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 05, 2019)

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CONTENT
SCIENTIFIC REPORTS

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CRIMINAL OFFENCES AGAINST ELECTION RIGHTS: PROBLEMS OF THEIR AGGRAVATING AND EXTRA AGGRAVATING VESTIGES

It is considered that aggravated body of crime contain vestiges that reflect augmented public danger of committed crime, make an influence on its qualification and enhance the punishment, whereas extra aggravated body of crime reflect much augmented public danger of committed crime, make an essential influence on its qualification and substantially enhance the punishment. So far researches of Ukrainian scientists pay practically no attention to these problems either in details or in complex concerning crimes against election rights (art. 157-160 of Criminal Code of Ukraine).

For example, analysis proves that according to titles and dispositions of simple bodies of crimes under art. 157 and 158-2 of Criminal Code of Ukraine such crimes could be committed either during elections or at the time of plebiscite. However just member of election commission could be recognized as special subject of the named crimes, but not member of plebiscite commission or member of plebiscite initiative group. The same goes for other special subjects – candidate for elections and his authorized delegate, representative of political party or its local office as well as its authorized delegate, observer at elections or plebiscite. Meanwhile committing a crime against election rights by these persons increase such crimes' public danger likewise; indeed these subjects using their empowerment also can interfere in free elections by abusing their power, destroying documents, presenting false information etc. This legislative gap should be closed by making amendments to art. 157-160 of Criminal Code of Ukraine envisaging equal list of special subjects.

Another aggravating (extra aggravating) vestige of these crimes is committing them by group of people under previous concert.

But it is well known that committing a crime by organized group is even more dangerous. Why ever just one relevant crime (under art. 159-1 of Criminal Code of Ukraine) contains such vestige, but not other crimes against election rights? Moreover, even in the named article such vestige («by organized group») is named on the level with «group of people under previous concert», e.g. they are considered as equal by the lawmaker's logic. But it defies terms of art. 28 of Criminal Code of Ukraine; according to it these forms of complicity are different by the public danger (organized group is always more danger than group of people under previous concert). Therefore it is proposed to amend art. 157, 158, 158-1, 158-2, 159-1 та 160 of Criminal Code of Ukraine by envisaging a crime committed by group of people under previous concert as an aggravating vestige, and a crime committed by organized group as an extra aggravating vestige.

Only one crime against elections rights – under art. 157 of Criminal Code of Ukraine – stipulates physical violence, threat, destroying and damaging of property as an aggravating vestige. But it is not reasonable to have these characteristics simply listed in one part of the article because that means they are simply considered equal to each other. It's a huge mistake to similes so different kinds of vestiges as physical violence, threat by such violence and detriment to the property. The way to correct such defect is to draw a clear distinction between physical, psychological and material damage, e.g. to foresee them as aggravating and extra aggravating vestiges independently with regard to the kind and level of violence and damage. It is also reasonable to envisage such vestiges for some other crimes against election rights (art. 158, 158-1 and 158-2 of Criminal Code of Ukraine).

Finally, only one crime against elections rights – this time under art. 158 of Criminal Code of Ukraine – stipulates the impossibility of election results establishing or nullification of election results as an extra aggravating vestige. The problem here is that other relevant crimes are to inflict the same consequences. Some Ukrainian researchers have already proved the necessity for lawmakers to correct this defect as soon as possible (taking into consideration notable increase of these crimes in our country during last years and qualitative changes in modus operandi) and add such extra aggravating vestige firstly to art. 158-1 and 160 of Criminal Code of Ukraine. In addition it stands to mention that for understanding the

meaning of terms «impossibility of election results establishing» and «nullification of election results» (as well as relevant procedure) judges and law enforcement personnel are to address to laws «On elections of President of Ukraine», «On elections of people's deputies of Ukraine», «On local elections» and «On All-Ukrainian plebiscite». But these legislative acts contains only definition of «expression of will results», but not «election results». Naturally, these terms are used as synonyms in practice, but is it an analogy of legislation (statutory banned according to art. 3 of Criminal Code of Ukraine) or not? The only way to solve this legal problem is to bring criminal legislation terminology in line with election legislation (definitely, the latter is primarily to former).

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THE CONCEPT OF CRIMINAL LAW IN THE DOCTRINE OF CRIMINAL LAW

In the theory of criminal law, criminal-law regulation is determined in different ways. Within the framework of criminal legal regulation of social relations, a mechanism of creation and implementation of criminal legislation functions. This, on the one hand, obliges to find out the place of processes of creation and implementation of criminal legislation in criminal legal regulation of social relations, and also provides an opportunity to establish the correlation of these phenomena and their interconnection. On the other hand, this fact provides an opportunity to use the doctrine of the mechanism of criminal legal regulation for the development of the theory of the mechanism for the creation and implementation of criminal legislation. This is especially true given the lack of substantive work on the mechanism of creation and implementation of criminal law in science of criminal law, in contrast to the works of scientists, which considered only the criminal-legal regulation of social relations.

One should agree that legal regulation is a special regulation that differs from other forms of social regulation. It involves various methods, methods, types, regimes, legal constructions, includes a number of stages [7, p. 10]. Every type of legal regulation, including criminal law, is special. It, on the one hand, has common features with social and legal regulation, while –it differs from criminal-procedural, criminal-executive and other types of legal regulation.

Yu. Baulin proposes criminal-law regulation to regulate the criminal activity of the state activities regarding the application of criminal liability and other criminal-law measures to those who commit crimes [1, p. 24]. Of course, criminal law generally covers the activities of scholars. However, this understanding of this criminal-law category seems somewhat limited, since it is limited to the application of certain criminal-law measures only to those who committed crimes.

For the same reason, wecan not agree with N. Henry, who argues that criminal-law regulation is subject only to those relations that exist between person who committed the crime and state, since the regulation provides for the regulation of rights and obligations of participants in these relations through specially created criminal law [3, p. 12].

A. Voznyuk criminal-legal regulation of social relations determines how implemented by the state with the help of the means enshrined in the Criminal Code of social relations, their consolidation, protection, protection and development [2, p. 219]. The above definition, on the contrary, has a broader meaning, however, in order to understand its content, it is necessary to find out what the author understands under the means fixed in the Criminal Code. Moreover, it is unclear what the indicated means are and what exactly they concern?

G. Petrova proposes following definition of criminal-legal regulation –it is an independent element of system of legal regulation of social relations, which allows you to streamline the activities of people and is carried out through criminal law and criminal-legal relations [5, p. 129]. The limitation of this definition is due to the fact that in addition to criminal law and criminal-legal relations, there are other components of criminal law regulation, in particular: legal facts,

acts of application of criminal-law norms. At the same time, it is not clear what relations the researcher refers to the criminal law.

Criminal legal regulation (in the broadest sense) V. Smirnov determines how the influence of the norms of criminal legislation in the order of exercising the function of protection on various social relations. The author reduces this influence to the creation of conditions for the implementation of certain regulations, but not to their organization (direct regulation). Criminal regulation in the narrow sense - is the establishment of the rules of criminal law rights and obligations of the parties to social relations that arise in the event of a crime [6, p. 16–17, 30–32]. In our opinion, one cannot agree neither with the broad nor with the narrow meaning of the term «criminal law regulation», which the author suggests. If we already consider criminal legislation in a broad sense, then it is first necessary to point out the creation of a criminal law, and then on its implementation. That is, in our opinion, criminal law regulation is a process that encompasses both the creation of criminal legislation and its implementation. At the same time, the impact that author speaks of is precisely after the creation of a criminal law, when available means of such influence, primarily in form of criminal law. Therefore, in the narrow sense, criminal law can be reduced to implementation of criminal law in form of compliance, implementation, use and application of criminal law.

Discussion of definitions proposed by V. Smirnov is also due to a limited view of criminal law regulation if his subject is viewed as social relations that arise in event of a crime.

More balanced it is seen the statement of N. Hutorova that regulation of criminal legal relations is an ordering with the help of the norms of criminal law and the totality of legal means of social relations between a person who committed a socially dangerous act, stipulated by the criminal law, and the State on the application of criminal liability and/or other measures of criminal law, legal nature [4, p. 107].

The emphasis on organization of social relations confirms our hypothesis that criminal law regulates the mechanism for creation and implementation of criminal legislation.

The legal fact, according to N. Hutorova, which generates these relations, is the commission of a person foreseen by the criminal

law of a socially dangerous act, which is the basis for the application of criminal-law measures. That is, in the opinion of the researcher, it refers to both crimes and other socially dangerous acts (in particular, committed by persons for whom, on the basis of criminal law, coercive measures of medical or educational nature may be applied) [4, p. 107].

We support the scientist in fact that we must speak not only about person who committed a crime, but also other persons who are not recognized as the subjects of crime, although committed socially dangerous acts, but are not subject to criminal liability. Also, except for the subjects of crime within limits of criminal law, their rights are exercised by other subjects –in circumstances that exclude the crime of act.

Therefore, criminal law is created specifically for settlement of social relations that arise in connection with the commission of a crime or other socially dangerous act provided for in the Criminal Code of Ukraine. The rules for regulating these social relations are enshrined in the relevant criminal-law rules, which are the basis for the implementation of criminal law.

Consequently, criminal law is a process that encompasses both the creation of criminal legislation and its implementation. At the same time, in the narrow sense, criminal-law regulation can be reduced to the implementation of criminal legislation in form of observance, implementation, use and application of criminal law.

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PECULIARITIES OF PROTECTION OF PUBLIC ORDER AND PROTECTION OF PUBLIC SECURITY DURING MASS EVENTS: INTERNATIONAL STANDARDS OF ACTIVITY OF POLITICS

Proper maintenance of order and safety during mass events is possible only through the integrated use of scientifically grounded legal, organizational and tactical principles, forms and methods that have a single target orientation.

International human rights instruments provide for a range of rights and freedoms. In particular, the right to freely adhere to their views (Article 19.1 of the International Covenant on Civil and Political Rights, the right to freely express their views (Article 19.2 of the International Covenant), the right to peaceful assembly (Article 21 of the International Covenant). However, the world community has established certain restrictions on the exercise of these rights. These restrictions can be applied provided that they are legal and necessary – to ensure rights and reputation of others, to protect public safety and public order, morality and health of the population (Article 19.3, 21.22.2 of the International Covenant) [1].

In this connection, it is envisaged to use a wide range of legal means –using of force and firearms, the right to arrest, detention, investigation of crimes, etc.

Thus, the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly of the United Nations on December 17, 1979, sets standards for law enforcement activities that meet the requirements of fundamental human rights and freedoms [2].

In Art. 3 of the Code states that «law enforcement officials may apply force only if strictly necessary and to the extent necessary for the performance of their duties». This also emphasizes the possibility of using force by law enforcement officers, which should not exceed the sufficient (appropriate) legal level for achievement of law enforcement purposes [2].

The basic principles of using of force and firearms by law enforcement officials were developed by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) in August-September 1990. According to the adopted documents, the basic principles of using of force and firearms weapons are: legality, necessity and adequacy [3].

Law enforcers should apply force only when other means to achieve legitimate aims have not yielded positive results and the use of force can be justified in relation to the legitimate objectives that must be achieved. Using of force in protection of public order and public security is also provided for in a number of other United Nations documents [3].

Considering this problem in the context of international practice, mass demonstrations are often carried out in Western countries. According to international law enforcement practice, in response to these events, the police in all cases of violations of public order and public security act decisively to normalize the situation, using effective force measures and special means provided by the law for each individual state against perpetrators.

Thus, during the Congress of the World Trade Organization in Seattle in December 1999, the protest against the creation of international corporations was of a purely economic nature. But in connection with massive violations of the law, the police were ordered to move from defensive to offensive, during which the demonstrators

used tear gas, rubber batons and rubber bullets. Dozens of particularly active Protestants were arrested [3].

Another example, in connection with real threat of physical abuse by several thousand demonstrators at the World Economic Forum in Davos (Switzerland) in January 2000, the police, preventing the breakthrough of the crowd at the hotel where the forum was held, in spite of the frosty weather, used special water craft, this tool proved to be quite effective in curbing the situation.

Given these events, during a regular meeting in Davos in January 2001, the Swiss authorities turned the city into a true fort, security measures were unprecedented. In addition to water jets, this time it was also applied tear gas [3].

Another example. At the annual meeting of the World Bank and the International Monetary Fund in Prague (Czech Republic) in September 2000, various international non-governmental organizations received permission from the Prague authorities to hold protests on condition of their peaceful nature. But the organizers of these actions did not fulfill their promises: demonstrators drove stones from the bridge, beat shop windows and restaurants. In this regard, the police were forced to resolutely stop their illegal behavior with using of tear gas and rubber batons. As a result, there was a large number of injuries, primarily police officers. Examples of unrest can be events that took place during 2009-2011 in countries such as France, Great Britain, Greece.

In any state, the police, along with the army, the security authorities, the penitentiary institutions belong to the executive branch. The changes that have taken place in our society in recent years have allowed us to reconsider the role and significance of the police in foreign countries, to abandon the unilateral and dogmatic view of the police, as a punitive body, intended to carry out politics of the ruling class everyday and everywhere with specific methods of direct coercion.

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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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GENERAL QUALIFICATION IS QUALIFICATION OF CRIMES AGAINST ACTIVITY OF JOURNALISTS

Journalist - a man that collects creates, edits, prepares and designs information for the release of the registered medium of communication, that is related to her or by other contractual relations, - or does it on own initiative. Person that can not have journalistic education, but must execute will of proprietor of newspaper, magazine, теле- or to the radio channel, web-site. For today this profession is under the special type of threat, as now in the world plenty of «hot points» and one of tasks of journalists - to report it society about all events that take place there.

Actuality of my work consists in that people consider all more journalists enemies and commit crime against their the activity and mostly it takes place as a result of fear of exposure of criminal acts.

But additionally want to mark that accomplished and crimes against property, life and health of journalists, that it is also related to their professional activity. By professional activity of journalist in the real article and articles 171, 347 - 1, 348 - 1 this Code it follows to understand the systematic activity of person, related to collection, receipt, creation, distribution, storage or other use of information with the aim of her distribution on the indefinite circle of persons through the printed mass, TV or radio society medias, news agencies, decorate a pattern the Internet. Status of journalist or his belonging to the medium of communication is confirmed by an editorial or official certification or other document, given out medium of communication, his release or trade or creative union of journalists.

A basic direct object are activity of journalist and order of implementation to them of the functional duties is envisaged by all foregoing articles. An additional object can be distinguished life and health of journalist and him near or family (in parts 1-3 century 345-1; p. 2 century 347-1; century 348;) members relation. And also his right of ownership in a century 345-1 and century 347-1. But in a century 349-1 also an object can be life or health of man, her will, honor and dignity. An object is separately distinguished in a century a 347-1 «Intentional elimination or damage of property of journalist», namely any property that is in property of journalist or him near relation. An objective side is expressed 1. In the acts : of century 345-1 - is Threat by murder, violence or elimination or damage of property is part 1;

it is Intentional infliction to the journalist, beatings easy or middle weight of bodily harms - p. 2; heavy bodily harms - p. 3; Century 347-1 is intentional elimination or damage of property. (p. 1) Century 348-1 is murder or encroaching upon murder. Century 349-1 is fascination and holding of journalist, as a hostage. 2. A method is envisaged to the century 347-1 by an arson, by a general-dangerous method and or physical harm to the persons. (ч 2, century 347-1) and consequences also only in this article clearly certain: act that entailed death of people (1 and more people) or other heavy consequences. To the victims in all crimes there can be only journalists, near and family members relation, if it was related to professional activity of

journalist, if crimes were perfect, as to the ordinary person, then qualifications need to be put, ordinary.

Near and family members relation is a man, wife, father, to have, stepfather, stepmother, son, daughter, stepchild, stepdaughter, brother, full sister, grandfather, baba, great-grandfather, great-grandmother, grandchild, grandchild, great-grandchild, great-grandchild, adopted, guardian or trustee, person that is on a care or caring, and also persons that lives together are bound by the general way of life and have mutual right and duties, including person, that together live, but be not in marriage. Crimes have formal composition in the articles 345-1; 347-1; 349-1, but century 348-1 envisages formally-material composition, as a fact of attempt takes place in a crime, but as it is known, then an attempt does not have certain composition. The subject of crimes can be physical persons that attained 16-years-old age, namely in a century 345-1; 347-1 and a 348-1 person must attain 14-years-old age, as a grave and especially heavy crime is there envisaged. In a century 349-1 only person that attained 14, as given crimes it is considered heavy.

A subjective side can be expressed only in direct intention, as a person must consciously understand the consequences of the actions, that a century is envisaged 345-1, century 348-1, but in a century 347-1 - ч is envisaged. 1, direct intention in relation to causing of material harm from, or also indirect intention in relation to consequences that is envisaged in ч.2, and in a century 349- 1 consists in direct intention. By an obligatory sign him subjective side there is an aim that is envisaged exactly in the article, to accomplish the motive of this journalist or restrain from the feasance of any action as condition of liberation of hostage. Characterizing signs envisaged in a century 345-1 (1.Acts are envisaged by parts 1-3 the real article related to realization of legal professional activity this journalist. (ч. 1-3); 2.Actions envisaged by parts 1-3 the real article perfect the organized group. (ч. 4)), and in a century 347-1 (1.Actions that is envisaged ч. 1, that it is related to legal professional activity of journalist. 2.Actions that is envisaged ч. 1, that is perfect by an arson or by general-dangerous another way. 3.Actions that is envisaged ч. 1, that entailed death of people or other heavy consequences.)

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THE OBJECTIVE ASPECTS OF CRIMES AGAINST JOURNALISTS UNDER THE CRIMINAL LAW OF FOREIGN COUNTRIES

Taking into account that the special rule on liability for threats or violence against a journalist is not provided for in the legislation of all foreign countries, it is logical that our comparative legal study will be devoted to the norms of criminal legislation of those countries that are representatives of the Roman-Germanic legal family. This is the reason for comparing the features of criminal responsibility for the investigated act in the context of the similarity of criminal legislation and directions of its development. Such an approach on the one hand may seem limited, since it does not cover the study of the norms of criminal legislation of the Muslim legal family, the countries of the Far East and the countries of the family of common law, however, this restriction is compelled both through the volume of research and in the communication with the fact that it will not significantly affect the results of the comparative legal study of criminal responsibility for crimes against journalists. It is the legislation of the Roman-Germanic legal family that is most closely approximated to the criminal legislation of Ukraine and provides for broad-based variants of a socially dangerous act in the form of a threat or violence against a journalist (obstruction of the legitimate professional activities of a journalist).

Under the criminal law of foreign countries, the objective aspect of crime against journalists is determined differently:

The first group includes the Criminal Code, in the text of the criminal law which criminal liability for obstruction of the legitimate professional activities of a journalist only in the form of coercion for the dissemination or refusal to disseminate information with the use of violence or the threat of its use (the Criminal Code of the Azerbaijan Republic [1, Art. 151], the Criminal Code of Georgia [2]).

The second group belongs to the Criminal Code, in the text of the criminal-law norm of which the obstruction of the legitimate professional activities of a journalist is committed in the form of coercion to disseminate or refuse to disseminate information (the Criminal Code of the Republic of Kazakhstan [6], the Criminal Code of the Kyrgyz Republic [3, Art. 143], the Criminal Code of Russia Federation [9]).

The third group belongs to the Criminal Code, in the text of the criminal- law which obstruction of the legitimate professional activities of a journalist and coercion as two forms of manifestation of the objective aspect of the crime under investigation (the Criminal Code of the Republic of Belarus [5, Art. 229], the Criminal Code of the Republic of Armenia [4]).

The fourth group includes the Criminal Code, in the text of which obstruction of the legitimate professional activities of a journalist may be committed in any form, or threats of violence, destruction or damage to property, defamation or the disclosure of other information that the victim wishes to keep secret , as well as by the threat of restricting the rights and legitimate interests of the journalist (the Criminal Code of the Republic of Moldova [7], the Criminal Code of the Republic of Tajikistan [8]).

In the first approach, in Part 1 of Art. 154 of the Criminal Code of Georgia and Part 1 of Art. 163 of the Criminal Code of the Azerbaijan Republic, the legislator states that obstruction of the legitimate professional activities of a journalist, that is, their coercion to spread or refrain from disseminating information [1, Art. 151; 2], he specifies in particular the content of the obstruction to journalists to exercise their professional activities.

The second approach is used in Part 1 of Art. 158 of the Criminal Code of the Republic of Kazakhstan, Part 1 of Art. 151 of the Criminal Code of the Kyrgyz Republic, Part 1 of Art. 144 of the Criminal Code of the Russian Federation, which describes the act in

the form of obstruction of the legitimate professional activities of the journalists by coercion to disseminate or refrain from disseminating information [6; 3, p. 143; 9]. In this case, the method of committing this act is a mandatory feature of the objective aspect and is key in qualification, since the commission of the said obstruction of the legitimate professional activities of a journalist will not be criminalized in the use of other methods not specified in the dispositions of these norms.

The third approach is inherent in the criminal legislation of European countries such as the Republic of Belarus and the Republic of Armenia, where, in the text of the criminal law, it is described that obstruction of the legitimate professional activity of the journalist or coercion him to disseminate or refrain from disseminating information may be carried out in any form [5, p. 229; 4]. That is, the obstruction of the legitimate professional activity of the journalist and coercion are considered as two forms of manifestation of the objective aspect of the investigated crime, and the forms that will be implemented by the obstruction is clearly not prescribed in the legislation (may be any).

The fourth approach is reflected in the Criminal Code of the Republic of Moldova and the Criminal Code of the Republic of Tajikistan, where Part 1 of Art. 162 of the Criminal Code of the Republic of Tajikistan in essence establishes liability for obstruction of the legitimate professional activity of the journalist in any form, as well as forcing to disseminate or refrain from disseminating information, combined with the threat of violence, destruction or damage to property, the spread of defamation or disclosure of other information, which the victim wants to keep secret, as well as by threatening to restrict the rights and lawful interests of the journalist; and Part 1 of Art. 180-1 of the Criminal Code of the Republic of Moldova establishes liability for deliberate interference with the media activities or journalist, as well as intimidating them for criticism [8; 7]. To establish the content of acts in the form of obstruction of the media activities or journalist, which are covered by the investigated norms, should be based solely on the scientific and linguistic understanding of this concept. The description of the objective aspect of the said crimes in the Criminal Code of the Republic of Moldova and the Criminal Code of the Republic of Tajikistan and covers virtually all acts which according to the criminal

legislation of Ukraine are contained in the special norms (Article 345-1, Article 347-1, Art. 348-1), but could actually be similar to this approach and covered by the content of Art. 171 of the Criminal Code of Ukraine.

It should also be noted that in the criminal legislation of foreign countries, in contrast to the Criminal Code of Ukraine, there are not so many special norms regarding the protection of journalists' lives and health, their rights and freedoms, although the level of ensuring these rights and exercising freedoms is much higher compared to Ukraine.

The method of committing an investigated crime is also determined differently from: 1) the threat of restricting the legitimate rights and interests of a journalist (the Criminal Code of the Republic of Tajikistan; 2) intimidation (the Criminal Code of the Republic of Moldova); 3) the destruction or damage to property (the Criminal Code of the Republic of Belarus, the Criminal Code of the Republic of Tajikistan, the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Russian Federation); 4) the use of violence or the threat of its use with regard to close journalists (the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Russian Federation); 5) the use of violence or the threat of its use against the journalist himself (the Criminal Code of the Republic of Azerbaijan, the Criminal Code of the Republic of Belarus, the Criminal Code of the Republic of Moldova, the Criminal Code of the Republic of Tajikistan, the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Russian Federation); 6) the threat of violence (the Criminal Code of Georgia; the Criminal Code of the Russian Federation; the Criminal Code of the Republic of Tajikistan); 7) the spread of defamation or the disclosure of other information that the victim wishes to keep secret (the Criminal Code of the Republic of Tajikistan); 8) an infringement of the rights and legitimate interests of a journalist (the Criminal Code of the Republic of Belarus); 9) creation of conditions preventing the journalist from fulfilling his legal professional activities or completely depriving him of such a possibility (the Criminal Code of the Republic of Kazakhstan).

Thus, in the Criminal Code of the Republic of Belarus, the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Russian Federation, the Criminal Code of the Republic of

Tajikistan, there are several ways of committing the investigated crime, which are contained both in the main and in a qualified structure, which obviously affects both the qualification of the act and the imposition of a punishment for its committing.

Thus, according to criminal legislation of foreign countries, the objective aspect of crime against journalists is determined differently:

1) in the text of the criminal law provides for criminal liability for obstruction of the legitimate professional activity of the journalist only in the form of coercion for their dissemination or refusal to disseminate information with the use of violence or threat of its use (the Criminal Code of the Azerbaijan Republic, the Criminal Code of Georgia);

2) in the text of the criminal law to obstruction of the legitimate professional activity of the journalist is committed in the form of coercion to disseminate or refuse to disseminate information (the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Kyrgyz Republic, the Criminal Code of the Russian Federation);

3) in the text of the criminal-law norm of obstruction of the legitimate professional activity of the journalist and coercion consider as two forms of manifestation of the objective aspect of the investigated crime (the Criminal Code of the Republic of Belarus, the Criminal Code of the Republic of Armenia);

4) in the text of the criminal-law obstruction of the legitimate professional activity of the journalist may be committed in any form or with threats of the use of violence, destruction or damage to property, the spread of defamation or the disclosure of other information that the victim wishes to keep secret, as well as by way of threats to limit the rights and legitimate interests of a journalist (the Criminal Code of the Republic of Moldova, the Criminal Code of the Republic of Tajikistan).

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STATE OF THE RESEARCH OF CRIMINAL RESPONSIBILITY AND PREVENTION FOR CORRUPTION CRIMINAL OFFENCES IN UKRAINE AND FOREIGN COUNTRIES

In our opinion, consideration of the provisions on the state of the research of criminal responsibility for corruption criminal offenses and their prevention involves focusing the attention of scientists on issues that cover the three main blocks: 1) regarding criminal liability and prevention; 2) regarding the comparative and legal aspect; 3) regarding corruption criminal offenses. At the same time, it is important to observe the principle of legal certainty, which has repeatedly stopped in its decisions the Constitutional Court of Ukraine (in particular, No. 5-rp/2005 of September 22, 2005 and No. 17-rp/2010 of June 29, 2010) which will ensure clarity and unambiguousness of legal norms, their equal application, while the

limitation of any right should be based on criteria that will enable the individual to separate the lawful conduct from the unlawful, to foresee the legal consequences of his/her behavior.

Considering the questions of criminal responsibility and prevention, it is important to carry out an analysis of the works of domestic and foreign scientists (for example, L.V. Bagrii-Shakhmatov, Yu.V. Baulin, S. Beits, Y.M. Braynin, G. Grabarchec, V.K. Grischuk, E.C. Clark, O.V. Loshenkova, J.Mejcher, V.O. Merkulova, J. Samaha, P.P. Serdyuk, V. Tadros, G.L.A. Hart, O.O. Chistyakov, R.A. Shiner, etc.), where the questions of the theory, methodology, mechanism of criminal responsibility, its concept, bases, forms, types, problems of realization are disclosed, including a comparative and legal measure.

