

A. Kozlenko
Postgraduate Student,
National Academy of Prosecution of Ukraine

FEATURES OF PROOF OF EVENT OF CRIMINAL OFFENSE

In theory and practice of criminal proceedings theme of proof is one of the most important. The proof has the largest importance throughout the criminal proceeding. Normative regulation and theoretical study of the problems of proof occupies a crucial place in the criminal procedural law, the most important component of which is the law of evidence. This is determined by the fact that the criminal proceedings as science, academic discipline of law and practice all comes down to proof and evidence, because they are the main content of the process.

Focusing on part 2 of Article 91 of the Criminal Procedure Code of Ukraine 2012 it is possible to determine the general concept of proof in a criminal trial as activities of subjects of criminal proceedings for collection, examination and evaluation of evidences and their procedural sources and the wording of the basis of certain theses and arguments for justification or refutation to establish the circumstances relevant to the criminal proceeding.

Thus, in any criminal proceedings investigator, prosecutor, investigating judge and the court must first establish the presence or absence of event of crim-

inal offense (time, place, method and other circumstances of the criminal offense under part 1 of Article 91 of the Criminal Procedure Code of Ukraine 2012), i.e. unlawful acts resulting in criminal consequences.

The matter is not an event at all, not an event in the conventional sense, but the event is a criminal offense that is not always the same. For example, in the case of proceedings for the discovery of the corpse with signs of violent death it may further be established that the death was the result not of the murder, but of the suicide; in the case of a fire it can be established that the fire was the result not of the arson, but of short circuit.

In all such cases, an event that was the reason for entering data on such offenses to the Unified Register of Pre-Trial Investigations is available, but there is no event of criminal offense. The legal consequences are fundamentally different than determination of the event of a criminal offense. Accordingly, determining the event of a criminal offense one should be guided not only by specific article of the criminal procedural law, but also by the regulation of substantive law providing specific responsibility for the offense.