, June 14, 2018). – Kyiv : National Academy of Internal Affairs, 2018. – 186 p.

УДК 388:34

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CRIMINAL LEGAL PROTECTION OF THE ESTABLISHED BY LAW ORDER OF TRANSPLANTATION OF ANATOMICAL MATERIALS OF HUMAN

Due to the adoption on May 17, 2018 of the Law of Ukraine «On the Application of Transplantation of Anatomical Materials to Human» [1] for domestic criminal law the urgent task of providing reliable protection of the established by law order of transplantation of anatomical materials of human has emerged. It should be emphasized that the effect of this Law extends to the transplantation of anatomical materials to human, the carrying out of activities related to transplantation, the receipt of human anatomical materials for the manufacture of bioimplants, the determination of the conditions for the use of xenoimplants. This Law, after its signing by the President of Ukraine, enters into force from the day following the day of its publication, and is put into operation on January 1, 2019, except Paragraph 4 of Section VIII of this Law, which shall be put into operation on the day following the day of the publication of this Law.

It is projected that soon up to 50.0 % of all surgical operations will be associated with the transplantation of human organs. In addition, according to statistics, in Ukraine, every year, up to 3,000 people die, which could become donors and save lives of 10,000 people. Thus, the analyzed Law establishes new principles, conditions and procedures for the application of transplantation. This normative-legal act has improved the legal procedure for obtaining «clearly expressed consent» («presumption of disagreement») on post-mortem donation. A person must document his/her consent to become a donor after death, and unless this is done, and by the default it means the reluctance of such a person to transfer organs and/or anatomical materials. The law clearly states that documentary

consent can be made in the form of a written application, a mark in the passport or another document. After giving permission to a potential donor, a state-confirmed card is issued. Information about individuals who have agreed to donate will be fixed into the Unified State Information System for Transplantation. In this case, the information given by consent will be considered confidential and not subject to disclosure. At the same time, the application for a permit for transplantation can be withdrawn.

The Law of Ukraine «On the Application of Transplantation of Anatomical Materials to Human» prohibits commercialization in the field of transplantation and advertising of organs. According to Article 24 «Responsibility for violation of transplant legislation» of this Law, legal and natural persons guilty of violating the transplant legislation, are liable in accordance with the law. In these conditions, it also speaks of criminal liability, which in Ukraine concerns only individuals. For certain reasons, only criminal legal measures, the essence of which is defined in Section XIV-1 of the General Part of the Criminal Code of Ukraine (hereinafter referred to as the CCU), may be applied to legal persons [2, c. 240]. Moreover, Clause 3 of Section VII «Final and Transitional Provisions» of this Law provides for amendments to Article 143 of the CCU in relation to the prevention of illegal transplantation and trafficking in organs, as well as more severe punishment for the committing of this crime.

In particular, the title of Article 143 of the CCU is proposed as follows: «Violation of the established by law order of transplantation of anatomical materials of human». Paragraph 1 of this Article provides for liability for violation of established by law order of transplantation of anatomical materials of human (such actions will be punishable by a fine of up to fifty minimum revenues of citizens not levied by tax or correctional labor for a term up to two years, or limitation of freedom for a term up to three years, with or without deprivation of the right to hold determined posts or to engage in a determined activity for a term of up to three years). The separate corpus delicti is «Removing a human by coercion or deception of its anatomical materials for the purpose of their transplantation» (Paragraph 2 of Article 143 of the CCU). The punishment for such actions is a deprivation of liberty for a term up to five years with

deprivation of the right to hold determined posts or to engage in a determined activity for a term of up to three years. Paragraph 3 of this Article establishes liability for actions provided for in Paragraph two of this Article committed against a person who was in a helpless state or materially or otherwise dependent on the perpetrator (punishment for this is a deprivation of liberty for a term of five to seven years with deprivation of the right to hold determined posts or to engage in a determined activity for a term of up to three years). Also, the separate corpus delicti is «Illegal trade in human anatomical materials» (Paragraph 4 of Article 143 of the CCU). Such actions are punishable by a deprivation of liberty for a term up to five years. If the actions envisaged by the second, third, or fourth paragraphs parts of this Article, committed by prior arrangement by a group of persons, or participation in transnational organizations engaging in such activity (Paragraph 5 of Article 173 of the CCU), they shall be punishable by a deprivation of liberty for a term of five to eight years with deprivation of the right to hold determined posts or to engage in a determined activity for a term of up to three years.

In spite of the existing changes and additions to the current CCU, in our opinion, there are remaining the issues of the application of the norm on criminal liability for violation of established by law order of transplantation of anatomical materials of human in the part of a fairly wide range of social relations, forming the object of this crime, the absence of a clear differentiation of actions, which constitute its objective side, finding out the content of the subjective side of the crime, the lack of the possibility to apply criminal legal measures to the legal persons the authorized natural persons of whom have committed the analyzed in this paper crime, and so on.

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CRIMINAL LIABILITY FOR CORRUPTION CRIMES AND CRIMES RELATING TO CORRUPTION

Subparagraph 1 of Paragraph 1 of Article 65 of the Law of Ukraine «On Prevention of Corruption» of October 14, 2014 states that for the commission by persons specified in Paragraph 1 of Article 3 of this Law of corruption offenses may be applied criminal, disciplinary and/or civil liability, while for committing offenses related to corruption – criminal, administrative, disciplinary and/or civil liability. Hence, it can be concluded that criminal responsibility (liability) comes both for committing corruption offenses and for committing offenses related to corruption. One should proceed from the fact that the Criminal Code of Ukraine (hereinafter – the CCU) primarily operates the term «crime» and only mentions the terms «offense» (e.g., in the Note to Article 369-3) and «criminal offense» (e.g., in Paragraph 2 of Article 374), without explaining their content. Consequently, criminal corruption offenses should be understood first of all as corruption crimes, and offenses related to corruption (corruption-related offenses) are crimes related to corruption (corruption-related crimes).

The legislator gave a legal definition of corruption crimes in the Note to Article 45 «Relief from Criminal Responsibility in Connection with Actual Repentance» (Section IX «Relief from Criminal Responsibility» of the General Part of the CCU). This was due to the fact that it was in the aforesaid article for the first time in the text of the CCU that the term «corruption crimes» was mentioned (in connection with the resolution of issues concerning the relief of a person from criminal responsibility), and therefore from the position of legislative technique there was a need for its definition within the limits of the specified criminal legal norm or a note to it. For the first

time, the legislative definition of corruption crimes in the CCU appeared on the basis of the Law of Ukraine «On the National Anti-Corruption Bureau of Ukraine» of October 14, 2014. This Law supplemented Article 45 with a Note of the relevant content. However, the editorial note of the Article was soon revised by law. On the basis of the Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine on Ensuring the Activities of the National Anti-Corruption Bureau of Ukraine and the National Agency for the Prevention of Corruption» dated February 12, 2015, the Note to Article 45 of the CCU received a new version [1, c. 13].

At present corruption crimes in accordance with the CCU are considered crimes provided for in Articles 191, 262, 308, 312, 313, 320, 357, 410, in case they were committed through abuse of one's official position, as well as crimes provided for in Articles 210, 354, 364, 364-1, 365-2, 368–369-2 of this Code. In this list, it is necessary to distinguish between those crimes that are corrupt only in the case of their commission through abuse of one's official position, and those for which such a specific condition is not provided by the legislator [2, p. 136–137]. It is obvious that the legislative definition of corruption crimes is not given in the context of their broad description with the disclosure of specific features, but by listing specific articles of the Criminal Code, which establishes the responsibility for the commission of such socially dangerous encroachments. At present, a range of corruption offenses covers certain socially dangerous encroachments, the responsibility for which is provided for in 19 articles of the CCU, that is, the legislator provided an exhaustive list of those. However, in our opinion, it is too early to talk about the optimality of the list of corruption crimes. As rightly states O.K. Marin, in general, corruption crime is a crime committed by an official person who provides public services using the possibilities of his special status in order to obtain an undue advantage – and in the CCU, there are about 100 encroachments [3]. Consequently, the national legislator should review the list of corruption crimes, specify, concretize and expand it.

With regard to criminal offenses related to corruption, considering the terminology of the CCU, they should be understood as crimes related to corruption. The list of such crimes is quite broad, but it does not have clear legal boundaries. In the theoretical aspect, in this case, we are talking about so-called «conditionally corruption crimes», whose composition does not have all the signs of corruption, that is, it does not directly belong to the category of corruption crimes in accordance with the Note in Article 45 of the CCU (e.g., crimes provided for in Articles 206, 210, 211, 157–162, 184, 365, 373, 376, 376-1, 426 of this Code) [4, с. 119–121]. We believe that with the view to ensure effective realization of the provisions of the Law of Ukraine «On Prevention of Corruption», harmonization of those with the norms of the CCU, and also in accordance with the requirements of international law, it is necessary to develop and consolidate a list of crimes related to corruption. For example, such a list could be placed in Clause 2 of the Note to Article 45 of the CCU, but in this and other articles of the CCU it is necessary to specify the peculiarities of such crimes, their distinction from corruption crimes, the specifics of the consequences of their commission, etc.

In our opinion, the proposals we make will contribute to improving the state of criminal legal counteraction and prevention of various encroachments of corruption direction.

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CONCEPT OF ACTION OF CRIMINAL LIABILITY

The law on criminal liability is considered valid if it came into force. When it comes to the law on criminal liability, it means that this law has come into force and can be applied in practice. But for the practice of combating crime, greater importance is not potency, not its ability, but reality. From this moment on, the question passes into the practical implementation and the application of the law. Then it is visible how it is applied, implemented, how it operates and if it works at all. In the act of law of criminal liability implemented the principle of inevitability of criminal liability and punishment. This question is extremely important, fundamental and relevant. In this regard, the issue of the law on criminal liability becomes of particular importance. It should be the main in the whole criminal policy policy of the state, especially in the fight against crime, as part of a more general legal principle - the equality of all citizens before the law.

The analysis of legal practice of the last decade shows too many gross and substantial violations of these principles. Even the adoption of the new criminal and criminal procedural codes of Ukraine has not affected such a situation, although a lot of new things have been declared. Of course, like a life, law can't always be in a static state. Therefore, new criminal law is being adopted, existing ones are changed. The application of criminal procedural

rules in practice does not stand up to any criticism. The negligence and harmfulness of many norms of the CPC of Ukraine was spoken during the period of its discussion and adoption. But the life has put everything in its place and now it is currently prepared a whole series of changes to this code, as the current state of affairs destroys not only justice, but also the law-enforcement system as a whole. Where in the world there is such an example that the crime in another law is called differently.

In the Criminal Code of Ukraine, the whole section (III), which has the same name, is dedicated to the crime, its types and stages. But in the Criminal Procedure Code of Ukraine we are talking about criminal offense. Which was not in the Criminal Code of Ukraine until recently and only now there were several articles, which refers to a criminal offense. The law should not have ambiguous notions of the interpretation of the same phenomenon. This leads to disrespect for the law, its neglect, faith in such a law, its application and compliance. Citizens have a sense of permissiveness, crime is growing, although at first glance, it's like simple things. The legislator makes a violation in the part of the classification of crimes and in the legislative assessment of a crime (Article 11) and an act that contains signs of a crime (Articles 45, 47, 74, 75 of the CC) due to its confusion.

Since the law (Article 11) defines the notion of a crime as "a socially dangerous act (action or inaction)" envisaged by this Code, then it is an act containing elements of a crime. Then why in other articles give another definition? In practice, this second definition should be understood as a legislative definition of not a crime that gives rise to the release of the person who committed it from criminal liability. Such a conclusion is unfounded, since such a definition is given in the articles providing for exemption from criminal liability.

There are many questions about the law on criminal liability. Is a crime an act that contains signs of a crime? If so, why then is such dualism in defining the notion of crime, since it is a simple formality. The law provides for the possibility of release from

criminal liability subject to the commission of a crime (Article 97 of the CC). But what is it then, if not a crime? If the law only provides for the possibility of dismissal, it is clear that a living person may be released, and may not be released (Part 1 of Article 47 of the Criminal Code - "the person who first committed a minor crime or middle crime may be released from the criminal responsibility ... "). That is, a person may be released from criminal responsibility who has committed a crime that contains signs of a crime, and may be prosecuted for this act. As you can see, the question of whether an act is a crime and how the law provides for this crime is not solved by the legislator, but by the person who applies it. This is a gross violation of the important principle of criminal law: "nullum crimen sine lege", according to which criminal liability could be possible and legitimate only for acts prescribed by the law of criminal liability directly, for directly named acts, defined by law. The prosecution without a direct indication of a crime is a lawlessness and arbitrariness. The same violation will occur if a person can be prosecuted for the same crime and can't prosecuted. If the persons applying the law (law enforcers) decide on the crime, not the crime and criminal punishment of a certain act assigned to their competence, does not make it possible to conclude on the law and evaluate its validity. If to analyze the practice, then no act of the law is an act, and the act is a failure of the law. To date, there are many examples, when a worker who has caused the corresponding damage is prosecuted, and an official, a criminal, who stole from the state budget tens of millions of hryvnias, keeps stealing at his workplace.

The created anti-corruption structures are not capable of combating corruption as it was declared before their creation. It goes to the absurd clarification of relationships with each other. It reacted painfully by society and citizens have many questions about the professionalism and appropriateness of such bodies and their further funding at the expense of taxpayers. This is what we are talking about because it is our present. From this practice we need to resolutely and permanently refuse. Partial action or partial inability of the law on criminal liability threatens the society with explosive

growth of crime, massive abuse of high officials by its official powers, corruption, causing great economic and moral harm to society. All these phenomena form a chain reaction, since they are well-known. They become negative guidelines for social behavior, assessments, and considerations. Under the circumstances when the number of unknown cases of evasion from criminal liability exaggerates the number of known cases of prosecution, many citizens have an incentive to break the law. The validity of the law on criminal liability and its preventive effect at the same time begin to fall catastrophically. Then they begin to commit crimes that are called to fight it. An example of this can be the numerical practice of bringing to criminal liability not only ordinary citizens, but also different rank of civil servants, representatives of judicial and law enforcement agencies. This negative rudiment is a remnant of the Soviet party system, where the law had being violated by senior officials of the state [2].

The current system of combating crime, where a large number of high-ranking officials can redeemed by money, is no exception. It turns out that the whole social groups (strata) of people came out of the force of the law on criminal liability. And how many other such cases is unknown? The foregoing indicates that the law on criminal liability should have guarantees of action, validity and implementation. To count on law enforcers, that the law will act, to be executed is a false calculation. Legislation on criminal liability, it is not an abstract category, and therefore there should be appropriate rules aimed at ensuring its act and implementation. It is not enough to proclaim a criminal prohibition, to establish and adopt a certain criminal law. The most important thing is to ensure that this rule operates, is used, used every time its act is committed. The legal community supports the idea of ensuring the effectiveness of the legislation on criminal liability.

So, the effect (validity) of the law on criminal liability is the legal, public and procedural security of the law enforcement by all law enforcement agencies, the investigation, the prosecutor's office

and the court settled by the principle of the inevitability criminal responsibility of each person for her act committed.

To fulfill these requirements, the law on criminal liability should be such a perfect system of legal norms, rules, institutions that would ensure its self-realization, had exclude pauses, breaks, ineffectuality of the law.

The inevitability of criminal liability and the inevitability of punishment for a crime shouldn't only be proclaimed on paper or in some other way. It is not enough just a proclamation. Application and execution - this is the most important for the law. That is sense ensuring the constitutional rights and freedoms of man and citizen, society and state.

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CURRENT TRENDS OF CRIMINAL POLICY IN THE FIELD OF APPLICATION OF MEASURES OF CRIMINAL LEGAL NATURE

The dynamics of the prevalence of various types of punishment and criminal-law measures in the judicial practice of Ukraine over the past decade indicates a steady increase in the use of penalties not related to imprisonment. Since 2007, there has been a gradual increase in the category of convicted persons who have been sentenced to non-imprisonment. So, the fine in 2007 was applied to 8.8 percent of criminals. From year to year, the proportion of these criminals only increased and by the end of 2017, it is 24. 12 percent. One can also speak of a significant increase in the proportion of convicted persons who have been sentenced to punishment as public works (from 2.8% in 2007 to 6.9% in 2017).

In general, between 2007 and the present, the rate of non-imprisonment punishment has doubled: from 16.3 per cent in 2007 to 32.64 per cent in 2017. Among the punishments related to the deprivation of prisoners' personal liberty, the trend is to increase the number of cases of the use of the sentence in the form of arrest. In 2007, 1.3 per cent of criminals were sentenced to this sentence. By the end of 2017, the share of such persons has increased to 3.6 percent.

It can be said about trends in the practice of sentencing in the form of imprisonment, there are no special fluctuations or significant changes in the number of criminals. Since 2004, the proportion of such persons has fallen below 30 per cent and has not risen to this figure. In 2011, we see a certain growth of this indicator to 28.6 percent. In other years in the period of 2004-2017 this category did not exceed 25 percent and by the end of 2017 it is 21.02 percent. The

given statistical data confirm the conclusion that the punishment in the form of deprivation of liberty ceased to be the most widespread, moved to the second position after a fine and has a steady tendency to reduce its share in the practice of its application.

In the modern period, the maximum number of criminals is punished in the form of imprisonment for committing crimes against property (66% in 2016), crimes in the area of the circulation of narcotic drugs, psychotropic substances, their analogues or precursors, and other crimes against the health of the population (10%) and crimes against human life and health (9%). At the same time, 45 per cent of criminals who were sentenced to imprisonment committed theft of someone else's property. The prevailing use of punishment in the form of deprivation of liberty is also grounded in the perpetrators of the most serious crimes. Among them, first of all, intentional murder (39% of those convicted of crimes against life and health), serious bodily harm (50% of the same category of offenders) should be distinguished.

Simultaneously with an increase in the number of convicted persons, a significant reduction in the use of such punishment as a correctional measure is taking place (if in 1991 this sentence was applied to 22.3% of convicts, then in 2017 their share decreased to a minimum of 0.16%). The same tendencies are also observed in terms of punishment in the form of restraint of liberty. In 2017, only 1.43% of convicted offenders were serving the sentence. The tendency to curtail the practice of applying penalties in the form of correctional work and restraint of freedom is conditioned, first and foremost, by the impact of contemporary economic and social trends. These are: the closure of enterprises of the state sector of production, which mainly ensure the persons sentenced to these punishments, places of their serving; a rather high level of unemployment, lack of necessary investments for economic development. Along with the mentioned features in the practice of punishment, it is necessary to pay attention to the dynamics of the use of other measures of a criminal law nature. In the period from 1990 to 2004, there was a significant increase in the category of persons who were released from serving sentences. In the 1990s, 21.4 percent of offenders were released from

punishment. At the end of 2004, the proportion of such convicts was 60 percent. This year, the gradual reduction of this group of people began. In the period 2016-2017, 42 percent of the perpetrators were released by the courts from serving a sentence. And this indicator with minor fluctuations is kept for five years.

The above regularities confirm that the criminal policy of Ukraine in the area of implementation of criminal sanctions today corresponds to the practice of implementing criminal-law measures in European countries. Positive is the prevailing introduction of the practice of the use of measures not related to the restriction and deprivation of freedom of criminals and the further expansion of the possibility of using such measures as public works and fines.

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PROCEEDINGS OF CRIME ON THE SOURCE OF THE RACIAL, NATIONAL OR RELIGIOUS VOLUNTEER, OR DISAPPEARING, AS A MATTER WHICH CONSTITUTES PENALTIES

Given the large number of approaches to the theoretical foundations and peculiarities of the legal classification of crimes committed on the basis of intolerance against certain social groups, depending on such characteristics as race, color, ethnic origin, religious beliefs, etc., it is difficult, if at all possible, to give a single unified definition of the term "A crime on the basis of intolerance".

In the most general form, the crimes of intolerance characterize and distinguish from other types of crime a combination of two features: the guilty of an unlawful act that constitutes the crime, defined by the criminal law; Prejudice (hostility, intolerance)

regarding a certain sign of a person, which becomes the motive for committing an unlawful act in relation to it.

Crimes committed on the basis of hatred may be recognized as any crime, in particular against life, health or property, the object of which has been harmed by the actual or imaginary connection of the victim with a group characterized by common identities such as race , national or ethnic origin, language, color, religion, gender, age, mental or physical characteristics, sexual orientation or any other similar factor.

Analysis of the provisions of the criminal law allows to distinguish, depending on the design of the objective and subjective part of the crime, two groups of crimes related to racial, national or religious hostility or discord.

The first group forms crimes, where the legislator in the formulation of the disposition of the article of the Special Part directly points to such a motive crime. This group is in turn divided into two subgroups. The first subgroup is characterized by the fact that the motive of racial, national or religious hatred or discord is a sign of the core of the crime (Articles 161, 300, 442 of the Criminal Code). The second subgroup is formed by crimes, in the formulation of which the motive of racial, national or religious intolerance is a sign not of the basic, but of a qualified or especially qualified structure of the crime (Part 2 of Article 110, Clause 14, Part 2, Article 115, Part 2 of Art. 121, Part 2 Article 122, Part 2 Article 126, Part 2, Article 127, Part 2, Article 129 of the Criminal Code).

The second group forms crimes, where the presence of such a motive is not a mandatory feature of the crime (Articles 170, 178, 179, 180, 258, 294, 295, 296, 297, 298 of the Criminal Code of Ukraine). When formulating the disposition of such crimes, the legislator either does not specify the motive, or indicates its generic general features. Objective or subjective features of such a crime indicate the homogeneity of the motives of such a crime with the motive for racial, national or religious hatred or discord, or the presence of such a motive in the commission of a crime is not excluded, is a common occurrence. In such cases, damage to relationships that ensure the normal, even development of inter-

racial, inter-ethnic or inter-religious relations, serves as an additional (mostly optional) direct object of criminal-legal protection.

The special approach of legislators to distinguishing crimes of the category under consideration is also enshrined in Article 3, part 1 of Art. 67 of the Criminal Code of Ukraine, in which the commission of a crime on the basis of racial, national or religious hatred or discord is fixed as a circumstance, aggravates the punishment. The general nature of the aforementioned norm stipulates that any crime, the composition of which is defined in the Special Part of the Criminal Code, may be considered as committed on the basis of intolerance and, therefore, deserve a more severe punishment within the maximum period prescribed by law.

At the same time, it is impossible not to mention that the application of paragraph 3 of Part 1 of Art. 67 lies in the exclusive jurisdiction of the court and may not be necessary for the latter. Part 2 of the Art. 67 of the Criminal Code provides that "the court has the right, depending on the nature of the crime, not to recognize any of the circumstances specified in paragraph one of this article, except in the circumstances specified in paragraphs 2, 6, 7, 9, 10, 12, which aggravates the punishment, giving reasons for its decision in the sentence. " Taking into account the public danger posed by the crimes of intolerance, the non-applicability of clause 3, 1 st. 67 of the Criminal Code of Ukraine is incomprehensible.

The second problem is the provision of the above paragraph of Art. 67 of the Criminal Code of Ukraine is its wording. It is too general and does not make it possible to understand, in particular, the judge, what exactly is meant by racial, national or religious hostility or discord, in particular, given that the term "discord" in the Criminal Code is used only in this paragraph, the term "hostility" - in two articles (Article 110 - Attacks on the territorial integrity and immunity of Ukraine and Article 161 - Violation of the equality of citizens depending on their race, nationality, religious beliefs, disability and other characteristics), and the rest of the articles of the Code, which establish liability for crimes of intolerance, contain the term "intolerance". The uncertainty of the terms "hostility", "discord" and "intolerance", as well as the inconsistency of their application in

various provisions of the Criminal Code, may cause the fact that today the provisions of paragraph 3 of Part 1 of Art. 67 have never been used in practice.

Also, a list of features specified in Art. 67 of the Criminal Code of Ukraine (as currently, and other provisions of the Code, which contain such a qualifying attribute as the motive of intolerance) as a aggravating circumstance of punishment for the commission of a crime on the basis of hostility, is considerably limited. Such attributes include only race, nationality (ethnic origin), and religious beliefs that do not fully reflect the prevalence of certain types of crimes committed on the grounds of intolerance on other grounds. In particular, such characteristics include sexual orientation, gender identity (transgender), political beliefs and disability. The failure to include these features in the relevant provisions of the Criminal Code of Ukraine actually means that in the investigation of crimes, the motive of intolerance on these grounds is ignored, and the punishment for a crime is imposed on general grounds.

Thus, in the absence of signs of Art. 161 of the Criminal Code, the actions of the perpetrator in such cases shall be qualified in other articles of the Criminal Code, using paragraph 3 of Article 67 of the Criminal Code, that is, with the mandatory establishment of circumstances that aggravate the punishment of committing a crime on the basis of racial, national or religious hatred or discord. However, in practice there are a number of problems associated with various reasons, including the reluctance of victims to contact law enforcement agencies, rarely correct, objective qualifications of the crime, and difficulty in proving. Most often, such reasons are, firstly, that victim representatives of minorities, foreigners rarely report crimes committed against them as representatives of certain groups (racial, religious, national, etc.). Secondly, after registering applications for committing crimes of the investigated category, there is a complexity of proof, as the core of the procedure is the detailed reflection in the materials of the criminal proceedings of the element of the subjective part of the crime - a special motive for the intolerance of the suspect to representatives of a particular race, nationality or religious group; or a special purpose - to fuel enmity

and discord. Thirdly, the opening of criminal proceedings on the facts of committing crimes aimed at incitement to racial, national or religious hatred and discord is usually due to the necessity of preliminary expert evaluation of campaign materials (printed matter, films), texts of public speeches (in mass media, meetings, concerts, etc.).

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THE EXTRADITION INSTITUTE AS ONE OF THE COMPONENTS OF THE LAW ON CRIMINAL LIABILITY IN THE SPACE

The institution of extradition (Article 10 of the Criminal Code) has an important role in characterizing the law of criminal liability in the space. In general, extradition is the transfer by a State of a person who committed a crime or was detained in the territory of that State, to another State of which he is a citizen of the country in which he is being prosecuted and sentenced to trial or serving a sentence. The Extradition Institute is a complex interdisciplinary institution (therefore, all normative provisions regarding extradition can not be reflected only in the Criminal Code or only in the CPC of Ukraine or only in relevant international treaties of Ukraine), and secondly, such laws exist in many other states, and such a law acting in tsarist Russia, and thirdly in Ukraine ", today the procedure for granting (applying for granting) legal assistance in criminal cases in the form of extradition is regulated by subordinate normative acts".

Extradition (extradition) is a tool by which provided - in line with demand "issues or courts alone" - the principle of inevitability of criminal responsibility and punishment of those who fled abroad. His extradition development owes mainly international activities of

France, during which produced the fundamental principles of modern institute extradition. Institute extradition developed, usually of agreements ad hoc (for this case) to bilateral and later multilateral agreements of a general nature, replacing in certain areas (especially within the EU) institution of extradition institute so-called "arrest warrant", while fixing the main provisions on extradition in special laws.

Issuance of a citizen of Ukraine to a foreign state is inadmissible. In accordance with Part 2 of Art. 25 of the Constitution of Ukraine, a citizen of Ukraine can not be issued to another state. This does not apply to cases of the issuance of a citizen of Ukraine to a competent international judicial body in connection with the possible commission of crimes under international conventions (for example, crimes against peace and humanity and war crimes). The issuance of other persons - foreign citizens and stateless persons - may be carried out on the basis of international conventions, international treaties and agreements directly concluded by Ukraine or concluded by the former USSR and remain valid for Ukraine. Ukraine on September 25, 1995, joined the European Convention on extradition of offenders on December 13, 1957. Ukraine should give to the other Contracting States, subject to the provisions and conditions of the Convention, persons who are prosecuted by the competent authorities of the requesting party for committing the offense or who are wanted by those authorities for the purpose of executing a sentence or a detention order (Article 1 of the Convention) . The extradition of offenders is carried out in connection with offenses punishable by the laws of the requesting party and the requested party by deprivation of liberty or under a detention order for a maximum term of at least one year or more severe punishment. If the person is found guilty and the sentence on detention or the detention order is pronounced in the territory of the requesting party, the sentence shall be at least four months (paragraph 1 of Article 2 of the Convention).

In the constitutions of some other states, issues of extradition are regulated even more in detail. Thus, according to the Spanish Constitution, the extradition of offenders is permissible, but those

who committed political crimes must be extradited only on the basis of a treaty or law on the basis of reciprocity; terrorist acts do not belong to political crimes. According to the Constitution of Malta, extradition is permitted only for the fulfillment of an agreement created by an international treaty and in accordance with the law. No person should be extradited for a political offense. The Constitution, in the context of Malta's obligations as a member of the EU, also mentions the operation of the Extradition Act (1978). According to the Portuguese Constitution, the issuance of Portuguese citizens is allowed only by a court decision on the basis of reciprocity by the State concerned, enshrined in an international treaty, in cases of terrorism and crimes organized at the international level, if the issuing State guarantees an adequate and fair process.

Ukrainian scholars have pointed out that the practice of issuing extradition is through the adoption of national laws (for example, in Austria and Sweden), which details both the material basis of extradition and its procedural side, and that it is desirable to adopt such a law in Ukraine. Special extradition laws are adopted in Austria, Belgium, Bulgaria, the Netherlands, Italy, Luxembourg, Norway, Sweden, Finland, France, and in some states (Germany, Switzerland, etc.), the issue of extradition is governed by the law on international assistance in criminal matters, and that certain The rule was the conclusion of these issues of multilateral agreements at the regional level, such as the European Convention on Extradition.

The implementation of criminal law jurisdiction of Ukraine concerning crimes committed abroad by foreigners and stateless persons who do not permanently reside in Ukraine is also possible on the basis of the real principle of the law on criminal liability in the space. This principle differs from the universal one that applies if the committed socially dangerous act is a grave or especially grave crime that infringes on the rights and freedoms of Ukrainian citizens or its interests. Analyzing Article 8 of the Criminal Code of Ukraine I would like to say that its disadvantage is the lack of specification, which crimes belong to the group "against the interests of Ukraine". This gives rise to further disputes between scientists. Therefore, Art. 8 would be substantially complemented by a list of crimes and thus

simplify its application in practice. Summing up all the above, we can conclude that this topic is problematic for the present due to the fact that, when it was considered, a number of problems were identified that needed a pressing solution.