On a worldwide scale, comparative and legal researches in the field of criminal law were carried out by foreign scholars such as D.J. Baker, R. Cryer, M. Dubber, H. Friman, K. Gallant, T. Hörnle, D. Robinson, E. Wilmshurst and many others. Regarding corruption criminal offenses (this term the Criminal Code of Ukraine will be used, starting from January 1, 2019, and to this day they are called «corruption crimes»), they were researched in criminal law and criminology by P.P. Andrushko, O.Yu. Bousol, O.O. Dudorov, V.M. Kirichko, O.M. Mikhalchenko, V.I. Osadchiy, A.V. Savchenko, V.I. Tiutiugin, M.I. Havronyuk, N.M. Yarmysh and many other scholars.

Under current conditions in the legal literature (in particular, A.V. Shevchyshen) it is rightly noted that it is «thanks to conducting numerous scientific researches in the fields of political science, criminology, criminal law, criminal procedure, criminalistics the scientific base of combating corruption crimes was formed» [1, p. 111].

The works on problems of criminal responsibility and prevention of corruption criminal offenses (crimes) are represented in the form of dissertation researches, monographs and other scientific (scientific and practical) publications (in particular, comments), scientific professional articles or their cycles, abstracts of speeches at conferences, symposiums, round tables, textbooks, including multimedia, collections of scientific works, scientific and methodological recommendations, various kinds of scientific and

practical developments. They are characterized by a different degree of generalization, volume and scientific novelty. However, as it seems, the commonality of such works is that they are all oriented not only to higher education graduates, scientists, but also to practitioners.

The specificity of jurisprudence in Ukraine is that criminal-legal works, where the issues of responsibility for corruption crimes are raised and solved, often touch upon related branches of knowledge – criminology and criminal executive law. Moreover, taking into account the fact that the problem of corruption criminal offenses (crimes) and corrupt offenses (crimes) related to corruption is international and interbranch, its scientific development is actively carried out separately or with the combination (splitting) of the elements, which are characteristics of other areas of knowledge – international, criminal procedural, administrative, civil and financial law, criminalistics, operative-search activity, sociology, political science, public administration, psychology, etc. There is also no doubt that the problems of corruption and its various manifestations also affect the economy, finance, banking, housing and communal services, medicine, education, sports, religion and many other areas.

Consideration of questions of criminal responsibility and prevention of corruption crimes can also be implemented in the corresponding academic disciplines taught in higher educational institutions of a legal status (for example, in the Institute for the training of personnel managers and advanced training of the NAIA during retraining of the investigators of police, the academic discipline «Anticorruption legislation», where issues of the concept, prevention and responsibility for corruption, as well as corruption offenses, is taught, or in the Institute of the Prosecutor's Office and Criminal Justice of Yaroslav the Wise NLU uses the educational-methodical publication «Problems of Qualification of Corruption and Corruption-Related Crimes: a Methodological Manual») [2; 3].

At present, virtually every article of the Criminal Code of Ukraine, envisaging the responsibility for a particular corruption crime, is developed at the level of one or several dissertation researches, as well as within the limits of the corresponding monographs, scientific articles, conference theses, etc.

In distant foreign countries, the comparative and legal studies of criminal responsibility and prevention of the corrupt criminal offenses

are usually reduced to the conclusion of relevant analytical reviews (reports) on the state of prevention and counteraction of corruption on a global scale, which are useful primarily for scholars and practitioners (in particular, in this context, a typical example is the annual analytical reviews of the well-known British edition of «Global Legal Insights», in which in printed and electronic forms of researches on experts regarding the trends of anticorruption policy of different countries of the world are presented) [4].

However, until now the comprehensive and systematic comparative and legal research on criminal responsibility and the prevention of corruption criminal offenses in Ukraine and foreign countries has not been implemented, so it is difficult to imagine a complete picture of the state of such research. Therefore, we consider the implementation of this study to be an actual and perspective task for the future.

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PENALTIES IN LIABILITY REDUCE THE RIGHT TO LAUNCH LEGAL POSTS OR LOAN MONEY ACTIVITIESIN THE LEGISLATION OF FOREIGN COUNTRIES

In recent years, the legislation of foreign countries, as well as the norms of international law, is aimed at increasing the use of the alternative deprivation of liberty of punishment and criminal law. In December 1990, the United Nations General Assembly adopted the UN Minimum Standard Rules for Non-Prison Measures, the so-called «Tokyo Rules.» They define the basic principles of the use of sentences alternative to imprisonment. Among them, there is also «civil rights defeat» (Section 8.2 of the Tokyo Rules).

In the legislation of most foreign countries, the investigated measure of coercion is foreseen as a form of punishment for a crime (usually additional). In some criminal laws, such punishment provides for the deprivation of those rights that are «natural» and given to a person from birth [1, p. 354]. For example, according to the Criminal Code of France (Articles 131-26), the following rights may be prohibited: to elect; to be elected and to hold a public office; occupy a judge's position; to be an expert in court; to assist any party in the trial; give testimony in court; be a guardian or trustee [2, p. 98-99].

The prohibition of using political, civil and family rights can not exceed ten years in the case of conviction for a crime and five years in the case of conviction for misconduct. The prohibition to hold a public office or to carry out professional or civic activities is either an indefinite or temporary measure (for a term not exceeding five years).

In accordance with the Criminal Code of Germany, such measures as deprivation of the right to occupy certain positions; the ability to use the rights acquired as a result of public elections (these two types of deprivation of rights are «added» only to imprisonment for a term of at least a year and lasts for a term up to five years); the right to vote (appointed for a term of two to five years); the right to be elected and the right to vote (paragraph 45) [3, p. 23] are classified not as punishments, but as so-called «additional consequences».

Additional these effects are referred to as they may occur without mentioning them in a court sentence.

In the Criminal Code of Spain, deprivation of rights is attributed to those penalties that may be applied either as principal or as additional. Severe penalties include, in particular, absolute defeat of rights, a special defeat of rights for a term of more than three years, the deprivation of the right to be involved in certain activities for a term of more than three years, the deprivation of the right to drive a vehicle for a term of more than six years. Less severe are: special damage to rights for up to three years; deprivation of the right to occupy a certain type of activity for a term up to three years; deprivation of the right to drive a vehicle for a period of one year and a day to six years [4, p. 145].

According to Art. 39 of the Criminal Code of Spain, the punishment of deprivation of liberty is an absolute loss of rights, deprivation of the right to participate in certain activities, deprivation of parental rights, the right of guardianship and care, the right to vote or any other right, dismissal, deprivation of the right to drive and etc. [4, p. 150].

According to the Criminal Code of Sweden, in particular, Art. 4, chapter 20, «On abuse in official position», provides for such a type of additional punishment that can be applied only to certain convicts, such as the dismissal of a person elected to a national or local government or appointed to another position in state or public bodies. This punishment is applied for a crime, through the commission of which a person has demonstrated his mismatch with this post, and if the sanction for the crime provides the possibility of imprisonment for a term more than two years [5, p. 169-170].

In the Criminal Code of the Netherlands, deprivation of certain rights is attributed to additional punishments. According to Art. 28 convicted persons may be deprived of such rights: to hold a state or other post; to serve in the armed forces; to elect or to be elected to the representative bodies; to be an counselor in the courts; the right to take part in certain activities [6, p. 147-148].

Interesting is the rule regarding the definition of the term of deprivation of liberty. According to Art. 31 Criminal Code of the Netherlands, if a person has been sentenced to life imprisonment, then such deprivation of liberty must also be life-long. If a person is

sentenced to a term of imprisonment, then deprivation of liberty shall extend to a term of at least two years and no more than five years after the date of the main punishment.

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QUALIFICATION OF CURRENT EVENTS OF INDUCEMENT TO SUICIDE

In judicial and investigative practice, there are no universal approaches to the identification of socially dangerous acts. The most widespread variants of qualification of such actions are deliberate murder (Article 115 of the Criminal Code of Ukraine) and inducement to suicide (Article 120 of the Criminal Code of Ukraine).

Let’s look at the most typical situations of such unlawful actions and try to give them a legal assessment.

To the first option, we include cases where adolescents who are members of groups and who were assigned a day of suicide through social networks or SMS-messages, arrived at the site of a

planned suicide, but could not carry it out and they were «helped» to make it by other people.

In detecting such cases of death of minors, it is necessary to establish signs of murder, in particular to identify the signs of an objective party: 1) an act - an attack on the life of another person, aimed at violating the functions or anatomical integrity of vital organs of another person; 2) consequences - the biological death of the victim; 3) a causal connection between the stated act and the consequences. It is important to remember that the murder has been completed since the onset of the biological death of the victim. The subject of the murder is a physical, condemned person who has reached the age of 14 years. The subjective aspect of the murder is defined as intent. At the same time, in order to qualify that as a murder of a victim, the victim's age does not matter and can only testify to the presence of a qualifying attribute in the murder of a young child, that is, a person who has not the age of 14 years.

Next, we will consider the typical version of the situation with the appropriate illegal influence on the minor. The greatest complicity of investigators in criminal-law assessment is the case when a teenager involved in the activities of «death groups», however, independently acts that lead him to death. Such actions of the perpetrators who encourage juvenile to suicide may receive a different legal assessment.

The first option is an intentional murder, the responsibility for which is provided for in Art. 115 of the Criminal Code of Ukraine. In order to accuse the guilty party of the murder, it must be proved that the victim could not understand his actions and their consequences and (or) manage them [1, p. 54; 2, p.54]. But this should take into account the age of the victim. Thus, when it comes to suicide of minors under the age of 14 who can understand and manage the content of the acts committed, then there is no reason to consider them to be committed by the person who inclined the adolescent to commit suicide by murder. Such actions, subject to appropriate circumstances, should be qualified under Art. 120 of the Criminal Code of Ukraine.

Another situation is when a child is a victim. If, according to experts, a victim who has not reached the age of 14 due to his mental illness, which arose as a result of his inclination to suicide, could not understand the meaning of his actions and (or) manage them, then in

this case it is also necessary to speak about the assassination and to qualify for such a compulsion under Part 2 of Art. 115 of the Criminal Code of Ukraine [3, p. 279].

Let us recall that the victim's suicide is an acute mental reaction to a traumatic situation. Therefore, in such a situation the investigator should prove that the guilty person was aware that the minor victim had no other options to avoid suicide. Attention should also be drawn to bringing in the mentioned cases the intention to deprive the lives of minors who were involved in the activities of «death groups». If direct or indirect intent is not established, then the qualification of proving or inclining to suicide of juvenile under art. 115 of the Criminal Code of Ukraine will be impossible to establish at all because the murder involves only deliberate committing the corresponding acts.

The second option for legal assessment of such actions is inducement to suicide for what responsibility is provided for in Art. 120 of the Criminal Code of Ukraine.

In qualifications of inducement to suicide in relation to a minor (Part 3 of Article 120 of the Criminal Code of Ukraine), it is necessary to prove the following alternative acts first: brutal treatment of a person, blackmail, systematic humiliation of human dignity or systematic unlawful coercion against actions that contradict her will, suicidal tendency as well as other actions that contribute to committing suicide.

Article 120 of the Criminal Code of Ukraine can be applied only under the condition that the abuse of a person, blackmail, coercion of unlawful acts or systematic humiliation of human dignity resulted from suicide (deprivation of life) or an attempt to commit suicide (an attempt to deprive oneself of life) . In this case, it is necessary that the victim acted intentionally, that is, consciously wanted to deprive himself of life. The perpetrator does not carry out any actions that directly lead to death of the victim.

It should be a causal connection between stipulated in the Art. 120 of the Criminal Code of Ukraine behavior of the guilty and suicide or attempted suicide of the victim.

An offense is considered as completed one since the victim has committed an act aimed directly at the deliberate deprivation of his life.

The subjective part of the crime, provided for in Art. 120 of the Criminal Code of Ukraine, in our opinion, is characterized by a fault, which can be either in the form of intent or in the form of negligence [1, p. 300]. Some scholars consider that inducement to suicide is possible only with indirect intent and carelessness [4, p. 11]. Subject of the stipulated article. 120 Criminal Code may be a convicted person who has reached the age of 16 years.

Consequently, we can conclude that the analysis of the indicated signs of the objective side of suicide proves some of their imperfections (general character, duplication in content, unreasonable complexity of the proof of certain attributes) and the need for further improvement. Also, the study allowed to determine the rules of qualification of acts related to the activities of «death groups» in social Internet networks and mobile apps of IP telephony. To improve law enforcement practice, we propose a new version of the disposition of Part 1 of Art. 120 of the Criminal Code of Ukraine: «1. Inducement a person to suicide or attempted suicide, resulting from ill-treatment, blackmail, deception, incitement, including assisting in suicide, social engagement in groups, games, contests, quests and other events which has the purpose of suicide or their imitation».

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PECUNIARY PENALTY UNDER THE UKRAINIAN LEGISLATION

The formation of a truly democratic Ukrainian society and its further reform are inextricably linked to the strengthening of the legal basis of state and public life, the steady abide by the rule of law and order, and the effective combat against the criminal manifestations.

Punishments play the significant role during combating crimes, the use of which in many cases depends on the extent to which one or another of their kind will be adequate to the real social processes that characterize the modern Ukrainian state. Therefore, in the criminal law, the tendencies that are aimed at further democratization, humanization, wider use of the principles of guilty responsibility, differentiation and individualization are becoming increasingly clear.

An analysis of the criminal law in force and the practice of its application raise the conclusion that among of the criminal legal measures for combating crime, the pecuniary punishments (fines, correctional works, service restrictions for servicemen, confiscation of property) are the most important legal measures.

Historical experience and practice show that punishments and their system tend to be closely interrelated and interacting with the specific conditions and the era, the general way of the life of society, the economy and finances of the state, its sociopolitical system, the moral-ethical and legal views, customs and habits, as well as ideological stereotypes of the society.

The system of punishments changedepending on changes in the social, socio-political and economic systems, as well as because of relevant changes in ideology, politics, ethics, morals, in choosing the main ways, means and methods of combating crime.

For the first time in the legislation the notion of punishment was formulated in the Criminal Code of 2001. According to Part 1 of Art. 50 of the Criminal Code of Ukraine, punishment is a measure of coercion, which is applied on behalf of the state by a court sentence to a person convicted of committing a crime and consists in limiting of the legal rights and freedoms of the convicted person.

Punishment has the following characteristics: a) punishment is a measure of state coercion; b) the punishment is applied only on the sentence of the court; c) the punishment may be applied only to a person who has been found guilty of committing a crime; d) the application of penalties entails certain losses prescribed by law and restrictions on the rights and freedoms of convicts; e) the use of a punishment entails criminal records.

The Ukrainian criminal law provides for the twelve types of punishments, which form the system of punishments. The main features of the system of punishment are: a) it is established exclusively by a criminal law; b) it is exhaustive, closed; c) it is obligatory for the courts; d) it is characterized by the a correlation between types of punishment; e) it is built on the principle of «from the lightest to the most severe» punishments.

It should be noted that this range of pecuniary penalties is also defined in the international documents. In particular, UN Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules), among the other types of punishments, include «economic sanctions» such as fine, corrective works, confiscation of property.

Punishments of pecuniary character are characterized by certain common features (basic and additional), the presence of which allow them to be identified in a separate group. The main feature, in particular, is that the main punitive element of these punishments is the restriction (fine, correctional work, service restrictions for servicemen) and the deprivation (confiscation of property) of the property rights of the convicted person. Additional features are: 1) when these sentences are applied, the convicts are not isolated from society and do not lose social and economic ties with it; 2) when these sentences are applied, more favorable conditions for re-socialization of convicts are provided, which, in turn, reduces the possibility of relapse of crimes. The absence of the isolation of the convicted person, the preservation of a certain social status, the application of certain restrictions to the convict, the preservation of his family relations and social relations, the preservation of his professional qualifications, economic, social and moral and psychological utility makes it possible to conclude that the category of persons sentenced to pecuniary punishments, have much more possibilities for re-socialization.

The indicated features of punishments suggest that the pecuniary punishments are the measures of state coercion prescribed by law on criminal liability which are applied by a court sentence to persons found guilty of committing a crime and consist in the limitation of the rights of convicts in accordance with law in order to satisfy their property interests.

Pecuniary punishments are of a preventive nature: they are aimed at preventing from committing new crimes, as well as committing crimes by other means. They are not intended for bullying, revenge, humiliation of human dignity, but to restore justice. Thus, the aim of pecuniary punishments is to influence the consciousness of the convicts by causing material constraints.

Pecuniary punishments of property shall be placed in the system of punishments in the following order: 1) corrective labor; 2) fine; 3) service restrictions for servicemen; 4) confiscation of property.

The above reasons suggest the possibility to change the sequence of normative fixing of punishments in their system: in subpara 1 para 1 of Art. 51 of the Criminal Code of Ukraine provide a punishment in the form of corrective labor, and in para 2 - a fine.

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SUBJECTIVE SIDE OF ILLEGAL ACTIONS WITH TRANSFER DOCUMENTS, PAYMENT CARDS AND OTHER MEANS OF ACCESS TO BANK ACCOUNTS, ELECTRONIC MONEY, EQUIPMENT FOR THEIR PRODUCTION

Under the subjective part of a crime is understood its inner side, that is, the psychic activity of the person, reflecting attitude of her consciousness and will to committed socially dangerous act and its consequences [2, p. 129]. Proceeding from fact that the crime provided for in Art. 200 of the Criminal Code of Ukraine, has a formal composition, the definition of its socially dangerous consequences, the

desire for their onset or their conscious admission are optional (optional) features of this crime. But at the same time, willful moment of intent (desire or conscious assumption) extends to the very act.

The subject of awareness as an element of intent when committing a crime envisaged in art. 200 of the Criminal Code of Ukraine, there are: 1) the subject of a crime (means of payment), through awareness of which a person who performs a socially dangerous act, also realizes the object of the crime (that is at least in general terms, the fact of encroachment on public relations, protected by a criminal law) . Obviously, this is due to the awareness of the features of the crime, which in scientific sources are regarded as universal (general), inherent in each crime object (these are cases where the subject is a mandatory feature of the subject of a crime), such as: social, physical, legal (normative) [4, p. 67–73; 3, p. 8, 9] signs, as well as special attributes – informative, imperative and functional (special) purpose of these objects; 2) the actual part of crime committed in connection with illegal actions of transfer documents, payment cards and other means of access to bank accounts. Varieties of such acts are: a) forgery of transfer documents, payment cards and other means of access to bank accounts; b) their acquisition; c) their storage; d) their use; e) their transportation for the purpose of selling counterfeit documents for transfer or payment cards; e) sales of forged documents for transfer, payment cards and other means of access to bank accounts; 3) the social danger of the act, that is, the characteristic (at least in general terms) of the object of the crime and the social color of its objective side.

The foregoing makes it possible to conclude that the guilty party is aware of the factual side (the nature and manner of the act) and the public danger of unlawful acts with transfer documents, payment cards and other means of access to bank accounts, as well as the subject of the crime (means of payment) and its features and, accordingly, realizes the object of the crime. Consequently, the subjective part of the investigated crime is characterized by direct intent, since, while committing the actions indicated in Art. 200 of the Criminal Code of Ukraine, a person can not but want to implement them, and hence – and causing damage to the object of criminal law protection. As it follows from the contents of Part 1 of Art. 200 of the Criminal Code of Ukraine, as well as the analysis of the object, object

and objective side of illegal actions with documents for transfer, payment cards and other means of access to bank accounts, the mandatory feature of the subjective aspect of this crime is the goal.

The purpose of crime –is an ideal image of desired result, to which criminal seeks, committing a socially dangerous act [1, p. 184]. As follows from the disposition of Part 1 of Art. 200 of the Criminal Code of Ukraine, a person at falsification of payment facilities pursues a certain goal - their sale. This goal is also connected with the use of such means. Of course, the actions specified in Part 1 of Art. 200 of the Criminal Code of Ukraine, taking into account the subject of the crime under consideration, are committed not by themselves, but for subsequent use of counterfeit means of payment. This follows from the nature of subject of this crime and the main feature of its objective side –»forgery» of payment means. Their use may be carried out by a person who has forged the payment instrument or by other persons. In the first case, a person is forging a payment instrument and uses it himself; in the second one – the person who forged payment means, sells it to other persons who received this product and subsequently used it for a functional (special) purpose. At the same time, when using this medium, the goal is to initiate the illegal transfer of money, including the unlawful seizure of them. The purpose of selling, as a rule, is the desire to get money illegally.

When purchasing, storing, transporting, sending false documents for transfer or payment cards, the purpose of all actions is the sale of counterfeit means of payment.

Therefore, each act of investigated structure of crime has its purpose. Certain goals, although different from each other, are grouped together in a chain of consecutive actions, changing each other – from primary (sales) to secondary (use) and so to ultimate goal –initiating the transfer of funds and misappropriation of them. In the case of the sale of counterfeit means of payment, the offender usually receives money (or property) from the person whom he sells them illegally. In turn, a person who uses counterfeit means also receives money illegally (or for the purpose) by means of illegal transactions (transfer of funds) made by tampering with the said means of payment.

Consequently, ultimate goal of the crime envisaged in Art. 200 of the Criminal Code of Ukraine (both in sales and in the use of

counterfeit payment means), we consider receipt of illegal means of money (or property). But qualification of the crime in question in each case depends on specific actions of guilty person and specific purpose for which they were committed (sale, use of counterfeit means, receipt of money or property illegally). But fact of taking possession of money is outside the scope of the crime provided for in Art. 200 of the Criminal Code of Ukraine and requires additional qualification.

In Part 1 of Art. 200 of the Criminal Code of Ukraine states that the special purpose of fake, acquisition, storage, transportation, sending of false documents for transfer or payment cards is the special purpose – the sale of the specified objects. At the same time, the purpose of use of counterfeit means of payment in course of these actions is not provided for in the law, which, in our opinion, is a gap in legislation. As already noted, when falsifying payment means, the guilty person (in terms of the mechanism of a criminal offense) has purpose (secondary) of use of these funds for access to bank accounts and unlawful initiation of transfer of money. Thus, at the time of acquisition, and during storage, and during transportation, and when sending for the purpose of selling counterfeit payment means, there is always a certain goal – using of these items. Consequently, there are no grounds for the decriminalization of the investigated actions, if the purpose of the said acts is the use of these objects by a person who has forged such objects. That is why it is proposed to supplement Part 1 of Art. 200 of the Criminal Code of Ukraine, where, along with the purpose – the sale of counterfeit means of payment, indicate and for another purpose (main) – using of such means. In view of this, we believe that it makes sense to lay down Part 1 of Art. 200 of the Criminal Code of Ukraine as follows: Forgery of documents for transfer, payment cards or other means of access to bank accounts, as well as their purchase, storage, transportation, forwarding for use or sale.

It should be noted that purchase, storage, transportation, forwarding, using of counterfeit means in some cases can not entail criminal liability: for example, when a person does not know that the payment card is forged, and in her turn, someone has provided it for paying the debt, or person has found it and accepted it for the present, etc. In the first case, there is no purpose of the crime – to receive

money or property illegally, in the second – the actions of a person may fall under other articles of the Criminal Code of Ukraine.

Legal evaluation of such actions as forgery of payment means without the purpose of sale or use deserve also. In other words, a person who, for example, for entertainment or in order to demonstrate his so-called «skill», makes payment cards that are similar to original. Instead, they do not have specific information recorded on a magnetic stripe or chip that could be used to carry out illegal transactions. In such cases, there is no purpose of the crime – using or sale of payment cards, as well as ultimate goal – the receipt of illegal money or property. In this case, it can only be about simulating payment cards, and not about tampering them with the purpose of using or selling.

The motive of a crime is the conscious and appreciated impulse generated by the system of needs, which is the ideal ground and justification for a socially dangerous act [1, p. 180]. As already pointed out, the ultimate goal of the crime under consideration is to obtain money or property illegally, which means that its motive is selfish. Of course, in case of illegal actions with payment means, there can be another motivation (revenge, hooliganism, competition, etc.). But named motives can only be additional (optional), which stand behind the main (selfish) and do not affect the qualification of offender.

Based on the study, following conclusions can be drawn:

1. In study of crime provided for in Art. 200 of the Criminal Code of Ukraine, the guilty party is aware of factual side (nature and method) and public danger of illegal actions with transfer documents, payment cards and other means of access to bank accounts, equipment for their production, as well as the subject of a crime (means of payment) and through signs The latter is aware of object of crime (that is, at least in the general sense of the fact of encroachment on public relations, protected by the criminal law) and wishes to do such acts. Consequently, subjective part of crime provided for in Art. 200 of the Criminal Code of Ukraine, characterized by direct intent.

2. When committing an offense under consideration, namely when counterfeiting means of payment, a person sets a certain goal – using or sale of counterfeit means of payment. The purpose of their use is the transfer of orders or information on the transfer of funds between the entities transferring funds or receiving them in cash and

thereby obtaining money illegally. The purpose of selling is to obtain money or property illegally. When purchasing, storing, transporting for sale false documents for transfer, payment cards or other means of access to bank accounts, the purpose of all these acts is the sale of the said means and / or their use. The general purpose of crime envisaged in Art. 200 of the Criminal Code of Ukraine, we consider receipt of illegal means of money or property. But the qualification of the crime investigated in each case depends on the specific actions of the perpetrator and the specific purpose for which they have been committed (sale, use, receipt of money or property illegally).

3. Motive – mercenary, although he serves as an optional feature of this crime.

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NORMATIVE-LEGAL REGULATION OF ECONOMIC SAFETY AS AN ELEMENT OF NATIONAL SECURITY OF UKRAINE

Issues of legal regulation of Ukraine's economic security are among the most important, complex and multifaceted phenomena of the state's social and political life. In general, security is a state where someone, for some reason, nothing and nobody threatens; At the same time, it is the activity of people, society, state, world community of nations in identifying, preventing, weakening, eliminating and preventing the threat that can lose them, destroy material and spiritual

values, prevent their progressive development. The availability of security is a prerequisite and one of the main motives for the viability of man, society, state and the world community.

The normative basis of economic security of Ukraine is made up of sources of different legal force, therefore, they can be classified into eight levels, based on the main and significant criterion of their legal force for practice:

1. The Constitution of Ukraine and the decision of the Constitutional Court of Ukraine. Yes, in Art. 17 of the Constitution of Ukraine states that ensuring economic security is the most important function of the state. The Constitutional Court of Ukraine is the only body of constitutional jurisdiction, it makes decisions and gives conclusions in cases.

2. Sources of international law and decisions of the European Court of Human Rights, ie ratified international legal sources and decisions. Under the ratification understood, approval, acceptance, accession - depending on the specific case, the form of consent of Ukraine to be binding on it an international treaty. Yes, in Art. 19 of the Law of Ukraine «On international treaties of Ukraine» stipulates that if an international treaty of Ukraine, which has entered into force in the established procedure, establishes rules other than those provided for in the relevant act of the legislation of Ukraine, then the rules of the international agreement shall be applied. The Convention on the Protection of Human Rights and Fundamental Freedoms ratified by the Verkhovna Rada proclaims postulates recognized by the world community and is an example of the fundamental freedoms of our state. The European Court of Human Rights is an international judicial body whose jurisdiction extends to all the member states of the Council of Europe which have ratified the Convention for the Protection of Human Rights and Fundamental Freedoms and includes all matters relating to the interpretation and application, including international affairs and individual complaints.

3. Codified (codes) normative acts and Laws of Ukraine. Codes are a single, consolidated, legally and logically integral, internally agreed normative legal act that ensures the regulation of social relations in the relevant field or sub-sector of legislation and is the most used form of a codified act, details and specifically regulates a certain sphere of relations and is subject to direct application,

presented criminal, criminal procedural, civil, economic, budgetary and other codes of Ukraine.

