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LABOUR LAW, SOCIAL SECURITY LAW

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DEFINITION AND TYPES OF COLLECTIVE LABOR RELATIONS

In modern times, the science of labor law faces an important task of development of a new legal mechanism for regulating industrial relations system, which is formed according to the principles of social dialogue, namely, a clear definition of the labor law, its scope, methods, principles of legal regulation, system of industry. These issues are of particular relevance and importance in terms of national labor law codification.

The aim of the paper is to define the concept and types of collective labor relations and propose their legislative consolidation.

Thus, developers of the draft Labor Code of Ukraine rejected the concept of "labor relations and other associated social relations", and stated in Articles 1, 2, 6 that Labor Code and labor laws govern labor relations. From the content of the draft Labor Code of Ukraine, it can be concluded that the regulation refers to the individual and collective labor relations, although its developers did not manage to consistently reflect the concept of individual and collective labor relations in the project, and in this part the Code requires some elaboration. In this connection, it is proposed to word Article 2 "Relations governed by the Labour Code of Ukraine" of the draft Labor Code of Ukraine as follows: "1. This Code regulates individual and collective labor relations".

It seems appropriate to complement Book Six "Collective Labor Relations" of the draft Labor Code of Ukraine with individual articles establishing rules on concepts and types of collective labor relations.

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DEVELOPMENT OF WELFARE STATE IN BELGIUM

The article examines the historical development of the welfare state in Belgium. Belgian social security system was formed in the early twentieth century as part of corporate social insurance schemes and mutual assistance. After the end of the World War II was established the model of social protection based on the Bismarck principles. Since the early 1980s began a process of modernization of the welfare state. The relevance of the topic is manifested in generalization of the process of formation of the welfare state in Belgium and its reform in terms of complex crises. Social protection was concentrated in numerous private common to entrepreneurs and professional workers schemes, activities of workers friendly societies (mutualities), trade unions and local authorities. One of the most famous and important social innovations, the principles of which were adopted by other countries, was the so-called Ghent system of unemployment insurance. In 1901, in the city Ghent was established a system of direct subsidies to members of trade unions with a specially created communal fund. The system provided each unemployed worker with fixed financial aid in addition to the amount he received from the union. Also reforms of various depth and intensity were performed in all areas of social security in Belgium. In general, the system change brought no dividends to insiders, i.e. traditionally the main customers of Bismarck welfare state. On the contrary, many reforms were aimed at improving the efficiency of the system in securing a minimum income of those commonly called outsiders, such as women, youth and the long-term unemployed.

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SOME ASPECTS OF THE GLOBAL INTEGRATION OF PAYMENT FOR LABOR

In connection with the determination of the strategic purposes of Ukraine –integration into EU, including the membership in this international union – the important task is to bring domestic legislation in accordance with EU law. This causes the reformation of the country's legal system as a whole. The way to the European integration presupposes the real provision and protection of the fundamental human rights and freedoms, creation of the legal, social and democratic state, which will take its worthy place in the global community.

The purpose of the article is generalization of the European experience and the search for the ways to improve global integration of payment for labor in the new social and economic conditions. In order to achieve this objective, the following main tasks have been set: to show the relation of the European and domestic regulation of payment for labor; to study the principles of the legal regulation of payment for labor in the world; to determine the fundamental factors defining changes of the forms and systems of payment for labor in Ukraine.

Investigation of the global integration of payment for labor among other things provides for full-scale reformation of the legal system of Ukraine based on the principles and standards established at the European level and based on the contemporary democratic international law as the result of the activity of the European regional and international organizations. They include, besides the European Union, the Council of Europe and also the Organization for Security and Co-operation in Europe.

The concept of "integration", replacing the concept of the international cooperation" (which does not reflect the essence of new phenomena) and, certainly, going beyond the limits of cooperation up to the formation of a single structure, is marked by supranational features.

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FEATURES OF LEGAL REGULATION OF SOCIAL INSURANCE IN THE EUROPEAN UNION

The process of creating an effective social security system in Ukraine depends on many factors. One of them is the use of experience of foreign countries in which this system operates continuously and has positive results. The social security system, which is formed in the European Union, is of considerable interest. In July 1994 the European Union and Ukraine signed Partnership and Cooperation Agreement, which is the legal basis for relations between Ukraine and the EU. According to Art. 51, Ukraine shall endeavour to ensure that its legislation will be gradually made compatible with that of the Community.

The legal basis for EU social security are the European Social Charter signed on October 18, 1961, the European Social Charter (revised) signed on May 3, 1996, the European Code of Social Security of April 16, 1964, the Community Charter of Fundamental Social Rights of Workers of December 9, 1989.

In order to fully research the legal principles of social security in the EU it is necessary to clarify the characteristics of legal social security schemes in some European countries. In 2005 at a meeting of the Economic and Financial Committee (Ecofin) in Manchester Belgian scientist and economist Andre Sapir presented to the European Commission typology of welfare regimes – models of social policy different by levels of state intervention in social and economic sectors of society and the degree of social protection of citizens, provision of social freedom to choose for different groups and influence of social processes on economic development. The researcher identified the following models of social policies of the member states: Continental (Austria, Germany, Benelux), Anglosaxon (UK, Ireland), Nordic (Denmark, Sweden, Finland) and Mediterranean (Greece, Spain, Italy, Portugal).

Social security in Continental model was the earliest to develop and acquired unique classical forms. The common feature inherent to Continental model is a strict link between the level of social protection and period of professional activities. Within one model of social policy some countries have differences in legal support system. Continental system of social insurance based on German model is forming in Ukraine. Of course, it is impossible to transfer the social security system of developed countries into the legal framework of our country. However, good practices should be used to build up our own system.

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FINE AS A DISCIPLINARY PENALTY: THE TREND OF TIME OR ANOTHER MANIFESTATION OF THE CONCEPT OF "FLEXIBILITY" (DEREGULATION) IN LABOR LAW

The article discusses in an axiological and legal way the possibility of recognition in the scientific doctrine and introduction in labor law of fines as a form of disciplinary penalty. It is noted that nowadays fines as a disciplinary penalty can only be understood as inhuman punishment and coercion in labor relations. That would indicate that the employee-employer relationship has an element of obligation, which would give the employer the right to require something from an employee regardless of his will. The author proves the conceptual link between suggestions to enshrine fines as a form of disciplinary penalty and increased "flexibility" in labor law. He describes that "flexibility" is socially productive, but it is not a legal structure that was formed as a result of the confrontation of different social forces in the struggle for control of the organization of work. In a pure sense "flexibility" is just a simplified form of work organization; it is neither good nor bad in itself. It is bad when "flexibility" disturbs optimal value, the balance of will between the parties of the employment contract, because what is good for one party (employer) would not necessarily be good for another (employees) or to society in general. The author concludes that only immediate activation of social dialogue between governments, employers and worker's representatives will weaken the growing impact of deregulation trends in labor law, will restore the balance of interests of the parties of the employment relationship and will finish talking about the possibility of introducing fines as a disciplinary penalty.

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FEATURES OF LEGAL REGULATION OF SOCIAL INSURANCE IN THE EUROPEAN UNION

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LAND, AGRARIAN, ENVIRONMENTAL, AND NATURAL RESOURCES LAW

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CHOOSING THE METHOD FOR PROTECTION OF THE ENVIRONMENTAL RIGHTS OF CITIZENS AND THE CRITERIA OF ITS EFFECTIVENESS

The article is concerned with the problematic questions of legislative regulation of the system of methods to protect the environmental rights of citizens, the importance of the choice of a particular method of protection, and its criteria for the execution of protection of environmental rights of citizens.

It is established by the author that the effectiveness of protection of infringed rights of a person depends on the method a person uses to protect them. It has been found that environmental legislation does not contain any regulations regarding limitations on actions for the protection of environmental rights including the realization of the right to defence. Accordingly, the criterion of proper exercise of the right to protection of environmental rights, including the choice of a particular method (methods) of protection, is the absence of misuse of the right.

Apart from that, it has been determined that the choice of method for protecting environmental rights of citizens should be based on the general principles of fairness, honesty, prudence, according to the constitutional principles of equality of all persons before the law, compliance with the moral foundations of society.

It is concluded that the question of the system of methods to protect environmental rights of citizens should be clearly stipulated in the rules of environmental legislation, because consolidation of a set of such methods of protection as the system will allow revealing the essence and distinctive features of this system and, ultimately, will contribute to the effective protection of environmental rights. The criteria of effectiveness of choice of a particular method or set of methods for protection of infringed environmental rights are suggested to be seen in the legal consequences of that choice. It has been reasoned that the choice of method of protecting the environmental rights will be effective only when it will optimally and fully ensure the recovery of environmental rights and remove any barriers in their realization. As the result of conducted research the author provides a number of proposals concerning the improvement of environmental legislation in this area.

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TRANSBOUNDARY COOPERATION IN THE IMPLEMENTATION OF STATE CONTROL IN THE SPHERE OF WATER USING AND PROTECTION

Nowadays limited water resources and deterioration of the natural inland waters' quality, including groundwater, put Ukraine dependent on water sources, runoff of which is being formed abroad. And further social and economic development of the country depends on national policy in this area Ukraine will hold through its relevant authorities.