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WATER VEHICLES AS A SUBJECT OF TRAFFIC RULES VIOLATION OR RAIL, WATER OR AIR TRANSPORT OPERATION (ARTICLE 276 OF THE CRIMINAL CODE OF UKRAINE)

Water vehicles are one of the crime subjects, covered by the Article 276 of the Criminal Code of Ukraine `Traffic rules violation or rail, water or air transport operation`. Sea and river vessels belong to water vehicles. Let us apply to the current legislation in order to consider its characteristics. So the notion of the traffic vessel contains in the Article 15 of The Code of Trade and Maritime Traffic

of Ukraine, in which it is defined that it is a self-propelled or non-self-propelled item, which is used for the following issues:

1) for transfer, human trafficking, luggage and post, fishery or any other deep sea fishing, exploration and extraction of minerals, rescuing people and ships in distress at sea, towing of other vessels and floating objects, carrying out hydro-technical works or lifting property sunken in the sea;

2) for the maintenance of a special state service (protection of crafts, sanitary and quarantine services, protection of the sea from pollution, etc.);

3) for scientific, educational and cultural purposes;

4) for sports;

5) for other purposes [1].

There are no sole idea regarding adding low-displacement vessel to the category of water vehicle, which can be the subject of Traffic rules violation or rail, water or air transport operation in the science of Criminal Law. Some authors consider they cannot be the subjects of hijacking or capturing of a railway rolling stock, an air, sea or river vessel, other authors - relate them to such.

The normative definition of the low-displacement vessel prescribed in the note to Article 116 of the Code of Ukraine on Administrative Offenses, which states that low-displacement vessels should be understood as self-propelled vessels with main engines of less than 75 hp (55 kW) and non-self-propelled vessels and sailing vessels with a gross tonnage of less than 80 register tons (or units), as well as motor vehicles regardless of engine power, but with a gross capacity of no more than 10 register tons (or units) and non-self-propelled vessels (rowing boats carrying capacity of 100 and more kilograms, canoes - 150 and more kilograms, and inflatable vessels - 225 and more kilograms) belonging to citizens [2].

We consider that, only those low –displacement vessels cannot be a subject of such crime, which do not have an engine and are driven by human muscular force (for example, boats, canoes, etc.).

Warships are not considered as the mentioned crime subject, because they belong to the Navy, have external identifying signs of

state ownership and are under the command of an officer (landlady) who is in military service in the Armed Forces of Ukraine [3] .

So, the precise identification of the characteristics of a water vehicle has important meaning for determining the subject of crime, which is provided in the Article 276 of the Criminal Code of Ukraine, for correct qualification of the committed crime and the imposition of punishment.

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CONCEPT OF VIOLENCE (HISTORICAL ASPECT)

The choice of this problem for study is due to the significant spread of violent crime and social danger. Today, violence occurs in all spheres of society and can affect every citizen.

Today, violence can be defined as a social disaster during the existence of mankind. Violence did not come up unexpectedly, it's a problem that has been going on since ancient times. In our opinion,

this social problem is connected with the difficulties of the development of society itself.

During centuries of history, a cult of power reigned in the world. He was the basis of understanding the greatness of the state, assessing the historical figure, independent personality. This was followed by empires, their power. For the most part, the history of peoples was presented as a history of wars, and the creation of society through force and violence. Historically, people have defined violence as simply "the behavior of people who deliberately threaten, attempt or cause physical harm to others." However, the problem of violence and the search for non-violent methods of resolving issues historically arose and will always be relevant [1, p. 96-97].

Legislation of violence takes its origins from the times of Ancient Russia (Ruska pravda XI st., Knyazivs′ki statuty i statutni hramoty XI–XIV st., Novhorodska i Pskovska sudovi hramoty XV, Sudyebnik 1497, Sudyebnik 1550, Artykuli viys′kovi 1715). In the criminal law of that time, violence was understood as the deliberate instigation of another person of involuntary physical suffering by blow or other action, which violated the bodily integrity of the victim, but did not affect the violation of his health (Art. 475 of Ulozhennya pro pokarannya kryminal′ni vypravni 1845). Violence also included images of action, but only one that caused pain and was subject to Art. 530 of Ulozhennya pro pokarannya kryminal′ni y vypravni - "an image of an intercession".

In order to exclude the possibility of interpreting violence against things, in the development "Criminal Code" on March 22, 1903, the words "above the person" were added to the word "violence" [2, p. 7].

Ukraine, whose independence is declared in the Constitution, seeks to become a worthy member of the world community. But the dignity of the state largely depends on how it protects the rights and freedoms of its citizens, cares about their health. Today, violence has weakened, but the "power" of violence has grown on the streets of our cities and villages. And in order to win respect in the world, we

need to learn to respect each other for the beginning in our own house [1, p. 97].

Violence is a phenomenon complex, multidimensional. It is studied by various sciences: philosophy, history, sociology, law, psychology, and others. Representatives of these sciences have long been trying to find common global issues regarding the causes and types of violence, its role and place in our society and ways to overcome it. It is clear that criminal law is not about the issue of violence.

A Special Part of the Criminal Code of Ukraine includes many crimes, the objective side of which is violence. They make up almost a third of all socially dangerous acts stipulated by the Criminal Code today.

Today there are absolutely all types of violence: physical, psychological (emotional), sexual and family. Violent actions are often accompanied by acts of aggression and cruel behavior. However, the concept of "violence" includes not only beatings. This is moral pressure: humiliation, insults, isolation, intimidation, threats, offensive comparisons, and so on.

According to forms of manifestation, as already noted, violence is often divided into physical and mental, although it also distinguishes between property, sexual and economic, coercion and verbal abuse, emotional, etc. [3, p. 29].

Summing up the above, one must conclude that the concept of violence in general is quite broad, applies to all spheres and subjects, can be committed to anyone and at any time. But the most important thing is that violence is the most dangerous form of criminal activity.

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SPECIFIC ASPECTS OF CRIMINAL LIABILITY FOR TRADE OF PEOPLE

Criminal liability for trafficking in human beings is stipulated in Art. 149 of the Criminal Code of Ukraine. One of the forms of the objective side of the crime may be: "trafficking in persons or other illegal transaction, the object of which is a person, as well as ... displacement ... committed for the purpose of exploitation, using deception, blackmail or a vulnerable state of a person" .

Also, in recent times, the movement of goods across the customs border of Ukraine outside customs control or with concealment from customs control, carried out in large quantities, is of particular concern. The situation arising in the foreign economic sphere of the country's activities is explained not only by the socio-economic crisis and the "transparency" of Ukraine's state borders with CIS countries and European countries, but also by the lack of active work of its law-enforcement bodies, an imperfect legal framework for combating smuggling.

Among the complex of urgent measures necessary for the intensification of the fight against smuggling, it is necessary to highlight the problem of improving criminal-law measures to combat this crime, and the importance of developing theoretical and applied research in this field that correspond to the present and needs of law enforcement practice.

Smuggling harms the economy of our country, its cultural heritage, health of the population and public security, promotes the expansion of the shadow economy sector, etc.

The complexity and extraordinary nature of this problem attracted the attention of many lawyers. In particular, the issue of

criminal liability and legal analysis of smuggling under Art. 201 of the Criminal Code of Ukraine were investigated by such scholars as P.P. Andrushko, A.F. Bantyshev, L.V. Bagriy-Shakhmatov, V.M. Volodko, V.O. Vladimirov, O.O. Dudorov, M.I. Melnyk, A.A. Music, V.O. Navrotsky, O.M. Omelychuk, V.M. Popovich, A.V. Savchenko, L.Yu. Rodina, M.I. Havronyuk.

The problem of the subject of crime in the science of criminal law is a rather controversial issue. In general, the position of scientists on this problem can be divided into three groups. Some scholars regard the subject of the crime as any material material world, with certain properties of which the criminal law links the presence in the actions of the person signs of a specific composition of the crime [3]. Some authors recognize the subject of a crime as things, certain values of the material world, acting on which the person infringes upon the good belonging to the subjects of social relations [4]. Other criminologists under the subject of crime understand things or other objects of the outside world, as well as intellectual values, affecting which, the guilty person causes damage to public law protected by law.

The Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding Humanization of Liability for Offenses in the Sphere of Economic Activity" of 15.11. In 2011, significant changes were made to the disposition of Art. 201 of the Criminal Code of Ukraine "Smuggling". Thus, from part 1 of this article two types of contraband were seized, namely, goods of a large size and strategically important raw materials, for which the legislation establishes the relevant rules of export outside Ukraine. In addition, the editorship of the norm on historical values, which is now a kind of cultural property as a subject of smuggling, has been improved. To date, smuggling items include: cultural values, poisonous, potentially explosive, explosive substances, radioactive materials, weapons or ammunition (other than smooth-bore hunting weapons or military supplies to it), parts of firearms, as well as special technical means of secretly obtaining information [1].

At the same time, the legislator points out that all objects of smuggling, with the exception of cultural property, are in limited circulation and, as a rule, require special permission to move them across the customs border. This is primarily due to the fact that their use can cause significant damage not only to the life and health of a person, but also the surrounding environment and the state as a whole.

As we see, smuggling of goods is excluded from the disposition of Article 201 of the Criminal Code and is no longer a criminal offense, the responsibility for it passes into an administrative offense with the imposition of a fine. Thus, for smuggling instead of criminal liability, large financial sanctions were imposed - a fine of 100% of the value of the smuggled goods detected and its confiscation, as well as the confiscation of goods and vehicles with specially manufactured repositories used for transportation. For repeated during the year, the same penalty for a similar violation of the same fine is doubled (200% of the value of the contraband goods). Confiscate the vehicles used for the movement of goods-direct items of violation of customs rules through the customs border of Ukraine. In this case, the new edition of Art. Art. 351, 352 of the MK Ukraine is about any vehicles (aviation, water, rail, road transport), which were transported smuggled goods, even those that are not property of the offender (Clause 40, Article 1, Part 2 of Art. 326 MK of Ukraine) and do not contain hiding places for concealing smuggled goods into them. [2]

Recently, in the press and some foreign scientific publications, the phenomenon of "smuggling of people" has become widespread. In this regard, the question arose about the possibility of recognizing a subject of the crime under consideration - smuggling. In our opinion, the phrase "smuggling of people", at least at present, in domestic criminal law seems rather inappropriate. We admit the possibility of recognizing a person in certain legal relationships subject to encroachment [5, p. 42-43]. This will be entirely true in the case of the possession of a person associated with the movement across the state border of Ukraine, which, under certain conditions,

forms the crime, stipulated in art. 149 of the Criminal Code of Ukraine (trafficking in persons or other illegal transaction on the transfer of a person) - a crime against personal freedom of a person. As for the objective side of art. 149 of the Criminal Code of Ukraine, then in Part 1 and Part 3 of this article, in fact, "the lawful or illegal movement .... through the state border" and "illegal export of children abroad or their non-return to Ukraine" were indicated. These actions really provide for the crossing of the state border, which in certain cases makes this crime related to smuggling (Article 201 of the Criminal Code of Ukraine). But, first, the direct object of the crime, specified in Art. 149 of the Criminal Code of Ukraine is the freedom and (or) personal integrity of a person [6, p. 307]. Secondly, the subject of a criminal offense in the above article is a person, but to recognize a person as a subject of smuggling - there is no ground for economic crime.

Accordingly, the subject of smuggling, and taking into account the various sections of the Criminal Code of Ukraine, which contain the mentioned crimes, their coincidence does not go at all. So, with regard to the phrase "smuggling of people" as a criminal law, we consider it inappropriate and premature to make changes to the legislative framework of our country.

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COMPLIANCE WITH UKRAINIAN LEGISLATION ART. 10 EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Human rights and fundamental freedoms stipulated in art. 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the "European Convention") are the most controversial issues both in theory and in practice. This is particularly the case with the right to freedom to receive and impart information and ideas without interference by public authorities and regardless of frontiers. This is due not only to the complexity of art. 10 of the European Convention, but also a precedent for the European Court.

As can be seen from the contents of Art. 10 of the European Convention, it consists of three provisions: the freedom to observe their views; freedom to receive information and ideas; the freedom to distribute information and ideas. As the practice of the European Court shows, the restrictions contained in Part 2 of this article can not be applied to the first provision.

The European Court of Justice examines cases of freedom to receive information and ideas; the freedom to disseminate information and ideas, which is the first major requirement of Art. 10 of the European Convention is that any interference by a public

authority in the exercise of the freedom of expression should be lawful: the first sentence of the second paragraph, in essence, provides that any restriction of expression of opinion should be "established by law". In order to comply with this requirement, interference should not simply be based on national legislation, but the legislation must comply with certain conditions of "quality".

We fully agree with L. Pankratova that the most important conclusions of the European Court can be summed up as follows: in order to find out the facts, the European Court uses any information available to it, including reports from international organizations; Ukrainian legislation does not meet international standards, since it does not clearly divide facts and valuation judgments, and protection of the reputation of a public person outweighs the possibility of open criticism of it; it is necessary to distinguish between facts and appraisal judgments; the requirement to prove the veracity of judgmental judgments violates the freedom of expression; there must be a minimal factual basis for valuation judgments; Policies should be open to vigilant supervision and strict criticism, as this is the burden they have chosen and accepted in a democratic society; Election candidates are active politicians, information about them is a topic of public interest; Valuable judgments used in political rhetoric are not subject to proof; The journalist has the right to criticize politicians using a rigid, polemical, sarcastic language that can be offensive or even shocking to them; has the right to exaggerate and provocative.

Guarantees Art. The 10 European conventions apply not only to the truthful, that is, to information based on facts. A person who has expressed his views, and not facts, should not prove their truthfulness. They need pluralism, tolerance or openness, without which there is no democratic society.

In Ukrainian legislation, the provisions of Art. 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms have been reflected. Yes, in Art. 15 of the Constitution of Ukraine states that public life in Ukraine is based on the principles of political, economic and ideological diversity.

No ideology can be recognized by the state as obligatory. Censorship is prohibited.

The state guarantees freedom of political activity not prohibited by the Constitution and laws of Ukraine. Provisions of Art. 10 European conventions are also reflected in Art. Art. 34 and 35 of the Constitution of Ukraine.

Conclusions. If we analyze even the decisions of the European Court on the requests of Ukrainian citizens concerning the right to freedom of expression, it seems possible to conclude that the European Court is more inclined to adopt a position of freedom than its restrictions, stipulated in Part 2 of Art. 10 of the European Convention.

When comparing art. The 10 European Convention on the Law of Ukraine stipulated by the domestic legislation of Ukraine clearly shows that theoretically, the latter meet the requirements of Art. 10 of the European Convention. Therefore, it is necessary to eliminate the continuous corruption in the Ukrainian judicial system, so that the courts clearly comply with the requirements of the current legislation, and thus, they did not violate the rights of citizens stipulated by art. 10 of the European Convention. To a certain extent, this will be facilitated by the speedy establishment of an anti-corruption court in Ukraine.

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CRIMINAL INTENT

It is generally accepted that criminal intent is a person's idea of the result of his or her activity, of that, which the person wishes to achieve by committing a crime. It is worth examining the definitions of the 'criminal intent' term, given by different authors. For example, according to F. de Jong (2011), the term 'criminal intent' is related to

a specific manifestation of an intentional act. The intent 'inspires' the subject to act and eventually materializes as the subject's acts.

According to I.O. Khar' (2013a), intent (prospect) is a source of the subject's orientation and activity. It depicts an imaginary model of the future (that, which the person would like to achieve by its actions). At that, in each individual case, there can be many intents of an action, but one of them is dominating. Criminal intent mediates the means and nature of the criminal's actions, determines the vector of his or her actions.

Criminal intent is the final (interim) result in the culprit's consciousness, which he or she pursues by committing a crime. Criminal intent is the subject's psychic idea of the result he or she pursues. The person acts with an intent of committing a crime if he or she knows what he or she is doing and wishes to achieve natural and possible consequences of such conduct, which are known to be results of such conduct (Bassiounim 1978). Criminal intent is the activity result that the criminal wishes to achieve by committing a crime.

According to S. Parsons (2004), intention is present, first where an actor wants or desires a consequence to occur – it is the intent of his action and, second, where a result is not wanted or desired but the actor does the act 'knowing full well' that the consequence is 'likely'. In juridical literature devoted to the analysis of criminal intent, it is stressed that intent is an obligatory condition of a crime with direct intention, since it shows the mental attitude of a person to both the action and its consequences. There are also opinions that a criminal offense is not any violation requirements, but only the one that is executed with a view to getting improper advantage, since such intent allows distinguishing between a criminal act and a noncriminal one. According to E.I. Orzhynska (2013), knowing the intent is one of the conditions for a quick and proper solution and investigation of cases. Some authors distinguish several types of criminal intent. For example, according to K.M. Orobets (2014), among criminal intents, one of the most common

ones is lucri causa, with which a person wishes to acquire material goods for him- or herself or third parties, or avoid unwanted losses.

In USA criminal law, besides the general term of criminal intent, there exists also the term 'specific intent'. To prove a person guilty, the prosecution must prove the intent with which the act was done. For example, the elements of the crime of burglary are: (1) the act of entering a building, and (2) the specific intent to commit a 'felony, theft or assault' therein. At that, according to J.A. Sigler (1981), for various reasons, primarily because specific criminal intent is difficult to prove, USA legislation gradually abandons this form of criminal intent. English legal precedents and juridical literature sometimes uses the term 'basic intention' and 'specific intention'. It is believed that a specific intent is present in crimes that have an important 'specific' purpose. In such cases, laws state that a person is responsible for causing injuries with an intent of causing grievous bodily injury.

Some authors distinguish the transferred intent. For example, while hearing a first-degree murder case, the District of Columbia Court of Appeals stated that when a defendant purposely attempts to kill one person but by mistake or accident kills another, the felonious intent of the defendant will be transferred from the intended victim to the actual, unintended victim. In criminal law science, criminal intent is an important constituent of mens rea. According to I.O. Khar'(2013b), the obligatory element of mens rea is criminal intent, which is analyzed with regard to crimes. R. Rengier also related criminal intent to mens rea. However, this scholar does not mention the motive of the crime as a constituent of mens rea. Some scientists view criminal intent as an indirect proof of commission of crime. For example, J.C. Smith (1995) states that the prosecutor has to provide proof, for instance, evidences of the fact that somebody saw the defendant press a gun against the victim's head and pull the trigger. This is a direct proof of the fact that the defendant murdered the victim and an indirect proof of the fact that the intent was murder.

If the legislator provides for a concrete intent as an obligatory element of crime, then its absence in any specific case excludes this

crime. For example, fraud is impossible without lucri causa. At that, some scientists state that some countries provide for clauses, according to which a person is considered guilty by default in certain situations, despite the criminal law not mentioning the intent, required for establishing a crime. Scientific literature also studies the effect of criminal intent on the classification of crimes. For example, O.S. Steblynska (2014) states that intent does not affect the classification of environmental crimes. However, the culprit's intent does matter for distinguishing environmental crimes from related crimes (for example, crimes against national security, against life and health of people, property crimes, etc.).

Experts also share the opinion that evasion of obligations is an obligatory element of mens rea. When providing certain practical examples of criminal conduct, American legal experts note, that if a several persons participate in shoplift and one of them changed the intent of robbery 'on the doorstep' of the shop, this person can avoid responsibility only if he or she prevents his or her accomplices from executing the robbery. It is expedient to examine the experts' opinions of the interconnection between criminal intent and motive. Despite the fact that legislative acts and court holdings in England often mention the intent of committing a crime, they lack its general or even common definition. Nevertheless, certain precedents, created by the House of Lords during the last two decades, evidence attempts to find out what is 'intent', in contradistinction to, for example, 'motive'. At present, the main verdict regarding this issue is the holding of the House of Lords on the R. Moloney case in which the defendant was found guilty of murdering his stepfather.

The defendant and his stepfather (both had consumed a quantity of alcohol) after the rest of the family retired to bed after celebrating a family event, argued who could load, draw and shoot a gun quicker. The defendant was first to load and draw and the stepfather said, 'I don't think you have got the guts but if you have pull the trigger'. The defendant pulled the trigger but in his drunken state, he did not believe the gun was aimed at the stepfather. The defendant shot his stepfather killing him. In the holding, later

falsified by the House of Lords, the judge gave guidance on the approach for the test on oblique intent: 'In the rare cases in which it is necessary to direct a jury by reference to foresight of consequences, I do not believe it is necessary for the judge to do more than invite the jury to consider two questions.

First, was death or really serious injury in a murder case (or whatever relevant consequence must be proved to have been intended in any other case) a natural consequence of the defendant's voluntary act? Secondly, did the defendant foresee that consequence as being a natural consequence of his act?'.

In criminal law theory, criminal intent is viewed in parallel to the criminal motive, which diminishes the independence of the topic to a certain extent. This causes a lack of attention to the topic as an independent element of crime. For example, according to L.O. Semykina (2013), motive and intent are closely related, interdependent, and correlative concepts. Intent is always mediated by a motive, just as a motive is always mediated by intent. The motive affects how a person formulates the intent, how it will be executed. Criminal intent is based on criminal motive; in combination, they form the basis for guilt (Veresha 2012). At that, it should be mentioned that in the criminal law of England and the USA, guilt is determined by the 'mens rea' term. English-speaking authors primarily convey the meaning of the 'mens rea' term by the phrase 'guilty mind'. Journal In turn, English and USA criminal law use two similar concepts – 'intent, intention' and 'motive'. In everyday use, the terms 'motive' and 'intent' are considered synonymous, but in law, they are different. A motive is not an intent, although it leads to a formulation of intent. It precedes criminal conduct, while intent accompanies it. The motive temps the mind to commit a crime, forces to act in order to achieve a certain result.

The motive and intent are frequently substituted by one another, which complicates the legal evaluation of a committed crime. According to R.I. Sakhno (2013), the motive and intent are not only independent elements of a person's conduct, but also interdependent, interconnected, since the motive is realized through

intent. In addition to the expressed positions, A.G. Babichev (2013) states that the criminal motive is oriented and coordinated by criminal intent, therefore, it is recognized among corpora delicti as a constructive or classifying element of this or that type of crime. According to another opinion, despite the fact that a motive and intent of an action are interconnected and interdependent, they are different elements of a person's volitional activity.

At that, A.V. Naumov (2010) states that, firstly, the motive and intent can be main (constructive) elements of corpus delicti. Secondly, the motive and intent can be elements, the presence whereof creates an aggravating corpus delicti (corpus delicti under aggravating circumstances). Thirdly, the motive and intent can be circumstances that aggravate or extenuate responsibility during the sentencing. According to I.Yu. Gora (2014), while the criminal motive is an incentive, the intent is the desired result of criminal activity, achieved by the criminal by performing a criminally punishable act. According to Yu.A. Dorokhin (2014), the criminal procedural law lacks an indication of criminal intent as a circumstance that has to be proven. However, the need for determining the intent follows from the volitional nature of a subject's criminal activity – from the fact that the intent of the actions themselves always corresponds with subjective reasons for an action in the form of motive.

This is also mentioned by other authors. For example, D.I. Masol (2013) notes that a lack of indication of motive or intent in the disposition of a criminal regulation does not mean that respective elements of corpus delicti are not among obligatory ones: both the motive and intent can be 'concealed' in the content of other elements (for example, it is generally accepted that the 'due to performance of obligations' formulation indicates either criminal intent – to prevent the legal activity of the victim, or motive – revenge for such activity); in addition, the motive and intent can be presented contextually, rather than textually (for example, lucrative motive and intent during socalled 'thefts').

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THE CURRENT STATE OF LEGISLATIVE REGULATION OF THE AGE OF CRIMINAL RESPONSIBILITY AND THE PROSPECTS FOR ITS DEVELOPMENT

International legal principles and norms establish the special status of a minor, including those who violate the law, and require a more loyal attitude, compared to adults, to the attitude of all the states that have accepted the relevant obligations, including Ukraine.

Today in Ukraine, as in the whole world, the highest value is the provision of human and civil rights and freedoms. Particular attention is paid to minors, who are one of the most vulnerable groups of the population, which necessitates creation of special conditions for the maintenance and realization of their rights [1, p. 95-98].

However, the problem of juvenile delinquency is one of the urgent problems of the Ukrainian society, which requires an urgent solution. Therefore, the purpose of the article is to thoroughly investigate the question of age, the achievement of which a person is subject to criminal liability.

In accordance with the International Convention on the Rights of the Child of November 20, 1989, ratified by the Verkhovna Rada of Ukraine of February 27, 1991 p. No. 789-XII, a child is every person who has reached the age of 18 [2, p. 42]. However, in Ukraine, the grading of the child's age in the following age

categories is legally established: a child is considered a child until he reaches fourteen years of age, and a minor is between the ages of fourteen and eighteen.

The peculiarity of minors as a special subject of criminal responsibility is, first and foremost, the chronological age, which predetermines the psychological and physiological development of the individual, the acquisition of certain knowledge, skills and abilities that makes it possible to realize the social danger of their actions and to manage them.

To reveal the features of the subject of an offense, it is important to establish at the legislative and enforcement levels of age criteria that would allow the conclusion that the person is properly perceived and able to manage their actions. The above is not only the correct assessment of the actual features of a particular life situation, but also its social aspect, in particular, the correlation of actions of the person and his people with established moral and legal norms [3, p. 147-148].

As you know, reaching a certain age is a necessary condition for bringing to justice a criminal responsibility. Thus, the legislator, given in the first place the data of medicine, psychology, pedagogy and other sciences, when establishing the age of criminal responsibility comes from the normal, typical for most adolescents, the conditions for their development and formation at certain stages of their life path. It should be noted that the age is called the periods of human development, characterized by qualitative changes in physical and mental processes and characterized by special laws of their course [4].

The introduction of the age limits of criminal responsibility is conditioned by ideas existing in a particular society about the ability of the majority of its members to understand the social character of their actions and their consequences (including socially dangerous ones) since reaching a certain age.

In accordance with the Criminal Code of Ukraine (hereinafter – the Criminal Code), the legislator is differentiated approach to the establishment of the age of criminal responsibility. Yes, Art. 22 of the Criminal Code states that persons who have reached the age of

sixteen years prior to committing a criminal offense are subject to criminal liability, and persons who are aged from fourteen to sixteen may be liable to criminal liability for certain types of crimes (the list of which is clearly regulated by criminal law).

We consider it necessary to note that the specified minimum age limits are not absolutely recognized, since during the development and discussion of the draft Criminal Code of Ukraine there were suggestions on both their increase and decrease. But the Criminal Code in 2001 retained the traditions of the Criminal Code of the USSR in 1960, establishing the general age of criminal responsibility – 16 years.

However, in some cases, as in the previous criminal codes of our country, when it comes to crimes that present an increased public danger or their significant prevalence, criminal liability in accordance with Part 2 of Article 22 is established from 14 years. It should be noted that the list of crimes for which liability is foreseen at the age of 14, the legislator in the Criminal Code in 2001 somewhat refined and extended.

Such crimes include: intentional murder (Art. 115-117), encroachment upon the life of a state or public figure, an employee of a law enforcement agency, a member of a public formation for the protection of public order and the state border, or a serviceman, judge, people's assessor or jury in connection with their activities related to the administration of justice, counsel or representative of a person In connection with activities related to the provision of legal assistance, a representative of a foreign state (Articles 112, 348, 379, 400, 443), intentional grave bodily harm (Art. 121, part 3 of Articles 345, 346, 350, 377, 398), sabotage (Article 113), banditry (Article 257), a terrorist act (Article 258), the seizure of hostages (Articles 147 and 349), rape (Article 152), forcible sexual satisfaction (Article 153), theft (Article 185, part 1 of Articles 262, 308), robbery (Articles 186, 262, 308 187, part 3 of Articles 262, 308), extortion (Articles 189, 262, 308), deliberate destruction or damage to property (part 2 of Articles 194, 347, 352, 378, parts 2 and 3 Article 399), damage to roads and vehicles (Article 277), theft or capture of railway rolling stock, air, sea or river vessels (Article 278), illegal

possession the vehicle (parts 2 and 3 of Article 289), hooliganism (Article 296).

Thus, in determining the amount of criminal responsibility under the existing Criminal Code, the legislator provides for two age limits of 16 and 14 years (Article 22), linking them in the first case with responsibility for a wider range of crimes, and in the second – only in accordance with the list provided in part 2 of Art. 22 Criminal Code.

Recently, we observe a tendency for the increase of juvenile delinquency, which raises the question of the need both for reducing and extending the age limits of criminal responsibility. Some legal scholars, in view of the fact that socially dangerous acts are committed by persons under the age of 14, suggest revision of the criminal law of Ukraine regarding the age of criminal responsibility. [5]

Thus, V.G. Pavlov proposes to reduce the age limit of criminal liability to thirteen years Persons who committed a murder, willful causing serious harm to health, theft, robbery, robbery, hooliganism under aggravating circumstances [6, p. 35].

In turn, V. Burdin proposes to divide the age limit of criminal responsibility into four groups: children under 11 years old; Teens 11-14 years old; Adolescents 14-16 years old and minors 16-18 years old. In his opinion, children under the age of 11 are outside the sphere of criminal law and can not be prosecuted; Minors from the age of 11 to 14 years are prosecuted only for an exhaustive list of crimes, provided the conclusion of the examination confirms the correspondence of the actual level of development of their chronological age, sufficient for guilty responsibility [7, p.10].

In our opinion, the position of the legislator, which Having established the special (lowered) age from which the criminal liability comes from the age of 14 is sufficiently substantiated, since minors aged 11-13 years are not able to fully predict the social character of their actions AME in terms of their mental and physical development. However, in our opinion, this problem requires a thorough study and research, based on the current realities and the crime situation in the country, the final solution of which is only possible at the legislative level. In view of the above, it should be

noted that for the normal functioning of the justice system in criminal cases involving juvenile delinquency, it should cover the age-specific characteristics of the minor; legal guarantees for the protection of the rights and legal interests of minors; completeness of individual social and psychological study of the personality of a minor; selecting the individual measure impact and its implementation. But in light of the further improvement of the criminal policy of Ukraine with regard to minors, one should not forget about the principle formulated in art. From the Convention on the rights of the child: "in all actions against children, whether they are carried out by public or private institutions dealing with social security issues, courts, administrative or legislative bodies, the primary attention is paid to the best interests of the child" [2, p. 25].