4. Decrees and orders of the President of Ukraine, which directly regulate certain social relations in the field, including law enforcement activities.

5. Decisions and orders of the Cabinet of Ministers of Ukraine, which approved a number of orders, regulations, instructions, rules that regulate various aspects.

6. Departmental and interagency acts of executive power bodies (orders, instructions, rules, regulations, etc.). At this level, it is necessary to note the order of the Ministry of Economic Development and Trade of Ukraine «On Approval of Methodological Recommendations for Calculating the Level of Economic Security of Ukraine», which was developed with the purpose of determining the level of economic security in Ukraine as one of the main components of the national security of the state and defining a list of key indicators and the state of economic security of Ukraine, their thresholds, as well as the algorithm for calculating the integral index of economic security.

7. Resolutions of the Plenary Session of the Supreme Court of Ukraine and the Plenary Session of the Supreme Specialized Court of Ukraine for the Examination of Civil and Criminal Cases.

8. Sources of explanatory and recommendatory nature, ie sources not normative, but explanatory and recommendatory nature, namely, methodological recommendations of ministries and departments, interpretation of educational, consultative nature, also having a form of scientific explanation, for example, textbooks, manuals, monographs, methodological recommendations of scientists and others.

In the aspect of what is said is appropriate is the opinion of the national researcher II Podik, who assures that the mechanism of ensuring economic security of Ukraine should include four main elements: the legal framework; functional mechanism of public authority; system of business entities; socio-political infrastructure.

The above points out that in this approach we obtain the corresponding legal, organizational and functional unity that is embodied in the mechanism of state law ensuring economic security

of Ukraine, where unity is ensured by the common legal basis of the mechanism and the unified nature of its organizational structure.

The analysis of normative legal sources and professional literature makes it possible to note that the functional mechanism of providing economic security consists of such elements as: state apparatus; system of local self-government; authorities of the Autonomous Republic of Crimea. According to many domestic researchers, the leading role in this mechanism is played by: President of Ukraine; Verkhovna Rada of Ukraine; The Cabinet of Ministers; National Security and Defense Council of Ukraine; Ministry of Economic Development and Trade of Ukraine; Constitutional Court of Ukraine; courts of general jurisdiction; police; bodies of local government, local self-government; economic entities of the enterprise, organization; citizens and associations of citizens.

The legal and regulatory framework for ensuring economic security for today is generally established and consists of several levels of legal acts: international legal acts, the Constitution of Ukraine, the Basic Law of Ukraine «On National Security of Ukraine» of June 21, 2018, statutory and sectoral laws, subordinate normative acts, as well as some political-legal documents of declarative character.

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PROBLEMATIC ISSUES IN COUNTERACTING LEGITIMATE ECONOMIC ACTIVITY

In article 206 of the Criminal Code of Ukraine is protected only economic activity, which is lawful. Therefore, the requirement to terminate an activity that the victim can not and should not engage in accordance with the law (for example, the termination of an activity that can be carried out only if there is a license in the absence of the victim) does not constitute the composition of the crime.

The requirement to terminate economic activity includes, in particular, the requirement: to liquidate a legal entity whose activities are controlled (or whose activities significantly affect) the victim; sell (transmit) it to other persons; submit an application to cancel the registration of the victim as an individual entrepreneur to the appropriate authority. This concept also covers the requirement to cease to carry out business activities. The form of claim, as well as the termination of such activity, are not relevant for the qualification of an act.

As regards the requirement to restrict economic activity, it requires, in particular, the requirement: to reduce the volume of industrial production, trade operations, services, to stop such activities in certain places or regions, to stop occupation of certain types of economic activity, or at least one of such separate types, to break or restrict business relationships with certain partners. The requirement to enter into an agreement (a civil law contract, an employment contract or any other agreement), the execution of which may result in pecuniary damage or restrict the legal rights or interests of the person engaged in economic activities, may in particular concern the agreement: which, in the case of it execution directly leads to causing property damage to the victim or other persons; about the full or partial transfer to the victim of his rights in relation to the management of a legal entity (for example, a sale agreement, another paid assignment of shares of a joint-stock company, a share in the authorized fund of another economic partnership); on sale or other paid transfer of means of production, premises or other property necessary for conducting business activity; the refusal of the victim or the corresponding legal entity from certain types of activity, activity in certain points or regions, limitation of the volume of such activity; the sale of the victim or the organization he represents, his products only to certain persons; about the adoption of an unwanted victim for a certain position in the enterprise concerned. The requirement not to execute the concluded agreement takes place when the offender proposes to the victim to refuse to execute the relevant agreement, which may lead to pecuniary damage or restrict the legal rights or interests of the victim or other person engaged in economic activity.

Action of article 206 of the Criminal Code of Ukraine extends not only to cases where the victim requires actions to the detriment of

his personal interests, but also those situations where the victim (for example, the director of the corresponding firm, which is not its owner) require the commission of actions that will harm the interests of a certain legal entity. Also, the cases where the guilty ones put forward the appropriate requirements combined with the above-mentioned threats to a person who is unable to comply with these requirements, mistakenly believed that it has more powers or has a greater impact than the owners or managers of the legal person - the subject of economic activity. In cases when unlawful requirements to the victim were to transfer to other persons someone else's property, the right to such property or commit any other acts of property, the fine should be qualified according to article 189 of the Criminal Code of Ukraine. Forcing the victim to fulfill or not fulfill civil obligations in the absence of signs of extortion and causing material damage or limitation of the legal rights and interests of those engaged in economic activities, if there are grounds to qualify under article 355 of the Criminal Code of Ukraine.

According to the signs of the objective side of the act, stipulated article 206 from the act stipulated by article 355 of the Criminal Code of Ukraine is distinguished by the stage of the contractual process on which the demand is made - only the stage of execution of the contract in article 355 of the Criminal Code of Ukraine and the stage of the conclusion and execution of the contract in article 206 of the Criminal Code of Ukraine. Depending on the content of the claim, the investigated act may qualify under various articles of the Criminal Code of Ukraine: if the content of the claim is directed to the execution of a particular agreement, the act must be qualified according to article 355 of the Criminal Code of Ukraine, and if the content of the claim is aimed at concluding an agreement or failure to perform an agreement in the presence of other necessary signs, such acts must be qualified according to article 206 of the Criminal Code of Ukraine.

If the essence of the claim advanced to the victim was the commission of him or the legal entity he represents, actions which lead to a restriction of economic activity and, in accordance with the law, are prohibited by anti-competitive concerted actions, the fine should be qualified as a set of crimes under article 206 of the Criminal Code of Ukraine and the relevant part of article 228 of the Criminal

Code of Ukraine. The presentation of an unlawful claim to the victim about the transfer to another person of someone else's property, the right to such property or the commission of any other actions of a property nature should be additionally qualified under article 189 of the Criminal Code. The crime is terminated from the moment of the nomination of any of the items specified in Part 1 of article 206 of the Criminal Code of Ukraine, combined with the corresponding threat, and bringing them to the victim.

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ARTICLE 211 OF THE CRIMINAL CODE OF UKRAINE «PUBLICATION OF LEGAL ACTS THAT REDUCE BUDGET REVENUES OR INCREASE BUDGET EXPENDITURES IN CONTRAVENTION OF THE LAW»: THE OBJECTIVE SIDE OF THE CRIME

As stated in the Constitution of Ukraine, the state budget system is based on the principles of just and impartial distribution of wealth between citizens and territorial communities.

The act envisaged in art. 211 of the Criminal Code of Ukraine, has recently become a threatening scale for the whole country as a whole. The public danger of such an act is that it misleads the state and other types of budget charges, which are the main instrument that characterizes the parameters of the economy, the social direction of society and the state of its social security.

Statement in the new wording of Art. 210 and art. 211 of the Criminal Code of Ukraine, implemented on the basis of the Law of Ukraine of July 8, 2010 «On Amendments to Certain Legislative Acts of Ukraine in Connection with the Adoption of the Budget Code of

Ukraine» creates new legislative directions which are successful, since they provide the criminal-legal characteristic of the considered themes

The objective side of the crime under consideration is characterized only by active actions directly indicated in the disposition of the criminal-law norm.

The publication of normative legal acts should be understood as: signing by an official authorized by the relevant authorities, acts containing the requirements binding for the unlimited range of management objects (individuals and legal entities); the approval by the official of the orders of the acts (resolutions, rules, orders, instructions, explanations, etc.) adopted (approved, recommended) by collegial advisory bodies (boards of ministries, central departments), decisions of which are implemented by the heads of the relevant executive bodies, since they carry personal responsibility for the execution of tasks and the implementation of the functions entrusted to these bodies.

The issuance of regulatory acts that reduce budget revenues or increase its expenses is recognized as a crime if the subject of such actions were budget funds in large amounts (see paragraph 2 of the note to Article 210 of the Criminal Code of Ukraine).

The committed crime is considered from the moment of publication of the paragraph 1 of the article specified in the disposition. 211 of the Criminal Code, irrespective of the consequences outside the structure of the crime (the formal composition of the crime).

If the publication of regulatory acts that reduce budget revenues or increase budget expenditures in contravention of the law is combined with the use of budgetary funds in spite of their intended purpose or in amounts exceeding the approved limits of expenditures, the committed must be qualified for the totality of crimes provided for in Articles 210 and 211 of the Criminal Code Of Ukraine.

Incitement to harm the rights, freedoms and interests of individual citizens or interests of legal entities, or public or public interests as a result of the implementation of illegally issued regulatory legal assets that reduce budget revenues or increase its costs contrary to law, should receive an independent criminal

assessment and qualification under art. 364 of the Criminal Code of Ukraine.

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FORCING AS ONE OF THE FORMS OF THE OBJECTIVE SIDE OF THE CRIME, STIPULATED IN ARTICLE 386 OF THE CRIMINAL CODE OF UKRAINE

Concerning the encroachment stipulated by art. 386 of the Criminal Code of Ukraine «Prevention of the appearance of a witness, victim, expert, forcing them to refuse to testify or conclude», then bribery is one of the forms of this crime, which is directly foreseen in the disposition of Part 1 of Art. 386 of the Criminal Code - ... bribing a witness, victim or expert for the same purpose ... Analyzing precisely this form of the said crime against justice, it should be noted that, taking into account the etymology of the word «bribe», as well as in the context of the use of the corresponding term in the disposition of the articles of the Special Part of the Criminal Code of Ukraine We shall single out such essential features of this concept. Bribing is committed against an individual. In the case of the transfer of a certain remuneration for acts committed by a legal entity, they bribe individuals who own or work from them. Regarding Art. 386 of the Criminal Code of Ukraine is a witness, victim, expert. Other participants in the proceedings can not be victims of this crime. By bribery, the impact on the person being bribed is applied. The achievement of an agreement between the person who buys and

the person being bribed occurs before the performance of the actions in favor of the first person. Direct transfer of certain values, the provision of services occurs either before or after the imprisonment of a person who is bribed. If the object of bribery is transferred to the moment of such actions, then it is called a preliminary bribery, and if after - a bribe-reward. The subject of bribery may be only an individual. In this case, it can be transmitted directly to it, and through the intermediary. Such a person may represent the interests of a legal entity, manage it or be a member of a governing body or unit. That is, bribery can be committed both in their interests and in the interests of third parties

Forcing is a psychological effect on the consciousness and will of the persons specified in art. 386 of the Criminal Code, which is aimed at inciting them to refuse to give or to give knowingly false testimony or conclusion and is carried out by means of threats of murder, violence, destruction of property or disclosure of information that will reproach a victim or his close relatives. Such methods of coercion as the threat of violence, the destruction of property, are covered by the signs of art. 386 of the Criminal Code, and coercion through the threat of murder (if there are real reasons to fear its implementation) forms an ideal set of crimes provided for in Art. 386 of the Criminal Code and the corresponding part of Art. 129 CK. In aggregate, it should be qualified and threatened with the murder of a witness, a victim, an expert or their close relatives, who expressed his or her reasons for retaliation for earlier testimony or conclusion. The threat of disclosure of information that defames the victim or his relatives (blackmail) qualifies only under Art. 386 of the Criminal Code is intimidating the disclosure of such information which, according to the victim himself, humiliates his honor and dignity and which he wishes to keep secret.

List of forms of coercion specified in Art. 386 of the Criminal Code, is exhaustive and therefore only their use guilty testifies to the presence of the composition of the crime, envisaged by this article of the Criminal Code. If, however, to refuse to give or to give knowingly false testimony or conclusion, the person is inclined in another way (for example, by persuasion or intimidation by eviction from an apartment, the dissolution of a marriage, etc.), the qualification is not qualified according to Art. 386 of the Criminal Code, but as

incitement (Part 4 of Article 27 of the Criminal Code) to the crime provided for in Art. 384 or Part 1 of Art. 385 QC. Both coercion and bribery, as referred to in Art. 386 of the Criminal Code, in essence, are also special types of incitement to refuse to give or to give knowingly false testimony or conclusion, but given that they are allocated in the separate composition of the crime, their commission is covered by the features of Art. 386 of the Criminal Code and does not require additional qualification.

If, by coercion, the witness or expert refused to give testimony or opinion or the same individuals, as well as the victim, gave a knowingly false indication or conclusion, then their responsibility under Part 1 of Art. 385 or under art. 384 of the Criminal Code comes on condition that there are no grounds for applying Articles 39-41 of the Criminal Code.

It is advisable, in our opinion, to supplement Part 1 of Art. 386 of the Criminal Code of Ukraine with the words «Prevention of the appearance of a witness, victim, expert to court, bodies of pre-trial investigation, interim investigators and a special temporary investigation commission of the Verkhovna Rada of Ukraine, forcing them to refuse to give evidence or conclusion, disclosure of information that may cause significant harm the rights and legitimate interests of the victim or his relatives, as well as to the provision of knowingly false testimony or conclusion by threatening the death, violence, destruction of the property of these persons or their close relatives or the disclosure of information that reproaches them, or the bribing of a witness, victim or expert for the same purpose, as well as a threat to commit the said acts of revenge for the earlier evidence or conclusion. «

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GENERAL QUALIFICATION OF THE ARTICLE 364 MISFEASANCE OR BY OFFICIAL POSITION

In obedience to a note 1 official persons are persons, that carry out the functions of public agents constantly or temporally, and also hug constantly or temporally on enterprises, in establishments or organizations regardless of pattern of ownership the positions related to implementation of organizationally-prescriptive or administrative duties, or carry out such duties after the special authorities. Also foreigners or persons without citizenship, that carry out the duties marked in a point 1 this note, confess official persons. By substantial harm in the articles 364, 365, 367, if she consists in infliction of material losses, such harm that in one hundred and more than times exceeds untaxed a minimum of acuestss of citizens is considered.

By heavy consequences in the articles 364-367, if they consist in after- infliction of material losses, such that in two hundred fifty and more than times exceed untaxed a minimum of acuestss of citizens are considered.

The objective side of misfeasance or by official position (farther is official abuse) appears in an act (to the action or inactivity) that: 1) accomplished with the use of power or official position; 2) comes true within the limits of the plenary powers given to the person ex officio or in connection with implementation by her official duties; 3) conflicts with interests of service; 4) causes substantial harm or pulls heavy consequences; 5) is in causal connection with the marked consequences.

In the article 364 Criminal Code is specified on the feasance of official abuse by the use of the power given to her an official person or official position. Therefore any not act of official person can be confessed official abuses, but only such that was conditioned her

by official position and it is related to realization by her the official duties.

Official abuse belongs to the crimes with material composition and after part. 1 century 364 Criminal Code confesses complete from the moment of infliction of substantial harm to the rights, freedoms and interests of physical persons or state, public interests or interests of legal entities.

The subjective side of official abuse is characterized the intentional or mixed form of guilt. Thus an act (action or inactivity) is accomplished with direct intention, and psychical relation guilty to the consequences envisaged in parts 1 and 2 articles 364 Criminal Code, can be educed in both form intention and carelessnesses. On the whole a crime ponderable to the century 364 КК confesses intentional. The obligatory sign of subjective side of official abuse are certain reasons: а) mercenary motives; б) other personal interests; в) interests of the third persons.

Mercenary motives show a soba aspiration of official person by a way you-the use of the official position despite interests of service to get illegal material.

Other personal interests appear in aspiration of official person by the use of official position to get the benefit of non-material character (advancement after service, receipt of reward, overseas business trip and others like that) and can be conditioned by such motives, as a careerism, protectionism, nepotism. Other personal interests can be the revenges also caused by sense, to envy, pomposity, aspirations to avoid responsibility for sufferet errors and defects in-process.

Under interests of the third persons it follows to understand aspiration of official person by the illegal use of the official position to please the authority and others like that.

In part 3 art. 364 Criminal Code the envisaged responsibility for official abuse, perfect the worker of law enforcement authority. According to the century of 2 Laws Ukraine «About the state protecting of justiciaries and law enforcement authorities» from Decembers, 23 in 1993 to the number of the last the taken organs of office of public prosecutor, internal affairs, security Service, custom authorities, organs of guard of state boundary, tax service, organs and establishment of implementation of punishments, fish protection,

forest guard, and also other organs that carry out law enforcement or law-enforcement function . Thus, for qualification of act after part. From a part 364 Criminal Code must be set, that: a а) crime is perfect the worker of law enforcement authority; б) this worker is an official person; в) a perfect by him act contains the signs of objective and subjective parties of crime, envisaged century 364 Criminal Code

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THE ESSENCE OF FINANCIAL FRAUD IN COMMERCIAL BANKS

Financial fraud is a carefully concealed process of losing financial security and the entire financial position of a commercial bank, which can be a reason for its bankruptcy. In Ukraine there is no systematic accounting of financial fraud in commercial banks by its typical designs. Available studies on such financial fraud cases are only fragmentary, since they depend on the subject of the accumulation of fragmentary information and the purposeful processing of such information in accordance with its authority. The distinction between lists, classifications and typologies of financial fraud does not allow organizing measures to detect, counteract and prevent it with sufficient accuracy, without exhaustion of a commercial bank by unnecessary or insufficient measures of struggle. We divide the main tools used in the schemes of theft of funds from commercial banks and the methods of theft: the main tools for theft of funds in commercial banks: 1) «garbage» securities (stocks, bills); 2) debt obligations of enterprises with signs of fictitiousness; 3) transfer of claim right; 4) converting cash into cash; the most common ways of stealing money from banking institutions are: a) issuing bank loans to borrowers affiliated with the owners of

commercial banks; b) the issuance by banks of credit institutions to enterprises with signs of fictitiousness; c) withdrawal of property from bail by transferring ownership of a third party; d) withdrawal of funds through correspondent accounts with foreign banks. The most common types of fraud that resulted in loss of financial resources in commercial banks: 1) artificial bankruptcy of legal entities - borrowers of commercial banks; 2) loans secured by «technical» securities;
3) withdrawal of cash by placement on correspondent accounts in foreign banks with a dubious reputation; 4) placement of assets in the temporarily occupied territory (AR of Crimea) and in the zone of ATO; 5) nothing and security agreements.

This, the typology of financial fraud is the systematization of the basic structures of financial fraud in domestic commercial banks, which led to the loss of cash, as well as those constructions that have contributed or have become the cause of bankruptcies of Ukrainian banking institutions. A typology of subjects of financial fraud in a commercial bank in the implementation of consumer lending, within which distinguish: sources of external fraud - 1) organized crime groups; 2) «black (gray)» brokers; 3) single crooks; as well as sources of internal fraud: a) Bank employees who are interested in increased lending; b) bank employees who have ties with criminal groups. Financial fraud in Ukrainian commercial banks is considered as separate crimes, which are its elements: 1) false entrepreneurship; 2) legalization (laundering) of proceeds from crime; 3) fraud with financial resources; 4) falsification of documents, seals, stamps and forms, as well as the use of forged documents, seals, stamps; 5) appropriation, embezzlement or possession of property by abuse of office; 6) official forgery; 7) fraud; 8) illegal actions with transfer documents, payment cards and other means of access to bank accounts, equipment for their production; 9) acceptance of a proposal, promise or receipt of an unlawful benefit by an official; 10) commercial bribery / bribery of an official of a legal entity of private law, regardless of the organizational and legal form; 11) illegal enrichment; 12) abuse of influence, etc.

The instrument of financial fraud in a commercial bank is not limited to transactions, services and products of a commercial bank associated with the movement of financial resources (movement of

funds on bank accounts), acquisition of financial claims or performance of financial obligations. The toolkit should be distinguished according to the directions of application: 1) taking over the object of financial fraud; 2) concealment of financial fraud; 3) legalization of the resulting financial fraud. The tool for taking over the object of financial fraud in a commercial bank is: 1) forged (false) documentation and reporting, in particular, bank documents that certify unfinished financial relations, etc.; 2) counterfeit financial values (forging bank notes, bank metals, securities, etc.); 3) the use of malicious software and hardware that allows you to receive confidential and sensitive information, commit unauthorized payments and receive cash, etc.; 4) deliberate delay in the execution of financial transactions; 5) the use of the received financial resources not for the intended purpose; 6) provision / taking of poor-quality provision for fulfillment of financial obligations; 7) the use of price manipulations; 8) not reflected in the accounting of financial transactions; 9) forced consumption of banking products; 10) false selling / acquiring assets; 11) the acquisition of «trash» assets (those that do not have market value), etc. The tool for hiding financial fraud in a commercial bank is: 1) the destruction of electronic and material media; 2) imitation of force majeure circumstances and other man-made and man-made phenomena; 3) imitation of normal economic activity, which led to financial losses; 4) manipulation of the content of electronic and material media; 5) falsification of accounting and financial reporting; 6) service falsification; 7) involvement of fictitious and false individuals; 8) bankruptcy and liquidation, etc. Instruments for legalization of cash received as a result of financial fraud in a commercial bank are: 1) imitation of the acquisition of financial resources in debt; 2) immitating the acquisition of cash as a result of economic activity; 3) the acquisition of funds in free form; 4) obtaining property for rent, etc.

In addition to the above structures of financial fraud, account should be taken of the threatening spread of financial fraud in commercial banks, which is associated with ATMs and payment cards. A fraudulent innovation is masking the attraction of financial resources from depositors with the involvement of a non-bank financial institution with the subsequent seizure of financial resources and the deprivation of depositors of funds and legal rights to state

compensation for their deposits. The withdrawal of funds from a commercial bank is one of the most severe financial fraud, since it is realized not only due to subordination (excess of powers by the fraudsters), but also psychological.

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ENGLISH IN LEGAL PRACTICE AS A REQUIREMENT OF TODAY

Today in the modern world, English has gained the status of an international language and is the most common means of communication. In this context, the priority is the study of English by specialists from different fields of activity, since in today's world, English is becoming an increasingly important tool for global communication, especially professional, research and scientific.

Unfortunately, in Ukraine the level of foreign language skills among lawyers is low. At the same time, in the labor market, employers increasingly prefer to work with lawyers who are fluent in English. This enables not only to provide legal services in the language of the client, but also to constantly improve the professional and business level through participation in various conferences, seminars, as well as during foreign internships. Consequently, a modern lawyer should be not only a specialist in a certain area of jurisprudence, a professional, have certain personal characteristics, but also able to communicate fluently in foreign languages on professional topics, both with foreign colleagues and with ordinary citizens.

Free proficiency in English is good for legal practitioners in criminal justice. In particular, this relates to mutual legal assistance in criminal

proceedings, extradition, transfer of prisoners and other forms of international cooperation. Arguments that determine the need for English language skills for a lawyer in this area are: working with documents in a foreign language and in the process of negotiation; participation in scientific and practical events, both domestic and international, including conferences, forums, round tables, seminars – it is always possible to share experiences, gain new knowledge, find new customers or establish relationships with colleagues; the growth of international crime and, as a consequence, an increase in international cooperation in criminal proceedings; access to global scientific resources; establishment of close cooperation and partnership with European countries every year; work with originals of decisions of international courts; knowledge of legal vocabulary.

The importance of English is also confirmed by the recognition of the practice of the European Court of Human Rights as the source of law, the official languages of which are English and French. Thus, according to the number of complaints to the European Court, Ukraine ranks one of the first places among member states of the Council of Europe.

Appeal to the European Court of Human Rights is one of the means of protecting rights. The issue of protection of human rights is particularly acute in the process of criminal proceedings [1, c. 236]. The European Court does not consider criminal proceedings and does not condemn convicted offenders. Instead, the main function of the European Court is to verify compliance by the States which have ratified the European Convention with the obligations imposed by it and, accordingly, to decide on the existence or non-violation of the provisions of the European Convention [2, c. 58].

According to the practice of the European Court, among the most common problems that led to the violation of the Convention were, inter alia: lengthy pre-trial investigation in criminal cases and lengthy trial of cases; ill-treatment of a person in pre-trial detention; ineffective investigation of criminal cases; shortcomings in legislation and judicial practice leading to the detention of a person without due legal justification; shortcomings of judicial practice, which leads to a violation of the right of a person to a fair trial; an illegal way of obtaining evidence etc.

Of course, the translator may be involved in the protection of the alleged violated rights, but he may not always be able to correctly assess the legal significance of the court decision, to understand the subtleties of translation of legal texts, to participate independently in debates etc. That is why good language skills in the realities of today are a necessary condition for the successful professional activity of lawyers, law enforcement officers and other legal professionals.

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CRIMINAL AND LEGAL PROTECTION OF COPYRIGHTS:CURRENT PROBLEMS OF ITS LEGAL ENFORCEMENT

The analysis of modern judicial practice shows the problem of determining the validity of the law on time criminal liability in the context of the interrelation between the new legal norm version and its previous one. This problem should be solved in accordance with the requirements of Part 1 of Article 5 of the Criminal Code of Ukraine, namely, the law on criminal liability, abolishing the degree of crime, mitigates criminal responsibility or otherwise improves the person status, and has a retroactive effect in time, i.e. applies to persons who committed the relevant acts before a law entry into force. However, modern changes to the Criminal Code of Ukraine aren't likely to give an opportunity for unambiguous legal assessment.

Let's consider, as an example, one of these cases. Thus, in September 2018 the members of the Scientific Advisory Board at the Supreme Court were sent a questions appeal from a judge of the Cassation Criminal Court A. Bushchenko as the following: "Does an additional criminal offense under Article 176 of the Criminal Code of Ukraine creates the introduction of the terms "camcording", "card sharing" to the article by the Law of Ukraine of March 23, 2017 No. 1977-VIII?" or "Are the acts

envisaged by the terms “camcording”, “card sharing”covered by other elements of the crimes defined in Article 176 of the Criminal Code of Ukraine?” [1] So, these issues relate to the following aspects: first, whether the new corpus delicti has been created by the amendments to the Criminal Code of Ukraine; and secondly, what is the effect of the new version of Part 1 of Article 176 of the Criminal Code of Ukraine in time.

Within the entry into force of the Law of Ukraine «On State Support to Cinematography in Ukraine», a list of types of copyright and related rights violations was clarified: among the actions there were camcording, card sharing [2]. In particular, Part 1 of the Article 50 of the Law of Ukraine «On Copyright and Related Rights» dated December 23, 1993, clause «b» was stated in the following version: «piracy in the field of copyright and (or) related rights, i.e. publication, reproduction, import into the customs territory of Ukraine, export from the customs territory of Ukraine and the distribution of counterfeit copies of works (including computer programs and databases), phonograms, videograms, illegal disclosure of programs of broadcasting organizations, camcording, card sharing, as well as Internet piracy, i.e. the commitment of any actions, that according to this article are deemed as a violation of copyright and (or) related rights with the use of the Internet «, as well as infringement of copyright and (or) related rights providing grounds for the protection of such rights, including court-related, camcording and card sharing are referred (Part 1, Article 50 of the Law of Ukraine «On Copyright and Related Rights» supplemented by clause «i»).