Not always the question about the scope of the rights to water resources, which country has in its disposition and which are located in the upper and lower reaches of the international pool, is solved. Overall, there are 145 world's countries that share water resources of the international (transboundary) river pool with each other. An important feature of Ukrainian water resources is that a significant part of runoff of major rivers (especially the Dnieper, the Danube) is formed outside the country. Thus, we have to use the water of such quality that comes to Ukraine.

The Convention of the Protection and Use of Transboundary Watercourses and the International Lakes is one of the basic international conventions regarding transboundary waters (surface or underground waters that cross borders between two or more states or are located on these borders).

Effective management and control in the sphere of using water adjacent to the border areas is not possible without joint efforts of neighboring states which are directed to introduction of strategic programs of action and mechanisms of their implementation. The monitoring of transboundary waters may be one of the most important mechanisms for managing and controlling the success of the implementation of such actions.

State Program of Transborder Cooperation Development was developed and adopted to establish a joint management in the sphere of environmental protection, management of natural resources and environmental safety. The result of the Program will provide: environmental protection and taking measures for its restoration, environmental security, management of natural resources, organization of environmental control and monitoring, prevention of pollution of technological disaster territories and zones of natural disaster.

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LEGAL REGULATION OF VAT REFUND FOR EXPORTS OF DOMESTIC AGRICULTURAL PRODUCTS

Today Ukraine is going through difficult times. In order to be worth to go through, the state needs to reform all spheres of society, including the agricultural sector of the economy. Effective functioning of the agricultural sector requires effective legal support. Actually, this article is devoted to improvement of regulation of public intervention in agriculture, to the impact of state VAT refund for grain exports by domestic agricultural producers for stabilization of agricultural markets and to public financial interventions in agriculture. According to the author's definition, public intervention in agriculture is this exceptional economic and legal impact of the state in terms of excess of the limit of price fluctuations on objects of state price regulation, which aims to stabilize prices and support domestic agricultural producers and consumers through the use of financial and commodity interventions. Financial intervention consists in purchase of surplus agricultural commodities by the Agrarian Fund to the intervention fund for higher prices. To perform these tasks Agrarian Fund requires a significant amount of available funds. However, the funds of Agrarian Fund are not enough for this purpose. VAT refund for exports can help solve this problem. Such refund will stimulate domestic agricultural producers to export their products. If producer of agricultural commodity exports its products, it is proposed to reduce domestic agricultural market and thus increase the price. This is the purpose of financial interventions. Therefore, public VAT refund directly affects the stabilization of agricultural markets and the amount of financial interventions.

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THE ESSENCE OF THE RIGHT TO TEMPORARY USE OF LAND FOR EXPLORATION

Subsoil use and land plot use are known to be tightly correlated with each other. In some cases subsoil user cannot use subsoil without settlement of issues upon the corresponding land plot. Land plot may be used by any subsoil user on the spatial and territorial basis. Therefore, there arises a problem of acquiring rights to land by the subject – potential subsoil user.

Land law analysis shows an opportunity of performing certain types of subsoil use at temporary occupied land plots.

Article 97 of the Land Code of Ukraine (Obligations of Enterprises, Institutions and Organizations which Perform Exploration Works) sets forth the terms of using the corresponding land plots. For example, enterprises, institutions and organizations which perform surveying, searching, geodesic and other exploration works may perform them on the grounds of agreement with land owner or with land user. It is clear that the term of performing such works may differ but it shall have its own limits. In each certain case such term shall be stipulated with the consent of land right holder and by special legal entity entitled to perform the corresponding works. The issue upon place of geological exploration shall be settled by similar way, on contractual basis. It shall be bound in the process of temporary occupation of land plot.

On the grounds of everything stated above we can make the following conclusion. Temporary occupation of land plots in order to perform exploration works (as a form of using thereof) has its own features which may be provided by the agreement made between special organization and land owner or land user.

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ON LEGAL REGULATION OF PROHIBITION ON INDUSTRIAL AND ECONOMIC ACTIVITIES OF AGRICULTURAL PRODUCERS IN CERTAIN TERRITORIES

Industrial and economic activities of agricultural producers are carried out mainly by using agricultural land and lands of the other designation. However, in some cases, due to contamination of certain areas or the location of objects, providing defense of the state, engineering infrastructure there etc., growing, processing and marketing of agricultural products there is limited by its prohibition. This determines novelty and significant relevance of the question of characteristics of legal regulation of the prohibition on industrial and economic activities of agricultural producers in certain areas.

Ukraine's legislation provides a prohibition on industrial and economic activities of agricultural producers both on certain categories of land (lands used for defense) and on certain territories (within security zones, sanitary protection zones, buffer zones, zones of special land use, special raw zones, zones of environmental emergency on contaminated areas). Thus, in some cases, such activities are totally prohibited (in the zones of exclusion of unconditional (mandatory) evacuation), while on others only certain types of them are banned (construction of irrigation and drainage systems, planting trees and perennial plants, conducting agricultural excavation; location of the field camps, livestock handling, stowing of forage and fertilizers, placement of mobile and stationary apiaries, plowing, gardening and horticulture, use of pesticides, organic and mineral fertilizers, means of plants protection, etc.).

The procedure of granting a permit for individuals and legal entities by the military units to use defense lands requires approval by the Cabinet of Ministers of Ukraine as provided for by the Law of Ukraine "On Use of Defense Lands".

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LEGAL PROBLEMS OF RETURN OF SQUATTED LAND PLOTS

One of the kinds of negative consequences of unauthorized occupation of land is its return to those whose rights are violated. Thus, Art. 212 of the Land Code of Ukraine includes three relatively independent parts which, firstly, highlight the binding nature of the event, determine recipients of returned squatted land and emphasize that the return is carried out without reimbursement of expenses incurred by the illegal use of such land; secondly, the law binds return of squatted land with appropriate condition of such plots – "usable condition" and an obligation of offenders (individuals or companies) to bring the relevant plots in condition suitable for use at their own expenses. In this case, the usability is determined by the purpose of the land, its compliance with the projects of land tenure and condition of land before unauthorized occupation; thirdly, provide mandatory legal procedure for the return.

To be logically consistent, return of illegally occupied land can be seen as a commitment of offender to unilaterally return the land to which he has no rights. However, to call a legal return of land restitution is hardly correct even conditionally. Doubtful is attribution of return of squatted land to "land law" responsibility, the existence of which is also debatable.

We know that the person, who committed the unauthorized occupation of land, did not have and could not have right to land. However, in relation to this person incurred the additional duty established by law to return plot of land in good condition to a person whose rights have been violated. Most likely return of land is one of the elements of remedy. The fact that under the law the return of illegally occupied land is carried out by the court decision indicates that the issue is a specific state legal sanction provided by land legislation, the implementation of which is carried out in due course.

It seems that in determining the legal nature of the return of illegally occupied land it is expedient to consider primarily the fact that the offender, who illegally occupied land, did not and could not have the rights to it. That is why the law deals with return of illegally occupied land, not the termination of ownership or right to use it.

Since by law illegally occupied land plots are returned to their owners or land users, this means the actual restoration of violated rights of land owners or land users. The list of rights of land owners and land users in general form is enshrined in Art. 90 and Art. 95 of the Land Code of Ukraine. The given regulations provide that violated rights of land owners and land users are restored in the manner prescribed by law. Such a procedure is established by Art. 212 of the Land Code of Ukraine. Restoration

of violated land rights is a complex and multifaceted process. It includes not only the restoration of property rights of owner, but also recovery of land as an object of ownership or right to use, and finally restoration of the previous relations that existed before the unauthorized occupation of land.

Return of illegally occupied land to its owner or the user is actually legal consequence in the form of sanctions applied to violators of public order. Return of illegally occupied land must be preceded by its release, for example, from illegally built houses, buildings and facilities, other property and bringing in usable condition. Fact and time of return of illegally occupied land must always be recorded, for example, in act accordingly drawn up with the participation of the land owner or user. This moment is associated with reimbursement of violated rights of person. Thus, the return of illegally occupied land can be considered as one of the specific measures to eliminate violations of land legislation.

Based on the above, we can conclude that the return of illegally occupied land can be seen as a natural compensation for wrongly acquired illegal use of land. In the case of use of land without title documents should talk about the compensation of such rights under p. 2, Art. 1213 of the Civil Code of Ukraine.

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LEGAL REGULATION OF DISCIPLINARY RESPONSIBILITY IN THE SPHERE OF CONTROL AND SURVEILLANCE OVER SUBSOIL PROTECTION IN UKRAINE

This article is devoted to the issue of legal regulation and practical implementation of disciplinary responsibility in the sphere of control and surveillance over subsoil protection

Unfavorable conditions in the area of compliance with Ukrainian environmental legislation demonstrate imperfect reaction to ecological crisis in the country.

Therefore disciplinary responsibility acquires essential role and necessity of its active use particularly in the context of importance of proper performance of authorized officer's duties in the sphere of control and surveillance over subsoil protection. Effectiveness of disciplinary responsibility has significant influence on the proper control and supervisory activity of the environmental enterprise.