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THE PROBLEMATICAL QUESTIONS OF CORRUPTION CRIMES

The legislative bases of state anti-corruption policy of Ukraine are investigated in this article. The disparities and non-agreements of the provisions of some standards are analysed here, in particular the provision of Criminal convention about combating against corruption (ETS 173) from the 27th of January, 1999, according to the Law of Ukraine "About the prevention of the corruption" from the 14th of October, 2014 # 1700 – VII and the issue XVII of Special part of the Criminal Code of Ukraine "Crimes in the sphere of official and vocational activities, that is connected with provision of public services".

Being analysed the list of the corruption crimes, that was mentioned in the remark of the 45 article of the Criminal Code of Ukraine, foreseen by articles 191 " Conversion, misapplication of property or its acquisition by means of official duties abusing", 262 "Stealing, conversion, exaction of firearms, ammunition, explosive substances and radioactive materials or their acquisition by means of fraud or official duties abusing", 308 " Stealing, conversion, exaction of narcotics, psychotropic substances or their analogues or else their acquisition by means of fraud or official duties abusing", 312 "Stealing, conversion, exaction of precursors or their acquisition by means of fraud or official duties abusing", 313 "Stealing, conversion, exaction of the equipment that is intended for making narcotics, psychotropic substances or their analogues or their acquisition by means of fraud or official duties abusing and other illegal acts with such equipment", 320 "The fixed rules infringement of narcotics, psychotropic substances or their analogues or precursors

circulation", 357 " Stealing, conversion, exaction of the documents, stamps, seals, their acquisition by means of fraud or official duties abusing or their damage", 410 "Stealing, conversion, exaction of firearms, ammunition, explosive or other fighting substances, means of transportation, military and special equipment or other military stores by a serviceman and also their acquisition by means of fraud or official duties abusing", in case if they were committed by means of official duties abusing, and also the actions that were foreseen by the articles 210 "Equivocal using of the budgetary funds, making the budget spending or extending credits from the budget without prescribed budget assignments or with their exceeding", 354 "The bribe of the company, enterprise or organization employee", 364 "Authority and official duties abusing", 364-1 "Abusing of the juridical person's authority of private law by the official independently of organizational legal form", 365-2 "Abusing of the authorities of the persons who provide public services", 368 – 369-2 of the Criminal Code of Ukraine.

Proving that in spite of positive features and importance of fixing corruption crimes in the Criminal Code of Ukraine there are still problematical questions of their classification as for the analysis of corruption and corruption delinquency concept. Turning attention to the absence of the indication at the person as the general individual of the corruption delinquency in the list of the individuals of corruption delinquency, that was foreseen in the Law of Ukraine "About the prevention of the corruption" from the 14th of October, 2014, and this individual, according to the corruption conception, can suggest and guarantee undue benefit. At the same time the crimes, that hold the general individual as a legislator, have been referred to the corruption crimes incorrectly (CCU art.354 p.1, CCU art. 368-3 p. 1, CCU art. 368-4 p. 1, CCU art. 369, CCU 369-1 p. 1).

Researchers' viewpoints are analysed critically, if they say that the lucrative impulse is obligatory presence in the overwhelming majority of the corruption crimes, in particular, foreseen in the articles 191, 354, 357, 364, 364-1, 365-2, 368, 368-2, 368-3, 368-4,

369-2 p. 2 and p. 3 of the Criminal Code of Ukraine. Simultaneously some constituent elements of crimes, such as: art. 210, art.320, art. 357 p. 1 of the Criminal Code of Ukraine may not have got the purpose of getting undue benefit or the lucrative impulse.

Besides mentioned disagreements of anti-corruption legislation attention paying to the legislative gaps, in particular, the null Law of Ukraine "About the prevention basis and counteractions of the corruption"[9] was declared in the remark to the art. 369-2 of CCU instead of necessary valid "About the prevention of the corruption"from the 14th of October, 2014. The absence of the reference to the Law of Ukraine "About the prevention of the corruption"from the 14thof October, 2014, doesn't allow to impose the list of people as for the legislative level, authorized to fulfill the functions of the state. The actions classification of the individual of crime, mentioned in the art.369-2 of CCU, is impossible without it. In this case for people who committed a crime, foreseen in the art. 369-2 of CCU till the 14th of October, should use retroactive force in the time of law, that rescind the criminality of the action, extenuate criminal amenability or in other way improve the status of the person, foreseen in the art. 5 of Criminal Code of Ukraine.

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DEFECTS OF LEGAL REGULATION OF RELEASE FROM SERVING A PUNISHMENT WITH A PROBATION

Exemption from serving a sentence with a trial on the basis of Art. 75 of the Criminal Code (hereinafter - the Criminal Code) of Ukraine is one of the most widespread types of dismissal in judicial practice.However, the shortcomings of the legislative regulation of this measure create some difficulties in the process of law

enforcement. According to Part 3 of Art. 75 of the Criminal Code of Ukraine, the court, in cases provided for by law, decides to release a sentenced person from serving the sentence, if he does not commit a new crime within the specified probationary period and perform the duties assigned to him.

And in the case of a convict being executed during the probationary period of a new crime, the court orders him to punish according to the rules stipulated in Articles 71, 72 of the Criminal Code (part 3, Article 78).The ambiguous understanding of these provisions, in particular the phrase "committing a crime", leads to cases of refusal of the court to satisfy the petition of the authorized agencies on probation to release a person from serving a sentence in connection with the expiry of the probationary period if, at the time of the decision of this question, there is information about introduction of data on a criminal offense committed by the convicted person during the probationary period to the SRPI.

However, the adoption of such court decisions is somewhat premature. Proceeding from the content of these norms of the Criminal Code, it is logical to conclude that for the refusal to release a person from serving a sentence in connection with the expiry of the probationary period, it is necessary to establish the fact that the person committed the crime in question. The criminal law defines a crime as stipulated by the Criminal Code socially dangerous guilty act (action or inaction), committed by the subject of the crime (Part 1 of Article 11).

In accordance with Part 1 of Art. 3 of the Criminal Code, the legislation of Ukraine on criminal liability is based, first of all, on the Constitution of Ukraine. This means that the provisions of the Criminal Code should be consistent with the provisions of the Basic Law in accordance with the rule of law principle (Article 8 of the Constitution). According to Part 1 of Art. 62 of the Constitution of Ukraine "a person is considered innocent in committing a crime and cannot be subjected to criminal punishment until her guilt is proved in a lawful manner and established by a court sentence".In accordance with Part 2 of Art. 373 of the Criminal Procedural Code

of Ukraine "if the accused is found guilty of a criminal offense, the court shall issue a conviction and impose a punishment, exempt from punishment or from his serving in cases provided for by the law of Ukraine on criminal liability".

And in paragraph 10 of the decision of the Constitutional Court of Ukraine in the case about the consideration by the court of separate decisions of the investigator and the prosecutor dated January 30, 2003 No. 3, it was stated that "the conviction of the investigator and the prosecutor in the commission of a crime does not mean proving her guilt, which, according to the constitutionally enshrined the principle of presumption of innocence of a person can only be established by a conviction of a court (Article 62 of the Constitution of Ukraine) ".

Summing up the above, it can be noted that the wording of Art. 78 of the Criminal Code, in particular the content of the phrase "the person who committed the crime", establishes legal requirements for the need to prove the fact of committing a crime by a person (and not a minor act, for example) by a conviction as grounds for refusal of the court to release a person from the punishment imposed. Otherwise, this provision would not coincide with the principle of presumption of innocence, as defined by the Constitution of Ukraine.

Obviously, in order to avoid inaccuracy in the process of law enforcement, it is necessary to make the necessary clarifications of the mentioned norms of the Criminal Code (regarding the presence of a conviction to confirm the fact of committing a crime), for example, in the relevant resolution of the Plenum of the Supreme Court of Ukraine, or in Art. Art. 75, 78 of the CC, the words "a person who committed a crime" in the necessary context should be replaced by the phrase "a suspect, accused of committing a crime".

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A VICTIM IN A CRIMINAL CODE OF UKRAINE: PERSPECTIVES OF CHANGES AND THE REALITIES OF THEIR IMPLEMENTATION

The Verkhovna Rada of Ukraine registered the Draft of Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on the Execution of Criminal Penalties and the Organizational and Legal Provision of the Probation Authority" No. 7494 dated January 17, 2018. This Draft of Law of Ukraine was created to improve the existing mechanism of legal regulation in the field of execution of criminal penalties and probation, since the existing system of execution of criminal penalties and the established organizational and legal basis of the activity of the probation body are not perfect, due to what there are gaps, shortcomings and legislative conflicts which can be eliminated by adopting the relevant law. In order to enhance the security of the representatives of the authorized body on probation and their close relatives, the draft of law proposes to criminalize the resistance of the representative of the authorized body on probation while exercising their powers and for threats or violence against the representative of the authorized body on probation.

Such a proposal is not appropriate in view of the following. Part one of Article 342 of the Criminal Code provides for liability for resistance to the representative of the government, including acts and actions committed against the representative of the authorized probation body, who is the representative of the government. The recognition of the representative of the authorized probation body as

the representative of the authority is based on the provisions of the following normative and legal acts:

a) as indicated in Part 1 of Art. 11 of the Criminal Executive Code, the penal organs are: the central executive authority which implement the state policy in the field of execution of criminal penalties and probation, its territorial bodies of administration, the authorized bodies on probation

b) in accordance with the thesis p. 4-5 of Part 1 of Art. 2 of the Law of Ukraine "On Probation" dated February 5, 2015, the probation body is a central executive body that implements state policy in the field of probation; the personnel of the probation body are employees who, in accordance with the powers determined by this Law and other laws of Ukraine, perform probation tasks;

в) According to the Decree of the Ministry of Justice of Ukraine No. 2649/5 dated 18.08.2017 "On Approval of the Model Provision on the Authorized Body on Probation", the authorized probation body (hereinafter referred to as the probation body) is a punishment body that ensures the implementation of state policy in the area of the implementation of certain types of criminal penalties, not related to deprivation of liberty and probation. The probation body is directly subordinated to the inter-regional department for the execution of criminal penalties and probation of the Ministry of Justice of Ukraine and is a separate subdivision without the right of a legal entity. The probation body is formed by the Minister of Justice of Ukraine in the administrative-territorial units of Ukraine to ensure the execution of the tasks of the State Criminal Execution Service of Ukraine. Consequently, on the basis of the foregoing, it is obvious that the representative of the authorized body on probation, in accordance with the provisions of the current legislation, is currently a representative of the government and there is no sence to allocate it separately as a victim of an offense as established by art. 342 of the Criminal Code.

Regarding the logic of recognition of the representative of the authorized body on probation as victim in Art. 345 of the Criminal Code are also in doubt. First, it is not clear why the changes are

proposed only to Art. 345 of the Criminal Code, and to crimes stipulated by Art. 343, 347, 348, 349 of the CC - no. Secondly, Art. 345 of the Criminal Code provides for responsibility for the threat or violence against employees of a law enforcement body in view of the specifics and the danger of their professional activity, which is their direct participation in: 1) review of court cases in all instances, 2) investigation of criminal proceedings and cases of administrative offenses, 3) operational search and intelligence activities, 4) protection of public order and public security, 5) execution of sentences, decisions, court decisions; 6) control over the movement of people, vehicles or objects through the state and customs borders; 7) Supervision and control over the implementation of laws.

Therefore, there is no sence in view of the lack of specificity and the danger of professional activity, the representative of the authorized body on probation has no grounds to determine the said persons or their relatives to the victims in the act stipulated by art. 345 CC.

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POSSIBILITY OF IMPLEMENTATION OF SPECIAL RELEASE OF CRIMINAL RESPONSIBILITY ACCORDING TO ARTICLE 158-1 OF CRIMINAL CODE OF UKRAINE

Does the duty of bodies of state power to ensure the highest social values (mentioned in Art. 3 of the Constitution of Ukraine) mean the obligingness to put to justice all guilty persons in each and all cases of crimes against election rights? At first sight this question seems inappropriate as its posing discords with the principle of inevitability of punishment. But taking into consideration other principles of criminal law (e.g. humanism, economy of criminal repression) we can assume that it is more appropriate to stimulate

person's positive postcriminal behavior (even by this person's releasing of criminal responsibility) if it is possible to avoid.

If prevention of action's damage (or their fast and complete rectification) is possible without causing relevant burden (of freedom, financial losses etc.), it is more appropriate – taking into account interests of citizens' active and passive right to vote realization (with regard to satisfactory security) – to stimulate positive postcriminal behavior even by releasing the person from responsibility, than to try and put such person to responsibility at all costs and threaten an in-time and free stated wish of voters.

Using current criminal norms for special means of releasing of criminal responsibility, it is reasonable to maintain the legislator used to use a designated logic while implementing them to Criminal Code of Ukraine. For example, crimes articles about which have norms of such special means usually are so-called formal composition crimes and non-violent. Stimulation by itself is stipulated by relevant postcriminal behavior which is stimulated by state, e.g. voluntary refusal to accomplish a crime, active or sincere repentance, report of crime and so on as well as stopping the crime on its initial phase, active support of solving the crime and remediation of damage.

Objective side of the crime according to Art. 158-1 of Criminal Code of Ukraine envisages among other forms of its committing also receiving of a ballot paper or referendum ballot by a person which is not entitled to receive it. For a short period of time (between the receiving and disposing of the ballot) a situation appears when person who received the ballot still can prevent another crime (according to the same article of Criminal Code of Ukraine) – voting more than once. Whilst receiving of the ballot by itself is a violation of the law, it is still not producing such social danger which makes bringing the person to criminal responsibility unavoidable. Moreover, if the received ballot was not used for voting more than once any potential damage (in the form of impossibility to establish voting results or consideration the elections as invalid) is excluded. In this case stimulating of socially useful behavior is much more valuable than bringing the person to responsibility.

Taking this into account it seems appropriate to add a norm on special mean of releasing of criminal responsibility (in a form of an explanatory note) to Art. 158-1 of Criminal Code of Ukraine as follows: «The person is released of criminal responsibility for committing for the first time ever a crime according to Part 1 of this Article (in the form of receiving of a ballot paper or referendum ballot by a person which is not entitled to receive it) if this person did not commit any unlawful acts using the received ballot, voluntary informed about this head of election commission and relevant law enforcement body of power as well as returned this ballot paper or referendum ballot».

Such definition envisages not only person's independent decision about positive postcriminal behavior, but also determines the necessity of non-committing other crimes using the received ballot (e.g. theft, concealment, voting more than once etc.).

Result of special mean of releasing of person from criminal responsibility for crime according to Art. 158-1 of Criminal Code of Ukraine (if such is to be put in force) will be termination of criminal legal relations between such person and the state due to the fact of this crime, annulment of this crime's committing and releasing from any legal burden (punishment, conviction etc.).

Such crime will not be taken into account in future as an aggravating circumstance in a case of a new crime committing. Meanwhile if there are signs of other crime (or crimes) in the actions of same person, he (or she) as a general rule will held responsibility only for this (these) crime (crimes).

All this make relevant criminal legal assessment of person's behavior by law enforcement bodies of power more relevant and competent.

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CONTENTS OF EXCLUSIVELY DISPOSITION OF ARTICLE 171 OF THE CRIMINAL CODE OF UKRAINE

Criminal liability for interference with the lawful professional activities of journalists is provided in Art. 171 of the Criminal Code of Ukraine. The disposition of the said norm, with the adoption of February 4, 2016, of the Law "On Amendments to the Criminal Code of Ukraine on Improving the Protection of Professional Activities of Journalists" (No. 993/19-VR), has undergone major changes and additions. That is why there is an urgent need for a scientific explanation of certain provisions of the new wording of Art. 171 of the Criminal Code of Ukraine, for its more effective application in investigating the relevant acts.

Firstly, the victims of this crime are journalists. Unfortunately, the legislation of Ukraine does not contain a uniform definition of the term "journalist". According to Part 1 of Art. 25 Journalist on printed mass media (press) in Ukraine is a creative worker who professionally collects, receives, creates and engages in the preparation of information for the print media and acts on the basis of labor or other contractual relations with its editor or engages in such activities under its authority, which is confirmed by an editorial certificate or other document issued to him by the editors of this printed mass media.

According to the Law on Information Agencies, a journalist from an information agency is a creative worker who collects, receives, creates and prepares information for an information agency and acts on his behalf on the basis of labor or other contractual relations with him or on his behalf (p. 1 st 21).

The journalist's affiliation with the news agency is confirmed by an official certificate of this agency or other document issued to him by this agency (Part 2 of Article 21).

In Art. 1 Law on State Support to Mass Media and Social Protection of Journalists states that a journalist is a creative worker who professionally collects, receives, creates and is engaged in the preparation of information for the media, performs editorial and official duties in the media (in the state or on a freelance basis) according to the professional titles of the posts (work) of the journalist, which are indicated in the state classifier of occupations of Ukraine.

According to Art. 1 the Law "About television and radio" TV and radio journalist - a full-time or freelance creative worker of the broadcasting organization, which professionally collects, receives, creates and prepares information for distribution.

Secondly, the new edition of Art. 171 of the Criminal Code of Ukraine significantly expanded the scope of objective forms of obstruction of the legitimate professional activities of journalists. Such acts include:

1) The unlawful removal of the materials and technical means prepared by a journalist, which he uses in connection with his professional activities, is the total or partial deprivation of a journalist's legal right to use or dispose of the materials or technical means, as a result of them abduction, locking of premises or repositories where appropriate materials are stored, etc.

2) Illegal denial of access to information by a journalist is such a refusal in a direct or indirect (veiled) form that is not legally justified and may be manifested in putting a journalist in conditions where it is impossible to exercise his rights and obligations in established by law. A direct form of denial occurs when the offender publicly declares his reluctance to grant the journalist access to information or relates the provision of such access with certain conditions, the execution of which is not provided by the current legislation. An indirect (concealed) form of refusal occurs when a genuine intention to deny the access of journalists to information is

veiled by certain circumstances (often fictitious), in connection with which the refusal is apparently of a legal nature (the disease of the responsible person, the legal regime of the territory or object , on which information gathering should be carried out by a journalist, etc.).

3) Illegal prohibition of coverage of certain topics, the display of individuals, criticism of the subject of power is the total or partial deprivation of a journalist's legitimate ability to carry out his activities aimed at collecting, processing and disclosing information about specific topics, showing individuals, criticizing sub ' the power of authority. Such a prohibition may be committed by means of an illegal indication or requirement, restriction of access of the journalist to relevant information, etc.

4) Any other intentional interference with the pursuit of a legitimate professional activity by a journalist is an unlawful creation of a barrier, restrictions, prohibitions on the receipt, use, dissemination and storage of information by a journalist.

5) The influence in any form of a journalist with a view to preventing the performance of his professional duties is the actions consisting in persuading the journalist, his blackmail, the threat of refusal to render legal benefits, as well as any other similar forms.

6) The prosecution of a journalist in connection with his legal professional activities is a physical or mental influence on him, his family or his close relatives, restriction or deprivation of his rights or legitimate interests (in particular, deprivation of a prize, substantial reduction of the size of a fee, dismissal from work or transfer to another or refusal to publish materials prepared by him) and other similar actions.

A necessary sign of such actions to qualify them for Part 2 of Art. 171 of the Criminal Code is a causal condition for prosecution of the performance by a journalist of his professional duties or his criticism of physical (not necessarily guilty) or legal persons.

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SEPARATE ASPECTS OF CRIMINAL RESPONSIBILITY FOR TRAFFICKING IN HUMAN BEINGS

Trafficking in human beings in the modern world is one of the most brutal mass violations of human rights and freedoms. The social threat to trafficking in human beings as an extremely dangerous crime is to encroach on the inalienable human rights of the right to respect, liberty and personal integrity, freedom of movement and free choice of place of residence, and sometimes the right to life. Trafficking in human beings represents a significant public danger for women, men and children who are used for begging, sexual exploitation, and engaging in other illegal activities that humiliate human honor and dignity.

In the national legislation, the concept of trafficking in human beings is defined in the Law of Ukraine "On Combating Trafficking in Human Beings" of September 20, 2011. Trafficking in persons is the commission of an illegal transaction the object of which is a person and also the recruitment, transfer, harboring, transfer or receipt of a person committed for the purpose of exploitation, including sexual exploitation, using fraud, fraud, blackmail, a vulnerable person's state or with the use or threat of use of violence, using the official position or material or other dependence on another person who is recognized as a crime in accordance with the Criminal Code of Ukraine (Article 1 of the Law of Ukraine).

In the wording of Art. 149 of the Criminal Code of Ukraine the meaning of "trafficking in human beings" corresponds to international norms, in particular, the definition of such an act of November 15, 2000, in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational

Organized Crime p. The process of qualification begins with the establishment of signs of the objective side of the crime. Disposition of Part 1 of Art. 149 of the Criminal Code provides for trafficking in human beings in separate forms: 1) trafficking in persons; 2) the implementation of another illegal transaction, the object of which is a person; 3) recruitment; 4) moving; 5) hiding; 6) transfer; 7) the receipt of a person committed with the use of deception, blackmail or a vulnerable state of a person.

For the presence of a crime, stipulated by Art. 149 of the Criminal Code of Ukraine, it is enough to commit criminal acts at least in one of the above forms. Intermediary services in the employment of a person, paid assistance in adoption (admission), as well as pimping do not form signs of the analyzed composition of the crime, since payment in such cases is subject to not the transfer of a person, but only services to promote (creating conditions) for future activities of the person. The unlawfulness of the deal is that a person as a living creature and a citizen can not be the subject of any paid and free-of-charge arrangements, leveling up to the status of movable property.

Trafficking in human beings and other unlawful agreements form the part of the complete crime from the moment of the implementation of the relevant agreement, the completion of the agreements reflected in the transfer of the specified amounts of money, the movement of the person himself to ensure the validity of each such agreement, from the moment of actual transfer of guilt as a human subject in respect of which sale or other unlawful agreement, to the other party (person or persons). Actual transmission is considered to be realized from the moment when the victim began to be under the control of the person to whom he was to be transferred under the relevant agreement, that is, from the time when such person received a real opportunity to dispose of the person at his own discretion.

A compulsory sign of committing a crime in the forms of recruitment, transfer, hiding, transfer or receipt of a person is a

method of a criminal act that manifests itself in the use of deception, blackmail or a vulnerable state of a person.

Unlike international acts, the Ukrainian legislator, as a separate form, highlights its own trafficking in human beings, that is, the commission of acts of sale of people without mandatory further exploitation.

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INTERNATIONAL ANTI-TERRORIST LEGAL ACTIONS

The article 1 of the anti-terrorism Law of Ukraine defines terrorism as criminal offences, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or any other criminal offences.

V. Antypenko claims that it is important to differentiate between the concepts "terrorism" and "terrorist acts". The author believes that terrorism as an international offence is a longstanding fight with the violation of the international law in which terror act is a certain gain. Terrorist act is a single offence aiming at the use of violence or illegal force, intimidation, attacks on civilian targets serious damage of the property, and the goal of affecting society. It has political objectives.

Recent global events prove that this offence is progressing rapidly. Political, religious, ethnic and criminal groups do terror acts almost every day. It is reported by the media. The progress has made

it possible for the criminals to use a great variety of means to commit an offence. So a need has arisen to develop a special mechanism to fight terrorism and protect security of Ukraine. The international cooperation on that began in 1930-s. In 1937 Convention for the prevention and punishment of terrorism was adopted. This document defines terrorism as criminal offence targeted against the state to intimidate certain persons or terrorize the peoples.

In December 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons including diplomats was adopted. It Requires parties to criminalize and make punishable "by appropriate penalties which take into account their grave nature" the intentional murder, kidnapping or other attack upon the person or liberty of an internationally protected person, a violent attack upon the official premises, the private accommodations, or the means of transport of such person; a threat or attempt to commit such an attack; and an act "constituting participation as an accomplice". 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection is also important. It obliges the parties to mark plastic explosives for the purpose of detection. Each party must ensure that all stocks of unmarked explosives not held by the military or police are destroyed, consumed, marked, or rendered permanently ineffective within three years; take necessary measures to ensure that unmarked plastic explosives held by the military or police are destroyed, consumed, marked or rendered permanently ineffective within fifteen years.

15 December 1997 International Convention for the Suppression of Terrorist Bombings was adopted. It condemns all types of terrorism. 1999 International Convention for the Suppression of the Financing of Terrorism also plays a very important role. Article 2 says that any person commits an offence within the meaning of this Convention if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

(a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex; or

(b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

International Convention for the Suppression of Acts of Nuclear Terrorism was adopted 13 April 2005. According to the Convention any person commits an offence within the meaning of this Convention if that person unlawfully and intentionally:

(a) Possesses radioactive material or makes or possesses a device:(i) With the intent to cause death or serious bodily injury; or (ii) With the intent to cause substantial damage to property or to the environment;

(b) Uses in any way radioactive material or a device, or uses or damages a nuclear facility in a manner which releases or risks the release of radioactive material:(i) With the intent to cause death or serious bodily injury; or(ii) With the intent to cause substantial damage to property or to the environment.

Currently the terror acts are diverse in number and methods. Ukraine's geo-political positioning is a pre-condition to both inside terror act and outside terror attacks. V.O. Glushkov claims that the issue is very complicated. It is so because Ukraine lies within three major geo-political areas. They are Eurasian, Middle European and Turkish. Another reason is that interfaith border coincides with geo-political borders of Ukraine. Slavic peoples inhabiting Ukraine have different levels of development. Moalorosy, Chervonorossy, Russyny, Pivdennorossy and Novorossy have their own geo-political interests. Some guerilla groups are a special threat to Ukraine. They use terrorist methods to get political gains.

Transparent borders make it possible for terrorists to move easily between the states, establish contacts with local criminal gangs involving them into terrorist offence. To conclude we should say that

terrorism has become a global phenomenon. We can fight it only if we unite against this evil. Legal studies and other sciences have not yet come to legal consensus regarding the fight against terrorism. The international cooperation is not productive enough for now. A universal document should be adopted to coordinate the international activity in this direction.

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LINGUISTIC FEATURES OF LEGAL TRANSLATION

Law is a part of culture. Understanding, then, is possible by putting down implicit cultural references to certain structures on the text level. Cultural elements appear in the texts on all levels – from the shape of words for concepts, to the sentences and stylistic text structure, up to pragmatics in its social function. Culture as the background of every human communication is a dynamic phenomenon based on historical tradition, including the individual's personal development.

When we now look at the concrete translation of legal texts, it is clear that the linguistic aspects come to the foreground. These may be described on various language levels. The question is: How can a translator deal with these aspects which, in every single text, are mixed with one another?

At first, we see some standard macro-structures when we look at the text to be translated as a whole. Every text genre, such as *the paragraph of a code, a patent text, a school certificate, a contract, a court sentence,* etc. has a specific macro-structure. It is important for a professional translator to know the relevant macro-structures for texts in the languages dealt with. The use of expressions which are

characteristic for the specific type of text is of great importance in all legal texts.

There is also the special terminology. We find those terms for concepts with different levels of abstraction side by side on the text level. There are various possible reactions to this by the translator: 1) Literal translation, 2) Loanword, 3) Substitution by a target term, 4) Use of a hyperonym, which is more general, 5) Translation with explicative extension, 6) Target version with source term in brackets, 7) Use of source term with a footnote, 8) Original word as a target neologism. The respective decision has to be made based on subject knowledge.

What we also have to observe is the technical style, which serves a specific function of speech. Legal texts are specialized communication, and their style is different from the creative language in general utterances used within the family, literature, or newspapers. The characteristics of technical style are anonymity, precision, and, as the key function of the language for special purposes is specification, condensation and anonymity of the propositions, economy of expression. This is also true for legal texts, and is thus realized by a special style:

Anonymity: Passive voice, 3rd person in present tense, focus on function not on persons, orders in the infinitive.

Precision: Many nouns focusing on facts, functional verbs with noun, factual adjectives, syntactic appositions, linguistic condensation.

Economy of expression: Word compounding, phraseological forms, series of hypotaxes for explication. This style aimed at achieving the requirement of precision may of course lead to unusually long sentences that are difficult to analyze.

A further important feature of legal texts is the fact that there are many speech acts in the legal language, and this is realized by performative verbs. "How to do things with words" is a central question in the law, because actions and relations have to be designated verbally. There are five forms of such speech acts: 1) Assertive (statements, representation, description), 2) Declarative

(self-commitment, warranty), 3) Directive (orders, recommendations), 4) Commissive (binding, obligations), 5) Expressive (expression of feelings).

The translator has to meticulously observe these aspects, in order to render a transparent, precise legal information in the translation. In translating legal texts, one will also observe the groups of addressees and apply inclusive language, where requested. Technical phraseology enhances the authoritative appearance of legal text types.

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LEGAL ASPECTS OF ELECTRONIC DECLARATION

Corruption, as a social phenomenon inherent in all, without exception, states of the world, it is an integral attribute of public authority. The real purpose of the new system is to introduce an effective instrument for the prevention of corruption. An official receives wages at the expense of taxpayers and carries out functions and powers of the state, therefore the society has the right to know about the level of its integrity and to ensure that its sources of income are legal, and property is acquired for honestly earned funds. In addition, the very fact of transparency of income and property of the employee, as well as the publicity of any significant changes in his status will become a powerful fuse, which should deter potential corrupt officials. The new system of declaration, according to the plan, should be as unimportant as possible for decent officials. The law takes into account that the subject of the declaration has the right to reside - permanently or temporarily - in a place other than the place of his registration, and therefore in the declaration he must

indicate both the registered place of residence and the place of actual residence or postal address to which the sub- The subject of declaration by the National Agency may be sent a correspondence.