These changes have already caused certain discussions in scientific community [3, p.12-17; 4, p. 177-179]. As known, the normative interpretation of the concepts of “camcording” («video recording of an audiovisual work during its public demonstration in cinemas, other cinema institutions by persons located in the same premises where such a public demonstration takes place, for any purpose without the permission of the copyright holder or related rights «); and “card sharing” («providing in any form and in any way access to the program (broadcast) of the broadcasting organization, access to which is restricted by the subject of copyright and (or) related rights by the use of technical means of protection (subscriber card, code, etc.).), bypassing such technical means of protection, as a result of which the specified program (transmission) can be received or accessible without the use of technical means of protection «) proposed in Article 1 of the Law of Ukraine «On Copyright and Related Rights» and Article 17 of the Law of Ukraine «On State Support to Cinematography in Ukraine».

The abovementioned Law of Ukraine «On State Support to Cinematography in Ukraine» in Part 1 of Article 176 of the Criminal Code of Ukraine amended: the forms of committing the crime referred as independent

actions i.e. “camcording, card sharing”, “as well as the financing of such actions” i.e. “Illegal reproduction, distribution of scientific works, literature and art, computer programs and databases, as well as illegal reproduction, distribution of performances, phonograms, videograms and broadcasting programs, their illegal reproduction and distribution on audio and video cassettes, floppy disks, other information carriers, camcording, card sharing or other intentional infringements of copyright and related rights, as well as the financing of such actions, if it caused material damage to a significant extent” [5].

Has the disposition of Part 1 of Article 176 of the Criminal Code of Ukraine been changed in another way? In our opinion –“no”. Analysis of the disposition of Part 1 of Article 176 of the Criminal Code of Ukraine (before the introduction of the following changes: “Illegal reproduction, distribution of scientific works, literature and art, computer programs and databases, as well as illegal reproduction, distribution of performances, phonograms, videograms and broadcast programs, their illegal reproduction and distribution on audio and video cassettes, floppy disks, other information carriers, or other intentional violation of copyright and related rights, if it caused material damage to a significant extent”) allows us to state, firstly, an open list of forms of committing a crime [6, p. 374]. Secondly, the commitment of so called “camcording” is the reproduction of videograms («making one or more copies of a work, videograms, phonograms in any material form, as well as recording them for temporary or permanent storage in electronic form (including digital, optical or other form that a computer can read», in accordance with Article 1 of the Law of Ukraine “On Copyright and Related Rights”) as a form of committing an offense under Article 176 of the Criminal Code of Ukraine, and “card sharing” is another deliberate violation of copyright and related rights (property rights of broadcasting organizations are violated, in accordance with Article 41 of the Law of Ukraine “On Copyright and Related Rights”). Thus, the content of criminalized acts has been changed neither in the previous version, nor in the current one of Part 1 of Article 176 of the Criminal Code of Ukraine. Another question arises: is it possible for a person to be held liable for the very fact of the act? According to the structure the corpus delicti, provided by Part 1 of Article 176 of the Criminal Code of Ukraine, is known as material one (involves material damage in a significant extent). So, the proof of camcording requires the assessment of material damage to a significant extent (which seems rather doubtful), unless we can only talk about preparing for a crime. However, O. Dudorov points out that preparing for a crime of minor gravity does not lead to criminal liability [7, p. 229]. In its turn, card sharing also requires the assessment of material damage in a significant

extent (twenty times higher than the non-taxable minimum income of citizens i.e. 17620 UAH for 2018). In our opinion, it would be extremely difficult to prove this amount of damage.

Based on the foregoing, the following conclusions should be suggested:

1) the introduction of the terms “camcording”, “card sharing” by the Law of Ukraine of March 23, 2017 No. 1977-VIII to Article 176 of the Criminal Code of Ukraine does not create a completely new, additional corpus delicti stipulated in Article 176 of the Criminal Code of Ukraine;

2) the acts envisaged by the terms “camcording”, “card sharing” were covered, respectively, in other forms of committing crimes specified in Article 176 of the Criminal Code of Ukraine as the reproduction of videograms and other intentional violation of copyright and related rights.

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THE CREATION OF ARTIFICIAL BARRIERS AS A FORM OF MANIFESTATION OF OBJECTIVE SIDE OF IMPEDIMENT OF ACTIVITIES OF PEOPLE'S DEPUTY OF UKRAINE AND DEPUTY OF LOCAL COUNCIL

The objective side of crime envisaged Art. 351 of the Criminal Code of Ukraine is characterized by a socially dangerous act, which may be manifested in one of the following forms: 1) non-fulfillment of legal requirements; 2) creation of artificial obstacles; 3) provision of knowingly false information. One of the forms of a socially dangerous act is the creation of artificial obstacles in the work of the people's deputy of Ukraine or a deputy of the local council (Part 1 of Article 351 of the Criminal Code of Ukraine) or a committee or a temporary investigative commission of the Verkhovna Rada of Ukraine (Part 2 of Article 351 of the Criminal Code of Ukraine). he essence of a socially dangerous act in this form is creation.

In Ukrainian language, «creation» is understood as: 1) to give life, to exist for some reason, to form something; 2) to make, to do anything; 3) build, construct something; 4) invent, produce, display something new, previously unknown; 5) creative work to give existence to scientific or artistic creation, to create; 6) to lay the beginning of the existence of something, to organize something to establish; 7) form the formation of something; 8) make it possible, available, prepare something, provide something; 9) cause, cause something, be the cause of something; 10) define, determine basically, giving any signs of properties [4, p. 676–677].

Along with rather broad «general» understanding of creation as an act, it finds a certain concretization in the aspect of objective side of syllables of crimes provided by the Criminal Code of Ukraine. In particular, «creation» as a socially dangerous act is mentioned in composition of crimes envisaged by the articles: 205, 255, 256, 258-3, 260, 302, 351, 351-1, 361-1, 372, 383, 384, 442 of the Criminal Code of Ukraine. In addition, creation as a sign of a socially dangerous act can also occur in case of extortion of improper advantage (Articles 354, 368, 368-3, 368-4 of the Criminal Code of Ukraine). Also, the act in form of creation was characteristic of provocation of bribery in previous edition of Art. 370 of the Criminal Code of Ukraine.

Socially dangerous acts in form of creation are close to an act in the form of an organization and under certain conditions may coincide with it. In particular, the organization of an armed gang represents a system of

interconnected actions, which resulted in creation of a criminal group that meets all objective and subjective features of the gang. That is, under such conditions, an organization is perceived as an act of creation. This idea is supported also in writings of scientists, as well as in the provisions of law enforcement guidelines [3]. However, such a coincidence is far from always and, despite its similarity, «creation» and «organization» are somewhat different socially dangerous acts and cannot be fully identified.

So, according to A. Voznyuk, creation, in the context of the creation of an organized group or a criminal organization, should be considered as a set of actions aimed at the emergence (formation, foundation, formation) of the association, including through transformation or conquest (association) of existing independent one from one organized group for the purpose of committing crimes [1, p. 98].

As we see most of described approaches, determine creation as active actions aimed at generation, emergence of a certain effect. In fact, the same may also apply to creation of artificial obstacles in the work of people's deputy of Ukraine, a deputy of the local council or committee or a temporary investigative commission of the Verkhovna Rada of Ukraine. Indeed, creating barriers to work is possible not only through action, but also through inactivity. For example, an official may not fulfill the duties assigned to him and thus create obstacles in the robots of relevant authorities or local self-government or officials. Not always such non-fulfillment of duties is associated with non-compliance with the lawful demands of a people's deputy of Ukraine, a deputy of a local council, committee or temporary investigative commission of the Verkhovna Rada of Ukraine, since such requirements may not always be given.

As regards the direction of the creation itself, the disposition of Part 1 and Part 2 of Art. 351 of the Criminal Code of Ukraine indicate that creation is focused on artificial obstacles in work. The obstacle in Ukrainian language is understood as: 1) that overrides the movement, intercepts the path, closes the access to somewhere; obstacle; 2) the fact that prevents the implementation of anything, a nuisance [4, p. 322]. Obstacles in context of the offense stipulated in Art. 351 of the Criminal Code of Ukraine should be considered as factors, circumstances or conditions that interfere with performance of work by relevant authorities or officials.

At the same time, the content of the obstacles themselves, that is, the factors, circumstances or conditions, may be completely different, the main thing is only their ability to hinder the work or to interfere with its carrying out. According to S. Horyanuj interference in the context of election campaigning should be seen as the creation of any obstacles in the process of propaganda, including those that manifest themselves in disrupting the holding of meetings, rallies or meetings with candidates [2, p. 206].

Therefore, any obstacles in the work that arise precisely as a result of the perpetrator's actions should be considered as obstacles. The same obstacles in work can be:

a) new, that is, those that did not exist before and arose only under the influence of acts of the subject;

b) those that existed before, however, were terminated for various reasons and restored (renewed their influence) under the influence of acts of the subject.

By their nature and legal significance, such obstacles are the same and do not affect qualifications.

That is, the creation of obstacles, as a sign of the objective side of the crime, provided for in Art. 351 of the Criminal Code of Ukraine, should be considered a bit broader and cover not only the formation of new (those that did not exist before) factors, circumstances, conditions, but also the restoration of the impact of previously existing obstacles.

Of course, such a position may seem rather controversial and cause a lot of objections, as the restoration of the influence of previously existing factors, circumstances and conditions can not be considered a creation in its pure form. However, an extremely narrow understanding of creation of obstacles, in fact, will lead to a gap in criminal law protection of people's deputy of Ukraine, a deputy of local council, committee or temporary investigative commission of the Verkhovna Rada of Ukraine.

In particular, a narrow understanding of term «creation» will lead to fact that objective side of investigated crime will not be covered by the acts of the subject, which did not cause the emergence of new factors, circumstances or conditions, but only restored their previous influence. For example, one can cite the situation when a servant restores the discontinued instruction of the previous leadership about a certain procedure of activity in relations with people's deputies of Ukraine, deputies of local councils, committees or temporary investigative commissions of the Verkhovna Rada of Ukraine, which contained obstacles for the work of the latter. It is obvious that such acts, in their content and degree of social danger, are as close as possible to the creation of obstacles. However, the narrow understanding of the creation does not allow to cover and give a legal assessment of the acts, which consisted only in restoring the impact of existing obstacles (factors, circumstances, conditions). Thus, creation of obstacles should be considered more widely and mean that such obstacles (factors, circumstances, conditions) had not existed or ceased previously, and as a result of acts of guilty, they arise or restoration of their influence.

Specification of sign of artificiality of interference in dispositions of Part 1 and Part 2 of Art. 351 of the Criminal Code of Ukraine is superfluous.

This is explained by the following. First, the word «artificial» in the Ukrainian language means: 1) made by the human hand; 2) looks like this; 3) similar to natural; 4) false, fictitious, false; 5) devoid of simplicity, naturalness [4, p. 553]. Secondly, if obstacles are created – it already means that they arise under the influence of human actions, and not under the influence of natural factors or coincidence of circumstances, and therefore are artificial.

In this way, we arrive at conclusion that the obstacles created by themselves are artificial, and therefore mention of this feature in the text of the criminal law is absolutely superfluous. On this basis, we can formulate a proposal to exclude from the dispositions of Part 1 and Part 2 of Art. 351 of the Criminal Code of Ukraine the words «artificial».

Under such conditions, creation of an obstacle should be considered as an act (actions and inactivity) aimed at creating any factors, circumstances or conditions that impede the work of the people's deputy of Ukraine, a deputy of the local council, committee or temporary investigative commission of the Verkhovna Rada of Ukraine and which did not exist before , as well as on the restoration of the influence of factors, circumstances or conditions that existed before, but whose influence was discontinued.

Methods of creating obstacles, the content of the obstacles themselves, the nature and mode of their influence on the work of the above subjects may be completely different and in essence, do not affect the qualifications. Only the content of acts concerning the creation of factors, circumstances and conditions, as well as negative influence of latter, which prevents the work of said bodies or officials, remains determining factor here.

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ILLEGAL DOCUMENTS ACTION IN CRIMINAL LAW OF UKRAINE

In today's society, realization of rights and legitimate interests is complicated, and sometimes it becomes impossible without proper documentary evidence of legal important facts and relations. In this regard, Art. 357 abduction, appropriation, extortion of documents, stamps, seals, seizure by fraud or abuse of office or their damage and art. 358 forgery of documents, seals, stamps and forms, sale or use of forged documents, seals, stamps should be considered as an important legislative guarantee of the implementation and protection of the rights and legitimate interests of citizens and legal entities.

The object of these crimes is the law on the procedure for the conduct, circulation and use of official and certain private documents, which ensures the normal activities of enterprises, institutions and organizations irrespective of the form of ownership, as well as the rights and legitimate interests of citizens, the procedure for documenting the facts that have legal value,

The subject of the crime is 357 articles:

1) official documents, stamps, seals;
2) private documents, which are located at enterprises, institutions or organizations, regardless of the form of ownership;
3) a passport or other important personal document.

The subject of the crime is 358 articles:

1) a certificate or other official document;
2) the seal, stamp or form of the enterprise, institution or organization;
3) other official seal, stamp or blank.

The official document is documents containing information recorded on any physical medium, confirming or certifying certain events, phenomena or facts that have caused or are likely to have legal effects, or can be used as evidence documents.

Private documents are those documents that originate from private individuals and certify by their content facts of legal significance.

Stamps is special forms of clichés, which contain relief or deepened mirror images of texts, drawings, and other labels, and which are intended to receive prints on paper and other materials.

Blank is a piece of paper with a stamp on it or another document with a partly typed printed or other text, which, for the final drawing up of the document, requires further completion of the requisites.

The passport of a citizen of Ukraine is a document that certifies the identity of the holder and confirms the citizenship of Ukraine.

Other important personal documents should include a certificate, a military ticket, a work record, a graduation certificate on higher education, a birth certificate, a travel document for a child, a taxpayer card, other official or private documents that certify important facts and events in human life and the loss of which greatly complicates the realization of its rights, freedoms and legitimate interests.

Personal documents of a person should be recognized official documents that certify those events and facts relating directly to the person.

The objective side of the crime, stipulated in Part 1 of Art. 357, is expressed in such alternative actions regarding the relevant documents, stamps, seals:

1) abduction - seizure of documents, stamps or seals from the official circulation of enterprises, institutions, organizations and their seizure by theft, robbery or robbery;

2) extortion - the requirement for the transfer of someone else's property or the right to property or the commission of any acts of property with the threat of violence against the victim or his close relatives, restriction of the rights, freedoms or legitimate interests of these persons,

3) appropriation - the unlawful and graceful seizure (maintenance, non-return) of the guilty of someone else's property, which was in its lawful possession, with the intention to further turn it into its own benefit;

4) destruction - is the action that causes the documents, stamps and seals to cease to exist physically; They are brought to a

state that completely and permanently excludes their use for their intended purpose

5) taking possession by fraud - taking possession of someone else's property or acquiring the right to property by fraud or abuse of trust;

6) damage means damage to the material basis of a document, a stamp or seal, when their use, for the purpose intended without restoration measures, becomes substantially complicated or becomes completely impossible;

7) concealment - it is not associated with the abduction of secret acts for the movement of documents, stamps, the beginning of the places of their proper storage, resulting in the enterprise, institution, organization or citizen being deprived of the opportunity to use these objects for their intended purpose.

The objective side of Article 358 is:

1) forgery of an official document - the complete fabrication of a rigged document, and partial falsification of the contents of this document;

2) the manufacture of counterfeit stamps, stamps or blankets - means the complete fabrication of rigged forms and forms, as well as making changes to real stamps, seals or forms that distort their proper content;

3) sales of a fake official document - to be understood as any paid or free alienation of these items and their launch in circulation, carried out by a person who is aware of their nature;

4) the sale of counterfeit stamps, seals, forms - shall mean any payment or free disposal of these items and their launch in circulation, carried out by a person who is aware of their nature;

5) the use of a deliberately fake document (Part 4 of Article 358) - may be committed in one of two ways:

a) submission of a document - a certain circle of people is familiar with the content of the fake document. But the fake does not remain in the guilty party, but is transmitted to the authorized persons for the certification of certain facts;

б) presentation of a document - a subject, giving out a fake for a genuine document, acquaints with the content of other persons

The subject of the crime of Art. 357 general, however, the subject of possession of documents, stamps, seals by misuse of official position can only be a serviceman provided for in Part 4 of Art. 358

The main delimiting feature of the crimes provided for in parts 1 and 2 of Art. 358, committed in the form of forgery, manufacturing and marketing of certain objects, is the subject.

The subject of a crime provided for in Part 2 of Art. 358, is a special one: it is an employee of a legal entity of any form of ownership that is not an official; private entrepreneur; auditor; expert; appraiser; lawyer; notary; state registrar; the subject of state registration of rights; a person authorized to perform state functions regarding the registration of legal entities, individuals - entrepreneurs and public formations; state executor; private performer; another person who carries out professional activities related to the provision of public or administrative services

The subjective side of the crime is characterized by direct intent. Obligatory feature of the subjective part of the crime, stipulated in Part 1 of Art. 357, there is a motive - selfish or other personal interests are the purpose of their sale.

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«POLICE QUEST» IN THE EDUCATIONAL PROCESS OF THE NATIONAL ACADEMY OF INTERNAL AFFAIRS: WORKPLACES AND TRAINING GROUNDS

Practical trainings as well as trainings in the form of police quests at the National Academy of Internal Affairs are the effective means of the theoretical knowledge consolidation and the practical skills, necessary for higher education students in their further professional activities, development.

The abovementioned form of the educational process organization is the background for effective and qualitative development of professionally-oriented educational disciplines' practical component aiming at the formation of the communicative competence while training young specialists for the bodies and units of the National Police of Ukraine.

The purpose of the police quest is the change of the persistent stereotypes in the organization of classes and the development of the practical work's elements by simulating future professional police activities and modeling a typical situation.

The tasks of the police quest are: the development of creative thinking, the discovery of innovative potential, the formation of skills for rational usage of training time and stimulation of cognitive motivation.

The basis for conducting the police quest is the situational method (role-playing, business game, etc.), the content of which is aimed at mastering by the cadets of the algorithm of criminal procedural, forensic and operative-search actions concerning the investigation of certain types of criminal offenses.

The quest provided full immersion into the storyline, based on the content of specific contemporary plot of service activity and on the implementation of active actions aimed at achieving the purpose of the task and making a decision based on the analysis of the situation.

The form of such kinds of practical and training lessons determines the place of its conduct: a training ground, a public place, an open area, etc.

The police quest consists of the combination of methods and techniques of the teacher and cadets' coordinated activity, as well as the cadets' interaction, while conducting which they achieve a certain level of proficiency in the professionally oriented disciplines. The usage of interdisciplinary and subject-integrated quests, where the activities of the participants are united by one plot of a criminal offense, which develops in time at different locations plays an important role in the professional education.

Types of the police quest are determined in accordance with the objectives of the discipline, the number of game periods, the forms of evaluation of actions and decisions, as well as the directions of interaction of participants.

The police quest should anticipate: imitation of professional conditions that are as close as possible to the real ones; problematic character of the modelled situations; presence of roles and their clear distribution among the participants; description of the structure and scenario of the game; correspondence of the number of participants to the quest's tasks, amount of information, purpose of conduct; compliance with a program of an educational discipline, a topic or a set of topics; criteria of evaluation participants' actions.

The main stages of the quest are: the first (organizational-preparatory) when the methodical support is developed containing the definition of the purpose, tasks and type of the quest; the second is the direct execution of the quest's tasks; the third one includes discussion of the results of the tasks performed. The evaluating is conducted taking into account individual and collective actions of the students, regarding the correctness of criminal-legal, procedural and criminological analysis; ability to work in a team; to establish communication; to organize quest-group work; to solve the problematic situationcreatively; to substantiate and motivate their actions.

In order to strengthen the practical component in the educational process in the central building of the National Academy of Internal Affairs, another training ground «Green Room» was created, for the development of the tactics of individual verbal investigative (search) actions with children, who suffered as a result of criminal offenses or witnessed crimes, through special methods, friendly to the child.

The training ground is a complex of two neighboring rooms separated by an out-of-the-eye observation window, which allows, in conditions close to real, to simulate the actions of the investigator and the involved specialists.

In the first room (therapeutic room), which is equipped with children's furniture, elements of aesthetic direction, in particular, indoor flowers, children's toys, with the help of special equipment and video surveillance systems, psychologists, specialists in pediatrics, psychiatry, pedagogy work with the child.

In the second room equipped with a set of office furniture, computer equipment, audio and video recording system, the investigator records the child's testimony in the interrogation protocol

and adjusts the work of the specialist who directly interviews the child.

Technical equipment of the training ground allows to conduct classes in the distance mode for various educational subdivisions of the academy.

Successful implementation of the police quest is a necessary prerequisite for the effective acquisition of knowledge acquired by cadets from professionally-oriented educational disciplines, intensification of the skills to make quick and independent decisions in the contemporary conditions of the service activity of the bodies and units of the National Police of Ukraine.

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CLASSIFICATION OF CRIMINAL LEGAL EXECUTION

The legal basis for the construction of a new system of criminal offenses and their differentiation for crimes and misdemeanors is the Concept of the reformation of criminal justice approved by the decision of the National Security and Defense Council of Ukraine dated February 15, 2008 «On the process of reforming the system of criminal justice and law-enforcement agencies» and approved By a decree of the President of Ukraine from 08.04.2008, № 311/2008. It is this normative legal act on the reform of criminal law raised the issue of introducing a criminal offense to the legislation of Ukraine and states that in order to humanize the criminal law, a certain part of crimes would have to be transformed into criminal misconduct, to limit the scope of the use of penalties related to deprivation of liberty , replacing them with penalties. Criminal punish acts to be divided into crimes and criminal misconduct. The main criteria for such changes should be: the degree of public danger and the legal consequences of a criminal act for a person, society and the state; practice of applying criminal and administrative legislation; international experience in protecting human, society and state from crimes and misconduct.

After repeated attempts and long discussions, after elaborating a large number of bills, the Verkhovna Rada of Ukraine dated November 22, 2018 adopted the Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine on the Simplification of Pre-trial Investigation of Certain Categories of Criminal Offenses». Part 1 of Article 11 of the said Law defines the notion of a criminal offense, which is provided for by the Criminal Code of Ukraine (hereinafter - the Criminal Code) a socially dangerous offense (act or omission) committed by the subject of a criminal offense. It has been determined that the act or omission is not a criminal offense, which although formally contains the features of any act provided for in the Criminal Code, but because of insignificance does not constitute a public danger, ie did not cause and could not cause significant harm to a natural or legal person, society or state (Part 2 of Article 11 of the said Law).

In Article 12 of the Law of Ukraine «On Amending Certain Legislative Acts of Ukraine on the Facilitation of Pre-trial Investigation of Certain Categories of Criminal Offenses», the classification of criminal offenses for criminal misconduct and crimes was carried out. The law stipulates that a criminal offense is the criminal act (action or omission) provided for by the CC, for which the basic punishment is stipulated in the form of a fine in the amount of not more than three thousand non-taxable minimum incomes, or other punishment not related to imprisonment (part 2 Article 12).

Instead, the crimes are divided into: 1) non-hardcore - the act (action or inaction) specified in the Criminal Code, for which the basic punishment is stipulated in the form of a fine in the amount of not more than ten thousand tax-free minimum incomes, or imprisonment for a term not exceeding five years; 2) serious crimes are the criminal acts (action or omission) envisaged by the CC, for which the basic punishment may be imposed in the form of a fine in the amount of not more than twenty five thousand non-taxable minimum incomes, or imprisonment for a term not exceeding ten years; 3) particularly serious crimes are the acts (actions or omissions) specified in the Criminal Code, for which the basic punishment is stipulated in the form of a fine in excess of twenty five thousand tax-free minimum incomes, imprisonment for a term of more than ten years, or life imprisonment.

Thus, the Law of Ukraine «On Amending Certain Legislative Acts of Ukraine on the Simplification of Pre-trial Investigation of Certain Categories of Criminal Offenses» defined the concept of a criminal offense that covers all criminal acts that are divided into crimes and criminal misconduct; changed the classification of crimes for criminal misconduct, non-serious, grave and especially grave crimes; replaced such a category as «a crime of minor gravity», into a category such as «criminal offense»; minor crimes (which do not relate to criminal misconduct), and some crimes of moderate gravity have been replaced by «non-serious crimes»; referred to criminal offenses of some crimes of moderate severity.

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VOLUNTARY APPLICATION TO LAW ENFORCEMENT AUTHORITIES AND RETURN OF THE VEHICLE TO THE OWNER AS A BASIS FOR EXEMPTION FROM CRIMINAL LIABILITY FOR THE ILLEGAL POSSESSION OF A VEHICLE

In accordance with Part 4 of the Article № 289 of the Criminal Code of Ukraine a person who had committed the actions provided for by this article for the first time (except for cases of illegal possession of a vehicle with the use of violence to the victim or the threat of the use of such violence), but voluntarily declared this fact to the law enforcement authorities, returned the vehicle to the owner and fully compensated damages is exempted from criminal liability.

Part 4 of Article № 289 of the Criminal Code of Ukraine provides a special type of exemption from criminal liability for the illegal possession of a vehicle, which is carried out in the presence of a set of certain conditions and grounds.

One of these grounds is a voluntary statement about the crime committed to law enforcement authorities and the return of the vehicle to the owner.

A voluntary application regarding committed crime to the law enforcement authorities means that a person must voluntarily inform law enforcement agencies in any form that she or he has been illegally

taken over the vehicle. Voluntarily means final cessation by the person an unlawful act, if at the same time she was aware of the possibility of bringing the crime to an end.

According to the Article № 2 of the Law of Ukraine «On State Protection of Court Employees and Law Enforcement Aithorities», law enforcement authorities are the Prosecutor's Office, the National Police, the Security Service, the Military Service of the Law Enforcement in the Armed Forces of Ukraine, the National Anti-Corruption Bureau of Ukraine, the State Border Guard, the Income and Assembly and penitentiary institutions, investigation detachments, state financial control bodies, fish protection, state forest protection, other bodies that carry out law enforcement or law enforcement functions [1].

The legislator does not specify a time for a voluntary application. From the analysis of Part 4 of the Article № 289 of the Criminal Code of Ukraine it can be concluded that it is possible to declare voluntarily the commission of an illegal seizure of a vehicle before the commencement of criminal proceedings, utill he was suspected in committing the crime.

The provision of the Article № 477 of the Criminal Procedural Code of Ukraine states that a criminal proceeding in the form of a private prosecution is a proceeding that may be initiated by the investigator, the prosecutor only on the basis of the victim's statement regarding criminal offenses, among other things, parts of the first or second clause of the Article 289 of the Criminal Code of Ukraine unlawful seizure of a vehicle without particularly aggravating circumstances) - if committed by the victim's husband, wife or other close relative or victim's family member, or if they are committed by a person who, as a result of the victim, was hired employee and damaged solely the victim's property.

From this provision it can be concluded that the victim's husband or wife, other close relatives or members of the victim's family, or a person who, as a victim, was hired employee, can voluntarily declare a crime committed to law enforcement authorities only before the commencement of criminal proceeding.