It is necessary to require enterprises' management to estimate effectiveness of ecological control and surveillance in working environment on regular basis for provision of safe mines exploitation, hazard detection and environmental estimation.

Disciplinary responsibility in the area of control and surveillance over subsoil protection is legally implemented in special legal regime of subjects of disciplinary relationships. It defines duty of the offenders to face legal consequences in form of personal losses for the offense. Such disciplinary responsibility on legal basis pro

CRIMINAL LAW, CRIMINOLOGY, PENAL LAW

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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.

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PREVENTION OF CRIMES AGAINST JUSTICE IN UKRAINE (BASED ON OFFICIAL STATISTICS OF THE STATE JUDICIAL ADMINISTRATION FOR 2010-2013)

The research paper covers some aspects of the prevention of crimes in the field of justice by analyzing accounting information and statistical reporting of the State Judicial Administration of Ukraine. The current state of the implementation of arrangements regarding characteristics of the main indicators of the status and dynamics of criminal offenses for 2010-2013 is reviewed. We proved that crimes against justice are characterized by low prevalence in jurisprudence – according to the statistical data for 2011-2013, these criminal cases are not common. It was found that the absence of legislated definition of "crimes against justice" and their high latency significantly lower the effectiveness of preventive measures. It is concluded that indirect means of combating crimes against justice is analysis of statistical data on the administration of justice, which enables finding out dynamics of crimes against justice. The regulations of the State Judicial Administration and the Supreme Court of Ukraine are studied, which helps define measures to prevent criminal offenses against justice. Analysis of the statistics provided by the State Judicial Administration of Ukraine on the condition of administration of justice for 2010-2013 indicates insignificant number of crimes against justice in the criminal proceedings' materials. In relation to the number of criminal cases that came to the general local courts, the figures are the following: 10.955 criminal cases in 2010, 11.004 criminal cases in 2011; 2.750 criminal cases in 2012 (the criminal proceedings' materials); 3.941 criminal proceedings in 2013. The analysis of the statistics of the State Judicial Administration of Ukraine for 2010-2013 gave objective information on the state of justice in finding out the proportion of crimes against justice as part of criminal proceedings. The resulting statistics are the basis for determining strategies, trends and tactics to prevent crimes against justice.

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FREEDOM OF SPEECH AND CRIMINAL LAW PROTECTION OF PRIVACY (ANALYSIS OF THE CRIMINAL LEGISLATION OF EUROPEAN COUNTRIES)

The author scrutinizes the problem of criminal limitations in the freedom of speech through the prism of the European standards of mass media protection. Criminal legislation of the European countries is analyzed as to the presence of limitations in the freedom of speech. Criminal acts in the European countries pay great attention to the human rights protection, to the inviolability of private life, to the preservation and protection of individual's confidential information, to the establishing substantial barriers of public dissemination of definite facts about the individual by mass media.

The author examines the impact of criminal law regarding privacy on freedom of speech and activity of journalists. The author conducted a comparative legal analysis of the criminal laws of the European countries on criminal responsibility for violation of privacy. It was found that almost every country in Europe has the criminal liability for collection, storage and dissemination of confidential information about a person. The rights to freedom of speech and privacy are fundamental human rights inherent in any person. Criminal legislation of the European countries is analyzed as to the presence of limitations in the freedom of speech and mass media's activity, that, on the whole, meet the requirements of necessity and expediency of their introduction in democratic society. The necessity of further introduction of the decisions of the European court of human rights into national legislation is confirmed.

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CRIMINALIZATION AND PENALIZATION OF CRIMINAL OFFENSES

Modern penal policy of Ukraine is based on mitigated criminal liability for minor and moderate crimes, strengthening of criminal liability for grave and especially grave crimes. It is suggested to support mitigation of criminal responsibility through the introduction of the concept of misdemeanour into the criminal law of Ukraine. In almost every case of introduction of criminal offenses it is noted that this is a manifestation of humanization in domestic law. However, transition of actions that today are administrative offenses, and tomorrow will be a criminal offense, can not be called humanization. Rather, it is a manifestation of criminalization, but this approach does not meet the trends of modern criminal law of Ukraine.

Historically, all offenses arose from criminal law. In all countries their commitment entails liability for both individuals and legal entities.

The main type of responsibility in all states is fine.

The overwhelming lack of systematization of rules to punish misconduct is also noted.

Typically, the responsibility for offenses is imposed by administrative authorities.

Violation of the requirements in European countries for a long time was considered to be punishable act. The historical origin of administrative violations from criminal law is determined by the fact that all kinds of violations in European countries were considered exclusively within the criminal law. However, development of economy and areas of human activity proved impossibility to regulate responsibility for all kinds of violations of criminal law mechanisms involving court and the principle of competition and equality of parties, etc.

The problem of the introduction of criminal offenses requires further research aimed to find the most optimal solution, which could become a model for consolidation of provisions on criminal offenses in the criminal legislation of Ukraine.

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CRIMINAL LAW DOCTRINE: SOME THEORETICAL AND ETYMOLOGICAL ASPECTS OF THE QUESTION

Criminal law doctrine is currently a household word for all who have some relation to science or consider themselves being engaged in science. Many publications are devoted to the crisis of modern criminal law doctrine, its prospects for further development and improvement (especially in the context of introduction and regulatory consolidation of the category of criminal offense).

In the present informational literature a basis for definition is its Latin version and the doctrine is understood as teaching, scientific or philosophical theory, belief system, leading political program.

The results of research allow drawing the following conclusions.

Criminal law doctrine is the authoritative scientific research that withstood the test of time and is concerned with crime and punishment for the act as a whole or individual institutions and rules of the criminal law.

Criminal law doctrine and criminal law concept are partly coincident categories. Only acknowledged criminal law concept can become criminal law doctrine.

The term of viability of the criminal law doctrine is much longer than the criminal law paradigm, and this confirms its basic and fundamental character in relation to the latter.

Criminal law doctrine differs from criminal law ideology by scientific validity and reasonableness of judgments.

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INVESTIGATION OF SYSTEMS OF CRIMINAL OFFENSES AGAINST ELECTORAL AND REFERENDUM RIGHTS IN BILLS

According to the Concept of Criminal Justice Reform, criminal offenses are not only administrative offenses that are not administrative in nature and have judicial jurisdiction, but also minor offenses. Introduction of institute of criminal offenses was proposed in such draft laws as "On Amendments to Certain Legislative Acts of Ukraine to Implement the Provisions of the Criminal Procedure Code of Ukraine" № 4712 of 16.04.2014; "On Amendments to the Criminal Code of Ukraine on Introduction of the Institute of Criminal Offenses" of 28.02.2012 № 10126 (№ 1202/П of 01.08.2013).

The study of criminal offenses against electoral and referendum rights shows that mentioned bills include only offenses of administrative jurisdiction.

In these draft laws determining the system of criminal offenses the authors used only one criterion – "jurisdiction", but did not include other criterion of transformation of misdemeanors and minor crimes into criminal offenses, such as administrative nature of act, kind of punishment applicable to the offense.

In these draft laws the nature and extent of crime against electoral and referendum rights of citizens, which should be classified as criminal offenses, were not taken into account.

The above shows that the bills № 4712, 10126 (1202/II) do not comply with the provisions of the Concept of Criminal Justice Reform.

Studies of minor offenses under the applicable criminal law show that, according to the degree of public danger, criminal offenses provided by p. 1, Art. 157, p. 1, Art. 158-1, p. 1, Art. 159 of the Criminal Code of Ukraine should be classified as minor offenses.

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THE INFLUENCE OF CIVIL SOCIETY ON LAWMAKING IN CRIMINAL LAW

Social conflicts that occur in Ukraine in recent years are the result of the collision of the command control system, developed by the Soviet regime, with management practices specific to the market economy.

It was not so easy to abandon what was widespread over the years. The omnipotence of the state in the name of a bright future (the common good) changed into the omnipotence of the state in the interests of outstanding oligarchs.

For a long time under the influence of the Soviet past, people believed that in exchange for unconditional obedience, the state will provide the desired standard of living. However, this did not happen and people realized that their future depends on them.

As rightly observed N.I. Matuzov: "Civil society begins with the citizen and his freedom". However, most people do not know what to do with this freedom. In turn, the state does not know how to manage people who felt their power, faced weakness of the state. The situation was exacerbated by the fact that Ukraine has shown its weakness not only to its own people, but also to the whole world.

Our state has become easy prey for those states that due to Ukraine want to solve their internal problems.

In this situation, the criminal law has become a tool of political manipulation on the part of government leaders of Ukraine and its civil society, as well as the states that infringe on its independence.

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GENERAL PRINCIPLES OF ENSURING CRIMINOLOGICAL MARITIME SAFETY

The minimization of the criminal threats' effect on the criminological maritime safety can be provided only by implementation of scientifically reasonable measures in this field.

In the hierarchy of forms of ensuring criminological safety the first should be protection from sources of threat, and then – the impact on a source.