Thus, information about valuable movable property belonging to the subject of declaration or his family members should be noted if its value exceeds 100 minimum wages established on January 1 of the reporting year. At the same time, it is not obligatory to indicate the value and date of acquisition of such property if it is acquired by the subject of the declaration before the submission of the first declaration in accordance with the requirements of the Law of Ukraine "On Prevention of Corruption". Expenditures and all transactions committed in the reporting period on the basis of which the subject of the declaration creates or terminates the ownership, possession or use, including joint ownership, of immovable or movable property, intangible and other assets, as well as financial liabilities arise According to the new Law, declarations are made if the size of the corresponding expense exceeds 50 minimum wages established on January 1 of the reporting year. In addition, such information includes information on the type and subject of the transaction. Firstly, real estate will be subject to declaration under the new system (including - for the first time - objects of incomplete construction). In this case, the declaration will need to indicate the value of the property on the date of acquisition of rights and its value by the latest monetary valuation. Secondly, valuable movable property (eg jewelry, personal or home electronic devices, clothing, valuable gifts, etc.) is subject to declaration. All valuable movable property (except for vehicles) acquired before the declarant submits his first declaration to a new system, may be declared without indicating its value and date of acquisition. Therefore, the issue of property valuation solely for the purpose of its declaration is completely removed. After the first declaration on the new system for officials, of course, will have to monitor the acquisition of property, possession or use of valuable property and take into account its value. Gifts will also need to monitor and indicate their cost, although the right of the declarant to indicate that the value is

unknown, is retained. Other objects of the declaration are also rather disputed: corporate rights, including securities; legal entities, the beneficiary owner (controller) of which is the subject of declaration or members of his family; property owned by a third person, but controls and disposes of which declarant or member of his family; Available cash assets, including cash and cash on invoices, are declared; intangible assets, including intellectual property objects, if they can be valued in money; the position or work performed or carried out part-time, and the entry of the subject of declaration to the management, audit or supervisory bodies of the organizations.

As regards the declaration of the property of relatives, it is necessary to declare their property, as well as children, parents and other relatives and persons only with whom the declarant is associated with common life, has mutual rights and responsibilities and lives together (all signs simultaneously). Only for the wife and husband is an exception: if the marriage is not terminated, the property of such a spouse must be declared regardless of joint or separate residence. Of course, the member of the family of the subject of the declaration may refuse to provide any information for the completion of the declaration and will not bear any responsibility for it, since the declaration is an employee's duty. The subject of the declaration is obliged to indicate in the declaration, which in this case, the NAZK must necessarily check and the declarant's liability is possible in this case only if it is proved that he deliberately concealed the data known to him.

As for liability, the untimely submission is when the deadline is completed and the person has not filed, then the responsibility comes. It is necessary here that it was intent that the subject of the declaration deliberately did not provide this information in the electronic declaration. The NAZK is a preventive body, and it has the authority to exercise administrative responsibility and bring administrative liability. In particular, it is assumed that the declarations will be verified regarding the timeliness of their submission; for a conflict of interest; as well as logical and arithmetic control of declarations. Full verification of the declaration

consists in clarifying the authenticity of the declared information, the accuracy of the assessment of the declared assets, verification of the existence of a conflict of interest and signs of illegal enrichment, and may occur during the period of the entity declaring activities related to the performance of the functions of the state or local self-government, and also within three years after the termination of such activity. The National Agency receives an opportunity to verify the declaration on the basis of information received from individuals and legal entities, from the media and other sources about the possible display of false information in the declaration.

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THE ROLE OF THE PRESIDENT OF UKRAINE IN THE SYSTEM OF ADMINISTRATION OF EXECUTIVE POWER

The urgency of the topic is that, The President of Ukraine is the head of state and acts on her behalf. The President of Ukraine is a guarantor of state sovereignty, territorial integrity of Ukraine, observance of the Constitution of Ukraine, human and civil rights

and freedoms. The President of Ukraine is elected by citizens of Ukraine on the basis of universal, equal and direct suffrage through secret balloting for a term of five years [1].

Personnel powers of the President of Ukraine in the field of public administration: make a submission on the appointment of the Prime Minister of Ukraine by the Verkhovna Rada of Ukraine, submission of the appointment of the Minister of Defense of Ukraine, Minister for Foreign Affairs of Ukraine; Appoints and dismisses half of the Council of the National Bank of Ukraine; Appoints and dismisses half of the composition of the National Council of Ukraine on Television and Radio Broadcasting; makes a submission to the Verkhovna Rada of Ukraine on the appointment and dismissal of the Head of the Security Service of Ukraine; assigns higher military titles, etc.

Provisioning authority of the President of the country in the field of public administration: creates advisory, consultative and other subsidiary bodies and services; adopts a decision on the introduction of a state of emergency in Ukraine or in its separate regions, and also, in case of necessity, announces certain areas of Ukraine with zones of emergency ecological situation with further approval of these decisions by the Verkhovna Rada of Ukraine; adopts a decision on admission to the citizenship of Ukraine and termination of citizenship of Ukraine, asylum in Ukraine, etc.

Control powers of the President of Ukraine in the field of public administration: suspends the acts of the Cabinet of Ministers of Ukraine on the grounds of their non-compliance with the Constitution, with simultaneous appeal to the Constitutional Court of Ukraine regarding their constitutionality; appoints an all-Ukrainian referendum on changes to the Constitution, proclaims an all-Ukrainian referendum on a people's initiative; cancels the acts of the Council of Ministers of the Autonomous Republic of Crimea, etc [2].

Thus, the administrative and legal status of the institution of the President of Ukraine has a double character: firstly, for the branch of administrative law, the constitutional powers of the President of Ukraine regarding the guarantee of state sovereignty,

territorial integrity of Ukraine, observance of the Constitution, human and civil rights and freedoms are the starting points to be developed the science of administrative law and directly secured by bodies and officials of executive power and local self-government; and secondly, some powers Heads of State on the formation of executive bodies, control over their activities, ensuring national security, etc. give reason to believe that the institution of the President in Ukraine is legally conferred with the functions of the executive.

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PUNISHMENTS FOR CORRUPTION CRIMES IN THE STATES OF THE SCANDINAVIAN LEGAL SYSTEM (DENMARK AND SWEDEN)

Today, corruption is one of the largest socio-economic problems of society. The key to overcoming corruption is a productive combination of prevention measures (restrictions on the use of official authority or position, restrictions on the receipt of gifts, restrictions on the combination and combination with other activities, restrictions after the termination of activities related to the functions of the state, local self-government, the restriction joint

work of close people, etc.) and combating it (the existence of an effective system of punishment for acts of corruption). Generally there is a punishment. Measure of coercion, applied on behalf of the state by a court sentence to a person found guilty of a crime and consists in the restriction of the rights and freedoms of the convicted person provided by law [1].

The system of punishment in different states is also different and depends on the legal system of a particular state. In countries of continental law punishment is divided into main (principal) and additional (secondary). Some punishments may belong, both to the group of primary and secondary ones. Often this kind of punishment is a fine. In countries of common law there is no distribution of punishment, so every punishment has an alternative character and can replace or supplement one another [2, p. 102].

Regarding the system for corruption crimes, we propose to distinguish it into four groups: soft, moderate, hard and very rigid. The first group is soft. It is typical for countries with a low level of corruption, such as the Kingdom of Denmark, which in 2017, according to The Corruption Perceptions Index, published by Transparency International, was recognized as one of the least corrupt states, and the Kingdom of Sweden, which ranked sixth in the ranking. Thus, punishment for corruption crimes in the states of this group is usually a fine, however, in the case of committing large-scale corruption acts or by a subject with a special level of authority, a punishment may be imposed in the form of deprivation of liberty.

The Criminal Code (hereinafter referred to as the Criminal Code) of the Kingdom of Denmark contains two articles which provide for liability for the bribery of public servants: active bribery (Article 122) and passive bribery (Article 144). Active bribery is to give a bribe to a civil servant, and passive – in his receipt. Moreover, a bribe is an unlawful guarantee, a promise, a proposal to another person who performs public functions in the Danish administration or in an international or public organization, as well as extortion, the receipt of such a bribe. The bribe is also a gift and an incentive for an official to take certain actions or refrain from them.

A punishment for bribery in the Kingdom of Denmark may be a fine or imprisonment for a term of three to six years. In addition, bribery in the private sector of the economy is also criminalized. Yes, Art. 299 (1) of the Criminal Code of the Kingdom of Denmark establishes liability for the unlawful reception, provision and promise of property, breach of contract requirements associated with a promise to a third party or for the benefit of the gift, the provision of other unlawful advantages.

The commission of this crime results in the imposition of a fine or imprisonment for a term up to six months. Moreover, in the Kingdom of Denmark, the same as in Ukraine, there is a liability for corruption in the field of sports, according to Art. 304a of the Criminal Code of the Kingdom of Denmark to any person who illegally promises or offers the gift or other benefits of an arbiter who works in the Kingdom or abroad in order to induce him to act or refrain from acting in relation to the exercise of his labor function shall be punished in the form of a fine or imprisonment up to one and a half years. The same punishment applies to passive bribery committed by an arbitrator [3].

The situation in the Criminal Code of the Kingdom of Sweden is almost the same as regarding the legal regulation of corrupt acts and punishment for them. Thus, corruption crimes, in accordance with Chapter 20 of the Criminal Code of the Kingdom of Sweden, are abuse of office, bribery, and violation of professional confidentiality. Penalties for these crimes, even those committed under aggravating circumstances, as well as in the Kingdom of Denmark, are mild, since they are also limited to a fine and imprisonment of up to six years [4, p. 102].

In view of the above, despite preventive ideas about the need for strict control and severe penalties for corruption, preventive measures and a system of "monetary liability" are still more effective.

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PRINCIPLES OF CROSS-BORDER COOPERATION IN THE FIGHT AGAINST ORGANIZED CRIME

Crime is an acute problem of the present. International organized crime is a challenge for the world community. The fight against global crime changed into a world-wide international problem that had become international in nature, creating a real threat to the national security of most countries of the world. Recently, an unprecedented increase in the level of international organized crime, a risk of which is compounded by the penetration through national borders enhancing their transparency.

Today it is easier for criminals to overcome state borders, including the transference of crimes or their results on the territory of other countries. More and more organized criminal communities are establishing international relations.

Criminal organizations use gaps in legislative systems for preparing crimes, implementing their criminal schemes and concealing traces of their organized criminal activity.

Transnational organized crime groups crossed the boundaries of national illicit markets for the sale of goods and services, began to take advantage of all political and economic relations, while applying the latest means of information and communication technologies.

Modern globalization processes have a significant impact on the socio-economic development of Ukraine, faced with new external and internal challenges.

The EU Neighborhood Policy identifies as one of the main priorities the development of cross-border cooperation, facilitating the social and economic convergence of the frontier borders and creating new opportunities for their development, including the development of economic, social, scientific and technical, environmental, cultural and other relations and the exchange of experience.

The European Neighborhood Policy is part of the EU's foreign policy, which seeks to strengthen relations and bring Europe closer to its neighbors in order to meet their common interests.

This policy governs the EU's relations with its 16th closest eastern neighbors, including Ukraine.

Ukraine actively demonstrates its desire to unite with the European community, which is characterized by a high level of democracy, primacy of human rights, rule of law and high standards of security, real effect of the principle of inevitability of punishment.

Strategically important thing for Ukraine is joining a collaboration with European and international community in the fight against organized crime in order to use the experience of leading countries, strengthening cooperation between law enforcement

authorities of foreign countries for improving the fight against organized crime.

In order to approve the common procedures for combating organized crime and other dangerous crimes, to ensure regional cooperation between Ukraine and neighboring countries, to improve the interaction between the border authorities of the EU member states and NATO in counteraction to illicit drug trafficking, weapons, trafficking in human beings and other most widespread organized forms crime requires the standardization of forms and methods of combating cross-border organized crime in accordance with the EU and the Council of Europe.

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USING CASE-STUDY METHOD IN TEACHING

Modern teaching demands the using of techniques resulting in high level of wide information learned. Such techniques are called interactive ones as teaching is based on mutual activity and discussion when students develop skills in analytical thinking and reflective judgment by reading and discussing complex, real-life scenarios and concerning alternative points of view. Role playing, brain storms, parliamentary debates, interviews are the examples of these techniques.

Case-study becomes actual method in professional education due to the following tendencies [1]: a) modern education aims rather special competency forming, intellectual activity developing, than getting some knowledge; b) one of the requirements for specialist's competency is ability to behave in optimal way in different situations.

One of case study pros is involvement students to participate in principles definition process through abstracting from specific examples. It develops skills of problem solving, analytical techniques using, acting in controversial situations. Another valuable feature is implementation of problem-based leaning, which is a tool for decision making in real life because of demanding not only knowledge but its usage while forming own point of view and solving the problem. As the educational strategy case study is: "… a bridge between theory and practice and between education and work." [2, p.182]

Case studies are stories. They present realistic, complex, and contextually rich situations and often involve a dilemma, conflict, or problem that one or more of the characters in the case must negotiate. A good case study is: "…the vehicle by which a chunk of reality is brought into the classroom to be worked over by the class and the instructor. A good case keeps the class discussion grounded upon some of the stubborn facts that must be faced in real life situations." [3]

Case study range in duration and amount of information and may be considered and analyzed with the use of diverse ways depending on the case per se and the purposes defined.

There may be different sources to find the case. The material for a case study can be drawn from instructor's professional experiences, from current events, from historical sources, etc. Whatever the source, an effective case study is one that: tells a "real" and engaging story; raises a thought-provoking issue; has elements of conflict; promotes empathy with the central characters; lacks an obvious or clear-cut right answer; encourages students to think and take a position; portrays actors in moments of decision; provides plenty of data about character, location, context, actions; is relatively concise [4].

There are many variations in how case studies can be utilized, but these steps-recommendations for an instructor - provide a general structure for how to lead a case-based discussion:

Give students full time to read and think about the case. If the case is long, assign it as homework with a set of questions for students to consider.

Introduce the case briefly and provide some guidelines for how to approach it. Clarify how you want students to think about the case.

Create groups and monitor them to make sure everyone is involved.

Have groups present their solutions/reasoning.

Ask questions for clarification and to move discussion to another level.

Synthesize issues raised. Be sure to bring the various strands of the discussion back together at the end.[5]

Case studies can be used in any discipline when instructors want students to explore how material they have learned applies to real world situations. This method can be effective teaching tool in course of English for professional purpose. It is possible to present cases as video- or audio material, as well as in reading. Depending on the complexity of material and the students 'level of English an instructor may duplicate the content.

Cases come in many formats ranging from simple comprehension questions (e.g.: Who are the characters of the case? Where do the events occur? What does every participant do?) to general or detailed description of the case with accompanying data to analyze. Whether to use a simple scenario-type case or a complex detailed one depends on your course objectives.

A major advantage of teaching with case studies is that the students are actively engaged in figuring out the principles by abstracting from the examples.

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FORENSIC PSYCHOLOGY VS FORENSIC PSYCHIATRY

It is not unusual for lawyers or judges to turn to professionals in the field of psychiatry and psychology when the cases they are involved in are outside the realm of general law but turn on matters of human behavior. Forensic expert witness testimony is typically provided by only those who are very knowledgeable in their area of specialty. While many people have the idea that a forensic professional is one who works on major crimes (such as a forensic pathologist or coroner), it can actually refer to anything related to the law [5]. Forensic psychology and forensic psychiatry are both careers in the criminal justice system. However, each one has unique responsibilities not associated with the other. Both occupations require divergent educational directions as well [2].

Psychiatrists are physicians who have received extensive training in the areas of mental disorders, their diagnosis and treatment. Like other kinds of physicians, they can perform laboratory tests and prescribe medications for treatment, provide psychotherapy and provide therapy to individuals, couples or entire families. Psychologists, on the other hand, have no medical training, but have training and expertise in related important topics such as statistical analysis and psychological testing [4]. Forensic psychiatrists and psychologists are active in different areas of the justice system. However, both typically are highly active with the criminal population at some point in their career. Many times, they deal directly with the mental health of a criminal suspect. From different perspectives, the psychologist and the psychiatrist will determine the state of mental illness of the inmate.

Forensic psychiatrists have specialized training to help them identify and categorize the various symptoms associated with the inmate's mental disorders. It is usually their work that is utilized in legal proceedings as a way to assess and evaluate a suspect, a victim or a witness if it is deemed appropriate by the court system [2]. By the very nature of the type of work they perform, the forensic psychologist utilizes their services much different from those performed by the forensic psychiatrist. The psychologist is usually responsible at assessing whether or not the defendant has suffered some type of mental disorder.

This typically happens before the trial even begins. This is not to suggest that the forensic psychiatrist cannot determine the defendant's competency to stand trial. Both have the education and tools to be called to the stand as an expert witness in the case [1].

Either forensic psychiatrists or psychologists may work in a variety of situations, such as child custody evaluations or assessments to determine capacities of mentally ill people who are charged with a crime, providing judges or lawyers with information on the psychological implications of a case, and much more. Forensic psychiatrists are called on to provide information related to the use of psychiatric medicine or to perform psychiatric evaluations.

Forensic psychologists are also experts on the study of human behavior as well as psychological testing and can offer their opinion in a court of law. While neither of the professionals are lawyers, they often work closely with lawyers to provide the information about psychiatry that they are not familiar with [4].

It is the forensic psychologist that tends to focus on evaluating and measuring the mental capacity of the criminal defendant, especially as it directly applies to the crime involved in the case. It is usually their determination that makes an assumption of whether or not the defendant is found to have a sound mind. Still, the investigation and evaluation of the psychiatrist might have turned up evidence that contradicts the psychologist [3].

Thus, forensic psychiatry and psychology are rewarding careers that are highly respected in the criminal justice system.

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SOME PROBLEMS OF CRIMINAL LIABILITY FOR VEHICLE'S MISAPPROPRIATIONS. UKRAINIAN AND GERMAN EXPIRIENCE

A lot of vehicles thefts happen all over the world every day. By the way, European car theft capital is Berlin, however there is the same problem in Kyiv and Ukraine as a whole.

Here we are going to analyze Ukrainian and German criminal legislation. So, in German Criminal Code is article) 248b about unlawful taking of a motor-vehicle or bicycle. It says that whosoever uses a motor-vehicle or a bicycle against the will of the person authorized to use it shall be liable to imprisonment not exceeding three years or a fine unless the act is subject to a more severe penalty under other provisions. This offense relates to crimes against property and regarded as theft. The aggravating circumstances are contained in the same chapter, articles 243, 244, 244a. Among them there are: for the purpose of the commission of the offence breaks into or enters a building, official or business premises or another enclosed space or intrudes by using a false key or other tool not typically used for gaining access or hides in the room; steals property which is especially protected by a sealed container or other protective equipment; steals on a commercial basis; steals property which is dedicated to religious worship or used for religious veneration from a church or other building or space used for the practice of religion; steals property of significance for science, art or history or for technical development which is located in a generally accessible collection or is publicly exhibited; steals by exploiting the helplessness of another person, an accident or a common danger;

steals a firearm for the acquisition of which a license is required under the Weapons Act, a machine gun, a submachine gun, a fully or semi-automatic rifle; or a military weapon containing an explosive within the meaning of the Weapons of War (Control) Act or an explosive; carrying weapons; aggravated gang theft.

The liability for vehicle's theft with aggravating circumstance is imprisonment from one to ten years. Besides, there is no difference is this motor-vehicle or a bicycle [1].

The Criminal Code of Ukraine also contains the article 289 "Unlawful appropriation of a vehicle". There are the same aggravating circumstances, such as: actions committed by a group of persons upon their prior conspiracy, or repeated, or accompanied with violence dangerous to the victim's life or health, or with threats of such violence, or committed upon entering into a residence or any other shelter, or where they caused a significant pecuniary damage to the victim; committed by an organized group or accompanied with violence dangerous to the victim's life or health, or threats of such violence, or if they caused heavy property damage.

The liability for the unlawful appropriation of a vehicle with aggravating circumstance is imprisonment from five to twelve years with expropriation. However, p. 4 of the article has discharge from criminal liability. A person shall be discharged from criminal liability, if that person committed for the first time any actions provided for by this Article (except in cases of unlawful appropriation of a vehicle accompanied with violence against the victim or any threats of such violence) and voluntarily reported it to law enforcement authorities, returned the vehicle to its owner and fully repaired the inflicted losses [2; c. 646]. So, according to p. 4 art. 289 of Criminal Code of Ukraine, driver can say that he did not intend to steal the vehicle, only to have fun. Then he has to pay for fuel and will avoid any punishment. German criminal law provides for criminal liability even for riding a bicycle without the purpose of appropriation.

At presents Ukrainian scientists argue about practicability of this encouraging rule. We agree with V.Kuznetsov that this discharge

from criminal liability is necessary to liquidate since this is a kind of permission to unlawful appropriation of a vehicle [3; c. 79]. Instead of this circumstances from p. 4 art. 289 can be qualified as circumstances mitigating punishment (for example as surrender, sincere repentance or actively assistance in detecting the offense and voluntary compensation of losses or repairing of damages).

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THE QUESTION OF DEFINING THE CONCEPT OF PROTECTING THE INTERESTS OF A PERSON FROM SOCIALLY DANGEROUS ENCROACHMENTS

As a general rule, lawful protection, necessary defense, self-defense is a legitimate defense of the individual and the rights of the defending and other persons, as well as the interests of society and the state protected by law from socially dangerous encroachment, by inflicting harm on the infringing person. It is this extended definition

of the concept that will be studied in this paper. Despite the fact that in science and practice, as well as among ordinary inhabitants there is an understanding of the phenomenon mentioned above (the legal institution), nevertheless, today there are a lot of disagreements in its interpretation. According to the established opinion, the necessary defense, lawful defense, self-defense is the natural right of every person. This means that such a right can not be restricted, regardless of whether the person whose interests the attacker encroaches on, could avoid encroachment or turn to law enforcement agencies for help. Such a definition seems correct to us.

First of all, we note that in the countries of the post-Soviet space the institution of criminal law that we studied was called "necessary defense" and the main attention was paid to the criteria for the necessary defense; persons and interests that can be protected as a result of its application; the amount of damage that can be caused to the attacker, as well as issues of premature and late defense, etc.

On the contrary, studying international experience, we are resting on the questions: who and under what conditions has the right to protect his interests from criminal assault; procedural position of the defending person.

It should be noted at once that the terminology governing this type of criminal legal relations does not always match. Without delving into the criteria of the necessary defense, its limits, objects subject to protection through necessary defense, let us dwell on the question of terminology, which designates this criminal-legal phenomenon. It should be noted that the criminal law of the countries of the post-Soviet space uses the notion of "necessary defense", in the USA it is "self-defense", in France - "lawful defense", etc. Not all terms can claim to be true.

So, if the protection of one's own life, health and other socially important objects from criminal encroachments is a natural inalienable legal basis for any person, then the criteria for such a right must be worked out at the level of an international act.

In our opinion, the most precise term is the one mentioned in the French legislation, namely, "lawful protection". Explanatory dictionary SI. Ozhegova gives the following meaning of the words "lawful" and "defense." So, the RIGHT (book). 1. Internally justified, natural. Quite a legitimate question. Your doubts are legitimate. 2. Based on the right, based on the law. Lawful actions. Lawful act. II noun: legitimacy. PROTECTION 1. Look, protect. 2. What protects, serves as a defense. Seek protection. Be my protection. Take under your protection. 3. Defending party in the trial. Defense speech. 4. Part of the sports team, having the task not to admit the ball, the puck into their own goal. Play in defense.

Thus, proceeding from the etymology of the words chosen to determine the legal phenomenon we are studying, it can be affirmed that they most accurately reflect this.

After all, firstly, "law" is a term in itself legal and means "one of the types of regulators of social relations; system of universally binding, formally-defined, state-guaranteed rules of conduct ", which, among other things, is criminal law.

Secondly, "dimensionality" from the word "lawful" means that protection alone must be commensurate with socially dangerous encroachment. And finally, the term "protection" is also deeply and firmly rooted in criminal law, especially since the very nature of this branch of law is predominantly not in the regulation of social relations, but in their protection and protection.

Concerning the rights, freedoms and other objects that can be put under protection in the process of lawful protection, in our opinion, they should be: first of all, the life and health of a person who has decided to take advantage of this right; life and health of other persons who do not have the opportunity at all or in this situation to protect their rights and freedoms independently; as well as the property of the said persons; public interests.

The interests of the state, mentioned in the law on criminal responsibility, should not figure in the context of this norm, including because it is primarily a natural law, and its carrier is an

individual, not a state. The latter is intended to clearly regulate such a legal institution, determine its criteria and limits of action.

In addition, the criteria for such a circumstance, excluding the criminality of the act, should be unified and maximally adapted for the entire international system of law. In favor of this provision, says that the basis for such protection, the right to protection is the instinct of self-preservation, inherent in nature itself and one that can not be confined to the state.

Thus, I cross the border of one of the states, everyone should have a clear idea of what rights, freedoms and objects are to be protected from criminal encroachments and what are the limits of such protection. Important importance for the implementation of such a right, as the study shows, has a jurisprudence.

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CHEMICAL CASTRATION AS A TYPE OF PUNISHMENT FOR RAPE

Imposing a punishment, the court, on the basis of the principles of criminal law, determines its type and in its extent, so that it is necessary and sufficient for correcting the person and corresponds to the purpose of the punishment, specified in Part 2 of Art. 50 of the Criminal Code of Ukraine (hereinafter – the CCU). However, the imposition of punishment can not always ensure the achievement of the above goal, therefore, it is necessary to apply other measures, including those which go beyond purely criminal-legal and affect other areas, medicine in particular. Such measures, which are not provided for by the current CCU, but which are imposed by the courts of certain foreign countries, include the

compulsory imposition of "chemical castration" to the perpetrator of the crime of rape.

In particular, in 2017, a draft law "On Amendments to Certain Legislative Acts of Ukraine Regarding Liability for Crimes Against Sexual Freedom and Immunity of a Minor" No. 6151 was registered. It concerns the compulsory imposition of the so-called "chemical castration", which suppresses sexual affinity (libido) and sexual activity. Anti-androgenic preparations (Benperidol, Depo-Provera, etc.) are used for chemical castration, injectable or oral into the human body, usually every three to four months. Anti-androgenic drugs (Benperidol, Depo-Provera, etc.) are used for chemical castration, injected or injected into the human body, usually every three to four months. As a result of the introduction of testosterone hormone substitutes, the production of its own hormones almost completely stops and there is a decrease in sexual function.

It is proposed to supplement the CCU with Article 82-1 "Replacement of the remaining part of the punishment by a voluntary medical measure", according to which a rapist who has served a sentence of not less than ten years can freely agree to a "voluntary medical measure". This bill said that the replacement of the remaining part of the punishment by a voluntary medical measure may be applied after leaving a person convicted for committing a particularly grave crime against sexual freedom and immunity of minor sentence in the form of imprisonment for at least ten years.

At least nine states in the United States (California, Florida, Georgia, Iowa, Louisiana, Montana, Oregon, Texas, Wisconsin) used this method at different times. Medication prevention of sexual crimes is used in many European countries (Great Britain, France, Germany, Denmark, Sweden, Poland, Norway, Estonia) and in other countries such as Canada, Israel. One of the European countries that began to use chemical castration is Poland. The use of chemical castration is enshrined at the legislative level in the Russian Federation and in the Republic of Kazakhstan. According to the UK, the action of the Government's program for providing to prisoners

(pedophiles) preparation that suppresses libido and sexual activity has reduced the incidence of sexual crimes from 40 to 5%.

In some US states, even surgical castration has been introduced. In addition, 15 sex offenders chose surgical castration as an alternative to not being sentenced to life imprisonment. Of all the available treatments, surgical castration is the most severe and controversial. The operation involves the removal of the testicles, which produces 95% of testosterone. For many scientists, surgical castration is a barbaric way to manage the behavior of high-risk offenders. But, despite the severity of castration, not everyone, including leading medical experts, is convinced of its effectiveness. A significant percentage of surgically cast offenders retains some sexual function.

Summarizing the above, it is necessary to support this bill, since the experience of foreign countries has shown positive results after the introduction of this method of counteracting such crimes. At the present stage, sexual violence is considered one of the most serious violations of human rights. The state is obliged to take all measures to investigate, prevent and punish various forms of sexual violence.

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CYBERCRIME IN UKRAINE

Cybercrime is an action; illegal access; illegal interception; interference with data or system; abuse of devices; fraud; offenses related to child pornography; violation of copyright and related rights; violations of the confidentiality, integrity and availability of computer systems, networks, and computer data, as well as the abuse of such systems, networks, which leads to criminal liability [1].

This is a fast-growing area of crime. Today the cybercrime is one of the most dynamic groups of socially dangerous attacks. The

rapid spread of those crimes and its social danger (which does not have any physical or virtual limits) cause the real threat to people around the world. More and more criminals are exploiting the speed, convenience and anonymity of the Internet to commit a diverse range of criminal activities. However, the Ukrainian legislator pays considerable attention to this problem: new Criminal Code of Ukraine anticipated an independent chapter of these crimes – section XVI "Crimes in usage computers, systems and networks and telecommunication network": twice this section has been changed and supplemented – this indicates the relevance of this problem in society [2]. Cybercrime became more serious than 5 years ago. Despite the effort of law enforcement agencies to fight the cybercrime, the rate of these crimes are not decreasing, but growing.

There are two types of cybercrimes: Traditional crimes, which caused by computer technologies and network: Violation of copyright and related crimes (art. 176); Fraud (art. 190); Illegal actions with documents of transfer, payment cards and other means of access to bank accounts, equipment for its manufacture (art. 200); Evasion of taxes, duties (mandatory payments) (art. 212); Import, production, sale and distribution of pornographic items (art. 301); Illegal collection or usage of information constituting commercial or banking secrets (art. 231) [3]. New crimes, which are committed by latest computer technologies (crimes that provided by section XVI of Criminal Code of Ukraine). New trends in cybercrime are emerging all the time, with estimated costs to the global economy running to billions of dollars. New cybercrimes have divided into other types: Fraud with credit cards; Fake online auctions; Fraud with bank loans; Search and usage of bugs in applications; Spam; Online gambling; Ransom and registration of domain names; Theft of services (telemarketing); Virus creations; Theft of information and personal data; Theft of false new in electronic mass media, etc.

Security Service of Ukraine and National Police, as an agent of cybercrime control, are fighting against hackers. However, it is not enough. If before Ukrainian programmers were writing viruses to hack and steal data from rich Western countries, so nowadays due to

increased security protection level from US and EU, their crimes turned to Ukraine. The laws should respond to current development of technologies. The priority area is to organise the interaction and coordination between legal body, special services, judiciary, and to provide the necessary material and technical base. None of the countries can resist cybercrime on its own. The campaign against these crimes require social efforts from country, citizens and the international community[4].