There is one more question as to the direction of the legislator to return the vehicle to its owner. Although the note to the Article № 289 of the Criminal Code of Ukraine states that under the ownership of a

vehicle in this article, it must be construed to have deliberately committed, for any purpose, the wrongful seizure by any means of transport of the vehicle from the owner or user in contravention of their will.

Proceeding from the above should be supplemented by the Part 4 of the Article № 289 of the Criminal Code of Ukraine on the possibility of returning a vehicle not only to the owner but also to the representative or law enforcement authorities.

In my opinion, the introduction of such amendments and additions to the Part 4 of the Article № 289 of the Criminal Code of Ukraine will help to ensure more effective implementation of the provisions on the release of a person from criminal responsibility.

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FEATURES OF POLICE TRAINING FOR WORKIN THE SEARCH UNITS OF THE NATIONAL POLICE OF UKRAINE

The organization of the educational process for the training of police officers in the operational units that carry out wanted work is an intellectual creative activity in the field of higher education and science, which is carried out through the implementation of a system of scientific, methodological and pedagogical activities and is aimed at the transfer, mastering, multiplication and use of knowledge, skills and other competencies of the police, in accordance with the standards of higher education and regulatory requirements for the qualification of the positions of the Ministry of Internal Affairs of Ukraine [1, p. 6]. The specified training is carried out in accordance with the

requirements of the Constitution of Ukraine, the laws of Ukraine «On Education», «On Higher Education», «On National Police», «On Scientific and Scientific and Technical Activity», «On Information», «On State Secrets»; normative acts of the Cabinet of Ministers of Ukraine; Orders of the Ministry of Education and Science of Ukraine and the Ministry of Internal Affairs of Ukraine and other current legislation regulating the organization of the educational process and the procedure for training specialists in higher education institutions with specific educational conditions, as well as regulatory legal acts regulating the investigative work of the bodies of the National Police of Ukraine.

The Department of Operative and Investigative Activities of the National Academy of Internal Affairs annually holds thematic plans in accordance with distributed disciplines, taking into account the specifics of the work of the operational units and tasks assigned to the department [2, p. 3-4]. In particular, in order to combine theoretical training with practical orientation, to develop the skills of applying the acquired knowledge, classes with the use of training polygons are conducted. The situation on the ground is repeated, in which the operatives often have to work and all conditions for proper conduct of operational-search activities are created. This involves simulating practical situations in the following areas of operational and service activities:

- search for criminals;
- search for missing persons;
- Establishment of persons of unidentified corpses.

For each of these areas, a lecturer at the National Academy of Internal Affairs, as well as invited practitioners, show the proper conduct the search activities. The working environment at the training facility provides the opportunity for educational purposes to use technical means and conduct operational investigations and investigative actions. Classes are also held in the form of role-playing games, which allows to reproduce the conduct of separate operational-search activities and investigative actions. In this case, in the course of performing various tasks, the following practical skills are acquired:

- operation of the operative on the scene in various situations;
- use of National Police date base;
- verification of the address of the wanted dwelling;

- apartment check;

- tracing the territory, finding objects, people, detaining criminals;

- use of servant dogs for the search of a person, a corpse, material evidence;

- recognition of a person by signs of appearance;

- tactics of conducting various investigative actions;

- establishment of an unidentified corpse;

- use of technical means for performing tasks of operational and investigative activity;

- interaction with other bodies and units of the National Police.

This list is not exhaustive and can be supplemented in accordance with the tasks to be solved.

In this case, the ground is equipped with modern means of computer technology, which allows to execute search tasks on the Internet, to view the necessary videos and to study the auxiliary software used in the operation units. After all, the state of the information society and the development of information technology requires operatives who are pursuing the wanted work to make full use of social networks, mobile devices, information management tools and cloud technologies. In the near future, the growing impact of mobile technology and the creation of a new generation of mobile computing is expected; personalization of cloud services and turning them into a central tool for users; data association and device management software via the Internet; the emergence of services for users and for the corporate market «Internet of things», which will handle a large amount of unstructured information and analyze it in real time [3, p. 3]. The realities of the present require from the higher education graduates the perfect possession of IT technologies, their use in field conditions for the tasks of operational and investigative activities.

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THE CONCEPT AND ESSENCE OF THE PRINCIPLE OF JUSTICE IN THE CRIMINAL LAW OF FOREIGN COUNTRIES

The principle of justice lies in the equal legality of conduct and in strict conformity with the legal liability of the offender. It is reflected in the content of the law, has an appraisal character and is expressed in rights and obligations, measures of promotion and punishment, etc. All branches of law are trying to realize the foundations of justice in their regulated social relations. The whole legal system stands at the guard of justice, serves as a means of its expression.

Even in the XIX century the German scientist, Rudolf von Iering, in his paper entitled «The Purpose of the Right», considered the idea of justice as «a balance between the act and the consequences for the person who committed the act, that is, between the evil thing and the punishment, between good deeds and reward. At the same time, Iering linked justice not only with punishment, but also with the interests of society. Justice should be based on the interests of the whole of society as a whole, as well as of a separate personality.

In our opinion, justice is a moral and legal category. Moral norms, the ideas of natural law, the values of human civilization in

general, breaking into the legislator's sense of justice, are expressed in legal norms that imply legal liability.

In many codified criminal-law acts of foreign law, the principle of justice is not directly enshrined, but has been reflected and provides that when appointing a sentence should take into account the circumstances of the crime and the perpetrator. However, the punishment can be considered fair if it meets the moral norms imposed by the culture, traditions of society. The fairness of material norms is evaluated and presented by the law of legal families in different ways.

The principle of justice, in accordance with the UN Charter, is the key idea underlying the peaceful settlement of international disputes. Thus, the UN Charter considers this principle as a philosophical category of social and legal consciousness that evaluates social activity from the point of view of morality.

In the Criminal Code of Switzerland, the principle of justice is reflected in the section «Appointment of punishment». In Art. 63 states: «The judge determines the amount of the punishment according to the fault of the person; he takes into account the motivating motives, the previous life and personal relations of the accused».

In the Criminal Code of France, the principle of justice is formulated in Art. 132-24 (chapter «Penitentiary»): «The court appoints a punishment and determines the mode of its execution, depending on the circumstances of the criminal act and the person of the executor. When imposing a fine, the court determines its size, taking into account the incomes and expenses of the offender «.

In the Model Criminal Code of the Commonwealth of Independent States, the principle of justice was reflected in the following wording: «Penalties and other measures of criminal law applicable to a person who committed a crime should be fair, that is, to conform to the gravity of the crime, the circumstances of his commission and the person guilty...»

Thus, the principle mentioned above is fixed at the level of generally recognized international documents and is manifested predominantly in the norms of the articles of the Criminal Code, which determine the procedure for the imposition of penalties for the commission of crimes. At the same time, in our opinion, it is

necessary to develop and consolidate the definition of this principle in order to uniformize the practice of its application.

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REGULATORY LEGAL PROTECTION AGAINST TRAFFICKING OF HUMANS

The process of transforming the legal system of Ukraine into a system that is consistent with generally accepted ideas about a fair and democratic state and legal system is currently not complete. An important role in this process is played by the development and strengthening of the Institute of Human Rights, especially the most important personal rights.

The Universal Declaration of Human Rights states that every person has the right to life, freedom and personal integrity (Article 3); no one should be in slavery or in a subordinate state; slavery and slavery are prohibited in all their forms (art. 4); no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 5) [1].

The prohibition on the use of slave labor and the slave trade is formalized by the most important acts of the international community - the Universal Declaration of Human Rights, 1949, the International Covenant on Civil and Political Rights, 1966, the International Covenant on Economic, Social and Cultural Rights, 1966, the Convention on the Rights of the Child , 1989, Convention on the Elimination of All Forms of Discrimination against Women, 1979.

Despite this, slavery, the slave trade, similar phenomena and institutions exist in the modern world. The criminological situation that has developed in recent decades in Ukraine is characterized by an increase in the number of organized criminal groups, often of a transnational nature, whose main specialization is human trafficking.

The Constitution of Ukraine in Section II established a sufficiently wide and diverse list of natural and inalienable human rights in its content. Among them, in particular, is the right of every person to freedom (Part 1 of Article 29 of the Constitution of Ukraine). One of the criminal offenses that grossly violates this right is trafficking in human beings [2].

The Criminal Code of Ukraine also provides for liability for the trafficking in persons in art. 149. Qualifying this crime, it is necessary to clearly visualize the distinctive features between the analyzed act and other, related offenses. Since human trafficking is often associated with the deprivation of liberty of a person or with her abduction, this crime must be distinguished from the crime envisaged in art. 146 of the Criminal Code of Ukraine «Illegal deprivation of liberty or theft of a person».

The tendency of recent years is such that Ukrainians are involved in criminal activities related to the transportation, distribution and manufacture of narcotic substances in the territory of foreign countries, in particular, the Russian Federation. Today, 311 citizens are in the territory of a neighboring state as criminals, although they were fraudulently involved in illegal activities. The Ministry of Social Policy of Ukraine together with the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Health, the Ministry of Internal Affairs and other departments, embassies , public organizations are working to ensure that these people receive the status of a person who has suffered from trafficking in persons, the status of the victim in the framework of criminal proceedings, and returned to Ukraine. On May 10, 2019, an interdepartmental working group on combating trafficking in human beings and a select conference with subjects engaged in counteraction to human trafficking in the Ministry of Social Policy conducted coordination of actions of state authorities on the protection of the rights of Ukrainian citizens and the implementation of steps towards their return to their homeland . For this purpose, members of the working group developed the Information Card of a person who was detained

and convicted on the territory of the Russian Federation for the distribution of narcotic substances, which was subsequently directed to regional state administrations to carry out appropriate work with entities engaged in activities in the field of combating human trafficking, and relatives of victims of filling these cards. According to the latest information, already 15 people have been transferred to Ukraine for further detention of prisoners of the Russian Federation [3].

Therefore, one of the important issues, without which it is impossible to help Ukrainians abroad, is to systematize information on the circumstances of detention, place of residence, prosecution and further steps towards the transfer of citizens to Ukraine to serve their sentence and release them from custody. Trafficking in human beings in Ukraine today is the most global issue that needs to be addressed, because there are many workers in our country who, by their employment, do not always understand and see the dangers of trafficking and slave trade.

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IMPLEMENTATION OF THE CONVENTION OF THE COUNCIL OF EUROPE ON THE PREVENTION OF TERRORISM IN UKRAINE'S CRIMINAL LEGISLATION: THE STATE AND PERSPECTIVES

Ukraine's accession to the international community requires improvement of its legislation, harmonization with international legal acts, which our country officially joined.

The Law of Ukraine of July 3, 2006 No. 54-V ratified the Council of Europe Convention on the Prevention of Terrorism of 16 May 2005 (Convention).

According to the recommendations of the Convention, new articles 258-1 (Invulsion to commit a terrorist act), 258-2 (Public calls

for committing a terrorist act), 258-3 (Creation of a terrorist group or a terrorist organization), 258-4 (Assistance in committing a terrorist act), 258-5 (Financing terrorism) were introduced in the new Criminal Code of Ukraine.

On October 28, 2015, an Additional Protocol to this Convention was signed on behalf of Ukraine. On April 15, 2019, a draft law on ratification of this document was submitted to the Parliament for consideration [1]. In order to implement the Additional Protocol in the national legislation of Ukraine, a draft law was proposed at the same time to the Parliament, which proposed to supplement the Criminal Code of Ukraine with Articles 258-6 (Training of terrorism) and 258-7 (Departure from Ukraine and entry into Ukraine of terrorist purpose) [2].

An analysis of these changes to the Criminal Code of Ukraine leads to the conclusion that the implementation of this Convention is inadequate and incorrect, non-compliance with international standards, contradictions and inconsistencies between them.

First of all, unsuccessful use is in Art. 258-1, 258-2 and 258-4 of the narrow concept of «terrorist act», because it is not consistent with the terminology of the Convention. In particular, in Art. 5 of the Convention it is recommended to establish in the national legislation criminal liability for incitement to commit a terrorist offense, in Art. 6 – for engaging in terrorist activities, in Art. 7 – for the teaching of terrorist activities, in Art. 3 of the Additional Protocol – for the teaching of terrorism.

These articles are also incomplete from the standpoint of the standards of legal science and legislative technique.

For example, in Art. 258-1 of the Criminal Code of Ukraine provides for responsibility for involving a person in the commission of a terrorist act, and in Art. 258-4 of the Criminal Code of Ukraine – for recruiting a person for the purpose of committing a terrorist act, as well as using a person for this purpose. That is, in fact, the same actions impose responsibility in various articles of the Criminal Code of Ukraine, which artificially generates a conflict of norms.

In addition, this Code requires the introduction of a separate article 258-6, where it is indispensable to establish a criminal liability for the teaching of terrorism, which will meet the requirements of Art. 7 of the Convention and Art. 3 Additional Protocol to it. It is also

necessary to amend article 258-4 of the Criminal Code of Ukraine and establish responsibility for the preparation of a person for the purpose of committing a terrorist act.

Thus, the implementation of the Convention and the Additional Protocol to it in criminal law needs to be corrected and improved.

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SOME PROBLEMS WITH THE USE OF AMNESTY IN UKRAINE

Law of Ukraine «About the use of amnesty in Ukraine» dated 01.10.1996 № 392/96 in Art. 1 determines that an amnesty is a partial or partial exemption from the commission of a particular category of offenses, who have been guilty of committing crimes or criminal cases which are considered by the courts, but the sentences against these persons have not been valid. It does not abrogate the punishment of certain acts, but only in relation to the well-established categories of persons, it abandons the denial of criminal prosecution. However, the purpose of the amnesty is not only the release of a certain number of people from the punishment, but also the demonstration by the state of the implementation of the principles of economy of criminal repression and humanism. However, as rightly pointed out by S. G. Kelin and V. M. Kudryavtsev, humanism in relation to the perpetrator is impossible without humanism in relation to the victim, witness, and all other persons involved in the orbit of the criminal process [1, p. 131]. On this basis, it is logical to ask whether it is necessary to take into account the opinion of the victim in the release of a person under the amnesty, and whether the reimbursement of the harm to the victim can

be one of the conditions for the release of a person. In this regard, there are many disputes in criminal law, and there is no clear answer yet.

The state guarantees the victim protection of their rights and interests. The opinion of the victim, expressed in court debates, is important when a court decides on the appointment of a particular type and the amount of punishment, the possibility of exemption from punishment and his serving. Therefore, it seems advisable to give the victim the right to express in court the point of view as to how the application of an amnesty act is in line with his interests.

Amnesty should be aimed at balance of interests. In this case, the interests of convicts and their relatives - on the one hand, and victims - on the other. Such a balance of interests will be achieved if the priority right to get rid of the amnesty will be received by those who reimburse the damage caused by a crime (for example, article 127 of the Criminal procedure code of Ukraine). For example, A.A. Muzika and E.V. Lashchuk consider that compensation to the victim of the crime of harm should be made a mandatory condition for all types of exemption from criminal liability and exemption from serving a sentence with a trial [2, p. 87-88]. The same point of view is supported by I. I. Mitrofanov [3, p. 399-400].

At one time, the legislator, in an attempt to protect the interests of the victim in the application of the perpetrators of the crime, the act of amnesty (as one of the conditions for this type of exemption from punishment), put forward a claim for compensation for damage caused by a crime. Thus, the Law of Ukraine «On Amendments to the Law of Ukraine «About the use of amnesty in Ukraine « and Other Legislative Acts of Ukraine» of 2 June 2011. № 3465 provided that the amnesty can not be applied to persons who did not compensate for the damage they caused or did not eliminate the damage caused by a crime (item «is» Article 4). However, this norm lasted only a few years, and the Law of Ukraine «On Amendments to Some Laws of Ukraine on the Application of Amnesty in Ukraine» of 6 May 2014, № 1246 (item 2) was excluded from the Law of Ukraine «About the use of amnesty in Ukraine».

In our opinion, attention should be paid to the need for a more complete, real and effective enforcement of the rights of the victim in the release of the convicted person from punishment under the amnesty law.

It seems that the victim should be an integral part of the criminal process when considering the issue of the application of an amnesty, since the commission of a crime violated his legal rights and interests, which is the duty of the state to protect. Therefore, we consider it expedient to consolidate, at the legislative level, the duty to take into account the opinion of the victim and to compensate him harm caused by a crime in deciding on the application of an amnesty.

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CONCEPTS AND TYPES OF AUTHORITIES AS VICTIMS OF THREATS OR VIOLENCE AGAINST AN OFFICIAL OR A CITIZEN WHO PERFORMS PUBLIC DUTY

In the criminal law, the term «official» is given twice (in ch. 3 and 4, Article 18, as well as in the note to Article 364 of the Criminal Code of Ukraine), both in terms of content and scope of the criminal law to which they may be applied different. Their difference lies in fact that the first (Part 3 of Article 18 of the Criminal Code of Ukraine) covers the assignment of those persons who permanently or temporarily occupy positions in any enterprises, institutions or organizations related to execution of organizational and administrative or administrative and economic functions, while the second definition (clause 1 of the note to Article 364 of the Criminal Code of Ukraine), among other things, covers classification of only persons who permanently or temporarily occupy positions in «state or communal» enterprises, institutions or organizations, related with implementation of organizational and regulatory or administrative and economic functions. Definition

contained in Part 3 and 4 of Art. 18 of the Criminal Code of Ukraine, apply to all criminal law, with the exception of the rules specified in paragraph 1 of the note to Article. 364 of the Criminal Code of Ukraine. The latter belong to Art. 364, 368, 3682, 369 of the Criminal Code of Ukraine. That is, in these articles, the definition of the term «official person», which is set forth in clauses 1 and 2 of the note to the article, is used. 364 of the Criminal Code of Ukraine. In other cases (other articles of the Criminal Code of Ukraine), including the crime envisaged in Art. 350 of the Criminal Code of Ukraine, the definition of «official» should be applied, which is enshrined in Part 3 and 4 of Art. 18 of the Criminal Code of Ukraine.

Part 3 of Art. 18 of the Criminal Code of Ukraine, an official identified a person who permanently, temporarily or under special powers carries out the functions of a representative of the government or local self-government, and also permanently or temporarily occupies positions in state authorities, local self-government bodies, enterprises, institutions or organizations, with the fulfillment of organizational-administrative or administrative-economic functions, or performs such functions under special powers, which a person is empowered by the authority of state authority, organ m of local self-government, the central body of state administration with a special status, a plenipotentiary body or authorized official of an enterprise, institution, organization, court or law [7, p. 65]. Since Part 3 of Art. 18 of the Criminal Code of Ukraine does not specify the form of ownership of enterprises, institutions or organizations in which a person may hold positions associated with the implementation of organizational and administrative or administrative and economic functions, it can be concluded that the ownership of these enterprises, institutions and organizations may be any one In addition, the mention of officials of a legal entity of private law (Article 364-1 and Article 368-3 of the Criminal Code of Ukraine) without a separate definition of this concept, confirms the conclusion of any form of ownership of enterprises, institutions or organizations, on which, respectively to Part 3 of Art. 18 of the Criminal Code of Ukraine, a person may hold positions related to the performance of organizational-administrative or administrative-economic functions.

The difference in these definitions refers only to enterprises, institutions or organizations where a person can perform organizational, administrative or administrative functions. In the first case, it refers to any

enterprise, institution or organization, then in the second case it is only about state or communal. Under such conditions state and communal enterprises, institutions or organizations are only a kind (in form of ownership) of any enterprises, institutions or organizations. Therefore, it is logical that their ratio can be expressed as the ratio of the part and the whole, where the part is state and communal enterprises, institutions or organizations, and whole – any enterprises, institutions or organizations, since the latter also cover private enterprises, institutions or organization. The legislator distinguishes between the notion of «official of a legal entity of private law» (Articles 3641 and 3683 of the Criminal Code of Ukraine), and therefore allows for the recognition of an official who occupies positions in private enterprises, institutions or organizations related to the execution of organizational or administrative or administrative and economic functions. In the previous edition, the definition of the term «official» did not distinguish the category of representatives of local self-government, so they could be attributed to officials only by the category of representatives of the authorities.

Therefore, it is expedient to distinguish between concept of «representative of power» and «representative of local self-government», since their essence is different, although some scientists identify these concepts, considering the representatives of power of persons working in local self-government bodies. Confirmation of the latter is the position of scientists O. Dudorova and G. Zelenova, who identify these two concepts, understanding, under the representatives of the authorities and local self-government, of persons who, acting on behalf of all branches of state power or local self-government, implement the powers granted to them, which entails legal consequences for an indefinite circle of «persons not subordinate to them» [4, p. 569].

Sharing the position of scientists regarding the delimitation of government officials and representatives of local self-government as possible categories of officials, we draw attention to a certain limited degree of government representatives. A representative of authorities is a person who is in service in local self-government bodies, acting on their behalf (on their behalf) and within the scope of their competence carries out (implements) functions of these bodies. Such representatives, in particular, include: deputies of local councils, city, village, town chairmen, employees of local government bodies, and others [6, p. 67]. According to R. Maximovich, the circle of representatives of the

government can not be associated with the division of state power into three branches (legislative, executive and judicial), since there are state-and-state institutions that do not belong to any of them (the President of Ukraine, prosecutor's office, etc.), however, their representatives are empowered and may give mandatory instructions to non-subordinate persons. Therefore, according to his definition, «representatives of authorities are those who carry out functions of public authority (state power and local self-government), in particular the President, members of the Government, deputies, heads of local self-government bodies, judges, people's assessors, jurors, prosecutors, investigators, persons conducting inquiries, heads of local state administrations and their deputies, employees of state inspections, members of public organizations for the protection of public order and the state border, as well as other employees who have the right to hedgehogs make demands of their competence, to decide whether to apply coercive measures against individuals and entities regardless of their subordination or subjection» [5, p. 125, 271].

The position of O. Grudzur, that the representative of government and local self-government should be endowed with two features: 1) belonging to state authorities, their structural subdivisions or to local self-government bodies; 2) presence of power and administrative powers [2, p. 117].

Therefore, representative of government is a person who works in an authority of state power or is an independent public official and, in the nature of his functions, has the right to give instructions and orders that are mandatory for non-subordinated persons. The circle of these persons should not be connected with the division of state power.

Instead, a local self-government representative is a person who directly performs the tasks of local self-government (local self-government body) and, in the nature of its functions, has the authority to set requirements and make decisions binding on legal or natural persons in the respective territory, regardless of their departmental membership, or subordination [1, p. 142]. That is, representative of local self-government is a person who is a member of local self-government body and, by nature of authority, can give instructions and set requirements that are mandatory for the performance of non-subordinated persons.

In addition to positions of scientists, the fact that representative of the government and a representative of local self-government is not identical can serve as a confirmation that in art. 140 of the Constitution of

Ukraine stipulates that local self-government is the right of a territorial community – residents of a village or a voluntary association in a rural community of residents of several villages, towns and cities – to independently solve local issues within the framework of the Constitution and laws of Ukraine. And in Art. 5 and 6 of the Basic Law states that the source of power in Ukraine is the people who exercise power directly and through the organs of state power and local self-government [3].

An interesting aspect is that, according to Part 3 of Art. 18 of the Criminal Code of Ukraine, such functions can be performed by a person permanently, temporarily or under special powers. Therefore, the circle of persons performing functions of a representative of government or local self-government is wider than the circle of representatives of government or local self-government. Therefore, it is expedient to take into account only the nature of functions of representative of government or local self-government, and person's belonging to the appropriate state authority or local self-government is not decisive in this case. This concept of functions is broader than the concept of «responsibilities» and covers the scope of the activity and authority of an official.

Consequently, on basis of foregoing, the following conclusions can be drawn: that the authority to represent a body of state power (state power) or a local self-government body, acting on their behalf, and giving instructions and imposing binding requirements, is a determining factor for establishing the characteristics of an official persons who are not subject to her service. A representative of government is a servant who works in an authority of state power or is an independent public official and, by the nature of his authority, has the right to give instructions and to impose requirements that are mandatory for non-subordinated persons. A representative of local self-government is a person who is a member of the local self-government body and, according to the nature of his authority, can give instructions and set requirements that are mandatory for the performance of non-subordinate persons.

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INDEPENDENT USE OF INSIDER INFORMATION: CRIMINAL AND LEGAL PHYSICAL ANALYSIS

Most of the developed stock markets in the world have laws that prohibit the sale of insider information by «insiders», which are usually attributed to a relatively broad range of individuals who have access to such information.

On May 20, 2011, the President of Ukraine signed a law prohibiting the use of insider information on the stock market and envisages the introduction into the Code of Administrative Offenses of Ukraine, the Criminal Code of Ukraine, the Laws of Ukraine «On State Regulation of the Securities Market in Ukraine» and «On Securities and Stock market «of the relevant changes aimed at preventing the use of insider information on the stock market [1, c. 56-58].

The main direct object of the crime is the social relations in the field of the functioning of the stock market. An additional direct object is the right to property and the principles of fair competition. The public danger of a crime lies in the fact that the illegal use of insider information can negatively affect the stability of the stock market and lead to a deterioration in the attractiveness of issuers.

The constitutive feature of this crime is that parts 1 and 2 of this article provide for independent offenses of the same structures.

The subject of the crime is insider information. - any unpublished information on the issuer, its securities or transactions with them, the disclosure of which may significantly affect the value of securities (Article 44 of the Law of Ukraine of February 23, 2006, No. 3480-IV «On Securities and the Stock Market»).

On the objective side, the crime is characterized by actions (according to Part 1 and Part 2 of Article 2321 of the Criminal Code), socially dangerous consequences and a causal connection between actions and consequences. The actions provided for in part 1 are intentional unlawful disclosure of insider information; its transmission or access to it; providing with the use of such information recommendations on the acquisition or alienation of securities or derivatives (derivatives); Part 2 - in the commission, using insider information for own benefit or in favor of others, transactions aimed at the acquisition or alienation of securities or derivatives (derivatives) to which insider information relates;

The consequences of both Part 1 and Part 2 of the commented article are described in the same way: the receipt by a person who committed the specified actions or third parties of unreasonable profits to a significant extent; avoidance of significant losses by a member of the stock market or third parties; causing significant damage to the rights protected by law, the freedoms and interests of individual citizens, or public or public interests, or the interests of legal persons (a comprehensive interpretation of the last two types of damage is given in paragraph 1 of the note to Article 2321 of the Criminal Code).

This crime is considered to be terminated from the moment of at least one of the consequences indicated in the disposition (material composition). Illegal disclosure of insider information should be

considered its disclosure or communication in any way to at least one person who has no legitimate reason to be aware of such information.

Illegal transmission of insider information is its transmission in any way, including by facsimile means, on any kind of media, as well as in any generally accepted form, understandable for the perception of another person who has no legitimate reason to be acquainted with such information.

Providing with the use of insider information recommendations on the acquisition or alienation of securities or derivatives may involve the decision to acquire or dispose of them, as well as other actions for the commission of transactions by another person.The main feature of the commission, using insider information, of transactions aimed at the acquisition or alienation of securities or derivatives (derivatives) to which insider information refers, is that the subject of the offense commits transactions for their own benefit or in favor of others.