Considering the sources of threats to maritime safety, it is advisable to create a subsystem ensuring maritime safety from natural and man-made threats and a subsystem ensuring maritime safety determined by social sources of threats.

The system ensuring criminological maritime safety is defined as a set of measures implemented by entities providing criminological maritime safety for the compliance with socially acceptable level of criminological safety, as well as financial, resource and other support of these measures.

As for ensuring safety for certain object of maritime transport, the system of ensuring criminological maritime safety can be understood as a set of measures aimed at qualitative realization of safety of mentioned object from criminal threats carried out by the subjects that ensure criminological maritime safety.

Protection of the maritime sector at national and international levels is considered to be the result of functioning of the system ensuring criminological maritime safety. It generates measures ensuring safety at sea, including criminological ones, using a variety of elements. Functioning of the system consists in proper and complex execution of these measures. The standards of efficiency and quality of the system ensuring criminological maritime safety are determined by stability of safety of maritime transport, people, sea and efficiency of maritime transport sector.

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CRIMINOLOGICAL RESEARCH OF TYPICAL FEATURES OF A PERSON WHO COMMITS A CRIME IN THE LAND SECTOR

In modern conditions of market economy criminalization affected all spheres of social life, including the land sector. Along with legitimate land circulation rapidly grows number of crimes related to illegal origin, transition and realization of land titles, thus outlining limits of socially dangerous social phenomenon – crime in the land sector.

The results of criminological research can provide the required criteria to be met by a person who commits crimes in the land sector:

– interest in receiving land (committing unauthorized occupation of land);

– professional activities related to the field of land management (authority to make decisions on land operations);

– availability of material resources that a person can use to involve employees into cooperation;

– person's wish to obtain monetary compensation for assistance.

As a result of generalization of practice and study of scientific sources, people who commit property crimes in the land sector can be classified into the following groups:

– persons engaged in disposal of land, government and local self-government officials;

– persons who infringe on relations in land area by breach of terms of land circulation, founders, owners and/or officials of economic entities, private entrepreneurs, and individuals.

Partially summarizing the data, we note the typical features of a person who commits a crime in the land sector: male; age 36-50 years; citizen of Ukraine; with higher education; working; taking appropriate official position; working in a managerial position; having a strong selfish motivation; previously unconvicted.

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FORMALIZATION OF EVALUATIVE NOTIONS AS A WAY TO IMPROVE CRIMINAL SANCTIONS WITH DUAL FORM OF GUILT

The analysis of the Criminal Code of Ukraine provide the ground to believe that legislator often uses the evaluative notions forming the regulations of criminal law, particularly when describing the elements of the crime. In current legal realities the use of such estimative notions actually is one way of forming the criminal law material the application of which is the basis for more than a half of the articles of the Criminal Code of Ukraine.

This article focuses on determining the effect of the using of such evaluative notions in the disposition of criminal law sanctions on its structure, particularly, in crimes with dual form of guilt. The objectives of the article is to describe features of the most frequently used estimative notions and provide recommendations for the improvement of criminal law in further mentioned direction.

This article presents the variety of opinions concerning the definition of the evaluative notion, reasons and consequences of using the evaluative notions in the criminal law.

According to the received results of this study, it is concluded that formalization of estimative notions will contribute to concretization of disposition of criminal regulations that in its turn will allow narrowing down the limits of criminal sanctions, including crimes with dual form of guilt, describing the features of the objective side, which estimative notions often use.

At the same time, the guarantee of the correct using of evaluative notions is the establishment of the full list of cases that fall under a particular estimative notion. Only in case of inability to check all cases covered by this notion, it is possible to limit by approximate list. The availability of this list will significantly reduce the risk of judicial error.

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THE LEGAL NATURE OF CASUS AS INNOCENT HARM IN THE CRIMINAL LAW OF UKRAINE

In today's domestic criminal law concept of subjective incrimination prevails in accusation, which naturally activates a detailed scientific study of the institute of guilt and issues related to innocence. This innocent harm, which in criminal law doctrine is traditionally called casus, is not directly regulated by Ukrainian legislation, although its existence is recognized and is often found in practice. This situation of "illegal" status requires research of the legal nature of casus and identification of its correlation with some related legal categories.

In this article the legal nature of the casus as innocent causing of harm in the criminal law of Ukraine is discussed. The author conducted comparative legal analysis of related institutions of criminal law: forms of the fault, circumstances which eliminate criminality of act, criminal misconduct, mistake in criminal law. Also the author discovered a number of basic features inherent to casus. The introduction of the special concept of "criminal casus" (casus criminalis) into criminal law and doctrine was proposed.

In addition there is the issue of the establishment of a special name for the casus in the penal sense. This need is dictated by the fact that the theory of law and legal concept of casus are used in different variations and different meanings. In this regard, there are the following related concepts: casus foederis, casus major, casus belli and more. In addition to these cases, concept of casus is used in other situations, being synonymous with atypical situations in lawsuit, case, etc. legal fact. Thus, casus in the criminal law is completely devoid of certain attributes in its definition. In this regard, it would be appropriate to identify innocent harm through the use of the phrase casus criminalis or criminal casus.

Thus, as a result of the study the author formed a number of scientific findings. The concept of casus is not part of any other institute of criminal law, which indicates its independent legal nature. The main features that characterize casus include: a) no need and possibility to predict negative consequences of his act by the person who committed it; b) damage caused as a result of casus can be of any scope; c) casus is not an offense; d) casus does not entail punishment; e) casus is not provided in the criminal law of Ukraine. Also, the author proves the necessity of legal introduction of the concept of criminal casus as a special notion for innocent harm.

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ON THE EXPEDIENCY OF EXISTENCE OF CONFISCATION OF PROPERTY AS A FORM OF CRIMINAL PENALTY

The paper analyses existing approaches to the matters of necessity of existence as well as social and legal conditionality of such type of penalty as confiscation of property. It should be noted that there has been an increasing interest of scholars in the effectiveness of existing punishments, including confiscation of property. However, the nature of confiscation of property is to some extent problematic, which naturally causes debate in scientific circles, since penalty must match the severity of criminal offense, be fair and sufficient to correct and prevent conviction of new crimes.

As a result, the views of the authors on the issues of ascription of property confiscation to archaic forms of penalty, the problems of conformity of general property confiscation as a penalty with the Constitution and the issues concerning determination of its legal nature have divided in two groups, each having its supporters with their own arguments.

According to the first viewpoint, confiscation of property is an effective form of penalty and its abolition will result in the increase of profit-motivated crime.

Supporters of the opposite viewpoint substantiate exclusion of confiscation of property from the system of penalties, as they believe that the validity of its legal nature is not confirmed and is contrary to a number of provisions.

The author makes conclusions on the rationale for the existence of confiscation of property, specifies the main arguments for its preservation and determines the direction of further research.

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THE PRINCIPLE OF HUMANISM AND ITS REFLECTION IN THE CRIMINAL LAW: COMPARATIVE LEGAL CHARACTERISTIC

This article is about the principle of humanism in the criminal law. The research is based on positions of international law, national and foreign legislation. Among the scholars who researched realization of the principle of humanism there are V.O. Hatseliuk, N.A. Lopashenko, V.V. Maltsev, N.A. Orlova, T.R. Sabitov, V.O. Tuliakov, V.D. Filimonov, N.I. Khavroniuk etc.

Humanism is a progressive philosophy. We researched the principle of humanism as general principle of law, especially criminal law.

The principle of humanism reflects the institutes of mitigation, aggravation of circumstances, retroactive effect of the law on criminal liability in time, discharge from probation, amnesty, pardon etc. Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 5 of the Universal Declaration of Human Rights and the Criminal Code of Ukraine, Russia etc. provide prohibition of torture. No one shall be subjected to torture or to inhuman or degrading treatment or punishment. Article 7 of the Criminal Code of the Russian Federation enshrines the principle of humanism.

Implementation of the principle of humanism as a principle of criminal law is interpreted at three levels: legislative, judicial, and doctrinal. The principles of humanism may be reflected in a separate article of the Criminal Code. The principle of humanism must be balanced with their realization as to subjects of criminal law relations. Subjects of criminal law relations are criminal, victim, society and the state.

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CURRENT ISSUES OF REFORMING THE INSTITUTION OF VISITS FOR CONVICTED AND IMPRISONED WHO ARE KEPT IN PENAL INSTITUTIONS OF THE STATE PENITENTIARY SERVICE OF UKRAINE

The activities of the State Penitentiary Service of Ukraine, statistics and other empirical researches show that the problem of prisoners' social relationships remains almost unsolved and needs a scientific research in terms of international standards in the field of human rights, and in terms of international penitentiary experience in this sphere.

The article is an attempt to determine the state of implementation of national legislation regarding the regulations of visits of prisoners.

The author of the article concluded that national criminal and executive legislation of Ukraine, supporting the view of international standards in the field of the protection of prisoners' rights, pays great attention to the institute of providing visits for convicted prisoners. However, there is an urgent need to reform these branches taking into account the requirements of international standards on the prisoners' rights and leading international penitentiary experience of developed countries in Europe. As follows it should be considered whether there is a need to increase the number of short-term visits for prisoners in penal institutions. It is necessary to consider the other countries' experience as to reducing the number of visits provided for the inmates as a result of their bad behavior. It is also necessary to provide persons who are kept in custody with rights to short-term visits, and the person who conducts criminal investigation with rights to restrict it.

