

V. Kuznetsov

*Doctor of Law Sciences, Associate Professor,
Professor at the Department of Criminal Law,
National Academy of Internal Affairs of Ukraine*

V. Chabaniuk

*Candidate of Law,
Associate Professor of Criminal Law,
National Academy of Internal Affairs of Ukraine*

RETROACTIVITY OF CRIMINAL LAW IN TIME: CURRENT ISSUES OF LAW ENFORCEMENT

The article investigates the problem of retroactivity of criminal law in time. It is established that the provisions of the Criminal Code of Ukraine fully comply with the Constitution of Ukraine, the provisions of international instruments ratified by Ukraine, decisions of the Constitutional Court of Ukraine and the European Court of Human Rights. It notes the fact of the emergence of new problems in the theory of criminal law and in the enforcement of certain criminal laws in determining their actions in time. The possibility to use retroactivity of criminal law at the time of the entry into force of the Law of Ukraine of November 15, 2011 proved that the issue of fairness of such retroactive in time criminal law and its compliance with the rule of law must be found in the decision of the Constitutional Court of Ukraine.

The purpose of this paper is to study the action in time of some provisions of the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Concerning Humanization of Responsibility for Violations in the Sphere of Economic Activity” of November 15, 2011

It is concluded that on the basis of the above, the following generalizations should be made:

1) provisions of the current Criminal Code of Ukraine fully comply with the Constitution of Ukraine, the provisions of international instruments ratified by Ukraine, decisions of the Constitutional Court of Ukraine and the European Court of Human Rights;

2) on the one hand, the adoption of the Law of Ukraine on November 15, 2011 partially mitigates criminal liability by replacing one form of punishment (imprisonment for a specified period) with the other (fine) allows applying retroactive in time law; on the other hand, increase of the maximum limit of the penalty, under the new wording of Art. 52 of the Criminal Code of Ukraine increases criminal penalties compared to the previous version of this article because the retroactivity of the criminal law in time is inadmissible;

3) the solution of the issue of fairness of such retroactive criminal law in time and its compliance with the rule of law must be found in the decision of the Constitutional Court of Ukraine.