Under the persons (the subject of a crime), who committed the actions provided for in this Article, shall mean: officials of the issuer, including those who were officials of the issuer at the moment of inspecting insider information; persons who have access to insider information in connection with the performance of their labor (official) duties or contractual obligations, regardless of relations with the issuer, including employees of professional stock market participants; civil servants who know the insider information as a result of their official (official) duties; persons who have been acquainted with insider information in an illegal manner; auditors, notaries, experts, appraisers, arbitration managers, or other persons who fulfill publicly granted statutory powers. The subjective aspect of the crime is characterized by intentional form of guilty, the attitude to the consequences may be both intentional and careless.

In the case of disclosure of insider information by an employee by negligence, which led to causing significant harm or grave consequences, the fine should be qualified as a professional negligence under art. 367 of the Criminal Code [2, c. 458-459].

Given the foregoing, one can conclude that the subject of a crime under Art. 232-1 of the Criminal Code of Ukraine is currently insider information, that is: any unpublished information about the

issuer, its securities or transactions with them, the disclosure of which may significantly affect the value of securities.

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ARTICLE 4 OF EUROPEAN CONVENTION ON THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AND NORMS OF CRIMINAL LEGISLATION IN UKRAINE: COMPARATIVE ASPECTS

In Ukraine, as in some other European countries, there has been an increase in the number of trafficked persons both within their own national borders and abroad. Thus, in recent years 332 cases of sale of people into slavery have been registered and about 100 thousand Ukrainians have been victims of trade [1].

The current state of employment of the Ukrainian population greatly contributes to the employment of Ukrainian citizens, and especially women, abroad. At the same time, they are used not only as cheap labor, but also as sex - slaves. Therefore, recently, certain actuality in Ukraine is committed by sexual slavery. The mass media often reports about Ukrainian sex slaves abroad.

Recognizing the importance of combating slavery, the international community, systematically, through the adoption of international legal acts, is combating this evil, which fully applies to the European Convention. Yes, Art. 4 (Prohibition of slavery and forced labor) of the European Convention, states that:

1. No one shall be held in bondage or servitude.
2. No one shall be subjected to forced or compulsory labor.

3. For the purposes of this article, the meaning of the term «compulsory or compulsory labor» does not apply:

a) for any work, the execution of which is usually required during appointment in accordance with the provisions of Art. 5 of this Convention, in the conditions of deprivation of liberty or during the conditional release;

b) for any military service, or in the event that a person refuses, on the grounds of personal convictions, in the countries where such refusal is recognized, the service required in lieu of compulsory military service;

c) to any service required in the event of an emergency or natural disaster that threatens the life or well-being of society;

d) for any work or service that is part of ordinary civil duties [2, p. 216].

As can be seen from the contents of Art. 4 of the European Convention contains 4 different terms: slavery, servitude, compulsory or compulsory labor, the concept which does not give rise, which causes certain difficulties in practice.

In Art. 1 of the Slavery Convention of September 25, 1926, the concept is given only to «slavery» and «slave trade». So:

- slavery refers to the position or state of a person in respect of which some or all of the powers inherent in property rights are exercised;

- under the slave trade are understood as «any actions related to the seizure, the acquisition of any person or the order of her in order to bring her into slavery; any actions related to the acquisition of a slave for the purpose of selling or exchanging it; any actions for assignment through the sale or exchange of a slave acquired for this purpose, and in general any act related to the trade or transportation of slave persons «[3].

Similar concepts of «slavery» and «slave trade» are given in Art. 7 of the Additional Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices of Slavery-Like [4].

The decisions of the European Court do not contain the definition of «slavery», «servile status», «forced» or «compulsory» labor. To understand the notion of slavery as a guideline for the European Court, the definitions contained in the above-mentioned international legal acts serve.

Judicial practice of the European Court under Art. 4 of the European Convention is small, and therefore the cases examined by them do not give an opportunity to draw conclusions about some precedents in this category of cases.

The Constitution, like other normative acts of Ukraine, also does not contain the definition of «slavery», «servile status», «forced» or «compulsory» labor. In the legislation of Ukraine there is no specific law of law, which would coincide with the content and essence of art. 4 of the European Convention. Part 3 of Art. 43 of the Constitution of Ukraine stipulates that the use of forced labor is prohibited. Military or alternative (non-military) service, as well as work or service, which is performed by a person by a judgment or other court decision or in accordance with laws on military and state of emergency, is not considered to be compulsory labor.

Under Art. 4 of the European Convention fall under Art. 149 of the Criminal Code «Trafficking in persons or other unlawful human rights», art. 150 of the «Exploitation of Children», as well as Art. 150-1 CC «Use of a young child for begging».

The above-mentioned articles of the Criminal Code of Ukraine also do not give the notion of the terms «slavery», «servile state», «forced» or «compulsory» labor. In addition, comparing the disposition of Art. 4 of the European Convention on the above-mentioned norms of the Criminal Code of Ukraine, it is not difficult to conclude that their content and terminology do not coincide. Therefore, to eliminate the differences between the European Convention and Art. Art. 149, 150, 150 - 1 of the Criminal Code of Ukraine should be supplemented with the following content: «Slavery» is a form of exploitation in which the worker is the owner of the owner (the slave owner). Slavery represents the possession, use or disposal of man as a thing.

The prohibition of slavery extends to institutions and customs similar to slavery: debt bondage, exploitation of children and forced forms of marriage. Forced labor - is labor (rendering of services), carried out involuntarily and under the threat of punishment. Forced labor does not include: - work, the performance of which is stipulated by the law on military duty and military service or its alternative civil service; work performed in extreme circumstances.

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CRIMINAL LEGAL DESCRIPTION OF CRIME BRIBING A VOTER

The place of electoral rights in the system of human rights and freedoms and in the system of the Special part of the Criminal Code of Ukraine has the content of solving the problem of determining the place of electoral rights in the system of human rights and freedoms, which, by its very nature, is a problem of constitutional law and the theory of human rights, with at least two problems that are purely criminal. The bribing of the voter was interpreted in the same way as the previous position - the rejection of a person by providing, proposing or promising remuneration of the material nature (money, material assets or services) to commit certain acts or to abstain from them (inactivity).

Important attention should be paid to the objective side of the crime.

The objective side of the crime has 3 elements:

1. Adoption of a proposal, promise or receipt by a voter, a referendum party for himself or a third person of unlawful benefit for committing or not committing any actions related to the direct realization of his or her voting rights or voting rights (refusal to vote, vote on a polling station (referendum polling station) more than once, voting for an individual candidate in the elections or refusal of such a vote, the transfer of the ballot paper (ballot for voting in a referendum) to another person), regardless of actual expression of will of the people and the results.

2. Proposals, promises or giving to the voter or a referendum participant the unlawful benefit for committing or not committing any actions related to the direct realization of his or her right to vote or to vote in a referendum (refusal to vote, polling in the polling station (referendum polling stations) more than once, voting for a separate candidate in the elections, candidates from a political party, local party organization or refusal of such a vote, transfer of the election ballot to another person).

3. Implementation of election campaigning (propaganda of a referendum) by providing enterprises, institutions, organizations of unlawful profit or provision of goods free of charge (except for goods containing visual representations of the name, symbolism, flag of a political party, the value of which does not exceed the amount established by the legislation), works, services.

There are measures of unlawful influence on citizens in order to prevent them from participating in a referendum, forcing them to participate in a referendum, or forcing citizens to express their will in relation to issues put to a referendum, etc. [1, p. 106].

In this case, the interference can be accomplished by: a) using of violence, b) deception, c) threats, d) bribery, e) other way.

On the objective side, bribery may be committed in the following alternative forms: 1) the adoption by a special subject of criminal responsibility for bribery of offers of unlawful benefit to himself or to a third person; 2) acceptance by a special subject of criminal responsibility for bribery of promise of unlawful benefit; 3) the receipt by a special subject of criminal liability for bribery of unlawful benefits for himself or for a third person; 4) a proposal to a special subject of criminal responsibility for bribing to give him (her) or a third party an unlawful benefit; 5) a promise to a special subject

of criminal responsibility for bribing to give him (her) or a third party an unlawful benefit; 6) providing a special subject of criminal liability for bribery of unlawful benefits to him personally or for a third person; 7) the request of the appropriate special subject of criminal responsibility for bribery to provide him or a third party with unlawful benefits [2].

One of the most prominent types of bribery is to take appropriate action in conjunction with extortion.

In this case, the above acts can be considered bribery only on condition that the special subject, in the interests of the person who proposes, promises, or renders unlawful benefit or in the interests of a third person, performs any act or refrains from committing it, using the provided to him (she) the authority of the official position, or the powers granted, or by using the position of the employee in the enterprise, in the institution or organization, or in connection with the directly relevant special subject of his or her right to vote or the right to participate in the referendum.

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LONG-TERM PAINTING OF WAVE

At the moment, in today's society, unlawful acts do not remain unnoticed. For each crime, the person who committed him is liable. The Institute of Penalties in the Criminal Law of Ukraine provides for various punishments and their types. Art. 50 of the CC explains that punishment is a measure of coercion, which is applied on behalf of the state by a court order to a person convicted of committing a crime, and

consists in limiting the rights and freedoms of the convicted person provided for by law. The purpose of the punishment is not only to punish, but also to correct the convicts, as well as to prevent the commission of new crimes, both convicted and other persons.

Article 51 of the Criminal Code states that the following types of punishment may be applied to the persons found guilty of a crime: a fine; deprivation of a military, special rank, rank, rank or qualification class; deprivation of the right to occupy certain positions or engage in certain activities; public works; corrective work; service restrictions for servicemen; confiscation of property; arrest; restriction of freedom; holding in a disciplinary battalion of servicemen; deprivation of liberty for a certain period; life imprisonment. I propose to focus on the analysis of this type of punishment as life imprisonment. After all, as of September 1, 2016 in Ukraine 1,552 people are serving sentences in the form of life imprisonment [3, p. 1]. Art. 54 of the Criminal Code determines that life imprisonment is established for the commission of particularly grave crimes and applies only in cases specifically foreseen by the Criminal Code, if the court does not consider it possible to impose a term of imprisonment for a certain period. Life imprisonment does not apply to persons who commit crimes under the age of 18 years and to persons over the age of 65 years, as well as to women who were pregnant during the commission of a crime or at the time of the sentence, stipulated by part four of Article 68 of the Criminal Code, which states that life imprisonment for preparing a crime and committing an assault on a crime shall not be applied except in cases of crimes against the bases of national security of Ukraine provided for in articles 109-114-1 against peace and security human beings and international law envisaged in Articles 437-439, part one of Article 442 and Article 443 of the Criminal Code.

Life imprisonment is the most severe of all types of basic punishment that has replaced the death penalty. This type of punishment is used by the court only when it is indicated in the sanctions of the article (partial articles) of the Special Part of the Criminal Code. As already noted, this punishment is imposed only for the commission of particularly grave crimes. The concept of such crimes is disclosed in part five of Article 12 of the Criminal Code: a particularly serious crime is a crime for which basic punishment is

provided for in the form of a fine in excess of twenty five thousand tax-free minimum incomes, imprisonment for a term of more than ten years, or life imprisonment . These are, for example, crimes defined in the Criminal Code in articles 115 (intentional murder), 258 (terrorist act), 348 (encroachment on the life of a law enforcement officer, member of a public formation for the protection of public order and a state border or a serviceman), 379 (encroachment on the life of a judge, people's assessor or jury in connection with their activities related to the administration of justice), 400 (encroachment on the life of a lawyer or a representative of a person in connection with activities related to the provision of legal assistance), 404 (resistance to the boss or accept 438 (violation of the laws and customs of the war), 439 (use of weapons of mass destruction), 442 (genocide), 443 (encroachment on the representative of a foreign state).

Sentenced to life imprisonment, men are punished in correctional colonies of maximum security and in the highest security levels in mid-level correctional colonies, and women in mid-level security sectors of correctional colonies of a minimum safety standard. Convicted persons shall be kept separate from convicts serving sentences in the form of deprivation of liberty for a specified period in such colonies. The convicts are placed in the rooms of the chamber type and wear special-purpose clothing. They are involved in work only in the territory of the colony, taking into account the requirements for their holding in the rooms of the chamber type.

According to Art. 70 Criminal Code in Ukraine, when sentencing, life imprisonment absorbs all other types of punishment. A person serving sentences in the form of life imprisonment, an escape from a place of deprivation of liberty or custody is subject to criminal liability under Article 393 of Criminal Code.

The amnesty law sentenced to life imprisonment may be punished by deprivation of liberty for a certain period of time (Article 85, part 3, Article 86 of the Criminal Code). The act of pardon may be replaced by a sentenced person sentenced by the court in the form of life imprisonment for a term of at least twenty-five years (Article 87 of the Criminal Code).

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CONCERNING THE ISSUE OF THE CRIMINALIZATION OF GOODS SMUGGLING UNDER THE CURRENT CONDITIONS OF THE DEVELOPMENT OF CRIME IN UKRAINE

According to Article 201 of the Criminal Code of Ukraine (hereinafter – the CCU) smuggling is the movement through the customs border of Ukraine outside the customs control or with the concealment from customs control of cultural property, poisonous, strong, explosive substances, radioactive materials, weapons or ammunition (except for smooth-bore hunting weapons or ammunition for it), parts of the fire rifle weapon, as well as special technical means of secretly receiving information. For this Article 201 of the CCU provides for punishment in the form: for Part 1 of this Article – imprisonment for a term of three to seven years; Part 2 – imprisonment for a term of five to twelve years with the confiscation of property (if contraband was committed by a group of persons under a previous conspiracy or by a person previously convicted for a crime envisaged by this Article, or an official using the official position). This crime is recognized as an offense in the sphere of economic activity, while its item is not considered: 1) goods in large quantities (for example, cigarettes, alcoholic beverages, vehicles, currency values, electric, thermal and other types of energy, etc.), which are excluded from the list the items of smuggling took place on the basis of the Law of Ukraine «On Amending Certain Legislative Acts of Ukraine regarding the Humanization of Responsibility for Offenses in

the Sphere of Economic Activity» of November 15, 2011 No. 4025-VI; 2) narcotic drugs, psychotropic substances, their counterparts or precursors or counterfeit medicines (their movement through the customs border of Ukraine outside the customs control or with concealment from customs control forms the composition of the crime, stipulated by Article 305 of the CCU «Smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or counterfeit medicines») [1].

However, according to our belief, the current state of crime in Ukraine is extremely relevant to consideration of the issue of renewal of criminal responsibility for smuggling goods in large quantities. Cigarette smuggling is particularly indicative in this respect. According to a study by KPMG, Ukraine continues to rank first in the ranking of source countries for import of smuggled cigarettes into the EU (more than 4.8 billion smuggled cigarettes come from Ukraine, accounting for almost 11% of the total smuggling to EU countries and over 1 billion euro budgetary losses of the EU) [2]. Thus, the total losses of the Consolidated Budget of Ukraine from the smuggling of tobacco products are estimated at about 1.5 billion UAH [3]. All this gives grounds for asserting that the decriminalization of smuggling of goods in large quantities did not have a positive effect, it is impossible to overcome it only by administrative measures (in particular, in accordance with Article 483 of the Customs Code of Ukraine, movements or actions aimed at the movement of goods across the customs border of Ukraine with concealment from customs control entails the imposition of a fine of 100 % of the value of goods – direct items of violation of customs rules with the confiscation of these goods, and the commission of such actions by a person who during the year was brought to responsibility for the commission of an offense provided for in this Article or Article 482 of the Code – entails a fine of 200 % of the value of goods – direct items of violation of customs rules on confiscation of the goods), and therefore should restore criminal penalties for such actions.

Even in 2011, the authors of the monograph «Criminal Responsibility for Smuggling: National and International Experience» rightly argued that: firstly, smuggling of goods causes direct economic losses to the state related to non-payment of customs duties and other taxes (payments); secondly, there are the most dense links between the

object and the item of smuggling; thirdly, it is necessary to keep an indication in Article 201 of the CCU for goods in large quantities (if their value is one thousand or more times exceeds the non-taxable minimum income of citizens) as an items of smuggling (punishment for this should be the imprisonment for a term of three to five years with the forfeiture of smuggling items); fourthly, qualifying signs of smuggling should recognize the commission of actions provided for in Part 1 of Article 201 of the CCU, repeatedly or at the prior conspiracy of a group of persons, or with the use of violence that is not dangerous to the victim's life or health or the threat of the use of such violence, and also if the items of these actions were irrespective of their size cultural values or strategically important commodities, for which legislation establishes appropriate rules for moving across the customs border of Ukraine (they must be punishable by imprisonment for a term of four to seven years with the forfeiture of smuggling items); fifthly, especially the qualifying signs of smuggling, the actions provided for in Paragraphs 1 or 2 of this Article should be recognized if they are committed by an organized group or by the use of violence that is dangerous to the victim's life or health or the threat of such violence, or through a breakthrough of the customs border, or an official using his official position (they must be punished by imprisonment for a term of seven to twelve years with forfeiture of smuggling items and confiscation of property, and from deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years) [4, p. 45, 49, 270].

In recent years, the Ukrainian legislator has tried to correct the mistakes made by him regarding the decriminalization of the smuggling of goods in large quantities in 2011, and a number of draft laws were registered in the Verkhovna Rada of Ukraine. For example, in the draft Law of Ukraine of May 14, 2015, No. 2840 it was proposed: 1) Part 1 of Article 201 of the CCU after the words «... with concealment from customs control» add the words «... excise and counterfeit goods (products) in large quantities;»; 2) supplement Article 201 of the CCU a Note with the following contents: «N o t e. The smuggling of excisable and counterfeit goods (products) is considered to be committed in large quantities if their value is two hundred and fifty times higher than the non-taxable minimum income of citizens.» [5].

In another draft Law of Ukraine (No. 3254 of October 7, 2015) it was proposed to smuggle the movement across the customs border of Ukraine outside the customs control or with the concealment from the customs control of exclusively alcoholic beverages, tobacco products committed in substantial amounts (must exceed a hundred times or more non-taxable minimum incomes of citizens). It was proposed to consider the qualified and especially qualified compositions of smuggling the committing it in large (one thousand times or more than the level of non-taxable minimum incomes of citizens) and especially large amounts (five thousand times or more than the level of non-taxable minimum incomes of citizens) respectively. Part 2 of this Article was proposed to be considered as Part 5 and to read as follows: «Acts envisaged by Parts One, Two, Three or Four of this Article, committed by prior conspiracy by a group of persons or a person previously convicted for a crime envisaged by this Article, or an official using the official position». The maximum penalty for smuggling should be the imprisonment for a term of five to fifteen years with the forfeiture of smuggling items and confiscation of property, as well as the confiscation of goods, vehicles with specially manufactured storage facilities (caches) used for the transfer through customs the border of Ukraine outside the customs control or with the concealment of smuggling from the customs control [6].

Draft Law of Ukraine of March 29, 2016, No. 4327 proposed to criminalize the smuggling of excisable goods in a separate article, and therefore to supplement the CCU by Article 201-1 of the following: «Movement through the customs border of Ukraine outside the customs control or with the concealment of the customs control of excisable goods». In the main composition of the crime, responsibility should come for commission such actions in large quantities (Part 1), and in the case of a qualified composition of the crime – for the commission of such actions concerning excisable goods in especially large amounts, or by a prior conspiracy by a group of persons, or by a person previously convicted for a crime envisaged by this Article, or an official using the official position (Part 2). Under the large quantities of excisable goods it should be understood their value, which is five hundred times and more exceeds the non-taxable minimum income of citizens; under an especially large amounts of

excisable goods should be understood as their value, which is one thousand times and more exceeds the non-taxable minimum income of citizens [7].

Another proof that the legislator should return to the criminalization of smuggling are the important steps made by him in 2018 to establish criminal responsibility for the transfer of specific goods – timber products (Article 201-1 of the CCU «Movement through the customs border of Ukraine outside customs control or with concealment from the customs control of timber or lumber of valuable and rare breeds of trees, unprocessed timber, as well as other timber products banned for export outside the customs territory of Ukraine») [1].

In any case, the problem of smuggling and trafficking in tobacco products is public because such actions contribute to the spread of the tobacco epidemic, which has dangerous consequences for public health, affect the efficiency of state customs and tax policy, create conditions for the development of the shadow» economy and corruption, undermine the image of Ukraine on the international scene, can be a source of financing for organized crime and terrorism, etc. It is no coincidence that the Cabinet of Ministers of Ukraine in 2017 defined its main directions in the Strategy for combating the illicit production and circulation of tobacco products for the period up to 2021: a) a clear distinction between criminal and administrative responsibility for the commission of offenses in the sphere illicit manufacture and circulation of tobacco products, unification of the conceptual apparatus used in the legislation on criminal responsibility and legislation on administrative offenses; b) introduction of criminal responsibility for the illegal movement of tobacco products across the customs border of Ukraine [8].

In this approach, in the near future, serious changes to the CCU should be expected in terms of the criminalization of smuggling of goods, which inevitably should affect the reduction of crime in Ukraine.

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A WOMAN AS A SUBJECT OF CRIME IN ARTICLE 117 «MURDER OF THE MOTHER OF A NEWBORN CHILD»

Woman ... Charming, gentle creature. They are worshiped and taught, but everywhere it always remains a mystery. Unfortunately, at this moment, the role of a woman in modern society is somewhat distorted.

The preconditions for this were created by many generations of previous centuries when a woman was considered a person of a lower level, without the right to vote and without the right to self-fulfillment. Today, a woman has all the rights and freedoms, like a man, and, unfortunately, in some social spheres, «ahead of» a strong half of mankind.

Today, the state of female crime is largely an indicator of the moral health of society, an indicator of its spirituality, its attitude to the basic human values.

Women's crime today is a very important problem in society. Despite the fact that this type of crime in any country does not have a dominant character, its indicators affect the social morality and attitude towards the fundamental values.

Although the Criminal Code of Ukraine (hereinafter - the Criminal Code) provides only one crime (Article 117 «Murder of the mother of a newborn child»), a special subject of which is a woman.

Considering such a specific type of murder, we can say that the specific characteristics of the murderer still do not exist, with the change of moral values, the behavior of such persons changes. If to analyze judicial practice, this characteristic follows. The overwhelming majority - young women under 25, more than half are not married, give birth to children for the first time, in most cases from accidental or first sexual intercourse. Very worried about an out-of-wedlock pregnancy, hiding from others. Shame and horror in front of parents or relatives, in most cases, control the killer's actions.

The subject of such crimes is, as a rule, a woman abusing alcohol, drugs, etc. If, however, the will to establish the consequences

of the willful form of guilt, the actions of the guilty should be qualified as a deliberate murder or attempted assassination. However, the subject of a crime provided for in Art. 117 of the Criminal Code, the mother, who is in a special condition of a psychophysical condition conditioned by childbirth, stands. The state of pregnant women during childbirth or immediately after childbirth is characterized as a psychopathic
disorder (postpartum psychosis), which appears due to abnormalities in the nature of man and is conditioned by the peculiarities of the nervous system and the psychophysical constitution.

Investigation of women who have committed unlawful actions in the postpartum period showed that regardless of the nature of mental disorders in the postpartum period, they have certain general clinical signs due to the peculiarities of violations associated with pregnancy and childbirth, which are found in the acute emergence of mental disorders. These include the presence in the clinical picture of the psychosis of the symptoms of the darkness of consciousness, affecting disorders and phenomena of asthenia. Also, in addition to the psychopathic factors of childbirth, it is necessary to take into account the influence of specific physiological factors due to pregnancy and the postpartum period.

The subjective part of the crime provided for in art. 117 of the Criminal Code, characterized by intentional form of guilt, namely direct or indirect intent. This indicates that the mother-in-law is aware of the socially dangerous nature of her actions during the commission of the murder and assumes the occurrence of harmful consequences (death of the child) as a result of her actions and wishes for the onset of these consequences or not, but deliberately permits their onset.

However, the psychological attitude of the person to both his actions and their consequences in the commission of this crime is characterized by certain psychophysical features of the state of a woman-woman:

- firstly, his behavior is due to the combination of emotional stress caused by pregnancy and childbirth and the mental processes that accompanied them (family conflicts, marital betrayal, social and material state);
- secondly, the presence of a temporary mental disorder that weakens the ability of the mother to realize and manage their actions.

Consequently, the main reason for recognizing this crime as a murder under mitigating circumstances is the particular mental and physical condition of a woman during or immediately after birth, which weakens her ability to govern her actions. Why sometimes there is a woman during childbirth or immediately after them this painful condition, science is not exactly known.Only some of the favorable factors and clinical manifestations are clear: symptoms of darkened consciousness, affective disturbances - rage, anger, fear or depression, delusional statements, hallucinations, etc. The woman is excited, she is bustling, screams, and feels lethal anxiety. In this period, a woman often crips or kills her newborn baby, and then tries to put her hands on herself. Forensic psychiatrists in such cases give an opinion on the insanity of a woman at the time of criminal action. Mental disorders in the postpartum period are a team of psychoses that are characterized by a variety of clinical manifestations. Often, they merge into a general pestilent picture by only one factor of childbirth. This psychosis in most cases, as a rule, has an absolutely benign course - it occurs acutely, directly chronologically associated with the factor of labor, short-term. A woman who has undergone such a psychosis is not mentally ill. Almost all women who tried to kill or killed their newborn baby were completely healthy mentally, but committed their actions in a temporarily morbid condition.

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CRIMINOLOGICAL TERMINOLOGY IN UKRAINIAN DIMENSION

Global problems of the nature of crime and its prevention were reflected and developed in the works of famous foreign and Ukrainian scientists who formed the main criminological theories and identified ways of criminological science development for a long time.

The notion of crime was determined by such well-known Ukrainian criminologists as Volodymyr Golina, Ivan Danshin, Viktor Dromin, Anatolii Zakalyuk, Anatolii Zelinsky, Oleksandr Kostenko, Igor Lanovenko and others. Mostly they were of the opinion that crime is a social phenomenon. In particular, criminality was seen as

such. This understanding was first substantiated by Mykhailo Gernet. He proceeded from the fact that crime is a feature of society, which naturally generates separate crimes, but does not contain relevant features, and is not about crime, but about its causes, factors.

By the early 30's of the twentieth century two approaches to the definition of crime were formed in Soviet-era criminology – social and biological. However, gradually this concept acquired an ideological content; crime was defined as a temporary social phenomenon, doomed to disappear, and criminological science was recognized as bourgeois and practically ceased to exist. In the early 60's of the twentieth century, under the influence of decisions of the UN congresses on crime prevention and treatment of offenders a revival of criminological science in Ukraine began and first attempts to study crime through the prism of international legal practice were made. Criminality was defined as a set of crimes committed in a certain territory for a certain period of time. At the same time, doubts about the completeness and objectivity of the statistical approach to the concept of crime were expressed. So, in the first Soviet textbook on criminology, Oleksii Herzenzon defined crime as a set of crimes committed in a certain period of time in a given society. In the subsequent editions of this textbook, the definition was changed to a "collective, class-defined, historically transitional social phenomenon, manifested in the aggregate of acts recognized as socially dangerous and punishable in this society at this time". However, this concept was influenced by ideological burden and, to some extent, contradicted the established views on crime that existed in international legal practice. A designation by Nataliia Kuznetsova in 1969 – the concept of crime as "relatively massive, historically changing social, having a criminal law character, the phenomenon of class society, which consists of the totality of crimes committed in a particular state in a certain period of time" [1] – was not quite original too.

Crime is a form of deviation from norm. Belgian lawyer A. Prince at the end of the XIX century considered humanity as a huge body and defined crime as one of the forms of deviations from the normal activities of this organism. According to him, crime comes from the very elements of mankind, it is not transcendent, but immanent; a certain degeneration of a social organism could be seen in it. Crime as deviations and deviant behavior is also characterized

such researchers as Georgii Avanesov, Yurii Antonyan, Anatolii Dolgov, Ivan Karpets etc.