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PSYCHOLOGY OF YOUTH CRIMINAL SUBCULTURE

Among many subcultures that occur among today's youth, special attention should be paid to criminal subculture. It occupies an exclusive position, as it creates a detrimental effect and puts under control a lifetime of youth involved in it, in detail adjusting its behavior and in many cases, determining all further life of a young man. The criminal subculture is the greatest danger, because it contains a strong antisocial orientation and practical ability to implement this direction through criminal activity.

This is a unique alliance that brings together individuals who understand that it will be very difficult to legally achieve power in the highly competitive modern society alone. Therefore, it is easier to seek the simple way, even if it goes against the principles, norms and laws of civilized society. Stiffness and pragmatism are the main characteristics of young people who join the ranks of street gangs of criminal orientation. Most of these groups are spontaneous – teenagers sometimes do not know the purposes and objectives of the group, the leader and other members of the group. This is especially true for unstable antisocial groups – "companies". The desire to be like all teenagers leads to uncritical acceptance of reality. Group has a strong influence on impressionable youth that has no solid attitudes and self-confidence. Means of influence can be verbal persuasion of leader or the whole group, their threats and harassment.

Thus, norms, values and attributes of criminal subcultures are formed with regard to age peculiarities of boys, providing a wide range for self-fulfillment of their "I", compensation of social failures attracting by a halo of romance, mystery and strangeness, lack of moral restrictions and prohibitions.

CRIMINAL PROCEDURE, CRIMINOLOGY, INVESTIGATIVE ACTIVITY

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CONDUCTING SHORT TRIAL IN CRIMINAL PROCEEDING

This article analyzes the legal literature on conduct of a short trial. The analysis of problematic issues of the subject at issue was carried out. Detailed conclusions and proposals as for the short trial in criminal proceedings were developed. The relevance of the topic is determined by the fact that the trial is the central stage of the criminal procedure. Such a trial is a legally established system of court proceedings and participants in criminal proceedings, the consistent implementation of which is aimed at a comprehensive, complete and objective investigation of materials of criminal proceedings and adoption of lawful, reasonable and fair judgment".

Part 3 of Article 349 of the Criminal Procedure Code states that the court has the right, if the participants in court proceedings do not object thereto, to find that examination of evidence in respect of indisputable circumstances is unnecessary. In so doing, the court ascertains whether said persons understand correctly the contents of such circumstances, whether there are no doubts regarding voluntary nature of their position, as well as explains to them that in such a case they will be deprived of the right to challenge these circumstances by way of appeal.

We are talking about a significant simplification of the procedure of judicial review and conduct of short proceeding (according to the terminology of the new Criminal Procedure Code – trial). The purpose of the establishment of such a procedure is the acceleration of criminal proceedings, the adoption of decision in conditions of procedural and resource economy.

In this article the conclusions are drawn that the conduct of short trial is in conflict with the above principles of criminal proceedings. We agree with the proposal expressed by scientists that part 3 of Article 349 should be excluded from the CPC of Ukraine.

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INTERACTION OF INVESTIGATOR AND OPERATIONAL MILITIA OFFICERS ON ADMISSION TO MILITIA OF STATEMENTS AND REPORTS REGARDING CRIMINAL OFFENSES

In law enforcement one of the most challenging issues is a differentiated approach to solving the statements and reports of criminal offenses. According to official statistics, its complexity is manifested in the fact that the total number of such appeals and legal persons increases every year, which corresponds with an increase in the number of criminal proceedings.

The paper clarified the legal grounds for cooperation of investigators and officers of militia units on admission to militia of statements and reports of criminal offenses, including: Criminal Procedure Code of Ukraine, laws and orders of the Ministry of Internal Affairs of Ukraine.

The author determined options for joint actions of militia officers, depending on the source of information on criminal offenses and other events. The main directions of joint activities of investigators and militia officers in examination of the crime scene are determined. It has been found that investigator directs the actions of militia officers and is responsible for the quality of the inspection of the crime scene. Also investigator provides written instructions to employees on the conduct of investigative (detective) and covert investigative (detective) action. In turn, the officer of operational unit informs the investigator about findings regarding the circumstances of the criminal offense and persons involved for their further fixation by the conduct of investigative (detective) and covert investigative (detective) actions; fulfils written orders of investigator on the conduct of investigative (detective) and covert investigative (detective) action.

In view of the results, the development of the provisions of this study is seen in analysis of complex procedural measures and urgent covert investigative (detective) action to solve the crime in "hot pursuit".

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PROCEDURAL ACTIVITIES OF PROSECUTOR IN COURSE OF PRE-TRIAL INVESTIGATION ACCORDING TO THE LAWS OF UKRAINE AND THE FEDERAL REPUBLIC OF GERMANY

The article investigates procedural activities of prosecutor in the course of pre-trial investigation according to the laws of Ukraine and the Federal Republic of Germany. The concept of the institute of prosecution in the criminal procedural law of Germany is analyzed. The main task of prosecutor in the criminal procedural law of Germany is defined. The features of procedural regulatory support of the prosecutor in pre-trial investigation in the Federal Republic of Germany are reviewed. The peculiarities of legal theoretical understanding of criminal proceedings in Germany are considered. The features of the division of criminal proceedings of Federal Republic of Germany in stages and phases are analyzed. The problem of procedural activity of prosecutor during the implementation of the principle of adversarial criminal proceedings in the Federal Republic of Germany is studied. The basic principles of criminal procedure of the Federal Republic of Germany are analyzed. It is determined that there is a direct procedural link between the activity of prosecutor in the criminal proceedings of the criminal process and determination of the model of proceeding in Germany as a whole. It is established that in the absence of the Criminal Procedure Code of the Federal Republic of Germany individual rules or sets of separate rules governing powers of the prosecutor and procedural features of its activities, in contrast to the Criminal Procedural Code of Ukraine, are applied. The distinctive feature of procedural activity of prosecutor after receipt of a crime is considered. The major powers of the prosecutor in the course of pre-trial investigation in the Federal Republic of Germany are analyzed. The positive aspects of procedural activities of prosecutor in the course of pre-trial investigation in the Federal Republic of Germany, which should be implemented in the criminal procedure legislation of Ukraine, are identified.

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CRIMINALISTIC CHARACTERISTICS AND CLASSIFICATION OF SELF-INCRIMINATION DURING INVESTIGATION OF CRIMES

The article analyzes the established definition of criminalistic characteristics and classification, exploring through their prism self-incrimination in the investigation of crimes. The features of criminological characteristics and classification of individual self-incrimination in the investigation of crimes are characterized, their specificity and characteristics are determined. Criminalistic classification of self-incrimination is conducted by criteria that promote its complete and timely diagnostics.

The genesis of the term "criminological characteristics" starts with criminalistic evidences, and understanding that it reflects features of a particular type of crime. The nature of the term "self-incrimination" leads us not to legal categories, but to the linguistic ones, opening to the investigator many types, classes, manifestations. Thus, self-incrimination is deliberately false information provided by a person with respect to its involvement (participation) in the crime and its circumstances. Term or even the fact of self-incrimination is found more frequently in criminal proceedings rather than in administrative, civil and commercial cases. The Criminal Procedure Code does not provide the punishment for such self-incrimination for participants of criminal proceedings, the suspect or the accused.

The implementation of the principles of criminal proceedings provides an investigator with the opportunity to take primarily criminal law normativity as a basis for criminalistic classification. Thus, the system of classification of crime consists of two subsystems: criminal legal classification, based on families, types, elements of crimes, as well as objective and subjective attributes contained in criminal law and criminalistic classification of crimes.

Classification of self-incrimination as a separate category in the theory of criminology and criminal proceedings should be conducted by the following criteria:

1. Depending on the structure of self-incrimination in the testimony:
   - simple self-incrimination;
   - complex self-incrimination.
2. Depending on the degree of self-incrimination compared to truthful testimony:
   - full self-incrimination;
   - partial self-incrimination.
3. Depending on the focus of self-incrimination and incrimination of others:
   - self-incrimination;
   - incrimination of another person;
   - both self-incrimination and incrimination of others.
4. Depending on the place of self-incrimination in the investigation:

• during the investigative (search) activity;

• during covert investigative (search) activity.

5. Depending on the steps of investigative (search) activity self-incrimination occurred at:

• during examination;

• during the search;

• during filing for identification;

• during the investigative experiment.

6. Depending on the crime:

• in case of actual crime;

• in case of imaginary crime.

7. Depending on circumstances of self-incrimination:

• regarding crime in general;

• regarding individual circumstances of a crime.

8. Depending on the purpose of self-incrimination:

• to hide the involvement of another person;

• to hide person's own involvement;

• to hide another crime.

9. Depending on the objectives of self-incrimination:

• pursuing selfish ends;

• pursuing unselfish ends;

• pursuing personal, unselfish ends.