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ACTUAL PROBLEMS OF THE IMPLEMENTATION OF PUNISHMENT – THE APPOINTMENT OF PUNISHMENT

One of the components of the formation of a law-governed state is the updating and improvement of criminal legal measures for responding to a crime, among which the criminal punishment is important, from which the successful application of crime-fighting depends on the correct application. Appointment of a punishment is

the final stage of criminal proceedings. In deciding on a conviction and imposing a punishment, the court always resolves two issues: 1) the first is related to the qualification of the crime in the relevant article (part of the article) of the Criminal Code of Ukraine; 2) the second - with the imposition of punishment within the scope of the sanction of the article of the CC, under which a qualified act guilty, taking into account the relevant provisions of the General Part of the Criminal Code. Appointing a person with a punishment that will be necessary and sufficient to correct it and prevent new crimes is one of the most important and important tasks of judges in their enforcement practice.

Understanding punishment for the theory of criminal law is primarily connected with the study of its significance in terms of expression, legal consolidation and implementation of criminal policy of the state. This is especially the case with the re-socialization of persons serving sentences in places of detention and the prevention of recidivism. Criminal punishment as a special form of state coercion affects not only the person of the convict and his immediate environment, but also certain social processes. The civilized world offers a new model of attitude to criminals, which is, in particular, to limit the use of criminal punishment. However, despite the fact that Ukraine has chosen the path of democratic development, the idea that active counteraction to crime should be inextricably linked with the severity of criminal punishment remains the dominant feature of public justice. It can lead to negative consequences, in particular, to an increase in the number of convicts, which in turn will contribute to the criminalization of society. In general, criminal punishment is a form of state condemnation (condemnation) of a person convicted of a crime and consists in the deprivation and restrictions of the rights and freedoms of the convicted person, imposed by a court sentence in accordance with the current legislation, provided by law. The punishment has the following features: 1) punishment is a measure of state coercion; 2) the punishment is imposed on behalf of the state and solely on the verdict of the court; 3) punishment is imposed only for the

commission of a crime; 4) punishment applies only to a person who has been found guilty of a crime; 5) punishment is to provide for the restriction of the rights and freedoms of the convicted person; 6) punishment entails conviction.

The punishment aims at restoring social justice, reforming the convicts, and also preventing the commission of new crimes by both convicted persons and others. Art. 51 of the Criminal Code of Ukraine provides for a list of penalties that can be applied to persons guilty of committing crimes. This list is exhaustive and consists of 12 types of punishment. In the Criminal Code of Ukraine, the legislator refers to the purpose of punishing the punishment of a convicted person and his correction, preventing the commission of a new crime as a convict, and other persons, and in the CPC of Ukraine - the correction and re-socialization of convicts. The analysis of criminal and criminal-enforcement legislation gives grounds to assert that the purposes of punishment, in its appointment and execution, and the course of work, are essentially the same. However, the final result for criminal-executive law is not only the correction of the person, but also its social reaptation - re-socialization. In KVN, there is no indication of such a purpose as a punishment, which the author believes is entirely justified. With regard to general and special prevention, in Art. 1 The Criminal Code of Ukraine for preventing the commission of new crimes is mentioned only as a task of the criminal-executive legislation. The dissertation explains that most of the norms of the CPC are aimed at achieving the goal of resocialization and adaptation of the former perpetrator to life in society, which, in turn, makes it impossible for him to commit a new crime.

Appointment of a punishment is the election of a court at the time of the conviction of a specific measure of punishment to a person convicted of committing a crime. The principles of the appointment of punishment include: legality, justice, humanism, differentiation and individualization of punishment. The general principles of the appointment of a punishment are a set of rules (requirements) envisaged by the criminal law, which guides the court

in every criminal case in the process of issuing a conviction provides for the implementation of the principles of the institute of sentencing and the election of a sentenced fair punishment.

According to Art. 65 of the Criminal Code of Ukraine, the general principles for the imposition of a punishment are that the court imposes a punishment: a) within the limits established in the sanction of the article (sanctions of part of the article) of the Special Part of the Criminal Code of Ukraine, which provides for responsibility for the committed crime; b) in accordance with the provisions of the General Part of the Criminal Code of Ukraine; c) taking into account the degree of gravity of the crime committed, the person guilty and circumstances that mitigate and aggravating the punishment. The special rules for imposing a sentence are the rules for imposing a sentence: 1) in the presence of circumstances that mitigate the punishment; 2) milder than the law stipulated for the committed crime; 3) for an uncontested crime and for a crime committed in complicity; 4) in the aggregate of crimes; 5) in the aggregate of sentences.

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THE PECULARITIES OF RESPONSIBILITY FOR INFRINGEMENT OF LAND MATTERS IN LEGISLATION OF ESTONIA

In most developed countries is in practice a zoning of land, planning, regulation of its use and land allotment on the basis of appropriate legislation, directed, first of all, to the restrictions of land withdrawal from agriculture. The sale or other transfer of the agricultural lands for nonfarm use almost everywhere are needed a special permission and in many cases are hard limited [1]. Turn attention to the legal standards, that are attracted a criminal sentence for infringement of land matters in Estonia. The legal system in Estonia is a part of Romano-Germanic legal family. The current legal system of Estonia (about as complete as neighbouring Latvia) had been forming over the last 150 years as a result of interplay of different legal cultures, primarily German, prerevolutionary Russian, and also Soviet, as of today Estonia comes back to the classical German family [2].

The main source of Estonian criminal law is a Criminal Code (known formally as a "Penitentiary code"), passed on the 6th of June, 2001.[3]. Estonian legislator classified the crimes of such category to the crimes against state of the 7th chapter of the Criminal code. The article 154-1 of CC of Estonia has a name «The violation of property right to land» and according to its sense foresees a liability for «unauthorized occupation and unauthorized change, and also purchase and sale, mortgage, gift, or lease of a land plot or other acts, that are infringed the property rights on land». So, in one standard were described all types of illegal use with a land plot, irrespective of priority property right of it.

Such decision, is sufficiently objective and could be applied in the criminal legislation of Ukraine. The author faced at her work with the problem of classification of person's acts, that, on the basis of knowingly forged Certificate of title under the land transfer act, had registered a property right of the land plots and later sold them, the total cost of the land plots in according to the adjudicative land estimate examination came to 2 400 000 UAH, place of location: resort village Pylypets of Mizhhirya in Transcarpathian region (criminal proceeding No. 12017070000000038). Considering the absence of special rules in criminal legislation, actions of person on the name of which was manufactured the document, that used it, when referring to land surveying organization, state cadastral registrar and notaries, classified according to p.4 of art. 190 and p.4 of art. 358 CC of Ukraine. The defense does not agree with applied legal standards, because in actions of guilty party are absent the elements classified as a fraud, such as a deception of a person affected, especially the absence of the voluntary of transfer of ownership for property to trespasser, that rightly so, affected person not even suspected, that illegal actions were executed, concerning his land plot.

As you can see, the special rule, that strictly recites the types of illegal acts, commitment of that has a consequence in the form of prosecution, would include a ambiguous interpretation of the legal rules and, correspondingly, would lighten the work of the law-enforcement authorities, having excluded a possibility of the avoidance of criminal liability by the incorrect application of the standards of a Criminal law under classification of suspected person's acts. The article 154-2 of the Criminal code of Estonia has no parallels in the Ukrainian legislation and has a name «The non-compliance with requirements of land-use or procedure for land cadastre». As follows from its content the article foresees a responsibility for such acts: «violation of requirements for land protection or soil, or another requirements for land use, or violation of the procedure of land cadastre, that resulted in major damage or committed after imposition to guilty person the disciplinary or

administrative penalty for such violation», «p. 2 – the same act, that resulted in major damage or another heavy consequences».

It is therefore, the legislator of Estonia in two mentioned articles, in fact has covered all types of acts, that were committed by the trespassers and skilled for crime investigations connected with violation of land legislation. We deem it advisable the enforcement of similar legal standards in the national legislation.

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THE COMPARATIVE ANALYSIS OF THE ARTICLE 386 OF CC OF UKRAINE WITH THE ARTICLES OF CRIMINAL CODES OF THE STATES OF POST-SOVIET SPACE

Analyze the Criminal Code states post-Soviet space in terms of criminal protection order to obtain evidence in criminal proceedings to establish criminal responsibility for the crimes that infringe on the procedure for obtaining evidence in criminal proceedings, including the criminal liability for such acts as

obstruction of The appearance of the participants in the criminal proceedings, forcing them to refuse to testify or conclude by comparing the relevant rules of the Criminal Code of Ukraine.

Criminal Codes states establish responsibility for such acts as obstruction of appearance of participants in criminal proceedings, forcing them to refuse to give evidence or conclusion: Art. 386 Criminal Code of Ukraine, 299 of the Criminal Code of Azerbaijan, 403, 404 of the Criminal Code of Belarus, 340 of the Criminal Code of Armenia, 372 of the Criminal Code of Georgia, 317, 322, 323 of the Criminal Code of Estonia, 422 of the Criminal Code of Kazakhstan, 332 of the Criminal Code of Kyrgyzstan, 301 of the Criminal Code of Latvia, 233, 234 of the Criminal Code of Lithuania, 314 CC Moldova, 309 of the Criminal Code, 350, 353 of the Criminal Code of Tajikistan, part 2 of Art.238 of the Criminal Code of Uzbekistan. Thus, in the Criminal Code of Belarus, Estonia, Lithuania and Tajikistan responsibility for such actions is provided in separate articles, in the Criminal Code of Uzbekistan - in ostiyniy of the article "perjury."

The constitutive features of these syllables of crimes are:

- the victim, the witness (in all CC), the victim (in all CC), Expert (all CC), translator (all CC except CC), Specialist (CC Kyrgyzstan, Lithuania, Russia), actors (CC Estonia) suspect (CC Latvia), accused (CC Latvia), defendant (CC Latvia), justified (CC Estonia), convicted (CC Estonia);

- acts: 1) to prevent the appearance before the court, the bodies of pre-trial investigation, temporary investigators and a special temporary investigation commission of the Verkhovna Rada of Ukraine (CC of Ukraine), to the court, to the bodies of preliminary investigation or inquiry (CC of Belarus, Tajikistan), to pre-trial or judicial proceedings (Criminal Code of Estonia); interdiction of giving testimony (Criminal Code of Byelorussia), arrive on call to an official of a pre-trial investigation, or to the prosecutor, to a court or to the International Criminal Court (CC of Lithuania); 2) coercion to refuse to give testimony or opinion (the Criminal Code, Belarus), to refuse to testify (the Criminal Code of Georgia), to avoid giving

testimony (Criminal Code of Azerbaijan, Armenia, Kyrgyzstan, Russia), to avoid giving testimony, the conclusion, Transformation (CC of Moldova, Tajikistan); 3) compulsion to give knowingly false testimony and conclusion (CC, Belarus), to give false testimony (Criminal Code of Armenia, Georgia), to give false testimony, to give false conclusions, to make incorrect translation (Criminal Code of Azerbaijan, Estonia, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan) to the false conclusion (the Criminal Code of Armenia, Georgia); to the false testimony (the Criminal Code of Uzbekistan), to the intentional misrepresentation (Criminal Code of Georgia), the motivation to give false testimony, to false conclusion, to make incorrect translation (CC of Moldova); 4) bribery (Criminal Code of Ukraine, Azerbaijan, Belarus, Armenia, Georgia, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Uzbekistan); 5) a threat to perform specified acts of revenge for earlier evidence or conclusion (the Criminal Code of Ukraine, Belarus); 6) use of violence (Criminal Code of Estonia); 7) unlawful influence (Criminal Code of Latvia), influence in any way (CC of Lithuania);

- the way of interdiction and coercion (prompting): violence (Criminal Code of Estonia, Lithuania); blackmail (Criminal Code of Azerbaijan, Armenia, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan); threat of murder (Criminal Code of Ukraine, Azerbaijan, Belarus, Armenia, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan), murder of the victim or his close relatives (Criminal Code of Georgia); threat of harm to health (Criminal Code of Azerbaijan, Armenia, Kazakhstan, Kyrgyzstan, Russia), harm to the health of the victim or his close relatives (Criminal Code of Georgia), violence (CC, Belarus); threat of destruction of the property of these persons or their close relatives (CC, Armenia, Kazakhstan, Tajikistan), destruction or damage to the property of these persons or their close relatives (close relatives) (Criminal Code of Azerbaijan, Belarus, Georgia, Kyrgyzstan, Russian Federation); the threat of disclosure of information that they reproach (Criminal Code), the dissemination of defamatory or disclosure of other information that these persons wish to keep secret (the Criminal

Code of Belarus); other coercion (CC of Lithuania); coercion (CC of Moldova); promise, offer or provision of property, services, advantages of property or non-property nature (CC of Moldova); mental or physical influence on them or their close relatives (the Criminal Code of Uzbekistan);

- purpose: (CC, Belarus), false statements, false conclusions or indications or misrepresentations (Criminal Code of Azerbaijan, Armenia, Georgia, Kyrgyzstan, Russian Federation, Tajikistan, Uzbekistan), obstruction of the performance of their duties or the exercise of rights in criminal proceedings in the case or from retaliation for his rightful actions in such proceedings (Criminal Code of Estonia), giving false testimony or conclusion or carrying out a translation or refusal to testify or conclude or carry out a translation (Criminal Code of Latvia), giving false sentences ment, conclusion, explanation or translation during pre-trial investigation in court or in the International Criminal Court (CC Lithuania).

The CC of Lithuania provides for criminal liability for influence on the victim, a representative of a state or a legal entity for reconciliation with the guilty, if it was carried out with the use of violence or other to the compulsion. Thus, the criminal law of the states of the post-Soviet territory provides an extensive system of criminal law that protects the procedure for obtaining evidence in a criminalproceeding**.**

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MAIN ASPECTS OF CRIMINAL LEGAL CHARACTERISTICS OF TERRORISM

The problem of terrorism exists as a relevant question for many years in an international community. For many years ago terrorist activity was used as illegal, but harsh and effective way for solving political and social confrontations. Unfortunatly, the

relevance of the problem of fighting against terrorism is dictated by our reality. Terrorism is any form of its manifestation turned into one of the most dangerous socially political and moral problem by its scale, unpredictability and consequences that humanity entered into 21st century with.

Criminal law aspect studying problem of terrorism is very important considering the key role in fighting with terrorism of authorized authorities. Legislative activity and cooperation of authorized authorities that fight with terrorism is an important step in a fight with this dangerous thing. The object of this problem is public relations that appears in connection with manifestations of terrorism and using the legislation in fight with this thing. The subject of research is a criminal law that envisages responsibility for act of terrorism - this complicated, dynamic, multidimensional occurrance and legislative structure of crime, which envisaged by the Criminal Code of Ukraine (art. 258) and judicially investigative practice of its use.

Terrorism used to be and still is a big threat for humanity that accompanies the development of civilization, but the number of acts of terrorism in the world is increasing in the last decade. Terrorism is one of the most dangerous occurrances in the world which gains momentum and measures. The result of it is death of many people, great material losses and creating atmosphere of terror, distrust, malice, hatred within the society and state. “Terrorism” is a latin word for “ terror”, “fear”. There are more than hundred of definitions of word “terrorism” in a modern literature, but all scientists consider that it is a specific form of violence, which is aimed at innocent people. Terrorism can be defined as a threat of using the violence which causes feeling of fear within particular citizens the same as among many other people, and expected for their intimidation and causing distrust for public authorities in their ability to resist this crime. The object of acts of terrorism is a human as a victim on the one hand and the law and order which exists in a certain country or in the world in general on the other [3].

According to The law of Ukraine " About the fight against terrorism" [1] : Terrorism it is a socially dangerous activity which idea a conscious, purposeful use of violence with hijackings, arsons, murders, tortures, intimidation of the population and public authorities or doing other attacks on life and health of innocent people or even threats of doing criminal acts in order to achieve criminal purposes. In modern conditions of existence of weapon conflict on the territory of Ukraine and conducting of Antiterrorist operation on the territory of Luhansk and Donetsk regions the qualification of criminal manifestations has gained a special urgency that are exist in these regions. Especially difficult to qualificate crimes of terroristic aims and delimit it from manifestations of separatism and other crimes which are against the basics of the National Security of Ukraine.

Today as for restoration of law and order, it is very important in our country timely termination of the acts of terrorism and application the legislation about criminal responsibility that corresponds to their public danger [2]. To my mind, the questions of terrorism qualification, their delmit from neighbouring crimes and problems of using extradition for these actions is very urgent for Ukraine. So it is clear now that there is a necessity in further research not only national norms of criminal law and process, but also standarts of international treaties which envisage responsibility for international crimes and crimes of international character, research of modern development trends of international legal norms in question about counteractions to terrorism and their influence on Ukrainian legislation on criminal liability.

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CRIMINAL LEGAL QUALIFICATION OF A SET OF CRIMES

As we know, the totality of crimes is characterized by the commission of two or more crimes provided by various articles or different parts of one article of the Special Part of the Criminal Code of Ukraine, for which none was convicted.

The qualification of crimes provided for in the same part of the article "proves that the commission of several crimes provided for in the same part of the article is a set of crimes. There are several variants when the responsibility for a crime committed by a person is stipulated in the same part of the article (article) of the Criminal Code:

1) if in the article establishing responsibility for the commission of these crimes there is no qualifying sign "committing a crime repeatedly": committing several crimes, each of which contains only signs of the same basic component of the crime (grave bodily injury without qualifying signs, caused at different times by different victims); committing several crimes, each of which contains signs of the same qualified offense (two hooliganism committed by a group of persons, or two similar crimes committed with the use of firearms or cold weapons);

2) if in the article that establishes responsibility for the commission of these crimes, there is a qualifying attribute "committing a crime repeatedly": the commission of several crimes,

the first of which contains signs of a crime envisaged by the same part of the Article of the Criminal Code of Ukraine, which establishes responsibility for the same crime committed repeatedly, and the second one qualifies for the same part on the basis of repetition or other characteristic (theft committed in the previous a conspiracy by a group of persons and re-burglary (regardless of whether committed by himself or by prior conspiracy by a group of people)); committing several crimes, each of which contains signs of the same qualified offense as provided for in the article of the Criminal Code of Ukraine, which establishes more strict liability than in the case of the qualification of this crime on the grounds of its repeated execution (two robbery with housing penetration or in large or especially large sizes).

In the above cases, two or more crimes committed by one person and foreseen in the same part of the article must be classified as a set of crimes, that is, each crime should be reflected in the qualification formula by a separate alphanumeric symbol and in the verdict for each of these committed crimes the court should impose a separate punishment.

The qualification of crimes provided by different parts of one article "states that such a situation is possible: 1) when one act committed two or more crimes provided by different parts of one article (these are cases where the dispositions of different parts of one article provides for example, different consequences); 2) when two or more crimes are committed, each of which is provided with a separate part of one article: if in any of the parts there is no qualifying attribute "repeatedly"; if this clause provides a qualifying attribute "repeatedly".

The qualification of crimes stipulated in various parts of one article of all crimes committed by guilty (provided by different parts of one article) must be qualified individually, that is, how many actual crimes are committed, the same number of articles (parts of articles) in the qualification formula should be indicated.

Qualification of crimes provided by different statutes. The qualification of crimes committed at different times does not pose a

particular complexity, in relation to the question of whether they form a combination of crimes. In order to determine the rules for the qualification of crimes presented by various articles that are committed at the same time, it is necessary to use the rules of competition rules, as indicating cases when there are no set of crimes, in all other cases, the act forms a set of crimes. At the same time, in the aggregate of crimes, each crime is qualified separately, and in the qualification formula it is necessary to reflect all crimes committed.

Consequently, the rules for qualifying crimes in the ideal and actual set of crimes are as follows: if a person commits crimes provided by different articles, each of the crimes included in the aggregate is subject to independent qualification in the relevant part of the Article of the Special Part of the Criminal Code of Ukraine; if certain parts of the article envisage independent crimes, and the person commits these acts, the qualification is carried out according to different parts of one article of the Special Part of the Criminal Code of Ukraine.

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THE TECHNOLOGY OF INFORMATION WARFARE

Government activity which is aimed at improving information security is an important component of any law based sate. The exeptional significance of the information component is recognized by all governments of the developed countries. Extremely actual it`s in Ukraine now. This problem should be shown in our criminal law. The problem of internet terrorism in eastern Ukraine during the war conflict is very acute and requires urgent and decisive action on its immediate resolution.In this work I`ll try to find,in my opinion, the most effective ways to take off this phenomenon.

How can the degree of freedom of speech be defined when there`s a war going on? This is a very difficult question .But here is always possible to go further and complicate it even more.For instance, imagine if what you`re faced with is not a standard war but a hybrid one. A state of war has not been declared but the fighting continues. There`s a war but martial law is not in effective.

I`ll start from the most simple thing – what is it information security or sometimes shortened to InfoSec? It`s the practice of preventing unauthorized access, use, disclosure, disruption, modification, inspection, recording or destruction of information. It is a general term that can be used regardless of the form the data may take (e.g. electronic, physical).The chief area of concern for the field of information security is the balanced protection of the Confidentiality, Integrity and Availability of data, also known as the CIA Triad, while maintaining a focus on efficient policy implementation and no major hampering of organization productivity.

After the start of Russian`s military aggression against it ,Ukraine was faced with a very difficult choice.On one side of the scale was democracy ,but on the other side was a nation security.

Officials would immediately be tempedto abuse their expended powers.

One of the main problem as I think is spam in social networks and on TV. Specialhybridwar units are created in Russia. The main aim of this units is disinformation of citizens of other countries.They deliberately distort information about Ukrainian authorities in the territory of the occupied DPR and LNR to worsen the image of Ukraine and improve its position.

The result of the disinformation campaign in spring 2014 was thousands of victims. A lot of people which were the members of illegal armed groups admitted themselves that they decided to go to war against Ukraine after seeing Russian television programs about the «bloody punishers» and «crucified children».

I`m sure that we should combat with this problem and take USA`s example- In 1992, the National Information Policy and Global Information Policy (GII) programs were adopted in the United States. GII was based on five key principles: Attracting private investment; Promoting competition, introducing flexible regulatory mechanisms that should be adapted to rapid technological change and market competition; Providing open access to existing networks to all providers and users; Provision of public information services; Creation of an "e-government".

Finally, informationsecurityprotection sometimes can be seen by some people like undemocratic but even completely democratic countries that have never attacked free speech have had to resort to such measures. The last events in Ukraine have shown how serious a weapon information can be This means that developing defenses on the informational front is as important nowadays is as important improving of military training of the Armed forces of Ukraine.

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FEATURES OF CRIMINAL RESPONSIBILITY FOR CORRUPTION OFFENCES

The problem of corruption is one of the most important in the world. Surveys have determined that corruption is the most discussed problem in the world. However, the extent of corruption in the various branches of government, the private sector of our economy are staggering. The main argument and the mouthpiece of the struggle against corruption is the criminal liability for a committed corruption crimes. Corruption is not a new problem for our country. In the world ranking SRI Ukraine is ranked 131 place out of 176 countries. This line, together shared with us Kazakhstan, Russia, Nepal and Iran.

Corruption is the Foundation of the prosperity of the shadow economy affect the economic development of the state and tend to the destruction of the foundations of a free implementation of business activity on the principles of fair competition. [1, c. 201]. Article 1 law of Ukraine "On prevention of corruption" under the corruption understands the use of persons referred to and listed under appropriate legislation granted official powers or associated possibilities for the purpose of receiving undue advantage or

acceptance of such benefits or acceptance of a promise/offer of such benefit for themselves or other persons, or respectively, a promise/offer or provision of illegal benefit to a designated person or at his request to other physical or legal persons with the purpose to persuade that person to unlawful use of granted him official powers or associated possibilities. [4, c. 1]. The law uses two concepts similar terminology: "corruption offence" and "offence of corruption". When it determines that a corruption offence should understand the act containing signs of corruption, committed as specified in the law, for which the law established criminal, disciplinary and/or civil liability.

The circle of corruption crimes, the legislator divided into 2 groups. The first group includes: art 191, art 262, art 308, art 312, art 313, art 320, article 357, article 410 of the CC of Ukraine. [3, c. 367]. It acts in its "pure" form do not constitute corruption, but can be classified as such only with regard to their Commission of certain categories of persons, defined by the part 3, 4 of article 18 of the criminal code and the note to article 364 of the criminal code of Ukraine. The second group of criminal acts, which are considered to be corruption is actually corruption that exclusively contain in itself illegal corruption component: art 210, art 354, art 364, 364-1, article, article 365-2, 368, 368-2, article, article 368-3, 368-4, article, article 369, article 369-2 of the criminal code. The lack of a single General concept of "corruption crimes", in my opinion, it is justified, given the inability of adaptation and dissemination of a specific interpretation of a limited range of acts. It is impossible to develop such a generalized legal structure, which would reflect absolutely all the manifestations (signs) of corruption. But because the use of such a certain extent, the original approach to the identification of acts that are corrupt, is absolutely logical. On the other hand, qualitative content of such a list, you can still place into question. In particular, certain acts that are included in the first group of corruption-related crimes (acts stipulated in article. 262, 308, 312, 313, 320, 410 the criminal code of Ukraine), the existing international legal acts do not relate to corruption.

Most corruption crimes provided in the articles sanctions, as a supplementary punishment, deprivation of the right to occupy certain positions or engage in certain activities. In the absence of such a form of punishment in the sanctions of article, it can be appointed by the court, provided that given the nature of the crime committed by positions or in participating in certain activities, the personality of the convict and other circumstances of the case the court finds it impossible to preserve his right to occupy certain positions or engage in certain activities (part 2 of article 55 of the CC of Ukraine). Some articles sanctions for corruption offences provide for the appointment of two additional punishments deprivation of the right to occupy certain positions or engage in certain activities and confiscation or a fine (Articles 364 and 368-2 of the CC of Ukraine).

So, persons who committed corruption crimes, shall not apply under the existing criminal code of Ukraine guarantees related to the exemption from criminal liability: the provisions of article 45 of the criminal code of Ukraine - exemption from criminal responsibility in connection with active repentance.

In the result of changes in Section XII of the CC of Ukraine, according to part 4 of article 74 of the criminal code, a person convicted of a corruption offence cannot be released from punishment by court sentence, if such person has committed a crime small or moderate severity and may be considered, subject to good conduct and conscientious attitude to work this person at the time of the case in court cannot be considered socially dangerous [2, с. 15].

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OFFICIAL AS A SPECIAL SUBJECT

Legislative fixing of the concept of special was assigned by it research in Criminal Law Doctrine. By the end of 50s of the last century, when establishing a circle of special subjects, it was basically indicated that that it can not be any, but only special person, without detailed disclosing of the content of this statement. Only since the end of 50s of XX century, the analysis, and the creation of relatively complete definition of concept of special subject have started.

Some scientists define the special subjects as persons, who have not only the general properties of all the subjects of the crime, but who are also characterized by additional special qualities, which are inherent only them. The other scientists think that the special subject is a person, which has peculiar qualities, which are provided in the disposition of the relevant norm of the Criminal Code. Also, scientists believe that a special subject is a person who, in addition to the necessary signs of the subject, also has special additional features that limit the possibility of criminal prosecution of other persons for the commission of a crime. I juridical literature the subject of a

crime, which is characterized by additional, special, only to him inherent properties, is called a special subject of crime. Compositions of the crime in which the responsibility of such persons is provided, are called compositions with a special subject of crime.

Fixation of the concept of special subject of crime in the criminal law is due to the specifics of certain types of crimes, the commission of which is possible only in connection with a clearly defined activity of people, with the fulfillment of individual responsibilities imposed on them by regulatory acts. Therefore, by establishing criminal liability for certain crimes, the legislator, in contrast to all other crimes, in this law, provides as a subject not any person capable to commit a crime, but a person who, in accordance to the law, has special features or signs.

In Part 2 of Art. 18 of the Criminal Code of Ukraine the legislative definition of a special subject of a crime is fixed. In accordance with Part 2 of Art. 18 of the Criminal Code of Ukraine: "A special subject of a crime is a physical person, who can be convicted, who has committed a crime in the age from which criminal liability can be occured, the subject of which may be only a certain person" [1]. Thus, the special subject of crime is recognized by physical person who can be convicted, whois guilty in commiting of a criminal offense, the composition of which necessarily involves the presence of certain features that characterize its performer. Signs of the special subject of the crime reveal and reflect the various features of the person who committed the crime, characterizing the personality; and these features are marked by the legislator in certain compositions. They are so essential that their presence from the point of view of criminal law, either makes the act socially dangerous, or dramatically changes the nature and degree of social danger.

One can identify certain features that characterize the subject of the crime, and divide them into three groups:

1. These signs can be constructive, that is, they are foreseen in the disposition of the composition of the crime; they are mandatory signs of this crime. Thus, a state traitor can only be committed by a

citizen of Ukraine, and only an official is abusing a power or official position;

2. Different features characterizing the subject of a crime can be envisaged in different parts of one article of the Criminal Code of Ukraine. However, if the features of the two compositions of crimes coincide and one of them involves fewer circles of possible subjects, then the last norm applies to the application;

3. Signs may be optional. The value of optional features is revealed when certain features that characterize the subject are not provided for in the articles of the Special Part of the Criminal Code of Ukraine. In this case, the features of the subject are beyond the scope of the composition, they relate to the characteristics of the criminal's personality and can play a role of mitigating or aggravating circumstances in imposing punishment.

Depending on the content of a special subject, the feature are divided into groups:

Socio-demographic features - sex, age of the perpetrator, the presence of military duty (evasion from the call for a regular military service can be committed only by a person who has reached the age established by law and recognized as having a military duty). The official position of the person – occupation respective position or performance of the respective functions of the state, public or commercial organization (bribery) by a perpetrator. The profession of the perpetrator is the presence of appropriate education or professional skills in the labor or production sphere (medical worker).

Civil legal status - the presence of citizenship of Ukraine or foreign state for a person (treason, espionage).

Relationship with the victim - the presence of family or other relationships of a perpetrator, which determine the defined duties or rights (evasion of alimony for child support).

In those compositions, where the signs of a special subject of crime are envisaged by law, that is a constructive element of the particular crime, they are mandatory and determine the presence or absence of a crime [2, p. 79]. One can conclude that the exact

definition of the characteristics of the subject of the crime, characterizing it as a special subject, is complete, perfect and integral their identification shows great importance for the accurate qualification of the crime and the imposition of legal punishment.

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PROBLEMS OF ORGANIZED CRIME IN UKRAINE

Organized criminal group is the primary link of a criminal organization and implanted in the concept of "organized crime". The merger of criminal groups into criminal organizations can be considered as a process of rational reorganization of the criminal world by analogy with legitimate entrepreneurial activity in legitimate markets. For the organization of state influence on organized crime groups, knowledge of their occurrence and the formation of criminal intentions that are constantly improving are necessary. At the same time, in order to identify the main actors of the criminal group with a view to bringing them to criminal responsibility, as well as the use of special means by law enforcement agencies to eliminate the cells of such formations, it is necessary to continuously improve the relevant domestic legislation.