It is also possible to consider crime as a system entity that forms structures quite stable in their purpose, ways of functioning, specifics of the organization. Their integral features are closed, "shadow" character of interaction, multivariate possibilities and high degree of uncertainty of self-development of criminogenic processes and trends, multifactority and multilevelness of mechanisms of social determination of growth indicators, active influence on non-criminalized social space, presence of criminogenic changes in social and individual consciousness. The components of this system are in a steady, dynamic relationship. Such components are specific types of crimes.

In our opinion, crime is generated by social phenomena and processes, manifested in the scale of the whole society, most fully reveals itself through a mass of crimes. The main, most significant feature of crime is a set of crimes, their repeatability. In criminological science and practice, the term "crime" is also used to denote a set of crimes of one or more species of a mass character and regularly repeated in a country or in a particular region over a period of time [2]. If a single crime, such as fraud, has become widespread, we are not talking about crime, but only about a widespread fraud. But if there is a mass burglaries, robberies, murders, etc., all this is repeated – this is already a crime. Consequently, it will not be correct to assert that crime is a social phenomenon. This is a set of social phenomena, but the sum of phenomena does not create a new phenomenon. Criminality existed at all times. There were always people who were dissatisfied with their position, those who sought to change it, using ways condemned by their contemporaries, regardless of the existence of written laws. Murder, injury, theft, robbery, robbery, rape, violation of the established order of management could be called the eternal crimes. Crime' level and character in different socio-economic conditions and in different countries substantially correlates with the concrete circumstances of life of members of society. With the change of society, crime also varies. The criminalization and decriminalization of certain types of encroachments on the rights and interests of certain categories of persons is determined by the emergence of new social relations, as well as need of society in their

protection. Criminality is inseparable from human society. It is impossible to imagine a society which development would not be accompanied by unlawful acts, because coexistence of individuals and social groups is practically impossible without conflicts.

In my opinion, crime is an integral part of the relationship between people that accompanies society at all stages of its development and reflects separate individuals' behavior that is taken as crimes by other members of society.

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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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DOMESTIC VIOLENCE CRIME AND UKRAINE STATISTICS

Nearly half of Ukrainian population suffered from domestic violence in their lives, and 30% were subjected to violence in their childhood age. Women more often suffer from domestic violence in their adult life, while men – in their childhood, as a new public poll suggests.

The survey looked at violence in Ukrainian families, with its scope and in-depth analysis being conducted for the first time over the past 10 years in Ukraine. The poll was carried out by GfK Ukraine and commissioned by «Equal Opportunities and Women's Rights in Ukraine Programme», a joint project of the European Union and UN Development Programme in Ukraine.

«The problem of violence in the family is a pressing matter within Ukrainian society. We hope that the results of the opinion poll will draw attention of officials, journalists and of the civil society to this issue. As with their help, it will be possible to develop efficient tools to prevent and overcome this horrendous phenomenon," said UNDP Country Director Ricarda Rieger at the presentation of the survey results.

Head of Operations / Co-ordinator for Cooperation of the Delegation of European Union to Ukraine Laura Garagnani said that EU-led actions focused on reminding States of their dual responsibility to prevent and respond to home violence and violence against women and children.

«I do believe that the financial support European Union has provided to Programmes focused on women's and children's protection will encourage Ukrainian Government to put in place prevention strategies and strategies for the protection and support of victims of violence at all levels (local, national, regional), and in all

sectors of society, in particular by politicians, the public and private sectors, civil society and the media,» she said.

«The aim of the survey was to assess the extent to which violence exists in Ukrainian families and to identify the most affected population groups, to demonstrate public attitudes towards this type of violence», explained InnaVolosevich, GfK Ukraine Senior Manager for Social and Political Surveys.

An additional task of the survey was to assess the level of public trust in the institutions that provide assistance in domestic violence cases, in particular, bodies of interior affairs, shelters, social service and crisis centres, hospitals, and courts. The survey also exposed certain facts of violence comitted against elderly people, widows/widowers, and disabled people.

Domestic violence – whether physical, economic, sexual or psychological – is one of the most serious violations of human rights, the right to life and physical/psychological inviolability. Safety and equal treatment of women, which constitute the foundation of human rights, must become key conditions and minimum standards for all countries, especially those that already are or striving to become worthy EU members, as experts argue.

Men's violence against women had always been regarded as 'private family matter', which only concerned women to a certain degree, and it is only over the last 40 years that this problem has been discussed as a problem of society as a whole, since violence concerns not only women who suffer from it, but society in general. It also concerns children who become victims or witnesses of violence.

The main facts uncovered as a result of the survey include the fact that44% of Ukrainians suffered from domestic violence in their lives, 30%suffered from violence in their childhood. Almost half of the people who suffered from violence in their childhood also had to face it in their adulthood.

In addition, the experts highlighted the following findings:

Women more often faced domestic violence in their adult lives (33% versus 23% of men), whereas men more often faced it in their childhood (34% versus 27% of women).

35% of Ukrainians suffered from psychological violence (most often – continuous humiliation and controlling behaviour), 21% - from physical violence (beatings, locking up, tying up, standing

without movement), 17% - from economic violence (need to report even very small expenses, fraudulent appropriation or destruction of property), 1% - from sexual violence (rape).

Most victims cited alcoholic intoxication as the main cause of various violence situations.

Respondents most often suffered from psychological, physical and economic violence of the father or husband, less often – mother, and even less often - wife. Sexual violence was most often committed by men against their wives.

About 75% of victims of different types of violence never asked for help, others mostly turned to their relatives.

Only 10% of victims of physical violence sought assistance from bodies of interior affairs. 47% of all the respondents believe that physical violence must be reported to the police, 45% trust the police.

52% of respondents trust psychological services, 46% - NGOs that combat violence and help victims, 40% - state social services, but only 1-2% of victims of domestic violence sought assistance from these organizations.

In 2009, 7% of Ukrainians suffered from domestic violence, most often in Kyiv and Northern regions, villages, young people under 30, without a higher education. Moreover, accordingly to the research, violence is equally present in rich and poor families, but victims of violence more often are not breadwinners in their families.

The survey was administered in November-December 2009 based on a nationally representative sample and covered 1,800 respondents aged 18 and older.

Annually over 1,1 million Ukrainian women suffer from physical, sexual or emotional violence in their families. However, only every tenth one seeks help. What about the rest? There are a few reasons why women do not disclose violence against them. Firstly, there are traditional Ukrainian beliefs that beating means loving; that inner conflicts should not be shared with others; that it’s a widespread practice, thus, there is no need to make a deal out of it. Secondly, many women do not know where to get help. Thirdly, they do not trust those services who provide such help. After all, victims often do not identify themselves as victims. For example, when they are constantly accused, controlled or forced not to work.

A year ago the Law "On Prevention and Counteraction to Domestic Violence" was adopted in Ukraine. In the beginning of 2019 domestic violence will be criminalized. The Law foresees a number of services for domestic violence victims as well as guarantees the inevitability of punishment for offenders. All stakeholders in the field of prevention and counteraction to domestic violence coordinate their work to provide prompt assistance to those who need it.

The United Nations Population Fund (UNFPA) started working in this sphere at the beginning of military conflict in Donbas area. In cooperation with the Ministry of Social Policy of Ukraine and financial assistance of the governments of the United Kingdom, Canada and Estonia, UNFPA launched a program "Comprehensive Approach to Solving the Problem of Violence against Women and Girls in Ukraine". One of the program's aims is to make victims vocal, to make them aware that there are services to call to and receive effective assistance. The most important is to make such qualitative services available and accessible all around Ukraine.

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PRINCIPLE OF ACCURACY OF QUALIFICATION OF CRIMES

In the application of the norms of the Criminal Code of Ukraine (hereinafter – the Criminal Code) one of the most important stages is the qualification of crimes. During the qualification, it is established what exactly the crime committed by a person and what

norm of the Criminal Code establishes responsibility for him. Consequently, under the qualification of crimes should be understood as the establishment of full compliance of its features signs of the norm, which implies responsibility for committing this particular crime. Thus, the qualification of a crime consists in the search and establishment of an article (articles, parts or clauses of the article) of the Criminal Code, which provides for liability for a socially dangerous act committed.

The concept of qualification of crimes is used in the Criminal Code, the Criminal Procedure Code of Ukraine, in various branches of law and legal science, but its legislative definition does not exist, which is fairly criticized by scientists (V. Kuznetsov, V. Navrotsky, A. Savchenko and others) Similarly, the legislator does not define principles, rules (with some exceptions), structure, types, functions, stages of qualification of crimes.

Qualification of crimes is based on certain general provisions (principles). Knowledge of these principles is the key to success in scientific, theoretical and practical work. Principles of qualification of crimes are general principles, starting points, which should be guided by establishing the correspondence between the actual features of the offense and the features enshrined in the criminal law, when seeking articles of the criminal law, which provides for liability for the crime. On the basis of such principles, a choice of a criminal law that involves responsibility for a committed act is carried out, the necessity of applying this norm is established and the conclusion is made that the act is covered by the chosen norm. As noted earlier, the principles of qualification of crimes are not enshrined in the criminal law, therefore their types, system and contents reveal the theory of qualification of crimes. It is possible, based on the analysis of the norms of the Constitution of Ukraine, the criminal law provisions of the General and Special Parts of the Criminal Code, international legal acts, approved by our state, based on the generally accepted theoretical postulates and positions, which are followed by law enforcement practice, to establish which provisions are the principles of qualification of crimes. According to V. Kuznetsov the qualification of crimes should be carried out with the observance of the following principles: legality, officiality, objectivity, accuracy, individuality, completeness, resolution of controversial issues in favor of the person

whose actions qualify, the inadmissibility of double attitude to guilt, the stability of qualifications.

The requirement for the accuracy of qualifications was emphasized by many scholars, although for some time it was not considered an independent principle. Action is qualified under the article of the criminal law, which most accurately describes its features. In the event that the article of the criminal law, on which the act is qualified, is set forth in another version, the editorial office of the law applicable in the particular case shall also be indicated. Execution of qualification of crimes involves an indication of the article of a criminal law, and if the article contains parts or items, then the corresponding part or item. In formulating the charges, they indicate all the available evidence of the crime in question. If the normative legal acts of other branches of the law are analyzed (in the presence of blanket dispositions), an article, paragraph, paragraph, which provide for the perpetrated violation, should be determined, and the essence of which should be clarified, which will help in the formulation of the prosecution.

When qualifying for preparation for a crime or attempt on a crime, part of the article of the criminal law, which provides for the appropriate kind of preliminary criminal activity, is indicated. In the process of application of the norms of the Criminal Code arise questions of the correct qualification of unfinished crimes. In accordance with Article 16 of the Criminal Code, criminal liability for preparing for a crime and an attempt to commit an offense comes under article 14 or 15, and under the article of the Special Part of the Criminal Code, which provides for liability for a completed crime. In our opinion, one of the drawbacks of the present Criminal Code is the lack of rules for the classification of crimes provided by the legislator. Only some of the rules of skill developed by the theory of criminal law and judicial practice are enshrined in the law on criminal liability. Article 16 of the Criminal Code is one of the few rules that establish such rules, but its provisions require additional interpretation. There is no doubt that «according to Article 14 or 15, and under the article of the Special Part of the Criminal Code, which provides for responsibility for a completed crime,» the qualification of an unfinished crime can not be carried out. Articles 14, 15 and the vast majority of articles of the Special Part of the Criminal Code are

structured by the legislator. Articles on preparation and attempted crime consist of parts, as well as articles of the Special Part of the Criminal Code may consist of parts that provide for criminal law on liability for various degrees of gravity of separate completed crimes. Therefore, we believe that the content of Article 16 of the Criminal Code should be clarified. In the process of qualification of unfinished crimes, only Part 1 of Article 14 or paragraphs 2 or 3 of Article 15 of the Criminal Code and the relevant parts of articles or articles (if they consist only of one part) of the Special Part of the Criminal Code, which provide for liability for the corresponding completed crime, may be applied.

During the qualification of the crimes committed in complicity, a part of the article of the criminal law providing for the corresponding type of accomplice (Part 3-5 of Article 27 of the Criminal Code), other than the executor (co-executor), is indicated. In accordance with Part 1 of Art. 29 Criminal acts of the executor (co-executor) qualify only for the article of the Special Part of the Criminal Code, which provides for the crime committed by him. However, judicial practice does not always adhere to such a requirement of the legislator. For example, by the resolution of the Monastyrische district court of Cherkasy region dated April 6, 2011, it was established that the bodies of pre-trial investigation are accused of OSOBA_1 under Part 2 of Art. 27, part 3 of Art. 185 of the Criminal Code. Violations during pre-trial investigation are not established. There are no grounds for re-training the actions of the accused.

In the case of competition of articles of the criminal law, one of which contains a special norm and is intended to qualify certain acts, and the other - general (along with this act covers other acts), only a special rule applies. Simultaneous qualification under general and special rules is excluded, although there are exceptions to this rule. If an act is not covered by any of the special rules, then it qualifies as a general rule.

The accuracy of the qualification of crimes must be achieved irrespective of whether it affects the possible punishment or otherwise affects the criminal status of the person whose act is qualified.

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ECONOMIC VIOLENCE IN THE FAMILY

The problem of domestic violence is one of the most urgent issues for Ukrainian society. This is evidenced by data from both law enforcement agencies and non-governmental organizations. Thus, according to the law enforcement authorities of Ukraine, about 90 thousand people are registered in the family for the commission of violence in the family.

The data show that the problem of domestic violence is extremely acute in Ukraine. Therefore, the family, as a primary center of society, as well as a special social institution, needs comprehensive political, socio-economic, legal support and protection from the state.

According to Article 1 of the Law of Ukraine «On the Prevention of Domestic Violence», domestic violence is any deliberate physical, sexual, psychological or economic activity of one family member in relation to another family member, if these actions violate the constitutional rights and freedoms of a family member as a person and a citizen and cause him moral harm, damage to his physical or mental health [1]. This law determines, depending on the forms of violence, the four main types of domestic violence - physical, psychological, sexual and economic.

Economic violence in the family is the deliberate deprivation by one member of the family of another member of the family of housing, food, clothing and other property or funds to which the victim has a statutory right that may lead to his death, cause physical or mental disruption health. This type of violence may violate such rights and freedoms as the right to inviolability of housing, the right to entrepreneurial activity which is not prohibited by law, the right to work, the right of private property, etc.

Economic violence in the family is also varied by species and is manifested in a peculiar economic pressure on a family member. This is not only indicated in the definition of violations, but also other types of deprivation or restriction of labor and property rights. For

example, making money and financial decisions without the knowledge or consent of the victim; Spending an offender money solely on himself, refusing to provide money to pay bills, food, things for children, etc.; a direct prohibition on the victim working or continuing to study, and actions aimed at preventing her from working or studying; interference with the paid work of the victim; the requirement of detailed reports, as well as on what money is spent; giving the victim unjustifiably small amounts for maintenance, which in no way can pay even minimal expenses for themselves and their families; coercive victims to sign papers that restrict their access to finance or resources, or the issuing of loans on behalf of her, etc.

Economic violence in the family can be manifested in creating a situation where one family member is forced to systematically ask for money when they are in the family, for family retention or for their own purposes, for the involvement of minors in begging, inaccuracy or the destruction of the property of another member of the family or joint property, coercion or involvement in prostitution.

It should be noted that the act of domestic violence usually includes various combinations of gross physical and sexual behavior along with forms of psychological and economic abuse. Violence in the family can be considered by several vectors: 1. Spouses (husband - wife). For the most part, violence is carried out by a man, although there are opposing cases. 2. Parents - underage children. Violence can be done both by mother and father. In cases where the mother herself is a victim of violence, she can engage in negative, violent actions against her child as a compensatory mechanism for her humiliation by her husband.

So, domestic violence is a global problem in our country. The danger of such violence is that violent acts and brutality against family members destroy not only harmony and harmony in the family, but also act as one of the prerequisites for the emergence of crime at the social level.

Therefore, domestic violence is a problem that requires resolution at the level of not only the family, but also the state and non-governmental organizations. Indeed, the stability and development of the state and society as a whole depend on the physical and spiritual health and well-being of the family. In overcoming domestic violence as a global problem of humanity, it is

necessary to improve the system of domestic and international norms for the prevention and counteraction of domestic violence.

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COMPARATIVE ASPECT OF CRIMINAL RESPONSIBILITY FOR ACCESSION, RECEIVING, STORAGE OR ACQUISITION OF ANY LOSS ACCORDED TO INTERNATIONAL LEGISLATION

The cessation of the use of property acquired by criminal means is a criminal law measure, which prevents the executor from committing a predicate crime to commit a criminal property. A person, committing a mercenary crime, usually has the main purpose of enrichment. Therefore, there is a need to improve the national legislation aimed at preventing the free use of property acquired illegally.

Questions related to various aspects of counteraction to the acquisition, receipt, storage or sale of property obtained in a criminal way among domestic and foreign countries, M.A. Akimov, V.O. Belyaev, O.N. Krapivina, A.A. Liskin, V.A. Ilyichov, A.E. Milin, M.J. Korzhansky, M.I. Bazhanov, B.Y. Nagilenko, S.V. Ignatov, V.V. Stashis, V.Y. Taciy, M.I. Melnik, V.A. Klymenko, S. Berdyaga, I.V. Klynnchuk, A.V. Savchenko, O.V. Kryshevich, A.O. Dudorov, V.A. Kuznetsov, I. Pohrebnyak, V.G. Smirnov and others.

Russian legislation attributes this crime to the section «Crimes in the field of economic activity» (Article 175 of the Criminal Code, «Acquisition or sale of property knowingly gained in a criminal way»), and Art. 208 of the Criminal Code of the RSFSR in 1960 was attributed to crimes against public safety and public order. In Art. 175 of the Criminal Code there are no warehouses for the receipt and storage of property acquired by criminal means, and criminal liability is foreseen only for «the acquisition or sale of property knowingly acquired by criminal means» [7, p. 447-449]. The danger was that

such criminal activity was an incentive to commit new crimes and threatened the country's economy. The new legislation of the Russian Federation defines the acquisition or sale of property, knowingly acquired by criminal means, as a composition of a crime with a dual object: the proper functioning of the economic system of the country and public order. A special purpose is the sale of the said property [1, p. 313]. Public danger of an act on the acquisition or sale of property, deliberately acquired by criminal means, is to support criminal activity, to ensure its «utility». Therefore, the establishment of criminal liability for such actions, the legislator always strives to stop the turnover, both stolen property and property received in another criminal way, to prevent illegal enrichment through the promotion of criminal activity, and therefore - to reduce the profitability of crimes.

In the Criminal Code of the Republic of Belarus, the criminal acquisition or sale of property - art. 236 - attributed to crimes against the implementation of economic activity, that is, aimed at protecting the economic system of Belarus. In Art. 236 of the Criminal Code of the Republic of Belarus contains a similar moment with the disposition of Art. 198 of the Criminal Code of Ukraine − not only the acquisition and sale, but also the storage of property acquired by criminal means; and Art. 236 of the Criminal Code of the Republic of Belarus, as well as Art. 198 of the Criminal Code of Ukraine, contains a positive point: an indication of the lack of signs of legalization [3, p. 70].

The Criminal Code of France of July 22, 1992 refers to the concept of «criminal acquisition or sale of property» to the section «On encroachment on property». Chapter 1 of this section contains a list of acts that form an objective part of the crime: concealment, storage, transfer, as well as any use of the proceeds of crime, or the role of an intermediary for its transfer, if it is known that this thing is obtained as a result of a crime or guilt. Prior to the acquisition of property knowingly acquired by criminal means, also any use of the product of the crime or guilt, if known its origin [6, p. 101].

Like the Ukrainian legislation, the Criminal Law of Spain (1997), determines the occurrence of criminal liability only in the presence of knowledge of knowledge that it has been obtained by criminal means (Art.301 Section «Crimes against property and socio-

economic order», Chapter XIV «On the storage of stolen and similar crimes») [4, p. 94-97].

In the Criminal Law of the Federal Republic of Germany in 1871 (hereinafter referred to as the Federal Republic of Germany) (as amended on December 15, 1994), the criminal acquisition or sale of property refers to the concealment, namely: concealment of property acquired by criminal means [5, p. 129]. In the opinion of the German legislator, this crime infringes on the interests of justice. In paragraph 259 of the Criminal Code of the Federal Republic of Germany to the type of criminal activity include the acquisition, sale and promotion of sales. A distinctive feature is that property must be acquired illegally - not necessarily criminal. On this basis, we can conclude that the qualification of the crime in question does not matter, as a result of a violation of a normative act, the property was acquired.

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INTERNATIONAL DRUG TRAFFICKUNG AS A GLOBAL PROBLEM

Forty years ago, the world declared war on drugs. Today, after decades of failing to adequately control drug consumption, an even graver problem has emerged: violent drug traffickers have taken the industry hostage and will stop at nothing to preserve their power.

Governments have instituted dozens of programs to dismantle the illicit drug industry, but they have seen only marginal success. One strategy, however, has yet to be fully tested: universal legalization. Universal legalization of all drugs would attack the illicit drug market head-on, destroying the profit incentive for drug traffickers and placing control of the industry in the hands of national governments.

Every market begins with the demand for goods or service. The demand for drugs has existed for thousands of years, but the industry did not fully take flight until the 1960s. During the countercultural movements in the USA in the late 1960s, the previous social stigmatizations of drugs began to recede as the use of recreational drugs became more fashionable and representative of social rebellion [1]. This change was also felt in Western Europe where demand spread and then continued to steadily rise around the world [2]. International «entrepreneurs» seized the opportunity to meet the demand of this growing market, and worldwide drug production skyrocketed. Over the next forty years, the illicit drug market embraced economic globalization in the same way legitimate business did [3]. The significant reduction in transportation costs and reduced trade barriers enabled the industry to flourish into one of the largest in the world.

However, one important characteristic of the drug trade distinguishes it from other industries: drugs are illegal. Although this is fairly obvious, it is critical to highlight this aspect because it plays a vital role in the success of the industry. Virtually every country in the world criminalizes the consumption, production, and distribution of drugs like marijuana and cocaine [4]. The prohibition of drugs causes an underground black market to form. The inherent risk of incarceration from producing drugs effectively increases production costs because producers must take steps to avoid detection [5]. Today, the global market for illicit drugs nets over $500 billion annually. It is one of the top five largest industries in the world after the arms trade [6], accounting for at least 1% of the global economy [7]. There are over 200 million drug users worldwide, representing 3 % of the world population [8]. According to the United Nations annual World Drug Report, the United States consumes about twenty-five times more cocaine than Colombia, even though Colombia produces about fifty percent of the world's cocaine [9]. It should come as no surprise, then,

that the area between North and South America is one of the most heavily trafficked in the world. 90 % of all the cocaine that is imported into the United States passes through Mexico. One-third of all the marijuana in the United States comes from Mexico. It is estimated that anywhere from $8 to $24 billion of illicitly generated cash crosses the border from the United States to Mexico every year as a result of trafficking. Nevertheless, at least 104 separate countries are involved in some aspect of the process globally, whether it is production, distribution, or laundering profits. The illicit drug market is truly a global industry.

The illicit drug trade is a violent industry that took flight on the wings of prohibition and globalization. After a failed war on drugs and forty years of ineffective drug policies, something must be done to combat the growing drug trafficking problem and related violence. Universal legalization presents a viable solution to this dilemma. By attacking the market, rather than the market participants, the legalization framework can successfully end the violence in the industry and reallocate its profits away from criminals. Some problems may present themselves with this approach: drug consumption could increase, criminals could simply move to other industries, and universal acceptance could be unlikely in the short term. Additionally, there are still questions left unanswered: How much will consumption rise? How will individual nations fix their domestic drug problems? Will government regulation be enough? Should we really legalize everything at once? One thing is certain: there is a drug trafficking problem and that problem is not going away without decisive actions.

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NATIONAL LEGISLATION OF UKRAINE ON THE PROTECTION OF THE STATE SECRET AND INTERNATIONAL EXPERIENCE

Preserving state secrets is one of the main guarantees of the independence of each sovereign state, its inviolability and security. It is also an integral part of the security system, the main tool of the defense of the population against unlawful encroachments on vital interests. It is believed that the Ukrainian legislation in the sphere of state secrets protection differs considerably from the rather extensive system of normative legal acts on its protection and is allowed by strict sanctions for violating its storage or committing any crime in this area.

First, the main normative and legal acts that ensure the protection of state secrets in Ukraine are the Constitution of Ukraine, the Code of Administrative Offenses, the Criminal Code of Ukraine, the Laws of Ukraine «On Information», «On State Secrets», «On Access to Public Information» and so on.

Thus, the Ukrainian legislation states that the state secret is a kind of secret information that includes information in the field of defense, economy, science and technology, external relations, state security and law enforcement, the disclosure of which may harm the national security and which are recognized in order, established by the Law, are state secrets and are subject to state protection. [1] National legislation is characterized by a wide range of possibilities for protecting state interests in the field of securing state secrets, namely the application of appropriate sanctions. In particular, liability is stipulated for state betrayal in the form of espionage (part 1, Article 111), espionage (Article 114), disclosure of state secrets (Article 328), loss of documents containing state secrets (Article 329). This in turn proves that the greatest danger to the public is the loss of sensitive information, including its material carriers, the use of secret information in the manner prescribed by law and use for the achievement of criminal purposes. [2]

While securing the secrets of the United Kingdom is based on the law on state secrets of 1911, but has undergone necessary changes during this time. This act provides for criminal liability for the disclosure of information relating to security, intelligence, defense or international relations. But the state is obliged to prove that there is real harm, for example, to provide concrete data on the relaxation of military force. [3]

In the United States, state secrets are protected, as in individual departments, as well as in a number of regulations, ranging from law to instruction. A special position is taken by the 1985 US law on the punishment for the disclosure of classified information, which provides for a fine of $ 15 thousand or 3 years imprisonment, or these two types of punishment simultaneously. [3]

In Holland, for non-preservation of state secrets provided for by criminal law. In particular, the section on «Crimes against State Security» of the Dutch Penal Code contains four relevant articles. A criminal act is the provision or creation of access to classified information (Article 98) with appropriate qualifications. [4]

In the Republic of Belarus, the procedure for the use and protection of state secrets is determined by the Law on State Secrets, and responsibility for crimes in the sphere of state secrets is provided for in Chapter 32 of the Criminal Code «Crimes against the State»,

first of all, deliberate disclosure of state information and disclosure of state secrets from carelessness

The Criminal Code of Georgia provides for responsibility for the disclosure of state secrets (Article 320 of the Criminal Code) and violation of the procedure for observance of state secrets (Article 321 of the Criminal Code). [5]

Thus, we can conclude that each state puts its interests in ensuring the protection of state secrets, classified information at a very high level. In addition, any State shall use all methods of criminal law available to it to ensure that the national law provides for the proper handling of information that is secret and relevant to national security. Despite the fact that there is no single definition of crimes in the sphere of state secrets protection, the common aspects are the subject of a crime (state secret), the objective side (disclosure of information), and directly the subject of a crime (the circle of persons specified by law).