10. Depending on the procedural status of person in criminal proceeding, self-incrimination may be:

• self-incrimination of victim;

• self-incrimination of witness;

• self-incrimination of suspect;

• self-incrimination of accused.

Self-incrimination as a separate criminalistic category is knowingly false information provided by a person with respect to its involvement (participation) in the crime and its circumstances. Place and criminalistic classification of self-incrimination in the criminalistic characteristics and methodology of investigation of crimes is defined through its systematization of criminalistically significant reasons that contribute to the formation of criminalistic characteristics and specific methodologies of crime investigation.

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INTERNATIONAL EXPERIENCE OF COMBATING CORRUPTION IN GOVERNMENT BODIES

The paper studies the international experience of combating corruption in government bodies. The causes and conditions of commitment of corruption offenses in this area are discussed. The author made relevant conclusions and proposals on the subjects. The topic is relevant today because corruption is one of the most painful social problems of our time, the solution of which is an extremely urgent task. The high level of this type of offenses in Ukraine is recognized by the leadership of the state, the supreme legislative body, domestic and foreign scholars, international institutions, and society as a whole. Corruption threatens the establishment and development of democracy, social progress, building a civil society. Currently, the issue of corruption in Ukraine is undoubtedly very important. There is no doubt that this issue is painful and acute for the society, and causes numerous discussions.

It is also concluded that corruption is a multifaceted phenomenon and takes many forms. There are many definitions of corruption, and at the beginning of this article author provides an accurate one. Since corruption is a multifaceted phenomenon, it is considered to be a moral problem. Despite this, it is necessary to study corruption in the economic sphere – corruption is a threat to economic growth, employment, income, productivity, investment in the economy. Thus, corruption is a burden for the entire scope of creation of tangible and intangible values in society.

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TRENDS IN THE DEVELOPMENT OF A PROFESSIONAL SELF-GOVERNMENT IN THE SYSTEM OF THE PROSECUTION, THE JUDICIARY AND THE BAR

The article analyzes trends in the development of a professional self-government in the system of the prosecution, the judiciary and the bar. Among the main trends in the development of a professional self-government in the system of the prosecution, the judiciary and the bar should be noted the strengthening of its role as a determining mechanism to ensure independence, the highest professional and ethical level of representatives of relevant communities; the democratization process of the formation of government and decision making in the process of ongoing work; wider application of competitive principles in acquiring the right to profession, lesser role of the subjective factor in the control of knowledge of applicants for membership in the corporation; the involvement exclusively of members of the professional community, with the exception of prosecutors, into activities of bodies of self-government; centralization of the functions of selecting and bringing to disciplinary responsibility by transferring them to one national authority, with the exception of the bar; the inclusion of representatives of other agencies and branches of government (except the bar) into the qualification and disciplinary bodies. Recommendations for improving the organization of work of the judicial, prosecutorial and bar self-government in Ukraine are also provided in the article.

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THE STRUCTURE OF METHODOLOGY OF INVESTIGATION OF CRIMES RELATED TO OFFICIAL ACTIVITY

The scientific approaches for determination of structural elements of criminalistic methodology of crimes investigation are analyzed. The author suggests the structure of methodology of investigation of crimes related to official activity.

Criminalistic methodology of crimes investigation is an important and integral tool of pre-trial investigation, because it develops the most rational and optimal methodology for investigating some criminal offenses. However, to fully perform its task, the structure should be logical and meet the basic methodological principles. We consider the need for unification of structure of individual forensic techniques. This allows avoiding a number of inconsistencies and contradictions. That is why we consider it extremely relevant to study the question about the structure methodology of investigation of individual crimes as the example of methodology of crimes investigation in the area of official activity.

The author analyzed large amount of legal literature. This analysis indicated the existence of many unresolved issues. In particular, there is no unambiguous approach to structuring of individual criminalistic methodology of crimes investigation and to division of investigative process into stages in general and especially for crimes related to official activity.

As a result, the author proposes to allocate the following elements of a separate complex methodology of crime investigation in the area of official activity:

– criminalistical characteristics of crimes in the sphere of official activity;

– collection and verification of primary information about crimes in the sphere of official activity;

– initial stage of the investigation;

– next stage of the investigation;

– features of overt and covert investigative (detective) actions;

– features of overcoming the counteraction to investigation of crimes in the area of official activity.

There is no objection to the assertion of necessity to distinct the structure of consolidated and separate methodologies of crimes investigation. Therefore, when it comes to the structure of methodology of investigation of crimes in sphere of official activity as basic criminalistic methodology, the following elements should be allocated:

– criminalistic classification of crimes in the sphere of official activity and their criminalistic characteristic;

– problem issues of detection and investigation of crimes in the sphere of official activity;

– problem areas of planning and investigation of crimes in sphere of service activity;

– problem aspects of investigation of crimes in the sphere of official activity;

– problem of criminalistic support of investigation of crimes in the sphere of official activity;

– problematic aspects of the application of expert knowledge in the investigation of crimes in the sphere of service activity;

– problems of interaction with other law enforcement, government agencies and non-governmental organizations;

– problems of eliminating counteraction to investigation of crimes in the sphere of official activity.

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THE PROCEDURE OF CRIMINAL PROCEEDINGS AGAINST AUTHORISED HUMAN RIGHTS REPRESENTATIVE OF THE VERKHOVNA RADA (PARLIAMENT) OF UKRAINE

One of the main functions of the Ombudsman in the world is the control of the executive and other bodies of state power in response to complaints of citizens on the action of certain organs or officials that led to the violation of the rights and freedoms of man and the citizen.

The Constitution of Ukraine provides establishment of a constitutional body – the Authorised Human Rights Representative of the Verkhovna Rada of Ukraine exercising parliamentary control over the observance of constitutional human and citizens' rights and freedoms (Art. 101 of the Constitution of Ukraine). Part 3 of Article 55 of the Constitution of Ukraine provides everyone with the right to appeal for the protection of his or her rights to the Authorised Human Rights Representative, which shows the great importance of the Authorised Human Rights Representative, as part of the constitutional system of rights and freedoms of man and the citizen.

Thus, the efficiency of the functions of the Authorised Human Rights Representative of the Verkhovna Rada in protection of human rights and civil rights is directly related to providing them with the necessary conditions and sufficient legal safeguards. Such guarantees in the Criminal Procedure Code of Ukraine are the introduction of a particular course of criminal proceedings against a certain category of persons.

The Criminal Procedure Code provides a special procedure of criminal proceedings against the individual categories: people's deputies of Ukraine, judges of the Constitutional Court of Ukraine, professional judges and jurors and people's assessors in the course of administration of justice, the candidate for President of Ukraine, Authorised Human Rights Representative of the Verkhovna Rada of Ukraine,) Head of the Chamber of Accounts, his first deputy, deputy, Chief Comptroller and secretary of the Chamber of Accounts, deputy of local council, defense attorney, Prosecutor-General of Ukraine, his deputy (Art. 480 – 483 of the Criminal Procedure Code).Thus, Authorised Human Rights Representative of the Verkhovna Rada of Ukraine is a separate category of persons against whom law applies special procedures in the course of criminal proceedings including constitutional and legal basis of its status. The article analyzes the Constitution of Ukraine and laws of Ukraine on guarantees for the Authorised Human Rights Representative of the Verkhovna Rada and takes into account their problems and improvement of the Criminal Procedure Code of Ukraine.

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INTERNATIONAL STANDARDS OF THE INSTITUTE OF EXTRADITION OF A PERSON AS THE SOURCE OF UKRAINIAN JUDICIAL PROCEEDINGS

This article analyzes the application of international law on extradition of persons as part of national legislation of Ukraine. In order to improve activities of law enforcement and regulatory agencies in combating crime both within the state and at the international level the states accepted international rules, requirements and fundamental provisions of which were reflected in bilateral and multilateral agreements. It is also emphasized that procedural mechanism for the practical implementation of extradition is limited by strictly defined proceedings, because extradition is not only delivery of a person who committed a crime, but it is a totality of measures aimed at ensuring it.

For Ukraine, which is on the path of progressive integration with the European Union, the important question of bringing the national legal system into compliance with the standards established by the international community cooperation is to provide legal assistance in criminal proceedings in the form of extradition. The current Criminal Procedure Code of Ukraine legislator has provided independent legal institution – extradition entities, aimed at ensuring the principle of inevitability of punishment of those who are responsible for socially dangerous acts, which ensures effective implementation by Ukraine of its contractual obligations to avoid possible prosecution.

Thus, in case of existing legal conditions and joint intergovernmental agreement about transfer of jurisdiction of a state regarding a person extradited for perpetrating the socially dangerous criminal and punishable acts being out of the jurisdiction of the requesting state, occur legal relations of extraditional nature between two or more states, acting as subjects of these relationships manifested in extradition of the person to criminal prosecution and its punishment. Thus, the institution of extradition, serving an integrating function in international cooperation between Ukraine and other countries, is an important tool for the implementation of international commitments in the field of criminal justice.