[1]An organized group is a stable association of several individuals (three or more crime subjects) that were previously organized for cooking or committing crimes. The hallmarks of an

organized group are: 1) the presence of several persons (three or more); 2) preliminary organization of them in a joint association for the preparation or commission of two or more crimes; 3) the stability of such association; 4) combining crimes with a single plan with the distribution of functions of the group members aimed at achieving this plan; 5) Awareness of all participants of such a group with this plan.

An organized group is a more dangerous kind of group with a previous conspiracy. It differs from the group with the previous conspiracy: 1) stability (for a group with a previous conspiracy, this attribute is not required); 2) the intention to commit two or more crimes (the group with the prior conspiracy may also be created for committing one crime); 3) the number of participants - an organized group consists of three or more participants, whereas the group with the previous conspiracy - two or more [2,c.15 – 25].

The problem of organized crime of mercenary-violent targeting is the subject of discussion at the highest state and scientific levels, since the activities of criminal organizations have become extremely acute and began to adversely affect the strengthening of law enforcement practices, the exercise of the rights, freedoms and legitimate interests of citizens.

One of the international recommendations for effective counteraction to organized crime is this: when designing anti-crime policies, including legislation and other measures, states must take into account the structural features of criminal organizations and how they operate.Over the past 15 years, foreign scholars have increasingly noted that the most dangerous criminal groups do not have a stable, well-defined organizational structure. They often change it quickly, as well as directions and organizational forms of activity, for the sake of more rational and optimal achievement of the defined goal of obtaining profits and profits. Therefore, attention is drawn to the following: the organization of criminal activity is carried out through a network of criminals, which has advantages over traditional organizational structures due to flexibility, adaptability, and speed of response.

[3]The genesis of organized crime groups in Ukraine is a vivid confirmation of the dependence of the nature of their occurrence and development on specific socio-economic conditions. According to historical sources, the criminal world and its representatives have always sought to unite forces, to strengthen the foundations of antisocial way of life, which made them be arrogant, insidious, cynical about the law and its representatives in the face of law enforcement bodies, law-abiding citizens.

During the last millennium, the criminal world is being formeda special organized communicative crime system with its hierarchy that provides internal "discipline" and "order". The criminal environment constantly accumulates resource and functional potential, strengthens its organization. From various criminal groups to intellectually and technically secured, properly forbidden criminal organizations - this way individual criminal groups have been in a relatively short period.

In summary, the sustainability of an organized group means that it has a relatively constant membership of the parties with the presence of strong links between them and the high degree of organization, unanimity in decision making and consistency in the commission of criminal acts. Consequently, the issue of the occurrence and activity of organized criminal groups was considered. The basic tendencies of formation of criminal groups and their illegal activity are determined. Studied historical sources and regulations that defined the concept of organized criminal groups. The main tendencies of the development of organized forms of crime are outlined.

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THE UNITED STATES SYSTEM OF COMBATING ORGANIZED CRIME (THE EXPERIENCE OF ORGANIZATION AND FUNCTIONING)

The study of the USA experience in organizing the organs carrying out the fight against organized crime is due to considerations of a theoretical and practical nature. From a theoretical comparative point of view this experience will be useful in analyzing the tasks and functions of each particular law enforcement agency in the United States, the division of competences, elimination of parallelism and duplication between them, which is undoubtedly useful and needs to be taken into account during the reform of the Ukrainian law-enforcement system. In addition, it explains the importance of studying USA experience in the fight against organized crime and the creation of a system of special law enforcement agencies that carry out law enforcement practices in this area.

Sure that it was in this country that the first time there was an organized crime. Organized crime actually arose in the United States, its formation took place in several stages. At the beginning (in the late nineties of the nineteenth century), the term "organized crime" was applied to groups (unions) of criminals who were engaged in obtaining illegal profits from the organization of gambling

establishments, prostitution, and after the introduction of the "dry law" - the manufacture and sale alcoholic beverages, drugs, counterfeit money. After the Second World War, organized crime in the United States was mostly associated with well-structured criminal associations, initially with ethnic emigrants, and then in the 1950s-1960s, with "family-mafia" who took control of business in a certain area , individual enterprises, leisure establishments. For the first time, ethnic organized crime was first encountered in the United States, when in the twentieth century. there emigrated a large number of Italians.

From the practical point of view, the experience of the fight against organized crime in the United States is due to the need to take into account the most modern methods and techniques that help to implement the tasks and functions of these bodies in the course of law-enforcement practice. Interesting and useful experience of the American law enforcement agencies in the fight against organized crime, which reflects the basic principles and methods of their work in the fight against organized crime, and largely explains the high results in the fight against this evil.

Law in USA provides for effective law enforcement officers, regulating the way of reaching compromises between law enforcement agencies in the person of the prosecutor with the offender against whom the prosecution is being prosecuted. The main conditions for such a compromise or agreement are: full confession of the suspect in the committed crimes and his consent to cooperate with the prosecuting authorities and to testify against the leaders of the criminal group; rejection of any unlawful activity in the future. It is clear that these conditions the offender goes consciously, since such a variant of behavior is not only useful for the state as a whole, but also beneficial to him personally, since in relation to the person who gave written consent to these conditions, the prosecutor may, at his own discretion, reduce the scope of the charge up to the total dismissal of her liability, if the crimes committed by her are not too severe. This provides an opportunity obtaining important evidence, so to speak from the middle of

criminal environments, in addition, plays an important preventive role, destroying the procedures established in illegal structures.

Finally, in the United States, the protection of individuals who have agreed to cooperate with law enforcement agencies (the Witness Protection Program) is adequately protected in the United States, and the protection is regulated at the federal level. Another important step in the fight against organized crime was the combination of the efforts of many law enforcement agencies in the United States and the coordination of their activities. This concept is realized through a series of activities, the main of which is the creation of "target forces" and "strike forces in the fight against organized crime".

Concluding the analysis of the organization of the system of law enforcement agencies of the United States that carry out the fight against organized crime, it should be noted that:

1. Unlike Ukraine, where the functions of combating organized crime are mostly concentrated within the two law enforcement agencies (the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine), there are many specialized law enforcement agencies (agencies) in the United States that carry out specific actions to combat specific types of organized crime. This allows, on the one hand, to eliminate conflicts of competence between them and conflict of interests, to have in their ranks high-quality and profile specialists specializing in the detection and disclosure of specific types of crimes. On the other hand, the presence of such a large number of law enforcement agencies requires significant financial resources of the state for their maintenance, and, consequently, requires high-quality work results from law enforcement agencies.

2. During the reform of the law-enforcement bodies of Ukraine, including and those engaged in the fight against organized crime, the experience of organizing such US bodies may be useful as it provides an opportunity to determine the role and place of the bodies involved in combating organized crime in the US state machinery system (relevant law enforcement units within the

ministries structure. carry out law enforcement and regulatory functions), and take into account this experience in Ukraine.

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OVERVIEW OF CRIMINAL LIABILITY OF MINORS ACROSS EUROPE

Comparative research, especially in the field of youth justice, is fraught with difficulties. The very definition of a child, the classification of crime or penal custody for children and the extent to which aspects of youth justice are recorded, vary enormously throughout Europe [2, p. 295]. For instance, the terms "juvenile" and "young person" may in some places refer to a person under 18 and in others simply to a person who is treated differently by the criminal justice system from an adult. Most European systems have distinct ways of dealing young people under the age of 21 in conflict with the law. In some European countries, those deprived of their liberty will be detained in "youth custody" until their mid 20s and distinct procedures will be applied to young people over the age of 18 during the sentencing process.

Further, the age of criminal responsibility appears to have different meanings across Europe. The official age of criminal responsibility may not be the earliest age at which a child can be involved with the justice system due to being in conflict with the law [3]. For instance, in England and Wales, it is simply not possible to come before the criminal courts or to be arrested under the age of criminal responsibility, which is at the extremely low age of ten. However, while the age of criminal responsibility in Belgium is set at the much higher age of 18 (or 16 for certain serious crimes) much younger children can be dealt with through the criminal system and deprived of their liberty, even though they are not being given a

criminal sanction. Similarly in France, where the age of responsibility is 13, children as young as ten can appear before a judge who can impose community or education orders. Provided these variations are borne in mind, it remains useful to explore the wide ranging differences of approach towards juvenile justice across Europe. Further, it is also possible to identify developing trends that appear to reflect the global approach to youth crime and punishment.

Commentators have suggested that youth crime has become an increasingly political issue, especially in Anglophone countries such as UK and US, and that for this reason it has been especially difficult to develop international standards that will be complied with universally. It is indicative of the difficulties of setting standards in this area that the US is the only country alongside Somalia in the world not to have signed the most important international treaty in this area, the United Nations' Convention of the Rights of the Child (UNCRC). Further, many countries have placed reservations on some of the key issues on youth justice. Despite the prevalence of non compliance, juvenile justice is the subject of international guidance that is extremely comprehensive and detailed.

As can be seen from the comparative ages of criminal responsibility across Europe, the countries that make up the UK have the lowest ages of responsibility. The changes to the age of criminal responsibility in England over the last 50 years are symptomatic of the volatile nature of penal policy in the field of juvenile justice. The age was increased from 7 to 10 in 1969 alongside a raft of measures designed to create a welfare based criminal justice system.

While these measures were famously implemented in Scotland (where, ironically, the age of criminal responsibility remains at the age of 8) with the creation of children's hearings system able to dispense a range of educational and welfare based measures instead of penal penalties, the reforms never really took off in England and Wales. Even those "welfare" based initiatives that have been successfully introduced have traditionally in England only served to expand the range of criminal disposals available to the Courts [1, p. 35]. Further, in 1998, the "New Labour" government, developing

the trend set by the Conservative Prime Minister Margaret Thatcher, abolished the presumption of "doli incapax" for 10 to 14 year olds. This ensured that there was a presumption that children between these ages were not capable of committing an action that they knew to be "seriously wrong" unless the prosecution could prove otherwise. The abolition of this presumption in England has been considered as symptomatic of a rigid and inflexible attitude to penal policy for children in recent years. Therefore, in the cases of England and Scotland it can be said that the age of criminal responsibility is not an accurate indication of the severity of the regime.

However, a brief survey of the ages of criminal responsibility and the percentage of children that make up the prison population in European countries does appear to suggest that the lower the age of criminal responsibility the larger the juvenile prison population.

Thus, those countries with the lowest ages of criminal responsibility between 8 and 12 (England and Wales, Scotland, Turkey, Northern Ireland and the Netherlands), fall within the top six highest juvenile prison populations – with the notable exception of the Netherlands which has only recently developed harsher penal policies.

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CLASSIFICATION OF OFFICIALS

In the definition of the concept of official the classification of this special subject of crime is important. Officials are persons who permanently, temporarily or through special powers carry out the functions of representatives of the government or local self-government, as well as permanently or temporarily hold positions in executive bodies, local self-government bodies, enterprises, institutions or organizations related to execution organizational or administrative or administrative and economic functions, or perform such functions under the special powers assigned to the person by the competent authority of state power, the local self-government body government, a central body of state administration with a special status, a plenipotentiary body or a competent official of an enterprise, institution, organization, court or law [1]. The division of the concept is a part of the definition of its scope. Therefore, the establishment of types of officials reveals certain aspects of the general concept of an official, allows it to find out more deeply and precisely, it is a prerequisite for solving the problem of having an official status in the employees of individual catechies.

Under the current Criminal Code of Ukraine, officials are divided into types according to one criterion – the importance of the exercise of authority, according to the same criterion, it is proposed to classify officials in the literature [2, p.158]: 1) officials with the usual status; 2) officials who hold a responsible position; 3) officials who occupy a particularly responsible position. Officials can be divided into types according to other criteria.

1. By the content of the powers that they are endowed with, it is possible to appoint officials who: carry out the functions of the authorities; carry out organizational and administrative duties; who carry out administrative and household communications.

2. Depending on the duration of the exercise of authority, it is distinguished: officials who perform functions of the authorities or perform organizational administrative or administrative household duties constantly; officials who perform functions of the authorities or perform organizational administrative or administrative household duties temporarily.

3. Depending on whether the relevant activity is paid, there may be allocated: officials who perform functions of the authorities or perform organizational, administrative or administrative houdehold duties for remuneration; officials who perform functions of the authorities or carry out organizational, administrative or household duties free of charge.

4. Depending on the method of obtaining the appropriate authority, there are: officials who carry out the functions of the authorities or carry out organizational, administrative or household duties for the purpose; officials who carry out functions of the authorities or perform organizational, administrative or administrative household duties as a result of the election.

5. Depending on the status in which they perform organizational-administrative or administrative household duties, there are: officials who perform these duties while taking positions; officials who perform these duties for special powers.

6. Depending on the form of ownership of enterprises, institutions or organizations, where organizational-administrative or administrative household duties are performed, the following are allocated: officials who perform these duties at state-owned enterprises, institutions or organizations; officials who perform these duties on utility companies, institutions or organizations; officials who perform these duties at private enterprises, institutions or organizations.

7. Depending on the citizenship of persons who perform organizational and administrative or administrative household duties, among the officials one can distinguish: citizens of Ukraine who fulfill these duties; citizens of other states who perform these duties; stateless persons who perform these duties.

In the current Criminal Law, the reference to a servant as a subject of a crime is provided in more than 70 articles contained in various sections of the Special Part of the Criminal Code of Ukraine. There is a large number of criteria for the division of officials.

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CRIMINAL LEGAL ANALYSIS OF CRIME PROVOCATION

One of the issues discussed in the theory of criminal law and of great practical importance is the problem of responsibility for the provocation of a crime. The Criminal Code of Ukraine establishes criminal liability only for the provocation of bribery (Article 370 of the Criminal Code of Ukraine). Note that provocative activities may be covered by two forms of complicity - incitement or organization of a crime, since the crime initiation may belong not only to the instigator but also to the organizer of the crime.

Most scientists, under the provocation of a crime, mean incitement to him in order to expose the person who committed the act in the future. On the basis of the analysis of objective and subjective features, the author's criminal-law definition of the provocation of a crime is suggested, which means the creation of a person who creates the situation causing another's commission of a crime, or complicity in such an offense with a view to exposing it,

blackmail or causing another material or non-pecuniary damage to such person. V.D. Ivanov suggests that provocateurs be prosecuted as instigators or organizers. There are proposals to consider provocation as aiding or abetting it as a separate offense. O.I.Alyoshina under the provocation of a crime understands the creation of a person by the circumstances, causing another person to commit an offense, or complicity in such an offense with a view to exposing it, blackmail or causing other material or non-material harm to such person [1]. The only legislative definition of provocation is contained in Art. 370 of the Criminal Code of Ukraine. According to Part 1 of Art. 370 of the Criminal Code of Ukraine, the provocation of bribery is a deliberate creation by an official of the circumstances and conditions that result in the offering, promise or provision of unlawful benefits or the acceptance of a proposal, a promise or gain of such benefit, then to expose the person who offered, promised, gave unlawful benefit or accepted offer, promise or benefit. The provocative activity, in turn, is the activity of a person, aimed at the emergence of a person's desire to commit various actions that delay for the last harmful consequences.

The provocation, according to some scholars, is the only or more effective means of detecting criminal intent, preventing more serious crimes, and disclosing criminal offenses committed. O.O. Masterkov convinced that the danger of this activity for relations protected by the criminal law is complex, arguing that the social danger of provocation is determined by the following points: a) it is determined by the social danger of the crime to which the person is provoked; b) as a result of provocation, we have, in fact, two persons who encroach on public relations protected by law - a provocateur and a person provoked; c) The actual provocateur has a high degree of social danger.

Signs of provocative activity: involves the intention of the subject (provocateur) to provide a one-sided expression of the desired model of behavior from the person who provokes, having only external signs of a criminal act; provocative behavior is carried out in the order of one-sided intentional activity by the wine person,

which is not covered by the consciousness of the person who provokes; the purpose of the actions of a provocateur is the onset of adverse consequences for a person who provokes (discredit, blackmail, or the creation of artificial evidence of the charge) [2].

It should be noted that the form of expression of an act when provoking a crime is only a socially dangerous act, that is, the active behavior of the guilty person. The forms of provocation can be diverse: tips, hints, recommendations, wishes, and more. The provocation of a crime may also be oral, detected by gestures, in writing, by demonstration of some images, etc. The instrument can be any means of transmission and the media of such information: telephone or fax communication, the Internet, etc. A provocateur can also act secretly, by creating such conditions and circumstances that cause a person to commit a crime.

According to its objective signs, the provocation of a crime does not coincide with incitement to a crime. That is, the provocation of a crime can be hidden, indirect. The provocative ways are not limited to the tendency to commit a crime, but can also be expressed in hints, even in movements, gestures and other actions, provocative actions must always precede the criminal behavior of the person being provoked. Moreover, the creation of the environment causing the commission of a crime should not only precede the execution of the act by the provoked person, but also precede the occurrence of such an individual intention to commit a crime. The only form of expression of an act when provoking a crime is only a socially dangerous act, that is, the active behavior of the guilty person.

Depending on the socially dangerous nature of the actions, the methods of provocation can be divided into the following: 1) actions aimed at creating an appropriate situation, which in themselves are not criminal; 2) actions aimed at creating an appropriate situation, which form an independent composition of the crime. The initial moment of provocation is an action aimed at creating an environment that intends to commit a crime. The end point is the occurrence of an individual intending to commit a crime or take part in his commission. The subjective aspect of the provocation of a crime is

characterized by the presence of direct intent and the special purpose of exposing a person. A direct intent indicates that the perpetrator is aware of the provocative nature of his actions against another person that he provokes and wants to do such actions [3].

Consequently, it is possible to provoke any intentional crime, therefore, the provocation of a crime can be defined as "deliberate acts of a person directed to the involvement of another person, who provokes, in committing a crime in order to expose the latter to the committed".

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INTENT AND HIS VIEWS

Intention is a mental attitude in which a person was aware of the public danger of their actions (inaction), envisaged the possibility or inevitability of the onset of socially dangerous consequences and wished them or deliberately assumed the onset of these consequences or was indifferent to them.

The law distinguishes between two types of intent: direct and indirect. Direct intent - this is a mental attitude to the act and its consequences, in which the person was aware of the social danger of

his act (actions or inactivity), envisaged its social hazardous consequences and wanted their offensive (Article 24. 2 of the Criminal Code of Ukraine).

Indirect intentions are such intent when the person was aware of the social danger of his act (actions or inactivity), envisaged his socially dangerous consequences, and although he did not want to, but deliberately assumed their offensive (Article 24. 3 of the Criminal Code of Ukraine).

Direct intent. Intelligent signs of direct intent consist in awareness of the socially dangerous nature of their act (actions or inactivity) and the prediction of its socially dangerous consequences. Although these concepts belong to the same intellectual sphere of mental activity, but they are different in their content.

Indirect intentions. Consciousness with an indirect intention is a similar consciousness in the intentional direct.

And in this case, the consciousness of the person includes an understanding of all the factual circumstances that characterize the objective features of the specific composition of the crime, including the nature and importance of the object and object of the attack, the nature of action and inaction, as well as place, time, method of their committing, etc. It also contains an understanding of public danger, the harmfulness of its act and its consequences.

In this case, the person is clearly aware that it is precisely its concrete action or inaction that can lead to a specific socially dangerous consequence, and thus provides in general the development of a causal connection between the act and the possible consequence.

However, this consequence person provides only as a possible result of his act. The prediction of the inevitability of the onset of an accident with an indirect intention is excluded. The will of the person in this case is not aimed at achieving a socially dangerous consequence. This is precisely the distinguishing feature of the prediction of consequences in the case of indirect intent. But the main essence of the indirect intent - in his will sign.

Peculiarities of intent in crimes with formal composition. It is known that crimes with a formal composition are recognized as complete since the commission of the act and do not require the onset and establishment of any consequences of such an act (threat of murder - Article 129, threat of destruction of property - Article 195, knowingly false notification of a crime - Article 383 of the Criminal Code Ukraine and others). The structure of these syllables of crimes is such that the consequences here lie outside the necessary signs of the objective side, and therefore, the crime. Already, the subject can not want their offensive.

However, this circumstance does not exclude intentional fault. An intellectual sign of intent in these cases includes only the awareness of the socially dangerous nature of its act, the attitude to the consequences does not arise here and it can not arise. A volitional sign intent is limited to the desire to commit a concrete action or inaction. Thus, crimes with a formal composition can only be committed with direct intent.

Types of intentions affect either the qualification of a crime, or the degree of its social danger, and therefore should be taken into account when imposing a punishment.

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THE CONDITIONALYTY OF CRIMINALIZATION THE EXTREMISM IN UKRAINE

In the XXI century, extremism with signs of violence intensified in many countries. The problem of the struggle against the ideology and practice of extremism and terrorism is becoming very relevant in the world. Feature of violent extremism is that it

seems to prior terrorist activity because it forms the ideological foundation.

At present, extremism is represented by different groups: Left radicals in Western Europe, Japan, El Salvador, Guatemala, Peru and a number of other countries; radical Islamists in Algeria, Afghanistan, Iraq, Iran, Pakistan, Russia and other countries; extreme right radicals in El Salvador, Colombia, France, Israel, Haiti; motions of national liberation in Argentina, Great Britain, Ireland, Spain, India, Peru, China, Germany and a number of African countries. According to a BBC study, since the beginning of 2016, the number of deaths from terrorist attacks in Western Europe has reached its highest level since 2004. During the first seven months of 2016, the lives of 143 people have been decimated.

Looking at indicators across Europe, from January to July 2016, 892 people were killed in the whole European region (including Turkey) as a result of the terrorist attacks. In recent years, the issue of combating extreme crime has also been seriously raised in Ukraine.

In connection with the situation with the DPR and LNR, and the intensification of relations with Russia. However, the current legislation does not contain an official definition of extremism. Moreover, the law of Ukraine "On the Fundamentals of National Security of Ukraine" (Article 7) provides for among other threats to national security of Ukraine "the possibility of conflicts in the field of interethnic and interconfessional relations, radicalization and expressions of extremism in the activities of certain unions, national minorities and religious communities." The definition of extremism in encyclopedic editions outlines this phenomenon as a tendency toward extreme views and actions, mainly in ideology and politics.

From the international standpoint, the concept of extremism (and the distinction between terrorism) is used in the Shanghai Convention on the fight against terrorism, separatism and extremism (of June 14, 2001). Here, extremism is regarded as an activity aimed at forcible seizure of power or forcibly retention of power, as well as forcibly changing the constitutional order of the state, forcible

encroachment on public security, including organization for or participation in illegal armed formations".

In Ukraine, there is no criminal liability for extremists activity. However, the current Criminal Code establishes a criminal code responsibility for actions that have signs of extremism, including actions attributable to crimes against the foundations of national security: actions aimed at violent change or overthrow of the constitutional order or the seizure of state power (art. 109); An attack on the territorial integrity and inviolability of Ukraine (st. 110); Sabotage (p. 113).

Among scientists, there is no single approach to the question of whether it should be introduced criminal punishment of extremism. There are supporters of gain responsibility for extremism, and opponents.

A number of scientists find extremism a dangerous phenomenon that shakes the basic foundations of society, and is potentially dangerous for the national security of the state. Among supporters of the legislative settlement in Ukraine, such phenomenon as extremism, scientists Ye.D. Skulish, V.L. Ortynsky, O. Pisarenko, E. Vasilchuk, I. Poddubsky, who mostly refer to the legislative regulation of combating extremism in post-Soviet states.

So, in 2016 a criminal case was introduced in the Republic of Belarus, responsibility for the creation of an extremist formation (Article 361-1) and for the financing of the activities of extremist formations (Article 361-2). These crimes are contained in Chapter 32 under the title "Crimes against the State".

The Criminal Code of the Republic of Uzbekistan provides criminal responsibility for actions of an extremist nature: Article 244-1 ("Production, storage, distribution or demonstration of materials that present a threat to public safety and public order", which provides for the responsibility for the distribution of materials containing ideas of religious extremism, separatism and fundamentalism); Art. 244-2 ("Creation, leadership, participation in religious extremist, separatist, fundamentalist or other prohibited

organizations"). These crimes are referred to Chapter XVII "Crimes against Public Safety".

In the Criminal Code of the Republic of Kazakhstan, the legislator is the most dangerous crimes of extreme orientation referred to crimes against state security to Chapter 5 "Criminal Offenses Against the Basis of the Constitutional Order and Security of the State": Article 182 (Creation, Management of an Extremist Group or Participation in its activities, p.183 ("Granting permission to publishing in the media of extremist materials") Less crimes that are considered socially dangerous by the legislator are classified in Chapter 10" Criminal offenses against public security and public order": item 258 ("financing terrorist or extremist activity and other assistance to terrorism or extremism"), Art. 259 ("Recruiting, preparing or arming persons for the purpose of organizing terrorist or extremist activities"), Article 260 ("Terrorist or extremist preparation"); Chapter 16 ("Criminal offenses against governance"): Article 405 ("Organization and participation in the activities of a public or religious association or another organization after a court's decision prohibiting their activities or elimination related to extremism or terrorism").

On the example of the post-Soviet states, some scientists are fair with caution refer to the introduction of criminal liability for extremism. So, V.V. Lunyev, V. Klymchuk believe that such legal norms the current government can use to fight the opposition and dissent. In addition, they believe that existing in Ukraine is normative the legal framework is sufficient to counteract extremist activity and to the introduction of criminal responsibility for extremist acts into the Criminal Code of Ukraine, such rules will createunwanted competition with the provisions of the anti-terrorist legislation of Ukraine and the relevant articles of the Criminal Code.

In the fundamental documents of foreign states regarding provision national security condemn manifestations of violent extremism and prosecution of the participants of the relevant extremist groups. Given the international practice, it is advisable to legislate in Ukraine the definition of "extremism" and the adoption of

a law on settlement extremist activity. The author believes that at this stage more it is acceptable to impose criminal responsibility for the most dangerous manifestations of extremism, the creation, operation and financing of extremist organizations (groups) whose activities accompanied by violence (physical or psychological) at the same time it is expedient to attribute such crimes to crimes against the bases of national security of Ukraine, as extremism with signs of violence greatly threatens the national security of the state, contains the threat of violation of the integrity of society, state borders, the territory of Ukraine, the normal functioning of the supreme bodies of the state power.

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CRIMINAL LEGAL CHARACTERISTICS OF BELGIUM'S CORRUPTION CRIMES

Belgium has a comprehensive anti-corruption legal framework and the government adequately enforces the relevant laws. A normative legal act that provides for criminal responsibility for corruption offences is the Criminal Code of Belgium.

It consists of two parts . The first part, consisting of ten chapters, contains general provisions on criminal offenses and types of punishment. The second part includes special types of offenses and punishment for them. Criminal offences in the Criminal Code of Belgium are fixed from Art. 246 to 253 (Articles 251, 253 -wrought) in Chapter 4 "About the Corruption of Persons Performing Public Functions", Section 4 "About Crimes and Offenses against Public Order Committed by Persons Performing Public Functions or by Ministers of Cults Who Perform them Job Duties "of another part.

The Belgian Criminal Code criminalizes public and private bribery, passive and active bribery, and bribery of national and

foreign public officials. Belgian courts have wide jurisdiction in corruption cases handling, including offenses committed in Belgium or abroad, and by Belgian citizens or foreigners [1].

Facilitation payments are not permitted in Belgium. Gifts and hospitality of any value may be illegal depending on the intent behind the action [2].

Regulations governing gifts and other benefits, particularly in parliament and the judiciary, are vaguely defined not effectively enforced [3].

The Group of States of against Corruption (GRECO) noted in 2017 that Belgium has not made any significant efforts to implement its recommendations on clearer rules for gift giving made in 2014 [4].

Public sector corruption offenses are penalized by imprisonment of between 6 months and 10 years and/or a fine ranging between EUR 600 and 600,000 [5]. The Pot-Pourii II amendment multiplies the fines between 3 and 5 times in case the bribe involves a foreign public official [6]. Corruption offenses in the private sector are penalized by imprisonment ranging between 6 months and 3 years and/or a fine between EUR 600 and 300,000 [5]. The penalties for both public and private bribery may include further sanctions, such as debarment, asset forfeiture, and denial of any fiscal benefits the entity may have enjoyed [5].

The government has established a system of declarations of donations, assets, official appointments and other poofsitions held, as well as codes of conducts, and a Federa is the l Ethics Committee [3]. There is no specific legislation addressing whistleblowing in Belgium, however, whistleblowers can seek protection under other tatutes [7].

Nowadays one of the main functions of police is investigation and detection of corruption offences. Businesses consider the Belgian police to be very reliable, indicating a very small risk of corruption within the police service (GCR 2017-2018). No citizens report having paid a bribe to a police official, despite over one-third perceiving corruption and bribery as being widespread among the police force [8]. There is a strict civil control of the police at local

and federal levels, and the government has enacted the necessary mechanisms for corruption investigations and enforcement [9]. A shortage of resources in the police service has impeded the effective investigation into financial and economic crimes [3].

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FEATURES OF CRIMINAL LIABILITY FOR SMUGGLING IN UKRAINE

Contraband belongs to the category of unlawful acts to the extent that it represents an attack on the vital interests of society. It harms the economy of society as a whole, is a direct tool of encroachments on the country's financial and economic system. Any person who moves banned goods or goods subject to duty without payment or does not comply with the prohibition is a violator of customs legislation, which consists of a set of customs rules, the violation of which entails criminal liability. That is why the legislators of all countries are taking rigorous measures against smugglers.

According to the effective Criminal Code of Ukraine, smuggling recognizes the illegal movement of certain items that constitute an increased danger to the health of people or public safety, through the customs border of Ukraine outside customs control or with concealment from customs control. Moreover, the responsibility for the smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or counterfeit medicines is stipulated in Art. 305 of the Criminal Code (section XIII of the Special Part - crimes against the health of the population), and for the smuggling of cultural property, poisonous, potent explosives, explosives, radioactive materials, weapons and ammunition, as well as special technical means of secretly obtaining information - st.21 of the Criminal Code (Section - VII Special part - crimes in the field of economic activity).