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CRITERIA OF THE PRESENCE OF SOCIAL DANGER AS AN OCCUPATION OF CRIME

Public danger is a key feature of the concept of crime. It plays an important role at all stages: from criminalization to individualization of criminal responsibility. All other features are

caused by public danger. The stumbling-stone of the whole theory of criminalization is the problem of the grounds of the criminal prohibition, those law-creating factors that determine the admissibility, the possibility and expediency of the recognition of a socially dangerous act criminal and punishable [1, p. 328]. So the next important issue, both for the legislator and for the law enforcement authorities, which needs to be resolved after the wording of the definition of «public danger as a feature of the concept of crime», is to determine the criteria for the existence of public danger.

Before determining the criteria for the presence of social danger should be differentiated: on the one hand - at the stage of law-making (as the main, determining criterion of criminalization); on the other hand, in the course of law enforcement. These are two sides of one phenomenon, which corelate both as abstract and concrete. The greatest value of the allocation of criteria for the presence or absence of social danger is precisely at the stage of criminalization. Formation of the law is a process that consists of two stages: the stage of the objectively determined social necessity in the corresponding legal regulation of relations and its reflection in the public consciousness, as well as the stage of law-making, that is, state activities, resulting in certain provisions through the law, through other sources receive the status of legal norms, are in the role of the rules of written law [2, p. 41].

Regarding the demarcation of crimes from other offenses at the stage of criminalization, a criminal offense can not be a distinctive feature, which helps to distinguish between crimes already at the stage of enforcement, nor a sanction imposed after an act has been recognized as a criminal offense. After all, sanctions are adequate or in some part inadequate reflection of public danger. They correlate with each other as a phenomenon and its reflection [3, p. 782]. So, as far as criminalization is concerned, the criteria for the legislator to clearly separate a criminal offense from a non-criminal one have not yet been developed.

Since the attribution of a certain socially dangerous act of a person to the category of crimes is the prerogative of the legislator, he is obliged to declare a criminal offense only of such an act that infringes on the most valuable objects, causes them significant harm and has the appropriate character and degree of social danger .

Public danger is a static category in the part of infringements which are always recognized and unambiguously recognized as inadmissible, and dynamic in terms of protection of objects whose social danger is changing with the development of social relations. In this regard, the criteria for the existence of a public danger will be constantly changing and, as a result, there will be a need for criminalization or decriminalization of certain acts. Thus, it is possible to determine the criteria only in relation to so-called static public danger.

The following criteria for the existence of a public danger at the stage of law-making are defined as follows: 1) according to the nature of social danger: an encroachment on life; health; sexual freedom and sexual integrity; the basis of national security; peace, human security and international law and order, etc .; 2) according to the degree of public danger: acts that cause physical or material damage in the amount and manner determined by the legislator; actions committed in a dangerous or violent way, etc.).

In general, when applying the criminal law in a particular situation, there is no need to determine the degree of social danger and there is no need to measure it in every case, since it is believed that a criminal offense is socially dangerous, as this has already been determined by the legislator, and the degree of such public danger is expressed in penal sanctions.

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TAX POLICY IN THE FINANCIAL CRIME PREVENTIONS

Nowadays the financial security of the state is influenced by many negative factors, one of which is a crime. There is an evidence of a significant phenomenon spread, as a result of which substantial damage is caused to the economy, preventing the state from effective functions performance and appropriate conditions for stable development and self-preservation creation. Financial crimes are characterized by a high level of latency, determining the complexity of detecting crimes committed in the financial sector and their preventive maintenance. At the same time, financial crime prevention is not a priority in law enforcement agencies' work. Although it has long been known crime is much easier to prevent than to further identify, document, disclose, investigate and compensate for the damage caused.

Studies of financial crime prevention in Ukraine on the modern stage of its development prove that it also includes the formation of a reasonable tax policy. It is the formation of such a tax system, which would be growth-oriented and income-generating for the state, provided the slightest grazing of market mechanisms. The rate of economic growth directly depends on the progressivity of tax policy, the reasonableness of its construction.

Today the optimal of use of fiscal instruments are taxes and government expenditures, and developed recommendations for improving the budgetary system, tax legislation, improvement of the

system of macroeconomic regulation, in particular in the implementation of fiscal policy.

Today is necessary to reform tax policy in Ukraine under conditions of European integration: to adapting national legislation to the EU requirements, the importance of balanced and rational tax policy, taking into account tendencies of development of economic system. These are the main directions of reforming the tax policy in Ukraine in the context of European aspirations, which, in our opinion, are of practical importance and should be taken be taken into account in the development of the Concept of fiscal policy of Ukraine and of the financial crime preventions. It is necessary to adapt domestic tax legislation to EU requirements as a process of developing and adopting regulatory legal acts and creating conditions for their correct application in order to gradually achieve full compliance of Ukrainian legislation with European legislation.

The modern Ukrainian tax policy should focus on building a stable and clear tax system, balancing the interests of the state and taxpayers. The strategic aspirations of Ukraine should be considered when implementing the state regulation of internal socio-economic processes. This process requires adjustment of the goals and objectives of the tax policy taking into account not only the current national fiscal sovereignty, but also the supranational interests of the EU, current trends of financial globalization and trends of financial crimes.

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NARCOMANIA AND TOXICOMANIA AS HARMFUL PHENOMENA TO PUBLIC HEALTH IN THE MODERN UKRAINE

Ukraine continues to maintain a negative criminal situation. This situation is characterized by the significant prevalence of drug addiction, an increase in the negative impact of drugs on health of Ukrainians. All these phenomena worsen the state of society's security, create anxiety and cause a sense of danger to citizens.

A significant number of crimes are committed because of the prevalence of drug abuse among our Ukrainians. People in the state of intoxication carry out hundreds of robbery and plundering. Tens of thousands of criminals have been convicted during the past decade for crimes related to the illicit trafficking of drugs, psychotropic substances and precursors.

Drug addiction has become the most widespread in the eastern regions of Ukraine (Dnipropetrovsk and Donetsk region) and in the Black Sea basin (Odessa, Kherson and Mykolayiv oblasts). It caused a deterioration of the crime situation in the identified regions.

The definition of drug addiction is formulated in Art. 1 of the Law of Ukraine «On Measures to Counteract the Illicit Traffic in Narcotic Drugs, Psychotropic Substances, Precursors and Abuse», according to which drug addiction is a mental disorder caused by dependence on a drug or a psychotropic substance as a result of misuse of this agent or substance. These substances are referred to drugs or psychotropic substances under the UN Conventions and the Drug Control Committee under the Ministry of Health and are characterized by the possibility of causing mental or physical dependence on them.

The facts of both drug abuse and the use of other substances that are not covered by definition of «drugs» have an increased public danger. Toxicomania has become epidemic over the past twenty years. Toxicomania is the inhalation of «volatile narcotic substances.» It has become particularly popular among children and adolescents. The average age of addicts is 8-15 years. If we look at the extent of the spread of substance abuse and the irreversible damage that it causes in the child's body and the psyche, then we can talk about the threat to the future of the nation. Drug intoxication occurs immediately after several breaths. It is practically impossible to determine the dose, because it depends on the drug itself, the depth of breath, respiratory delusions, and the concentration of vapors.

Criminal law provides for criminal liability for crimes with such dangerous objects as heavy substances and intoxicating agents. Strong substances - are the substances of synthetic or natural origin, including plants, with a dangerous effect on the human body, which can damage its health and life when taken for non-medical purposes.Intoxicating substancesare the ones that cause aintoxicating

effect that changes the psyche and human behavior and is not included in the list of narcotic, psychotropic, poisonous substances. Natural intoxicating means - are the substances from poisonous plants. Intoxicating chemical products - are toxic varnishes, paints, aerosols, etc. An offense is such an act as the inclining of minors to use theintoxicating substances (Article 324 of the Criminal Code of Ukraine).

Inclining means any act without the use of violence, which is aimed at arousing a child's desire or obtaining the consent to take intoxicating substances at least once. Inclining may be in a form of a request, suggestion, conditioning, persuasion to take the indicated means, promise of remuneration, or pressure on the victim due to the threat of refusal to continue friendly or close relationships and other actions.

For example, the Vinogradov district court of the Transcarpathian region dated 28 October 2010 convicted citizen S. who committed a crime in such circumstances. S. He invited to his home the minors A. and R. and by excite their desire to use intoxicating substances, suggested the use of inhalation glue «Moment-1», which, according to the conclusion of the forensic examination, contains toxic components that, which during inhalation could lead to a change in the psyche and human behavior, mental illness, severe poisoning and even death.

Actions of S. were qualified by the court under Art. 324 of the Criminal Code of Ukraine as inclining of juveniles to use intoxicating substances that are not drugs, psychotropic or their counterparts.

In all cases, the inclining to criminal acts is not connected with coercion. They mean persuading minors to make a decision to take an intoxicating agent by any means.

The situation described above means that the legislation of Ukraine should be amended with the concept of «toxicomania». The introduction of the legal use of the term «toxicomania» will make it possible to differentiate between objects of possible illicit treatment of substances and agents that could cause a morbid condition, with subsequent settlement of the issue of the attribution these items to drugs and the establishment of state control over their circulation

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THE EXPEDIENCY OF DECRIMINALIZING ILLEGAL ENRICHMENT

On February 26, 2019, the Constitutional Court of Ukraine declared the article on illegal enrichment (Article 386-2 of the CCU) unconstitutional and excluded it from the Criminal Code of Ukraine. This decision will entail such negative consequences as the closure of a large number of criminal proceedings against illicit enrichment, some high officials will receive the so-called «amnesty» and the like. But the main problem for Ukrainian citizens is that the decriminalization of this article throws the country back towards the European future.

Therefore, an updated article on illegal enrichment needs to be developed to improve criminal legislation on offenses in the field of official service.

It should be noted that the idea of the authors of the bill number 10110-2 looks quite objective and can make real qualitative changes. The idea itself is to render unlawful enrichment of the form of a continuing crime, that is to criminalize «Ownership, use of a person authorized to perform functions of the state or local self-government, assets of considerable size, the value of which significantly exceeds the income of a person derived from legal sources, the acquisition of ownership or transfer to any other person of such assets «. This idea is actively promoted by O. M. Kostenko, who considers the expedient disposition of the relevant article to be worded as follows: «Acting by a person authorized to perform state or local government functions, possession, use or disposal of assets in significant amounts that a person could not to acquire a lawful way, as well as possession, use or disposal of such assets, legalized through financial transactions or transactions to conceal illicit enrichment. [1]

Also, the opinion is stated in the bill number 10110-3. It consists in expanding the subject of the crime, in particular, it is proposed to mean assets or other property, income from them, as well as benefits, benefits, services or other benefits that are material or

monetary in nature (note 2 of Article 368-5 of the Criminal Code of Ukraine) [2].

The subject of the crime of the previous article on illegal enrichment (Article 368-2 of the Criminal Code of Ukraine) is precisely «assets of a considerable magnitude, the legitimacy of the grounds of which is not proved by evidence».

As follows from the disposition of Art. 368-2 of the CCU, the crime it has committed is always committed in relation to the relevant subject, and therefore belongs to the so-called substantive crimes. Proper understanding of the concept of the subject of crime in general and the investigated crime, in particular, is fundamental to criminal-law doctrine, law-making and legal practice.

In its scope, the notion of «assets», based on note 2 to Art. 368-2 CCU, includes cash, other property, as well as income from them. That is, in its quality, as a physical feature, the subject of the investigated composition of the crime has a property character.

The next type of assets as an object of illegal enrichment is referred to in the law as «other property», the concept of which is given in Art. 190 CCU and in international legal acts. Securities are a kind of thing (Article 177 of the Civil Code). The latter belong to the property (Article 190 of the Civil Code), which has a certain specificity. Thus, in the context of illegal enrichment, securities are covered by the term «other property».

Securities as a special kind of property may be subject to illegal enrichment. As capital, they bring incomes to owners, thereby, satisfy their needs. Accordingly, as things of the material world, securities can be acquired or transferred by the subject of the relevant social relations. In particular, criminal liability for unlawful enrichment occurs in the event of the acquisition or transfer of assets in the form of securities, in the absence of evidence of the legitimate grounds for acquiring them, regardless of whether the entity has received income or dividends from the sale of such securities. Since the very illegal process of obtaining securities is a violation of the procedure established by law for their acquisition of property. [3]

Regarding international experience, most European countries, as well as the United States, are still reluctant to criminalize the illegal enrichment as a separate criminal act. The reason for this is the violation of the principles of criminal justice and the constitutions of

many countries in the world regarding the presumption of innocence, the obligation to bring the accused to trial and the possibility not to testify against oneself.

The presumption of innocence as the fundamental principle covers the following requirements: investigation of a crime should not begin with the guilty assumption of a person; the fault of the person relying on the prosecution body (the burden of proof); the right of the accused to not testify against himself; The accused has the right to silence. Illegal enrichment automatically implies recognition of an official whose assets are significantly higher than official income, guilty.

But still there is an exception. For example, in the Criminal Code of Lithuania, where in Art. Article 189 of the Criminal Code stipulates: «who owned property of more than 500 MSL, knowing or possessing and able to know that these assets could not be acquired through legal income, shall be punishable by a fine, arrest or imprisonment for a term up to four years.»

So, despite the prevalence of recognizing the article about unlawful enrichment as unconstitutional, the one that violates the presumption of innocence, I believe that it should be in the Criminal Code of Ukraine: firstly, to improve the criminal law of our country in crimes in the field of official activity, which is one of the main conditions of Europe to Ukraine to increase the chances of joining the EU; and secondly, for the inevitability of criminal responsibility of high-ranking officials who were suspected of committing this crime.

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DETERMINATION OF THE SIZE OF MATERIAL DAMAGE DURING OFFICIAL NEGLIGENCE

In the vast majority of cases, the criminal law links the existence of a public danger to the act or omission of the offender of the envisaged Criminal Code of Ukraine with the nature of socially dangerous consequences, since such a sign is usually a criterion for distinguishing a crime from other types of unlawful conduct of disciplinary civil and administrative and administrative offenses and the fact of causing certain damage in the amount determined by law is a decisive sign of the objective side. A prerequisite for the presence of a criminal offense stipulated in Art. 367 of the Criminal Code of Ukraine is the infliction of substantial damage to the rights, freedoms and interests of individual citizens, or public or public interests, or the interests of legal persons, protected by law [1].

Significant damage is the violation of the rights and freedoms of man and citizen protected by the Constitution of Ukraine or other laws, the right to liberty and personal integrity and integrity of housing, election, labor, housing rights, etc., as well as undermining the authority and prestige of public authorities or local self-government bodies, violations of public security and public order, creating conditions and conditions. In resolving the question of whether the damage was significant, the number of injured citizens, the amount of moral damage or lost profit, etc., was taken into account, but the social aspect of such effects was based entirely on subjective evaluation criteria.

At the same time, the normative nature of the consequences should ensure accuracy in the interpretation of the criminal law when it is applied, since it defines the boundaries between socially dangerous consequences as signs of a crime and all other changes in the objective reality that arose as a result of the commission of a crime.

According to paragraph 3, the notes to Art. 364 of the Criminal Code of Ukraine in the old version, which existed before 04.06.2014, a significant harm in Art. 367 of the Criminal Code of Ukraine, if it is to cause material damage, it is considered a harm that is 100 times more than the non-taxable minimum income of citizens. That is, at that time, the legislator did not link the existence of material damage with the mere existence of material damage, and therefore the authorities of the pre-trial investigation substantiated the existence of such significant damage with: violation of the rights and freedoms of man and citizen protected by the Constitution or other laws (right to liberty and personal the inviolability and integrity of the home, election, labor, housing rights, etc.), undermining the authority and prestige of state authorities or local self-government bodies, violating public security and public order, an environment and conditions that impede the performance of the enterprise, the organization of its functions, concealment of crimes.

The concept of «substantial harm» as an obligatory feature of a part of official crime remains an appraisal category, and the question whether or not to recognize the harm caused by an official offense is substantial is decided on a case-by-case basis, taking into account the importance and extent of the disturbed interests, the degree of negative impact on the normal activities of enterprises and organizations, the number of victims of citizens, the severity of their property, physical and moral damage, and other factors (paragraph 4, paragraph 6 of the resolution of the Plenum of the Supreme Court «On judicial practice in cases of excess ing power or authority»).

Damage means harm in the civil law sense – damage to property (Article 22 of the Central Committee) and damage to the moral (non-property) (Article 23 of the Central Committee). Property damage in Art. 22 The Central Committee is actually identified with the notion of damage, although the article itself is entitled «Damages and other methods of compensation for property damage».

Given the clarification of the Supreme Court of Ukraine (Resolution dated October 27, 2014), substantial damage in the meaning of Art. Art. 364, 364-1, 365, 365-2, 367 of the Criminal Code of Ukraine, at present, may be property damage or manifestation of non-pecuniary damage, but only those who can obtain property compensation, that is, substantial damage can be considered any of the

by its nature, damage if it is subjected to a monetary valuation and, according to such assessment, has reached the amount set by the legislator, which is 100 times more than the non-taxable minimum income of citizens. It should be noted that these changes in the definition of significant harm can be applied to criminal offenses committed before their adoption, in the part that improves the status of the individual.

In addition, compensation is subject to moral (non-property) damage. Thus, in accordance with the provisions of the resolution of the Plenum of the Supreme Court of Ukraine «On judicial practice in cases of compensation for moral (non-property) damage» of March 31, 1995, No. 4, it was determined that moral damage is loss of non-property nature as a result of moral or physical suffering or other negative phenomena.

The Civil Code of Ukraine specifies that moral harm is: 1) in the physical pain and suffering that an individual has suffered due to injury or other damage to health; 2) in the spiritual suffering which an individual has suffered in connection with the unlawful conduct of himself, members of his family or close relatives; 3) in the spiritual suffering which an individual has suffered in connection with the destruction or damage to his property; 4) in humiliation of honor, dignity, and also business reputation of a physical or legal person. The non-personal damage caused to a legal entity should be understood as loss of non-personal nature arising from the humiliation of its business reputation, encroachment on the brand name, trademark, industrial mark, the disclosure of commercial secrets, and the commission of actions aimed at reducing prestige or undermining confidence in its activities.

In accordance with civil law, the amount of monetary compensation for moral damage is determined depending on the nature of the offense, the depth of physical and mental suffering, the deterioration of the ability of the victim or deprivation of his ability to implement them, the degree of fault of the person who caused moral harm, if the fault is a ground for compensation, as well as taking into account other circumstances that are of significant importance. In determining the amount of compensation takes into account the requirements of reasonableness and fairness. Non-pecuniary damage

is indemnified irrespective of the pecuniary damage to be recovered, but not related to the amount of this indemnity.

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MURDER OF THE NEWBORN CHILD BY MOTHER

Unfortunately, the mental state of a person is an extremely thin and sensitive mechanism that can fail due to such factors as stress, strong emotional anxiety, biological processes in the human body etc. In the case when the human psyche passes into a special condition (state of pathological affection), a person can not fully understand its actions, predict their consequences, its, and vegetative actions that are committing on the instinctive or subconscious level. That is why, criminal law is applied in a less serious form to those who committed acts while in a state of insanity. The example is Article 117 of the Criminal Code of Ukraine entitled «Killing a mother of her newborn child», the problems of which we will consider in this article.

The article's fabula reads as follows: «The deliberate murder of a mother of her newborn child during childbirth or immediately after birth ...». It is appropriate to same part of this article from the Commenting Criminal Code of Ukraine, that is sound like: «Only the mother's newborn child may suffer from this crime.

The objective side of this murder is characterized by: 1) actions - an encroachment on the life of a newborn child; 2) consequences in the form of her death; 3) a causal relationship between the indicated actions and the consequence 4) the time and certain conditions - this act can be committed only during the childbirth or immediately after birth.

Childbirth is a physiological process of human birth, which begins with regular contractions of the pregnant woman's uterus

muscles and ends with the expulsion of the fetus from the mother's womb and the placement of the placenta, the mucous membrane and the umbilical cord. The beginning of human life is considered to be the appearance of any part of her body from the mother's womb. As a rule, such a part of a body is the head of a person.

If a child died as a result of premature birth caused by illegal artificial interruption of pregnancy, committed not by the mother, but by another person, the punishmentshould be qualified by art. 134. Abortion of pregnancy as a result of a woman's strike, beatings forms a willful intentional bodily injury (Article 121). «[2] Therefore, based on this interpretation, it can be understood that the mother, committing the murder of her newborn child, does not fully realize its act , even if it does so with extreme cruelty, and therefore can not be attracted as a premeditated murder.

By studying medical practice, we have understanding that the state of affection comes from the emergence of an extremely powerful stresses that derives the mental state of a person from normal condition, but each person encounters strong stresses during his life, however, the state of affection usually occurs through a combination of instant but powerful stress with factors of long-term existence (systematic or pathological).

Consequently, according to the author mind, the subjective side, as well as the causal link in this article, are much deeper and require detailed investigation, because the subject of the crime,during , or before becoming pregnant, may be negatively affected by other interested persons through manipulation, blackmailing, unintentional and inappropriate intimidation. For a meaningful example, the situation will be kind of the same when, relatives of a pregnant woman begin to exercise moral pressure on her by way of saying that her wealth status in the future will be quite lower, and if the child's father leaves his family then to arrange private life in the future will be more problematic.

The body of a woman that is pregnant gets much more stress and functional overwork caused by forming the embryo, the mental condition is also extremely susceptible to even insignificant stress may generate excessive secretion of hormones. When systematically imposing on a pregnant woman thoughts about negative consequences of the birth of a child, it can fall into long-term (pathological) states of

worry, or even short-term depression. Similar conditions can generate paranoid and depressed thoughts about future maternity, the chance of a successful and independent life, and the upbringing of a future child. It should be noted that the factor of the psychological impact of third parties is not always decisive, the man-made, social, economic and political factors can also lead a pregnant mother to the thought of inappropriate birth of a child, which in turn tobecomes the cause of the instinctive need of the murder of a newborn child during , or immediately after childbirth in a state of affection as a reflection of the instinct of self-preservation.

According to the author mind, the murder by the mother of her newborn child is a crime that have multi-stage and complex conditions and causes of the, which are usually unknown to the investigation, and in some cases even to the mother. Prevention of this phenomenon is possible by providing by government safe conditions and protection for mothers who do not want or are afraid of the birth of a child. In the developed countries of the European Union as well as the United States of America, they use technology of Baby Boxes, where the mother can leave the newborn baby anonymously, and the ambulance service will be able to provide the child with the necessary help and protection. When, the woman appears the option that will allow her not to deprive the newborn child in case of her unwanted birth. Literally existence of such an option already minimize the risk of the mumble of the idea of the murder of a child, which can find its real and practical expression in the state of labor affection. [3]

As for the investigation of such an offense, in the opinion of the author, it requires the involvement of professional psychologists to carry out a systematic psychological examination of the woman who is the subject of the crime, which will need to find reasons and circumstances that even contributed to the subconscious level the commission of this crime, the search for persons who could commit passively aggressive influence on the psychological state of a woman during pregnancy, which caused the emergence of a possible reflexive self-defense instinct that finds its expression in the murder of a newborn child in a fit of passion. Identifying a psychologist of such negative and dangerous influences, in turn, should prevent their possible re-occurrence in the future, as well as prosecution of persons

whose involvement will be proved during conducting such examinations.

The practice of investigating the underlying cause of such crimes shows that the majority of women who committed such acts themselves are the victims of certain circumstances and conditions that was influenced her during pregnancy. The practice of their protection or the maximum isolation from such stimuli in the future will theoretically help to minimize the possible number of committing that type of crimes, reduce the risks of psychological and mental illness in women who were the subjects of the crime and accelerate their full socialization after serving the sentence.

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RESTRICTIVE MEASURES IN THE CRIMINAL LAW OF FOREIGN COUNTRIES

In accordance with the Law of Ukraine «On Amendments to the Criminal and Criminal Procedural Codes of Ukraine in order to implement the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence» of 06.12.2017 the Criminal Code of Ukraine was supplemented Section XIII-1 «Restrictive measures» and the article 91-1, which regulates the application of such measures to persons who have committed domestic violence. In the interests of a victim of a crime involving domestic violence, the court may apply one or more restrictive measures to a person who has committed domestic violence: 1) a prohibition to stay in a place of residence with a person

who has suffered from domestic violence; 2) restriction of communication with the child in case of domestic violence committed toward the child or in the presence of the child; 3) the prohibition to approach a certain distance to a place where a person who has suffered from domestic violence can live or stay; 4) the prohibition of correspondence, telephone conversations and other contacts with a person who has suffered from domestic violence; 5) referral for the program for abusers or probation program. The use of these measures is not a form of criminal liability. By their legal nature, they can be attributed to criminal law measures that are not punishment.

In the criminal law of most foreign states, especially Western European countries, measures of state coercion are commonly referred to as «security measures» (alternate names may also be called «safety measures and treatment», «measures of correction», etc.). Their main goal is to carry out preventive, educational, remedial, medical and other special influence on persons with criminal behavior. However, restrictive measures applied to persons who have committed domestic violence are presented in the criminal codes of a few states. The Criminal Code of the Republic of Poland is one of the laws, which regulates in detail the application of restrictive measures. According to Art. 41a, the court may decide on the obligation to refrain from staying in certain places of the environment, prohibition of contact with certain persons, prohibition of approaching certain persons, prohibition of leaving the place of residence without the consent of the court or order to leave the place occupied with the victims, etc. Such duties or prohibitions can be combined with the obligation of the convicted person to report to the police or other state authorities at a specified time. When deciding on the prohibition of approaching certain persons, the court shall indicate the distance that the convict must keep. Also, the court sets the deadline for the execution of the order regarding the abandonment of the premises, which is occupied jointly with the victim. In the case of a repeated conviction of a person, such a prohibition may be imposed for life. It is interesting that the Criminal Code of the Republic of Poland restrictive measures can be applied not only to persons who have committed domestic violence, but also crimes against sexual freedom or decency against the minor, other crimes against freedom, as well as intentional violent crimes.

Similar coercive measures are determined in the Criminal Code of Spain, however, unlike the Criminal Code of Ukraine, they may also apply to punishment (basic or supplementary), and to security measures. For example, the deprivation of the right to stay or stay in a certain area (first of all, in the area where the crime was committed or where the victim or his / her family lives) as a punishment can be imposed on a person in case of conviction for murder, bodily harm, crimes against the will, sexual inviolability, dignity, property and public order (Article 48 of the Criminal Code). As security measures are forbidden to live in a certain area or vice versa - the obligation to live in a certain area; a prohibition on approaching the victim, her relatives or other persons defined by the court, as well as a ban on communicating with the said persons.

In the Criminal Code of Bulgaria, as a form of punishment, the deprivation of the right to reside in a certain area is determined (Article 37). A similar measure (prohibition to reside in certain places) is provided in the Criminal Code of France as a form of additional punishment, and in the Criminal Code of Italy as a security measure (Article 215). In the legislation of the Federal Republic of Germany, the relevant «corrective measures and security» are provided not only by the Criminal Code, but also by other normative acts, in particular, the Law «On the improvement of civil protection against violence and persecution, as well as assistance in the event of abandonment of spouses' housing and section,» which stipulates the obligation of the convicted person to leave the house of the wife (husband) in which the victim is located, and to terminate any contacts with her. Consequently, restrictive measures in the legislation of foreign countries act as security measures or certain types of punishment, and apply not only to those who committed domestic violence, but also other crimes.

Scientific Publications

APPLICATION OF ENGLISH LANGUAGE IN THE TEACHING OF CRIMINAL LEGAL DISCIPLINES

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