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THE MODERN WORLD MODELS OF JURY TRIAL

The article is devoted to the research of the legal nature of the jury trial, clarification of its characteristics. Comparative legal analysis of modern world models of jury trial and its national model is carried out.

From the beginning of XXI century the jury trial is a leading form of the representation of people's participation in the administration of justice. This institution is stipulated by the legislation of many countries, in one or another legal model. Some of these countries have lasting traditions of the organization and functioning of the jury trial (Great Britain, USA, France), others have only started the process of implantation of this procedural form to the national criminal legal procedure (Ukraine, Georgia, Kazakhstan, Russia, Spain, Venezuela etc.).

It is stated that the main characteristics of the Anglo-American model of the jury trial are the division of the competence between the jury and the professional judge; resolving of the verdict by the jury which is usually unreasonable; revocation of the verdict is possible usually because of substantial breaches of law. An advantage of the classic model of the jury trial is that its structure determines the procedural activity of parties in the criminal procedure, which is an immanent constituent of the contentiousness principle. An activity of parties in the criminal procedure is necessary pre-condition for the court's function as an arbiter in the criminal legal conflict, which is resolved exceptionally by the evaluation of evidence given by the parties.

Characteristics of a jury trial mentioned above have conceptual meaning. Thus, it is concluded that the continental model of a jury trial, which is characterized by the jury's and professional judges' joint activities, is nominal. According to its legal nature such form of the administration of justice is a variety of people's participation in the criminal procedure.

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SOME ASPECTS OF THE INSTITUTE OF WITNESS IN CRIMINAL PROCEDURE

This article analyzes the legal literature on certain aspects of the institute of witnesses in criminal proceedings in Ukraine. Also, a comparative analysis of the norms of our legislation and the legislation of other states in relation to the institute of witnesses is carried out. The appropriate fundamental conclusions and proposals on the subject are made. The relevance of this topic is determined by the fact that, in accordance with item 25, part 1 of Article 3 of the Criminal Procedure Code of Ukraine, witness is a party to the criminal proceeding. Participation of witnesses in the investigation (search) and other proceedings is governed by part 7 of Art. 223 of the Criminal Procedure Code of Ukraine.

The investigator, the prosecutor is obliged to invite at least two disinterested persons (witnesses) for filing a person, body or thing for identification, examination of the corpse, including exhumation, investigative experiment, examination of person. However, if the investigator, the prosecutor uses continuous recording of the progress of the corresponding investigative (search) activity, the witnesses may not be invited. The exception is search or inspection of the home or any other possession of a person, search of persons, carried out with the obligatory participation of at least two witnesses, regardless of the use of technical means of recording of the investigative (search) activities. Witnesses may be invited to participate in other proceedings, if the investigator, the prosecutor deems it appropriate. Also p. 7 of Art. 223 of the Criminal Procedure Code states that the witness can not be the victim, the relatives of the suspect, the accused and the victim, law enforcement officials, as well as those interested in the outcome of criminal proceedings.

The purpose of this article is to examine the issues of: – compensation of procedural costs for witnesses; – participation of witnesses in the investigative (search) activities and other procedures, during which the information protected by law is obtained; – introduction of the institute of "special witnesses".

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THE DEVELOPMENT OF THE SCIENTIFIC THOUGHT AND THE LEGISLATION ON PARTICIPATION OF THE PROSECUTION IN CRIMINAL PROCEEDINGS DURING EXEMPTION OF A PERSON FROM CRIMINAL LIABILITY IN X-XVI CENTURIES

The article is devoted to research of the prosecution and the mechanism of exemption from criminal liability. Exemption of a person from criminal liability, as a method of rehabilitation of persons is studied. The basic rights, acting on the present territory of Ukraine in X-XVI centuries, are investigated. It is concluded on the importance of Russkaya Pravda for the history of Ukrainian law. The influence of Russkaya Pravda on legal developments is determined. The author reviewed the basic features of the criminal process of Kievan Rus, analyzed the rules of Russkaya Pravda and concluded on the existence of certain grounds for exemption from criminal liability. The article reviews provisions of Russkaya Pravda that allow releasing from criminal charges or punishment in connection with remorse. The author studied the rules of Lithuanian Statute during the different years and in various editions in the context of exemption from criminal liability. The provisions of Lithuanian Statute that directly measured prototype mechanism for exemption from criminal liability were analyzed. No clear distinction between the rules of civil and criminal law in the Lithuanian Statute is established. Special trials of Lithuanian Statute are depicted. The features of the Ukrainian Cossack and Hetman Republic laws in the area of exemption from criminal liability are investigated. It is concluded that in criminal proceedings in application of the institute of exemption from criminal liability in Ukrainian Cossack and Hetman Republic dominates the thought of private prosecutor (victim).

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ENSURING THE RIGHT TO LIBERTY AND SECURITY BY CRIMINAL PROCEDURAL LAW OF UKRAINE AND FORMER SOVIET COUNTRIES

The article investigates the right to liberty and security of person provided by criminal procedural laws of Ukraine and former Soviet countries. The features of the origin of the right to liberty and security of person are specified. The features of the regulatory right to liberty and security of person according to criminal procedural laws of Ukraine and former Soviet countries are determined. The peculiarities of legal theoretical understanding of the criminal procedure in post-Soviet countries are defined. The features of the right to freedom and security according to criminal procedural laws of Ukraine and former Soviet countries are stated. Such institutions as compulsion are considered in light of the right to liberty and security of person according to criminal procedural laws of Ukraine and former Soviet countries. Institute of arrest and detention is also considered in the light of the right to liberty and security of person according to criminal procedural laws of Ukraine and former Soviet countries. Features of the right to liberty and security of person at different stages of criminal proceedings are determined. The judicial review and procuratorial supervision in the area of the right to liberty and security of person provided by criminal procedural laws of Ukraine and former Soviet countries is analyzed. The positive aspects of the right to liberty and security of person according to criminal procedural laws of Ukraine and former Soviet countries should be implemented in the criminal procedural legislation of Ukraine.

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HISTORICAL PRECONDITIONS FOR INTRODUCTION OF AGREEMENTS IN CRIMINAL PROCEEDINGS

Alternative ways of conflict solving, such as a compromise or agreement in criminal proceedings, have been increasingly usable and significant in the environment of criminal law reforms aimed at harmonisation with the applicable international standards.

A compromise originates from the initial stages of criminal law development, and has gradually improved and progressed ever since. Earliest attempts of amicable dispute solving can be found in the ancient Code of Hammurabi. The codified state laws of the Ancient Rome, the Law of the Twelve Tables, also had reference to probable agreement between a guilty person and an aggrieved person.

Russkaya Pravda was the key justice ruling in the Kyivan Rus. At that time, indemnification of damages incurred was the primary goal of justice followed by a punishment for a crime. In the territory of Halychyna under Polish ruling, parties had the option of amicable agreement instead of blood vengeance.

The Rules of Criminal and Educative Punishments of 1845 provided for full confession (acknowledgement of a guilt) and probable cancellation of a punishment if a guilty person made an amicable agreement with an aggrieved person.

The Criminal Law Code of 1864 also included provisions with respect to an amicable agreement between the guilty and the aggrieved, and with respect to guilt acknowledgement by the accused.

At Soviet times, in particular, during the effective period of the three Criminal Procedure Codes in the Ukrainian SSR (rev. 1922, rev. 1927, and rev. 1960), simplified procedures of criminal case examining (i.e. private prosecution cases, records of case bundle, reduced time of case examination based on parties' waiver of certain evidence investigation, exemption of criminal liability for various reasons) were applied to some extent.

Development and widespread use of agreements in criminal proceedings is a global trend extending to law systems of both Anglo-Saxon and continental countries.

The analysed sources and historical conditions precedent to agreements in criminal proceedings witness to their justification in the national criminal procedure laws, and to a reasonable necessity of further improvement of such provisions taking into account recommendations of the international community and experience of other countries.

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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 criminal 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.

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ADMISSIBILITY OF EVIDENCE IN CRIMINAL PROCEDURAL LEGISLATION OF UKRAINE: REGULATORY ASPECT

An adoption of the Criminal Procedure Code of Ukraine 2012 for the first time established the notion "admissibility of evidence" at the level of national legislation. Because of the novelty of this institution for the Ukrainian legislation, it requires scientific research. This institution is one of the guarantees of the observance of constitutional rights and freedoms of all participants of criminal proceeding. It also helps to avoid illegal activities of officials who deal with criminal proceedings and provides with valid, unprejudiced and reasonable court decision.

There are numerous treatises of scholars in the sphere of criminal procedure devoted to the discussion of an admissibility of evidence during evolution of criminal procedural doctrine. The most famous of them are publications of G. Gorskiy, U. Grosheviy, P. Elkind, N. Kipnis, N. Sibileva, S. Stahivskiy and others. Thus, the analysis of criminal procedural doctrine allows drawing a conclusion that the normative model of admissibility of evidence is grounded on numerous treatises of scholars in the sphere of criminal procedure.

Taking into account the novelty of this institution for the Ukrainian legislation and its significance for appropriate administration of justice, the purpose of this article is a clarification of the normative maintenance of admissibility of evidence.