Today, the classification of the crime stipulated in Article 201 of the Criminal Code of Ukraine, section "Offenses in the field of economic activity" is rather problematic, since it does not meet the generally accepted criterion - the relations that constitute the generic

object of the attack - and looks scientifically unjustified in connection with the exclusion of criminal liability for smuggling of goods. This offense affects not so much on economic and tax relations, but on relations providing personal and public security.

Thus, it would be logical to put Section C of the Special Part of the Criminal Code of Ukraine - crimes against public safety logically in line with the generic object. In some articles of the Criminal Code of Ukraine, various sections deal with the illegal import of other items that are not covered by the disposition of Articles 201 or 305 of the Criminal Code, but in effect such actions are similar to smuggling (Articles 268, 300, 301 of the Criminal Code).

In this regard, a certain theoretical and practical interest may be a scientific classification of items that have an increased danger or a special significance for a society whose illegal movement, through the customs border of Ukraine, causes significant harm and requires criminalization.

In my opinion, most of these items can be divided into the following groups: 1) items of special value - cultural values; valuable species of animals and plants; organs and tissues of a human, etc.; 2) objects dangerous for human health - narcotic drugs, psychotropic substances, their analogues or precursors, poisonous, potent substances, counterfeit medicines; 3) items that pose a threat to personal and public security - explosives, radioactive materials, weapons and ammunition to it; hazardous waste, microbiological agents; 4) objects that threaten social morals - works that promote violence, cruelty, racial, national or religious intolerance and discrimination; pornographic items; 5) objects that threaten the inviolability of a person's personal life - special technical means of secret receiving information.

Criminal prohibitions on the illegal transfer of these objects across the Ukrainian customs border are inadvisable in one article entitled "Smuggling" (it will be a cumbersome and theoretically illogical construction), but it is better to enter into the relevant sections of the Special Part of the Criminal Code, which already

contain norms of responsibility for those or other illegal actions with such items. For example, as is done in Art. 301 Criminal Code in relation to pornographic subjects. Similarly, the illegal import or export of items specified in Art. 201 of the Criminal Code, should be indicated in the disposition of the relevant articles of other sections of the Criminal Code, namely: weapons, ammunition or explosives in Art. 263 of the Criminal Code, cultural values - in Art. 298, 298-1 of the Criminal Code; radioactive materials - in Art. 265 of the Criminal Code; special technical means of the secret receipt of information - in Art. 359 of the Criminal Code.

As far as counterfeit medicines are concerned, the responsibility for their illegal import (export) should be set in Art. 321-1 of the Criminal Code of Ukraine, excluding the instruction on these funds from Art. 305 of the Criminal Code of Ukraine. It is also necessary to establish criminal liability for similar actions regarding valuable species of animals - in Art. 248-249 CC, valuable species of plants - in Art. 247 of the Criminal Code; biological agents or toxins - in Art. 326 of the Criminal Code; organs and tissues of a person for the purpose of their transplantation - in art. 143 of the Criminal Code of Ukraine.

With regard to the illegal import of pornographic items for the purpose of their distribution, works promoting cruelty, etc., pornographic objects, hazardous wastes, criminal liability for such actions already exists in the relevant articles of the Criminal Code (Articles 268, 300, 301 of the Criminal Code).

But in connection with the European aspirations of Ukraine in all the mentioned articles of the Criminal Code, which deals with the illegal circulation of these objects, to provide for liability not only for their illegal import into Ukraine, but also for illegal export outside of our state.

Meanwhile, the head of the Transcarpathian Regional State Administration Gennady Moskal is going to prepare a bill on criminal liability for the smuggling of excisable goods. This is stated in a statement on the official website of the head of the Transcarpathian region. He believes that the administrative

responsibility for this crime demonstrates "helplessness of the state". "Administrative responsibility only stimulates the illegal transfer of goods across the border, Ukraine actually feeds transnational crime groups organized around this profitable" business "... I will personally prepare a bill on the renewal of criminal liability for the smuggling of excisable goods and I will ask several deputies from different factions to register it in the Verkhovna Rada ", - said G. Moskal [1]. The facts brought by the governor of Transcarpathia are really impressive.

Thus, one of the residents of Tyachiv district was drawn to the administrative responsibility 163 times. "This fact is a frank ridicule over the helplessness of the state," commented G. Moskal [1]. He also says that in the neighboring states such crimes are put in a completely different way. "In neighboring Romania, criminal responsibility comes for smuggling just one pack of cigarettes across the green border, in Hungary, for smuggling cigarettes worth more than 100 thousand forints (so much is about 15 blocks of cigarettes), and in Slovakia for more than 8 blocks of cigarettes," explains governor [1].

According to G. Moskal's proposal, up to 20 cigarette units can be left an administrative responsibility for illegal transportation through checkpoints (including by means of transport, technical means or aircraft), and from those who transport more than 20 blocks, it is necessary to attract criminal liability with the confiscation of personal property.

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CRIMINAL RESPONSIBILITY FOR RECOGNITION BY THE CRIMINAL CODE OF UKRAINE

According to Art. 3 of the Constitution of Ukraine, man, his life and health, honor and dignity, inviolability and safety are recognized as the highest social value. This, in turn, requires improvement of the current legislation and law enforcement practice in the most urgent, problematic cases. One of these priority issues is the criminal legal action against crimes against morality in the field of sexual relations. It is especially important to effectively counteract and avoid mistakes when qualifying the most widespread crime of this category - rape. After all, its share among other crimes remained virtually unchanged for quite a long time - according to official statistics and the results of sample surveys, rape accounted for approximately 90-95% of all crimes against sexual freedom and sexual integrity [1, 288 p.].

The purpose of the study is to criminalize the rape as a crime against morality in the field of sexual relations. The main object of rape is sexual freedom and sexual integrity of a person, his optional objects may be health, will, honor and dignity of a person, the normal development of minors. Sexual freedom is understood as the right of a person to independently choose a partner for sexual intercourse and not to allow any coercion in the field of sexual intercourse. Sexual immunity is an absolute prohibition to enter into sexual contact with a person who, by virtue of certain circumstances (due to his infancy, loss of consciousness, etc.) is not a bearer of sexual freedom.

Art. 152 of the Criminal Code establishes responsibility for rape, that is, violent sexual intercourse committed in a natural way. Victims can be female and male, regardless of the nature of their behavior (for example, immoral) and the relationship with the guilty

(for example, marital relationship). The objective aspect of rape is sexual intercourse, which is combined with: 1) the use of physical violence; 2) the threat of its use (the will of the injured person is suppressed); or 3) using the helpless state of the victim (the will of the person is ignored). The crime has ended since the beginning of the sexual intercourse contrary to the will of the victim.

Qualifying signs of rape are repeated or committed by a person who had previously committed any of the crimes provided for in Art. 153-155 of the Criminal Code (Part 2 of Article 152 of the Criminal Code), committing a crime by a group of persons or rape a minor (Part 3 of Article 152 of the Criminal Code); rape, which caused particularly grave consequences or a minor person (Part 4 of Article 152 of the Criminal Code). The subject of a crime is a convicted person who has reached the age of 14 years. In this case, the direct executor of the crime should be the opposite sex victim. A collaborator of a crime who participates in a group rape may be a person physiologically incapable of committing a natural sexual act, as well as a person of the same sex with the victim. The subjective aspect of rape is characterized by direct intent. The perpetrator is aware that he is committing a natural sexual act with the use of physical violence, the threat of its use or using the helpless state of the victim, and wishes to do so. The motives of the crime may be different (satisfaction of sexual desire, revenge, desire to humiliate the victim, hooliganism, etc.).

Concerning the minor and minor age of the victim and especially the grave consequences of the mental attitude of the perpetrator may be negligent. Qualifying attributes related to the victim's age are charged with guilty not only when he knew or tolerated having committed a violent sexual activity with a minor or a minor, but also when he could and should have foreseen it. The juvenile or minor age of the injured person can not impose a criminal liability for the rape if it is proved that the guilty conscientiously was mistaken as to its actual age in resolving this issue, account is taken of the whole set of circumstances of the case, in particular the

external physical data of the victim, his behavior, acquaintance with her guilty, possession of the latest relevant information, etc.

Particularly grave consequences of rape or violent satisfaction of sexual desire in an unnatural way, according to paragraph 11 of the resolution of the Plenum of the Supreme Court of Ukraine "On judicial practice in cases of crimes against sexual freedom and sexual integrity of a person" dated May 30, 2008 No. 5, may be recognized, in particular, the death or suicide of the victim, the loss of any organ of any organ or the loss of an organ of his functions, mental illness or other health disorder, combined with a permanent loss of disability of at least one third, incapacity MOSC znivechennya face, miscarriage or loss of reproductive function, of infection with HIV or any other incurable contagious disease dangerous to a person's life [2, 234 p.].

It does not have particularly grave consequences of the rape of the victim's pregnancy, as well as the loss of her virginity (defloration). The act of committing rape of a serious bodily injury that caused the death of the injured person must be considered an act that has caused particularly grave consequences. Rape is the commission of sexual intercourse between persons of different sex in a natural way, contrary to the will or desire of one of them, by resorting to it physical violence, the threat of the immediate use of such violence or the use of its helpless state. Rape is the most serious and dangerous crime against sexual freedom and sexual integrity. It can cause serious damage to human health and cause a deep moral hazard to it. It roughly degrades the person's dignity, impinges on sexual freedom, and if the victim is a young person or has not reached sexual maturity, it's sexual intimacy.

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THE PROBLEMS OF DEFINING A CRIME MOTIVE

The problem of motivation of criminal behaviour traditionally belongs to one of the main issues in the criminal legal studies as well as in the legal psychology. In general, crime motive is researched as an element of a single crime mechanism but in a number of cases, it is also defined as a mandatory or qualifying element of some bodies of a crime according to the Criminal code of Ukraine. However, there is some uncertainty and discussion in scientific works about the ways of understanding the essence of a crime, its distinction from such categories as needs, aims, interests, emotional states.

Meanwhile, neither psychological nor legal literature have generally accepted definition of a motive of human behaviour or action as well as a crime motive. So a motive is a legal psychological category that precedes the criminal manifestation and depicts a person's attitude to the action that is being committed by the person; a conscious desire of the occurrence of the corresponding consequences which would coincide with the predicted result. Actions which assessment is carried out by the law, have a polysemantic motivation (polymotivationality) and a motive is a dynamic category that is predetermined by the objective situation and the person him(her)self, the content of which is constantly changing.

Legal psychology offers quite a clear distinction between motive and aim: motive is a personal sense of a person’s willing activity, the aim is a prediction of its personal significant result. The works of Ukrainian scientists on criminal law and criminology (almost all textbooks, dissertations, and other researches) contain a thesis that a motive is an internal incitement to commit that or another action (omission).

According to the definition of Y.P. Il'in, motive embraces a need, impulse, incitement, aspiration, and also feelings, worries, habits, the notion of duty, moral and political settings, ideas, mental processes, and conditions. The analysis of formation a criminal behaviour from the point of psychology presumes the search of answers on the following questions: why the crime is committed? what made the offender choose the criminal way of behaviour in a particular situation? what are the mental condition of the person, his (her) mental peculiarities that manifested in a criminal act?

Person's behaviour is motivated and regulated by his (her) individual, subjective perception and reflection of his (her) real-life circumstances and person's implication to these circumstances. The problem of defining a motive of a crime lies in blurring the essential characteristics of a motive and its expression through other, adjacent categories as need, aim, subject. It means that the performed analysis of scientific literature on legal psychology leads me to believe that nowadays a few directions in understanding the category 'motive' have been formed.

The first direction is represented in the works of such scientists as O.M. Lyeontiev, S.L. Rubinstein, S.A. Tararuhin, K.Y. Ihoshev, B.S. Volkov, A.V. Naumov etc. The aforementioned scientists give the definition of a motive with accordance to awareness of the existent need. So during the defining the essence of a motive, the attention is focused on a specific subject. According to this conception, a motive acts as an intermediary between a need and a final result, an aim and a realised start of a human behaviour. H. Hekhauzen states a similar point with a notionthat motive is the desired target condition within the relation 'individual – environment'.

Another part of scientists (B.V. Harazishvili, V.S. Chubynsky etc.) focuses on the emotional state and willing component of an individual while finding out the matter of a motive. According to B.V. Harazishvili, a motive is an emotional state of an individual that is revealed through the manifestation of will which is connected with

the realizing of the necessity of a given behaviour and a desire of its execution.

One of the latest comprehensive studies in Ukrainian criminal law belongs to A.V. Savchenko. In his work 'Motive and motivation of a crime', he comes to the conclusion of defining a motive based on the analysis of different scientific approaches: a motive is 'an integral mental formation which motivates an individual to commit a socially dangerous act and stands for the cause of this act'.

I consider this definition fairly appropriate and generalized, having a concretized character, phenomenological component. According to A.V. Savchenko's position, the motive is defined as an internal incitement to any action.

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CONCEPTS AND SIGNS OF THE PUNISHMENT

Before giving a definition of punishment it is necessary to find out its place in the structure of social relations. Punishment is first and foremost one of the forms of responsibility. Responsibility can be considered as a social relationship between the subject (citizen, collective) and the system of social control (in the person of its bodies) in connection with the behavior carried out by this subject. Responsibility can be understood in a social plan. In this case, it serves as a kind of relationship between people about their responsibilities and the extent of their implementation. Punishment is one of the forms (basic) of criminal liability and is part of the system of measures of criminal law influence.

Conditional these measures can be divided into two groups: not related to criminal liability (compulsory measures of educational and medical nature) and those carried out within the framework of criminal liability (punishment, conditional non-use of punishment, release from punishment). In the science of criminal law, the punishment was regarded as the most severe measure of criminal law, which, being the main form of criminal liability of a person for the crime committed by him, is appointed by the court on behalf of the state in the conviction and consists in the restrictions provided for by the criminal law or deprivation of his rights and freedoms, and also entails a special criminal-legal status of a person – a conviction. M.Y. Korzhansky somewhat differently formulates the definition of punishment. In his opinion, punishment is a measure of state induced by the court that causes certain losses and expresses on its

behalf the denial, obedient, legal and moral assessment of its conduct.

In accordance with Part 1 of Art. 50 CCU punishment is a measure of coercion, which is applied on behalf of the state by a court judgment to a person convicted of a crime, and consists in the restriction of the rights and freedoms of the convicted person provided for by law. This definition of the concept of punishment in the law is given for the first time. His analysis allows to distinguish and consider the main features of punishment. An important task of the rule of law is the protection of basic social relations from criminal encroachments.

First of all, its implementation is expressed in determining what socially dangerous acts are criminal and which punishments are applied to those who committed them (Article 1 of the CCU). And the first important sign of punishment, which determines its social content, is the recognition of punishment by the measure of legitimate state coercion that applies to persons who have committed a criminal offense. Punishment forces a person into law-abiding behavior.

The second sign of punishment is enshrined in Art. 2 of the CCU, where it is stated that a person can not be subjected to criminal punishment until her guilt is proved legally and established by a court conviction. Hence, the use of punishment is one of the final stages of criminal responsibility. This is the logical legal consequence of a crime. The law provides for other methods of responding to crimes, such as: exemption from criminal liability on the basis of Articles 45, 46, 48 or with the transfer of a person to bail (Article 47); exemption from criminal liability and punishment with the use of juvenile coercive measures of an educational nature (Articles 97 and 105); exemption from punishment or from his residence on the basis of Articles 74, 75, 83, 84 is an exception and applies only in cases stipulated by law, are possible in the presence of sufficient reasons for this and, as a rule, for minor crimes. Therefore, the assessment of the punishment as the ultimate legal consequence of a crime is its characteristic feature.

The third distinguishing feature of punishment is also enshrined in Part 2 of Art. 2 of the CCU is that the punishment may be imposed only on the verdict of the court on behalf of the state, which gives it a public character. Exceptional jurisdiction of the court also includes release from punishment, except for dismissal as a result of amnesty or pardon. The court, having found guilty of a person in the commission of a crime and taking into account the specific circumstances of the case, concludes that it is expedient to apply a penalty to it, as well as determine its form, term or size. No other state body has such a right. Violation of this legal provision entails criminal liability.

The fourth sign of punishment found its legislative consolidation in Part 1 of Art. 50 CCU, where it is said that the punishment is the restriction of the rights and freedoms of the convicted person provided for by law. It is in this manifestation of such a property of punishment, as punishment, which makes it the most acute measure of state coercion. It is determined by the type and term of punishment, the presence of physical, property and moral deprivations and restrictions. n some punitive penalties expressed their property more, such as life imprisonment, imprisonment for a specified period, material or property deprivation, where it is expressed in the following sentence, a fine and confiscation of property; in others, there are prevailing restrictions on other rights, for example, the right to engage in professional activities, to obtain titles, etc. Every punishment also causes moral suffering of varying degrees - shame, disgrace to society and their loved ones. All these restrictions and determine the punishment as a sign of punishment. The amount of punishment is differentiated in each punishment depending on the nature and gravity of the crime. Penalty as a sign of punishment must always correspond to the severity of the crime.

The fifth characteristic feature of punishment is that it finds expression of condemnation, a negative assessment by the state as a crime committed, and the perpetrator himself. Thus, the punishment imposed serves a legal criterion, an indicator of the negative

assessment of the crime and the person who committed it, in terms of criminal law and morality.

The sixth sign of punishment manifests itself in his personal character. This means that the appointment of a criminal punishment and its execution are possible only in relation to the perpetrator. It can not be placed on other persons, even close relatives.

Finally, the seventh characteristic sign of punishment is that any punishment entails conviction (Article 88 of the CCU). It is the conviction that distinguishes criminal punishment from other means of state coercion. According to its content, the conviction is not only a property of punishment, it represents a certain legal status of a convicted person, connected with various kinds of rights restrictions and other adverse consequences, during a certain period specified in the law.

Judgment as an independent sign of punishment is determined by the fact that it is recognized as a circumstance that aggravates the punishment in the case of committing a new crime and retains certain restrictions on the rights of the convicted person and after his sentence is served. The above features distinguish punishment from other coercive measures.

According to the current criminal law, punishment is a measure of coercion, which is applied on behalf of the state by a court order to a person convicted of a crime, and consists in the restriction of the rights and freedoms of the convicted person provided for by law. The main features of punishment is that it acts as a measure of state coercion is the legal consequence of the crime of a public nature and by law is to limit freedoms and fell convicted and expressing a negative assessment of the state and society committed criminal acts. Punishment assigns only to a person convicted of committing a crime and convicts a person for a criminal conviction.

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THE CRITERIA OF CRIME DISJUNCTION THAT IS PROVIDED UNDER THE ARTICLE 391 OF THE CRIMINAL CODE OF UKRAINE FROM MALICIOUS VIOLATION OF ESTABLISHED PROCEDURE FOR SERVING A SENTENCE

According to the amendments to the Article 133 of the Criminal Executive Code of Ukraine dated on September 6, 2016 № 1487-VIII 2016 the notion “the maliciousviolator of the sentence serving security” was excluded and provided the following title “malicious violation of the established procedure for serving a sentence”. Regarding to the last version of the Article one should draw attention on the fact that the list of actions of the convicted who are recognized as “malicious” was reduced and is exhaustive.

It should be emphasized that the disjunction of such crime body as the malicious disobedience to the penal enforcement administration’s orders and the malicious violation of the established procedure for serving a sentence provided by the Article 133 Criminal Executive Code of Ukraine is an argumentative issue among the scientists. The scientists have not developed clear disjunction criteria for the crime provided by the Article 391 of the

Criminal Code of Ukraine from a malicious violation of the established procedure for serving a sentencewhich is essentially a disciplinary offense that affects adversely the practice of applying the criminal norm.

Evaluating the issues given abovewe consider it necessary to distinguish the following criteria for the delineation of the crime provided for by the Article 391 of the Criminal Code of Ukraine from a malicious violation of the established procedure for serving the sentence provided bythe Article 133 of the Criminal Executive Code of Ukraineas following:

The Article 133 of theCriminal Executive Code of Ukraine provides for an exhaustive list of the security violations by the convicts which are recognized as malicious violations of the established order of serving sentence, whereas the disposition of the Article 391 of the Criminal Code of Ukraine contains an indication only of the violation of the security requirements by the convicts without specifying the type of such violations or their exhaustive list (the criterion of classifying violations as malicious);

The Article 391 of the Criminal Code of Ukraine provides an indication of disciplinary prejudice as a mandatory feature of the actus reus of the crime, namely, the commitment by the convictedthe violation of the security requirements within a year after serving a disciplinary penalty in the form of transfer to a chamber-type accomodation, a solitary confinement cell or transfer to a more strict punishment regime, while in the Article 133 of the Criminal Executive Code of Ukrainethere is no such indication (the criterion for indicating disciplinary prejudice);

The Article 133 of the Criminal Executive Code of Ukraine provides for the recognition of the violation of the established serving the sentence order which is based on the committing the individual violation of the security from the list stated in the article, while the Article 391 of the Criminal Code of Ukraine provides for the commitment of at least three violations of the security requirements for which he will be subjected to more serious disciplinary measures and the commission of the another violation of

the regime after their serving which is recognized as malicious disobedience. (the criterion for the systematic violations).

Perpetration of the actions comprised by the Article 391 of the Criminal Code of Ukraine leads to criminal liability and the commission of a malicious violation of the established procedure for serving the punishment provided for in theArticle 133 of the Criminal Ececutive Code of Ukraine, disciplinary liability (the criterion of the responsibility level).

Recognition of a violation committed by a convicted person as malicious according to the Article 133, Criminal Executive Code of Ukraine is not a prerequisite for bringing a convicted person to criminal liability under the Article 391 of the Criminal Code of Ukraine (the criterion of the violation maliciousness as the condition for bringing to responsibility);

Carrying out the actions stipulated by the Article 391 of the Criminal Code of Ukraine which consider an increased public danger and the provisions of the Article 133 of the Criminal Executive Code of Ukraine include only a list of gross violations of the security requirementscommitted by the convicted which are considered malicious (the criterion of the public danger level of the committed action).

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RESPONSIBILITY FOR INTENTIONAL MURDERS IN AGGRAVATING CIRCUMSTANCES IN HISTORY AND FOR CRIMINAL LEGISLATION OF INDIVIDUAL OF FOREIGN COUNTRIES

Responsibility for encroachment on human life in the distant past was foreseen in customary law. The criminal law imposed responsibility for two types of intentional murders: the so-called "simple" and grave murder, that is, murder under aggravating

circumstances. Subsequently, in the European countries in which the system of Romano-Germanic law operated, the types of murders were determined, taking into account the mental attitude of the murderer to his victim: in the foreseeable - a grave murder; not immediately realized - simple murder. In the same way, responsibility for intentional murder was also established on the territory of Ukraine during the times of the Kiev princes in treaties with the Greeks.

In the literary sources the legal collection called "Russkaya Pravda", as the first codified collection of legal norms, is called the most ancient monument and the crown of the national law of Ukraine during the period of Kyivan Rus. During the Hetmanate's time, that is, the relative independence of Ukraine, the responsibility for the murder was based on the norms of the Lithuanian and Polish laws, and the rules of customary law also acted. The legal monument of this period is "The rights of the Little Russian people" in 1743, which, although they have not been adopted, have shown the consolidation at the normative level of the division of murders into deliberate and careless. Chapter 20 provided for assassinations under aggravating circumstances, which included: the murder of a master, a cleric, a military, pregnant woman, a close relative, two or more persons, during robbery, poisoning, using weapons, etc. That is, in this document there are signs of the impact of the criminal law of European states. From the 16th to the 17th centuries on the territory of Ukraine, the norms of the criminal legislation of Muscovy and the Russian Empire, which differed significantly from the law of Kievan Rus, were in force. Since 1903 the Russian Penal Code began to operate. The following types of murders were classified, such as the relative status of the victim, the clergyman, etc., were taken into account ways of committing so-called "domestic" murders and some subjective circumstances.

The first codified criminal law was the Criminal Code of Ukraine of 1922, which established responsibility both for intentional and for careless murder. In the future, the Criminal Code of the Ukrainian SSR in 1927 was used, which, as aggravating

circumstances of a deliberate murder, determined: the murder of mercenary motives; the murder of a person on whom there was a special custody over the murdered person; killing using the helpless position of the victim; a person who was previously involved in a deliberate murder or a bodily injury in certain circumstances; in a way that is dangerous to the lives of many, or especially martyrs, for the murdered person; taking into account family relationships and others. Such types of assassinations for the Criminal Code of the USSR in 1922 and 1927 was punished by imprisonment, and then by death penalty.

Art. 93 of the Criminal Code of Ukraine 1960 established responsibility for the murder under the following aggravating circumstances: a) for useful motives; b) for hooligan motives; c) committed in connection with the performance of the victim of official or civil duty; d) two or more persons; e) a woman who was known to be pregnant during the pregnancy; e) committed with extreme cruelty or in a way that is dangerous to the lives of many people.

The modern world consists of more than two hundred states whose criminal law has its historical and legal specifics. Certain provisions of foreign law were taken into account by Ukrainian legislation at the time of the adoption of the Criminal Code of Ukraine in 2001, which provided for the responsibility for intentional murder without burdensome and aggravating circumstances in Art. 115 CK. (Part 1 and Part 2, respectively), instead of two articles (Art. 94, 93) of the Criminal Code of 1960. The number of aggravating circumstances increased from nine to thirteen. Similarly, criminal liability for murder under the aggravating circumstances of the Criminal Code of the Republic of Kazakhstan in 1997 (Article 96) - 13 aggravating circumstances, the Criminal Code of the Republic of Belarus in 1999 (Article 139) - 16 aggravating circumstances.

In Ukraine, the process of creating a new criminal law on a democratic basis, based on the study and implementation of the criminal law of states with age-old democratic traditions, such as:

Austria, Great Britain, Canada, Germany, USA, France and others, is under way.

In the Criminal Code of the Republic of Poland in 1997 in Art. 148 Chapter 19, Crimes Against Life and Health, provides for the liability for a simple murder which is punishable by imprisonment for a term of at least 8 years, imprisonment for a term of 25 years, or life imprisonment (para. 1). Paragraph 2 provides for the responsibility for a qualified assassination. Under circumstances that impose a burden on liability: a murder with a particular cruelty, in connection with the seizure of a hostage, with rape or robbery; as a result of motivation, which deserves special condemnation; with the use of firearms or explosives, and also in accordance with paragraph 3 of the person who, by one act, kills two or more persons, or was previously convicted of murder. Such assassinations are punishable by imprisonment for a term of at least 12 years, imprisonment for a term of 25 years, or life imprisonment.

Paragraph 211 of Section 16 of the Criminal Code of the Federal Republic of Germany, 1871 (in the wording of 1998 and 1999), "Criminal Offenses Against Life" establishes criminal liability for "serious murders" - under aggravating circumstances, which are: murder of sadistic motives, for sexual pleasure, mercenary and other shameful motives, cruel way or general danger, or to conceal another criminal act or facilitate his commission. Such crimes are punishable only by life imprisonment.

According to Art. 1 of the 1957 Act "About the Killing" of Great Britain, the grave murder is defined as the most severe type of murder, which is necessarily punishable by mandatory life imprisonment. Analysis of the criminal legislation of these states gives grounds to conclude that intentional criminal attacks on the lives of heads of state or government (kings, presidents, prime ministers) are punishable by special rules. In the criminal legislation of Ukraine, as well as in the criminal law of other states, circumstances aggravating the murder form varieties of intentional murders.

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CRIMINAL RESPONSIBILITY FOR DRIVING A PERSON INTO SUICIDE

Driving a person into suicideis one of the crimes perpetrated on human life, the responsibility for its commission is clearly stipulated by the law, namely Article 120 of the Criminal Code of Ukraine. Some problems that arise during the interpretation of the above act are due to its specific features.

First, suicide is one of the varieties of unnatural death, but, at the same time, bringing suicide is the only crime against the life of a person who is not covered by the concept of murder. The criminal act envisaged by Article 120 of the Criminal Code of Ukraine can not be considered a deliberate illegal act of death to another person, since there is no direct contact between the subject of the crime and the victim because there is no causing physical pain, physical suffering or other violent actions.

Secondly, this crime is committed by the subject of the crime not directly. The problem is the complexity of establishing a causal – effect of the perpetrators actions and the death of the victim. Also controversial is the question of the responsibility of persons who driving a person to suicide in ways not specified in the disposition of Art. 120 of the Criminal Code of Ukraine. The issue of the expediency of supplementing Art. 120 of the Criminal Code of Ukraine, a tendency towards suicide and the organization of activity that inclines or otherwise promotes suicide. Therefore, it is especially important at the legislative level to recognize the consequences of which the wrongful acts is to driving a person into suicide or attempt to commit suicide.

Thirdly, such a crime represents a significant social danger, as the result of its commission is not only a violation of the biological

process of human existence, but also a negative impact on the normal functioning of society. First of all, such a phenomenon should be considered not only from the legal point of view, but also from a social point of view, as there is a sad statistics on the increase of suicides due to the deterioration of environmental conditions, the spread of various subcultures, religious sectarianism, the rapid development of information technology.

Since the moment of Ukraine's independence, the tendency of legislative definition of the concept of bringing to suicide and the punishment for committing the specified crime has changed. Thus, for the first time the responsibility for the corresponding socially dangerous offense was stipulated by Article 99 "Driving a person into suicide" of the Criminal Code of Ukraine from 1996: "Driving into suicide or attempted suicide of a person who is in material or other dependence on another person by cruel treatment or systematic humiliation of his human dignity is punishable by imprisonment for a term up to five years. Conducting suicide or attempted suicide as a result of systematic harassment or slander from a person from whom the victim was not materially or otherwise dependent is punishable by imprisonment for a term up to three years. ".

Thus, the legislator defined one main aspect - the presence or absence of material or other dependence of the victim. Accordingly, in its presence, only the following actions were taken into account: 1) ill-treatment, 2) systematic humiliation of human dignity; and in the absence of: 1) systematic persecution, 2) slander (the spread of knowingly false inventions that defame another person).

With the adoption of the new Criminal Code of Ukraine in 2001, the definition of the above-mentioned crime has changed significantly. Now criminal liability is stipulated in Article 120 "Driving a person into suicide" of the Criminal Code of Ukraine (no changes from 08.02.2018): «1. Driving a person into suicide or attempted suicide by means of cruel treatment, blackmail, coercion to unlawful actions or systematic humiliation of his/her human dignity, - shall be punishable by restraint of liberty for a term up to three years, or imprisonment for the same term. 2. The same act

committed in respect of a person who was in financial or other dependence upon the culprit, or in respect of two or more persons, - shall be punishable by restraint of liberty for a term up to five years, or imprisonment for the same term.3. Any such act as provided for by paragraph 1 or 2 of this Article, where it was committed in respect of a minor,-shall be punishable by imprisonment for a term of seven to ten years.».

The legislator has greatly increased the list of unlawful actions that can bring a person into suicide. There are: 1) ill-treatment, 2) blackmail, 3) coercion for unlawful actions, 4) systematic humiliation of human dignity. The material or other dependence of a person, who in the previous edition of the Criminal Code was defined as the main qualifying attribute, is now an aggravating circumstance that is separately enshrined in the second part of the article. It is worth noting that under the separate protection are the rights of minors. Proceeding from the sanction of part three of Article 120, such a crime committed against a person under the age of 18 is considered as felony.

Not much time has passed since Ukraine and several other countries shook the rapidly spreading of so-called "death groups" in social networks. As of April 25, 2017, according to the information of the National Police of Ukraine, 926 were found, according to the facts revealed 35 criminal proceedings, 4 facts of suicide related to the activities of "death groups" were established, more than 10 suicide attempts were prevented. Such groups are communities that are mainly concentrated in the network "Vkontakte" and are intended for teenagers.

It starts with the fact that their administrators give trainees "task" to the group members - for example, knowingly cut their hands with a blade, taking all of this into a video. The ultimate goal of the game is to bring the child to suicide, which she must also fix on the camera. For the first time about the "death group", such as the "Blue Whale", "Quiet House" communities, and "Wake Me at 4:20" talked back in May 2016 in Russia.

The great public response, the special social danger and the inability to bring the perpetrators to justice, due to insufficient legal grounds, forced the response of the state accordingly. Thus, some lawmakers proposed a draft law "On Amendments to the Criminal Code of Ukraine (regarding the establishment of criminal liability for a driving a person into suicide)". In the explanatory note it was noted that Ukraine has already received a signal of the need to amend article 120 of the Criminal Code of Ukraine, which would correspond to the current realities of driving a person into suicide.

This Law received the necessary support from the Verkhovna Rada of Ukraine and was signed by the President of Ukraine on February 8, 2018. The first part of article 120 has undergone a change, now it has the following expression:«Driving a person into suicide or attempted suicide by means of cruel treatment, blackmail, systematic humiliation of his human dignity or systematic unlawful coercion against acts contrary to his will,inclination to suicide , and other acts contributing to committing suicide, - shall be punishable by restraint of liberty for a term up to three years, or imprisonment for the same term.»

According to the World Health Organization, the average indicator for our country is 22 suicides per 100 thousand people. Ukraine is among the top ten countries with the highest suicide rate. According to scientific sources, the ratio of suicides and suicides is about one to twenty. At the same time, from 2010 to 2015 in Ukraine only four sentences were imposed for suicide, that is, less than one sentence per year.

Due to the high latency of suicide attempts and the absence of a relevant legal norm in Ukrainian legislation that would allow prosecution for a driving a person into suicide through the Internet and other means that were not mentioned earlier in the disposition of Article 120 of the Criminal Code, it was extremely difficult to even assess the real the situation and the state of the danger of the problem.

Crime is constantly in the dynamics not only in terms of quantity, but also qualitative features .With the development of

technical progress and the evolution of mankind, there are new, previously not existing, crimes and methods of committing crimes. So, with the advent and development of the Internet, new ways of committing not only theft or fraud, but also suicide. Therefore, it is necessary to take this into account at the legislative level and to promote the criminalization of certain actions, which eventually begin to pose a public danger and encroach on state and social values.

The level of decent and safe life of a person depends on the quality of the norms of legislation, both on their efficiency and on the attitude of citizens to them. At present, the Criminal Code of Ukraine, with the recent changes, have a successfully combines in Article 120 the ways that can harm the normal existence of a person in society and driving it into suicide, and implies responsibility for it. Also, these changes positively influenced the improvement of the domestic Law on Criminal Liability in the section on criminal offenses against life and health of a person.

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5. The Law of Ukraine “On Amendments to Article 120 of the Criminal Code of Ukraine on the Establishment of Criminal Responsibility for Driving a person into to Suicide” (Adopted on 08.02.2018)

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CRIMINFL LEGAL ASPECTS OF FORMS OF COMPLICITY

The forms of complicity, namely the commission of a crime by a group of persons, a group of persons under a preliminary conspiracy, an organized group or a criminal organization, are reflected in the criminal law by establishing a circle of persons who are held criminally liable for a joint crime, as well as through the definition of legal grounds and boundaries criminal responsibility of these persons.

Forms of complicity are used in the criminal law in three respects: 1) it is constitutive, that is, the obligatory and basic feature of the crime (for example, Articles 255, 257, 260 of the Criminal Code); 2) is a qualifying attribute which aggravates criminal liability (for example, part 3 of Article 152, Part 2 of Article 185, Part 4 of Article 187 of the Criminal Code); 3) is a circumstance that aggravates the punishment (Item 2 of Part 1 of Article 67 of the Criminal Code).

For Ukraine, the fight against organized crime is of paramount importance in ensuring the national security of the state and even connected with the problem of our "survival". Organized crime continues to be the "number one enemy" for a young Ukrainian state. The urgency lies in the fact that the characteristics of crime clearly indicate that a significant number of crimes committed not alone, but in complicity. It is especially dangerous that this indicator is extremely high among juvenile offenders, the contingent that will determine the "face" of crime in the XXI century.

Art. 28 of the Criminal Code of Ukraine recognizes a crime committed by an organized group if several persons (three or more) were involved in its preparation or commission, which were previously organized in a stable association for committing this and other (other) crimes united by a single plan with distribution

functions of group members aimed at achieving this plan, known to all members of the group [1].

Social organization has a number of characteristic features (inherent and criminal organizations as a set of persons who have established relations between themselves, having signs of organized forms of activity to achieve a common criminal purpose):

1) a social organization has a target nature, since it is created for the realization of a certain goal and is evaluated through the achievement of the latter. This means that the organization is a means and tool for ensuring the function of association and regulation of human behavior for such a purpose, which can not be achieved by them alone;

2) in order to achieve the goal, members of the organization must be divided by roles and status. Accordingly, a social organization is a complex interconnected system of social positions and roles performed by members of the organization. A social organization enables individuals to meet their needs and interests to the extent that they are determined by its social status, the social roles it performs, social norms and values universally recognized in a particular social organization;

3) the organization arises on the basis of the division of labor and its specialization on a functional basis. Therefore, in various social structures different horizontal structures are formed. However, it is more essential to understand an organization that it is always built on a vertical (hierarchical) feature, in which the control and control subsystems are clearly distinguished. The need for a management system is conditioned by the need for coordinating the various activities of horizontal structures. The hierarchy of building an organization ensures the achievement of a single goal, gives it stability and makes it effective;

4) the management subsystems create their own specific means of regulation and control of the organization's activities. Among them, the so-called institutional or internal-organizational norms, ie, the norms created by the activity of special institutions, which have special powers, play an important role. These institutions

implement regulatory requirements, support them by their special authority and influence, control their implementation and apply sanctions.

In the early 90's. It was believed that the increased degree of social danger of a criminal organization was determined by the purpose and method of combining the perpetrators. In this regard, as specific to (this form of complicity considered the following features: a) the presence of not less, but mainly more than two persons; b) organization; c) stability; d) the special purpose of the association [3]. Consequently, criminal law experts came to the conclusion: the criminal organization differs from the organized group with a higher level of stability and organization, as well as the special purpose of the association.

There is no unanimity in the science of criminal law, nor does it make it possible to distinguish between forms and forms of complicity, or only in form, nor in relation to the criteria for their distribution. Most researchers of forms of complicity, as noted by P. F. Telnov, speak only about forms, considering that there are no types of complicity as such in general [2]. This position is also enshrined in the new Criminal Code of Ukraine.

Adoption of the new Criminal Code of Ukraine has become an important stage in the development of legal science and practice in our country. The advantages of this normative act are quite substantial in comparison with the previously existing legislation. However, the CC (April 5, 2001) contains a number of shortcomings, which, unfortunately, did not abandon the institution of complicity. In particular, Section 5 (General Part) says nothing about the mixed form of guilt, although it exists in most careless crimes, and this is especially important when a person deliberately violates a certain normative act that has caused socially dangerous consequences to which it was careless. Guilty from this follows the question of the possibility of complicity in such crimes, because in accordance with Art. 26 CC complicity is possible only in the commission of intentional crimes [4].

For example, if a passenger inadvertently incitees the driver to exceed speed, he pays him for it, aware of the possibility of socially dangerous consequences, as a result of which there was an accident and people died, then according to the current law the passenger can not be held accountable as an accomplice because a careless crime is committed, that is, it avoids liability for especially a serious crime, in which he as an instigator played an important role.

In other words, it would be appropriate to point out that the accomplice of the crime is also a person who acted as an accomplice in deliberate acts that led to a criminal result in respect of which he was guilty of negligence.

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PROSECUTION OF A KNOWINGLY INNOCENT PERSON

According to Art. 29 of the Constitution of Ukraine - every person has the right to freedom and personal integrity. [1, p. 38] Illegal detentions, driving, or taking into custody violate the important constitutional rights of a person.In addition to the Constitution of Ukraine, this right is enshrined in Art. 3 of the

Universal Declaration of Human Rights 1948, Art. 9 of the International Covenant on Civil and Political Rights of 1966 and Art. 5 European Convention for the Protection of Human Rights and Fundamental Freedoms 1950. Therefore, the prosecution of a person who is knowingly innocent of criminal responsibility is a gross violation of the Constitution and constitutes an abuse of the powers of the authorities provided to officials in the field of criminal justice.

The aim of the studyis to clarify the correct understanding of Art. 372 of the Criminal Code, that is, the prosecution is knowingly innocent of criminal responsibility.

Article 62 of the Constitution of Ukraine declares that a person is considered innocent in committing a crime and can not be subjected to criminal punishment until her guilt is proved in a lawful manner and established by a conviction of a court [1, p. 52]. The prosecution can not be based on evidence obtained illegally. In case of violation of these requirements comes the responsibility for Art. 372 CC as a special form (in relation to Article 364 of the Criminal Code) of abuse of office.

The main direct object of the crime is social relations in the field of justice concerning the lawful activity of the investigator or prosecutor, aimed at ensuring the rights and fundamental freedoms of man and citizen. An additional object of this crime against justice may be social relations in the sphere of protection of life, health, will, personal integrity, honor and dignity of a person, property rights, authority of law enforcement bodies, etc.

The objective aspect of the crime is to bring a person, who is knowingly innocent of criminal responsibility, an investigator, prosecutor or other person authorized by that law. Prosecution is one of the stages of criminal proceedings, which begins with the moment when a person is informed of a suspicion of committing a criminal offense. Composition of the crime provided for in Part 1 of Art. 372 of the Criminal Code is a formal one. An offense is deemed to be terminated from the moment of giving a person a written notice of suspicion of committing a crime in accordance with art. 278 CPC. In the case of writing a written notice of suspicion of a knowingly

innocent act of a guilty person, it should be considered as preparation for a crime and qualify under Part 1 of Art. 14 centuries 372 CC.

The subject of a crime is special. They may be an official who has the right to prosecute: an investigator, a prosecutor, another person authorized by the law. Under the "other person authorized by the law", which attracts a person who is knowingly innocent of criminal responsibility, the legislator seems to have in mind the person who conducts the inquiry in accordance with the provisions of Part 3 of Art. 38 CPC. which according to articles 276-278 of the CPC has the right to make allegations of suspicion.

The subjective aspect of the crime. Despite the fact that Art. 372 of the Criminal Code does not contain a special reference to the form of guilt, the crime under consideration can be committed only intentionally because of the use in the construction of Part 1 of Art. 372 words "knowingly". Kind of intentions - straightforward. Qualifying signs of a crime (Part 2 of Article 372 of the Criminal Code) are: 1) combination with a prosecution of a serious or particularly serious crime; 2) combination with the artificial creation of evidence of the prosecution; 3) combination with other falsification.

The motives of the perpetrator can be different (revenge, jealousy, selfishness, careerism) and do not affect the qualification of the crime, but they should be taken into account when imposing a punishment. If the bringing of the innocent person to criminal liability was the result of a person's mistake, the committed do not contain the crime envisaged in art. 372 of the Criminal Code, and in the presence of appropriate signs may be qualified under Art. 367 CC. If an act is manifested in not involving a criminal charge of a deliberately guilty person, it contains evidence of a crime that is not stipulated in art. 372, and Art. 364 CC.

Victim of crime under Art. 372 CC is a person who is not guilty of committing the crime that she is being charged with. At the same time, this may be the person who did not commit any crime at all, and such that he committed another crime than the one for which he was prosecuted. Therefore, the prosecution of a person against

whom there is evidence of his guilt, but in violation of the procedural law established by law, can not qualify under Art. 372 of the Criminal Code and other necessary conditions may be regarded as a crime stipulated by art. 364 BC. Application of Art. 372 of the Criminal Code is also excluded in the case of the allegedly innocent non-criminal, but other types of legal liability (disciplinary, administrative, civil-law). In other necessary conditions such actions may contain signs of a crime envisaged by art. 364 CC.

The analysis of articles 276-278 of the CPC, which regulate the implementation of a suspicion report, indicates that the objective side of the crime under art. 372 of the Criminal Code is characterized only by the active behavior of the subject, which consists in committing such acts as: a) drawing up a written notice of suspicion (Article 277 CPC); and b) handing this message to a person suspected of committing a particular criminal offense (Part. Article 42, Article 278 of the CPC). So, according to Art. 372 of the CC shall be punishable by a crime with a formal composition, which shall be deemed to be terminated from the very moment when the written notification of suspicion is presented (presented) to a person who is suspected of committing a criminal offense. Any consequences of this crime are outside its objective party and can only be taken into account by the court when sentencing [2, p. 1].

The public danger of bringing a knowingly innocent criminal responsibility is that officials who are authorized by law for actions such as prosecution use these powers in relation to a person who did not commit a crime than grossly violate the rights and freedoms of this person, generate her and other people's sense of social and legal insecurity undermine the belief in justice and the legality of justice. In its legal nature, this crime is a special form of abuse of power or office, for which the responsibility comes under Art. 364 CCU.

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FEATURES OF CRIMINAL RESPONSIBILITY AND PUNISHMENT OF MINORS

However, the problem of juvenile delinquency is one of them urgent problems of the Ukrainian society in need urgent solution.And given the fact that minors are a special subject of such responsibility, there are a number of peculiarities inherent in the procedure bringing them to criminal responsibility. Of course, the above provisions apply to any category of persons who committed crimes. However, the personality features of thesePersons, for example, are related to age, health status, social level development affects their mental attitude to the action and its consequences, perception of factual circumstances expressing the legal nature of that or another crime.

The law provides for an exhaustive list of possible types of punishment applied to a minor. In accordance with Part 1 of Art. 98 these are the main typespunishment: 1) fine; 2) public works; 3) corrective labor; 4) arrest; 5) imprisonment for a certain period. On the basis of Part 2 of this article, a minor may be applied to and additional penalties in the form of a fine and deprivation of the right to occupy certain positionsor engage in certain activities.

In accordance with Part 1 of Art. 99 fine is applicable only to minors, having independent income, own funds or property, which may be recovered. Part 2 of this article limits the amount of fines: it can to be appointed up to five hundred statutory limits non-taxable minimum incomes of citizens with due consideration a court of the status of minors.Significantly softened juveniles and such types of

punishment as public and corrective work. According to Art. 100 these types of punishment may only be imposed minors from 16 to 18 years of age. In addition, the CC determines more limits maximum terms of imprisonment. Part 1 of Art. 102 provides that imprisonment for persons who did not reach the crime eighteen years of age, can not be appointed for a period of more than ten years, and in cases provided for in Clause 5, Clause 3 of Art. 102 - not more than fifteenyears.

Depending on the severity of the crime for which the juvenile has been convicted, imprisonment may be imposed (Part 3 of Article 102): 1) for repeated crimes of minor gravity not more than two years; 2) for a crime of moderate gravity - for a term not exceeding four years; 3) for a grave crime - for a term not exceeding seven years; 4) for a particularly grave crime - for a period of not more than ten years; 5) for a particularly grave crime, combined with intentional deprivation of life rights - for up to fifteen years. Of particular importance is the age-related characteristics of a minor requires the establishment not only of the fact that the person formally reached the age criminal liability, but also clarification of all individual psychophysical properties of minors of a certain age. Practice goes on the way of exclusion of criminal liability and punishment against those minors who, although reaching the age from which responsibility is established. However, they are lagging behind (not in connection with mental illness) in the mentaldevelopment from a level typical of this age that determines the possibility to realize the actual signs and social danger of the perpetrator.

Thus, the analysis of theoretical studies of criminal sciencelaw, judicial practice and the practical application of educational measures the nature of the juvenile, give rise to the following conclusions:

1. Types of penalties provided for by the criminal law regardingminors, need some modernization for efficiency in application courts, since most often imprisonment is applied toa certain period.

2. Individualization of punishment taking into account the characteristics of the subjectcrime (living conditions and upbringing, psychological development and maturation), as showed judicial practice, is at a rather low level.

3. The complexity of imposing this kind of punishment as a fine. In connection with the reluctance of employers to formalize employment minors, this makes it impossible for the court to impose such a form responsibility.

4. Public works have a high rate of efficiency and international experience shows the positive impact of this type of punishment, on the contrary, its level of appointment in Ukraine is extremely low.

Therefore, it is necessary to update the methodological approach to sanctions that apply to minors to expand their types and personalization in the choice of punishment. We believe that today public works are acting the most effective, most effective type of punishment for minors.

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SPECIAL SUBJECT OF CRIME IN MODERN CRIMINAL LAW OF UKRAINE

Modern development of Ukraine collects all more wide turns, new possibilities are created for forming of proof civil society, new priorities are certain in realization of state-imperious and public activity.The legal system of Ukraine is constantly filled up by the new sources of right, that represent the permanent evolution of our society and serve as irreplaceable instruments in the process of government legal control of public relations.

A criminal right, as well as other basic fields of national law, also develops within the framework of social evolution, executes certain functions and tasks. Regulatory function of criminal law, which is one of the instruments of legal regulation of human relations between society and the state, is expressed in the marginal, educational, isolating, preventive and educational forms.

The criminal law of Ukrainesets maintenance of certain human acts and calls them crimes, except that, determines the measure of state reaction on such behavior, serves as the most imperative field of law, that provides the guard of rights and freedoms of human and citizen, property, public order and public safety, environment, constitutional order of Ukraine from illegal encroachments, provision of peace and security of humanity, and also the prevention of crimes whose content itself determines.

Otherwise, the criminal law by its essence determines the content of the crime, punishment or other measures of criminal law that will be applied to the person who committed it, as well as, accordingly, a person that at presence of certain legal components can be named a criminal.

Every criminal acts have the legal maintenance, consist of the individualized elements that together form the crime. Only the

presence of all elements of the crimecould be grounds for bringing the perpetrator to to criminal responsibility. Otherwise,in order to be a subject of a specific crime,to form its composition, and as a result of offensive of criminal responsibility, a person must comply with certain legal criteria, which are defined by the criminal law- the Criminal Code of Ukraine. Next to it there is a row of crimes, the subject of which the Criminal Code of Ukraine defines only a certain person, endowed with characteristics specific to her and calls it a special subject of crime.

Article 18 of the Criminal Code of Ukrainedefines the phenomenon of the subject of the crime as a part of the crime and establishes that the subject of the crime is a physical, convicted person who committed a crime,from that criminal responsibility can come in age. Otherwise, maintenance of foregoing norm gives an opportunity to understand that physical person to answer the concept of subject of crime must have to the duty of signs, to that responsibility and age criminal responsibility can come from that are attributed. Part 2 of Art. 18 of the Criminal Code of Ukraine provides for the presence of a special subject of a crime in criminal law, it may be a physical convicted person who committed in the age from which criminal liability can occur, a crime the subject of which can be only a certain person. Analysis of Sections 1 and 2 of 18 of the Criminal Code of Ukraine,makes it possible to identify two types of subject of a crime- a special one, as provided, as already mentioned,by part first of this normgeneral, the definition of which was established by scientists on the basis of the analysis of part one.

The signs of the special subject of crime on the maintenance are sufficiently. Them it costs to classify on three groups: signs that characterize a social role and legal position of subject; physical properties of subject; the relationship between the subject and the victim.

To the first group the next personal touches belong: citizenship (for example, the subject of espionage is a foreigner or person without citizenship 114 of the Criminal Code of Ukraine); official position (the subject of misfeasance or by official position is an

official person - century of the Criminal Code of Ukraine); professional activity is a century 139 of the Criminal Code of Ukraine; attitude to military service (for example, the subject of crimes against the established order of military service is a serviceman - article 402-435); certain position is a century 393 of the Criminal Code of Ukraine;participation in a criminal proceeding(for example, the subject of knowingly false testimony is a witness, victim, expert or translator- article 384 of the Criminal Code of Ukraine); previous conviction (for example, by the subject of hooliganism,provided for in part 3 of Article 296 of the Criminal Code of Ukraine, is a person previously convicted of hooliganism).

To the second group: the age of a special subject of crime(for example, the subject of involvement of minors in criminal activity is a person who until the commission of the crime turned 18 years old); the state of health(the subject of infection venereal illness is a person that is ill such illness, is a century 133 of the Criminal Code of Ukraine).

The third group of lines is set by family relations - century 164 of the Criminal Code ofUkraine; official or other relations - 154 of the Criminal Code of Ukraine. Analysing the above-mentioned, it follows to take into account, that in part 2 of century 18 of the Criminal Code of Ukraine is brought only common concept of the special subject of crime.While in the norms of Special part of the Criminal Code of Ukrainetaking into account the specifics of the object and the objective side of certain components of crimes, the concept of a special subject of crime finds its concretization.

Summarizing the above thesis of research, I would also like to add that the signs of a special subjectup to a point are restrictive,since they determine that one or another offense may not be committed by any person, but only the person who has established a specific norm of the Criminal Code of Ukraine, is inherent only her signs.

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HUMANITY CRIMES

After the collapse of the USSR, in the context of the political and economic crisis and socio-cultural transformation, the level of mass anxiety increased significantly in the post-Soviet countries. During 1989-1992, it was still possible to speak of a rather significant potential for resistance to xenophobic manifestations, aggression, violence and discrimination on this land, because the significance of the "Soviet" rather than "national" identity, which declared the equality of all the peoples of the USSR, prevailed [1 , with. 70]. But the situation of rising crisis, instability, disorientation, uncertainty in the present and fear of the future led to an increase in not only national consciousness and ethnic solidarity, but also xenophobic sentiment - not relevant to the forms of collective ideas about social identity. The general vector of mass sentiment was moving from a sense of danger and anxiety to the development and spread of xenophobic sentiments, above all ethnophobia and migrant phobia. It quickly turned out to increase the number of their extreme most dangerous manifestations - "hate crimes". In general, the history of the concept of hate crimes ("hate crimes") takes its origin since the late 80's of the twentieth century. The official conquest was the result of the adoption on April 23, 1990 by the US Congress of the Hate Crime Statistics Act (Hate Crime Statistics Act) that defined the "hate crime" as any form of violence directed at group representatives, united by a certain identity ".

"Hate crime" is an offense in which the victim, object or purpose of the crime was chosen on the basis of their actual or imaginary affiliation with a particular group, a connection with it (the group may be based on any crime, which are socially relevant characteristics or characteristics of its members: race, nationality, religion, language, sexual orientation, physical or mental inferiority, gender, other distinction) [2, p. 3].

In the decision of the OSCE Council of Ministers dated December 1-2, 2009, No. 9/09, hate crimes are defined as "punishable acts committed on grounds of prejudice" [3]. At the same time, there is a problem that the Ukrainian legislation lacks a well-defined notion of hate crime, despite the fact that almost every crime provided for by the Criminal Code of Ukraine may contain signs of crimes in this category. A special part of the Criminal Code of Ukraine contains a number of special articles, which stipulate responsibility for the crimes of this category.

In particular, Article 161 (Violation of the equality of citizens according to their race, nationality, religious beliefs, disability and other grounds) establishes criminal responsibility for deliberate acts aimed at incitement to national, racial, religious hatred or hostility, to humiliate national honor and dignity or the image of feelings of citizens through their religious beliefs. The imposition of crimes on the grounds of intolerance is reflected in articles 178 (Damage to religious buildings or religious buildings), 179 (Illegal restraint, desecration or destruction of religious shrines) and 180 (Preventing the implementation of religious rite) of the Criminal Code of Ukraine [4]. It should also be added that in 2009, in compliance with the requirements of ECRI, in Ukraine, amendments to the Criminal Code of Ukraine were introduced, in which a number of articles found that the aggravating circumstance was motives of racial, national or religious intolerance.

Thus, in particular, this feature is enshrined in the following articles of the Criminal Code of Ukraine: § 14 part 2 of Art. 115 "The deliberate murder of motives of racial, national or religious intolerance"; Part 2 of Art. 121 "Intentional grave bodily harm, committed on motives of racial, national or religious intolerance"; Part 2 of Art. 122 "Intentional medium gravity of bodily harm, committed on motives of racial, national or religious intolerance"; Part 2 of Art. 126 "Beating and torture, committed on the grounds of racial, national or religious intolerance"; Part 2 of Art. 127 "Torture committed on grounds of racial, ethnic or religious intolerance"; Part 2 of Art. 128 "Threat of murder on grounds of racial, national or

religious intolerance"; Part 2 of Art. 161 "Violation of the equality of citizens depending on their race, nationality or religious beliefs, combined with violence".

Changes in a number of articles of the Criminal Code of Ukraine regarding the establishment of the so-called "motive of hatred" as qualifying circumstances (Articles 115, 121, 122, 126, 127, 129, 300) did not change the situation for the better. While fixing crimes committed against foreign citizens, the Ministry of Internal Affairs of Ukraine is in no hurry to regard crimes committed by them, motivated by religious or racial hatred.

Consequently, the subject of crimes committed on the ground is very relevant. But, unfortunately, the situation in Ukraine can be described with the statement: "there are crimes, there are no statistics". This is due to a number of causes that are interdependent and are causally related. First, this kind of crime has a high degree of latency. Often, victims themselves are not interested in disclosing the crime. Secondly, the statistical picture of the dynamics of "hate crimes", which exists today, can not be accepted as credible. Law enforcement agencies use information only on registered facts, while statistics on crimes committed against foreigners as a whole are published, while incidents of motivated hatred are not singled out separately. Thirdly, there is no qualitative assessment of information on "hate crimes".

In addition, it is important to add that the main responsibility for the fight against hate crimes lies with the state. The employees of the bodies and units of the National Police as representatives of the state are often the first specialists who arrive at the place of a crime committed on the basis of hatred.

However, the lack of training on the detection and investigation of hate crimes can lead to their inability to properly identify the crime, to gather evidence of motivation, and to comply with reporting requirements.

Consequently, from the foregoing it can be concluded that clear legislative consolidation, awareness raising, training and training of the employees of the National Police organs and units in

detecting, investigating and preventing intolerance of criminal offenses are necessary. And underestimation and ignoring of these crimes can lead to unforeseen tragic consequences.

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INTERNATIONAL COMPONENT OF LEARNING FOREIGN LANGUAGE

Improvement of qualification, in particular, the foreign language component, of personnel is one of the priorities of any organization. As practice shows, most often choose English, French or German as a second, for use in work and for free possession of it.

Last time international organizations such as NATO, EUAM Ukraine, Council of Europe Office in Ukraine and others have been providing linguistic training for law enforcement, security agencies and defense institutions,in Twinning projects, short-term workshops

with foreign coaches and speakers have positive and makes it possible to study the language of professional orientation and specialized vocabulary.

For effective education, groups are predominantly formed on the level of language proficiency.

If all employees have not previously studied the language, the groups are formed according to the schedule of employees and the wishes of the management or the teachers themselves regarding the time of the classes.

If the employees previously studied the language, then groups are formed on the level of language proficiency.

To do this: a small written test is sent, a test is checked, groups are formed according to the test results (or interviews). According to the agreement with the management, the schedule of occupations for each of the groups is determined.

The recommended pace of training for each group is at least 2 lessons per week for 1 hour. The next step is signing a cooperation agreement and work according to the schedule.

Classes take place on the territory of the organization. All materials for the training are provided by project organizers in electronic and printed forms.

Teachers print out the necessary materials for each employee, or employees print the necessary materials themselves. Weekly the teacher sends a list of pages that will be processed within a week.

The lesson begins with a "lingual warm-up", where the teacher speaks a foreign language, thus trying to "plunge" into the atmosphere of the foreign language as much as possible. Each student tells some news from his life, about how he spent the weekend, and so on. There is a homework check. Repetition of the studied material, vocabulary. Study of a new topic: vocabulary + grammar. During the class, a certain number of words are actively studied in texts, exercises, grammatical tasks, and dialogues.

Verification of speech perceptionis: listen to audio and make a tasks for understanding in almost every class. Classes are finished by repetition of the studied and communication. Upon request, in

classes studying specialized topics that are required by organizations for cooperation with foreign partners and professional activities.

To learn English at the basic level (communication, understanding, reading, writing) - it is necessary from 4 to 6 months.

Also free for all who wish to study foreign languages are free language lounges on a weekly basis, where a foreign language is studied in an interesting and informal atmosphere. These classes are held by native speakers (volunteer). During language clubs there are movie reviews, vocabulary study, discussion of the plot, translation of songs in foreign languages.

Excursions to the Old Town are organized in English. Clubs are held weekly. The teacher reports to the groups about the clubs of each lesson, as well as this information is available on the Internet sites.

Therefore, further fruitful cooperation of law enforcement structures with foreign partners will facilitate the formation of highly skilled specialists who will take professional experience during state international programs and personal training of a foreign language.

CONTENT

Scientific Publications

APPLICATION OF ENGLISH LANGUAGE IN THE TEACHING OF CRIMINAL LEGAL DISCIPLINES

Interuniversity Scientific and Practical Internet Conference
(Kyiv, June 14, 2018)

Підписано до друку __.__.2018. Формат 60x84/16. Папір офсетний.
Обл.-вид. арк. _____. Ум. друк. арк. _____. Вид. № _____.
Тираж прим.