Regulatory model of admissibility of evidence is investigated in the article through the analysis of provisions of criminal procedural legislation. The author also concludes that this institution is inter-branch. In author's opinion, the regulatory construction of the inter-branch institutions has to be unified and represent single approach of the legislator to its consolidation. It substantially simplifies an application of such institutions and promotes the formation of single practice. Thus, an author considers that it is necessary to adopt some amendments to the provisions referring to the notion "admissibility of evidence".

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CRIMINAL LEGAL RESEARCH OF VICTIM OF CRIMES THAT VIOLATE SEXUAL FREEDOM AND SEXUAL INVIOLABILITY OF CHILDREN

This article explores the issue of victim of crimes that violate the sexual freedom and sexual inviolability of children. Special attention was paid to the concept of the victim in the science of criminal law. Therefore, the author studies the victim in the group of crimes that violate the sexual freedom and sexual inviolability of children. Some changes in the definition of the victim of those crimes are proposed by the author in order to improve the differentiation of criminal responsibility for those crimes.

We share the view of M. Senatorov that a victim of such a crime is a social entity (person or entity, state, other social institution or society in general), welfare, right or interest of which is under the protection of the criminal law.

The legislator determines that victims of crimes provided by p. 3, 4 of Article 152, p. 2, 3 of Article 153 of the Criminal Code of Ukraine are minors and juveniles. Since in the course of establishment of victims of these crimes for persons aged 14 to 18 it is impossible to uniquely determine the age at which one is considered sexually mature. In our opinion, once the child reaches sexual maturity, this is the point from which the court can provide individual's right to marriage. It is then advisable to begin criminal protection of sexual freedom. That is why we talk about criminal protection of sexual integrity, and the victim should be defined as a child who has not reached sexual maturity.

We propose to define a victim of crimes violating sexual freedom or sexual integrity of the child depending on subject of infringement. Thus, in p. 3, Article 152 and p. 2, Article 155 of the Criminal Code of Ukraine the object of assault is sexual freedom, and therefore the victim must be defined as a child who has reached sexual maturity. The object of crime in p. 4 of Article 152, p. 3 of Article 153, Art. 155, Art. 156 of the Criminal Code of Ukraine is sexual integrity, and the victim of a crime should be defined as a child who has not reached sexual maturity.

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PREPARATORY PROCEEDING AS A CRIMINAL PROCEDURE CATEGORY

The article aims to study the content, goals and objectives of the preparatory proceedings at first instance. On the basis of the provisions of the Criminal Procedure Code of Ukraine, it was concluded that the preparatory proceeding has the differentiated forms: the proceedings under agreements, the proceedings of stopping of criminal proceedings with exemption from criminal prosecution, the proceedings of stopping of criminal proceedings on procedural grounds, checking the indictment proceedings act request of using of coercive measures of medical or educational type for their compliance with the CPC and the rules of jurisdiction and appointment on the basis of criminal proceedings for trial.

After analyzing each of these forms of criteria: objectives, procedure and subjects of the final decision, the author made the following conclusions.

Proceedings of the stopping of criminal proceedings with exemption from criminal prosecution, proceeding of procedural (neutral) grounds are differentiated forms of trial proceedings on the basis of agreements – special procedure of the proceedings at first instance and the proceedings on the basis of the indictment and a motion to impose compulsory medical treatment or educational type for their compliance with the CPC and the rules of jurisdiction and appointment on the basis of criminal proceedings for trial – the first stage of the proceedings in the trial court, which ensured the legality, completeness and effectiveness of trial.

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PROBLEMATIC ISSUES OF APPLICATION OF PREVENTIVE MEASURES FOR WOMEN IN CRIMINAL PROCEDURE OF UKRAINE

The article investigates a number of issues related to the application of preventive measures to suspected or accused women, who at the time of a preventive measure are pregnant or have children under school age. Protection of motherhood and childhood is an important task of the state in any branch of law, and in criminal law in particular. Rights of the child can be protected by preventing violations of the rights of the parents, which is very important in criminal procedure, where the question of human rights is particularly acute.

In the article the circumstances that are important when deciding about the preventive measures are analyzed. In Ukraine the criminal procedure has significant gaps regarding the protection of motherhood and childhood, including the application of preventive measures. The issue of rights protection regarding the children of females being suspects, accused and defendants, which needs studying and implementation into practical activity, has been analyzed. The need to introduce in the criminal procedure standards for the protection of rights of children of suspected and accused women is substantiated in the article.

The author highlights the need to protect children, who are not participants in the criminal process, but their rights are violated in criminal process. This problem needs legislative regulation and implementation in legal practice.

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THE QUESTION OF STRUCTURE OF CRIMINALISTIC CHARACTERICTICS OF THEFT OF ELECTRICITY

The article deals with the structure of criminalistic characteristics of crimes of theft of electricity, based on the disclosure of such elements as the subject of offence, the personality of offender, and the typical way and typical situation of committing crime, which in turn may be supplemented by other elements depending on the characteristics of individual criminal acts infringing on the legitimate rights and interests of people in the field of electric power.

Criminalistic characteristic of crimes has become an integral part of modern forensic science and continues to evolve and improve. However, despite this, scholars have significant differences in perception of this concept, in particular concerning issues of its structure both in general, and with regard to certain criminal acts.

This directly applies to such crimes as theft of electricity, criminological characteristics which has established structures and requires the development of a common approach to its elements.

The article aims at determining the structure of criminological characteristics of crimes and the formation of structures on the basis of criminological characteristics of theft of electricity.

There is a significant number of scientific works devoted to criminalistic characteristics, including ones considering the structure of criminalistic characteristic. However, there is no common approach to this issue.

The aforementioned determines the need in further research of criminalistic characteristics of crimes related to theft of electricity, which has recently been the subject of many researches of modern scholars. However, their scientific contributions can not form a clear view of the structure of criminalistic characteristics of such crimes.

Thus, the article represents author's research of this relevant issue.

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CRIMINALISTIC CHARACTERISTIC OF CRIMES RELATED TO CORRUPTION

The criminalistic characteristic of crimes is one of the newest categories in criminalistics.

The article aims to research the definition of criminalistic characteristics of crime, its quantitative and qualitative composition.

In particular, analyzing the existing definitions, the author provides the definition of criminalistics characteristics of crimes related to corruption. Indeed, criminalistic characteristics of crimes, which are related to corruption, include significant criminalistic elements with correlation in the form of intentional unlawful acts containing evidence of corruption, committed by subjects responsible for corruption offenses that cause harm to legally protected rights, freedoms and interests of individual citizens or state and public interests, or the interests of legal entities.

Equally controversial is the issue of the quantitative and qualitative composition of elements of criminalistic characteristics of crimes. The analysis of researches on this topic enables to single out the following main components of this category – the subject of a criminal offense, the way of committing the crime, the place of crime and the identity of the offender.

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THE ESSENCE OF THE SUMMONS IN CRIMINAL PROCEEDING

The subject of the article are investigator's summons, prosecutor's summons, court summons as means of criminal proceedings. The author provides the names of scholars, whose works have examined related topics. The analysis of the rules governing the summons in the Criminal Procedure Code of the Russian Federation, the Republic of Moldova, the Republic of Latvia, the Republic of Belarus in comparison with the regulations of the Criminal Procedure Code of Ukraine. The author identified weaknesses in the nature of the summons in the Criminal Procedure Code. Guidance as to the solution of shortcomings in the rules which need to be changed is provided. It is concluded that adoption of draft amendments to the rules of the Criminal Procedure Code will contribute to successful application of the rules relating to the investigator's summons, prosecutor's summons, court summons in the future.

Thus, draft amendments to the legislation will help to further reduce the pre-trial investigation and court proceedings, will help more thoroughly regulate essence and procedure of summons regarding participant of criminal proceedings carried out by the investigator, prosecutor or court, and will improve articles of the Criminal Procedure Code regulating the summons in criminal proceedings.

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CLASSIFICATION OF CRIMINAL PROCEDURE VIOLATIONS

The article provides author's definition of criminal procedure violation, which is understood as provided by criminal procedural legislation act (action or omission), committed by a party to criminal proceedings, manifested in violation of recent regulation (regulations) of the Criminal Procedure Law. Revealing the philosophical meaning of the term "classification" the author determined criteria, based on which appropriate classification of criminal procedural violations is conducted, namely: 1) degree of danger to the existence and implementation of criminal procedure relations, i.e. the actual harm inflicted to the latter (by this criterion all procedural violations are divided into major, material and immaterial); 2) subject of violation (procedural violations committed by the accused, investigator, judge, etc.); 3) object of procedural violation – specific area of criminal procedural relations that can be grouped into two main groups: criminal procedure relations that occur during pre-trial investigation and criminal procedural relations, that occur during judicial criminal proceeding.

Finally the author, taking into account the science of criminal procedural law determining the stages of criminal proceedings, which are: pre-trial investigation, preliminary procedure, judicial proceeding, proceedings in the court of appeal, proceedings in the court of cassation, enforcement of judgments, proceedings in the Supreme Court of Ukraine, proceedings on newly discovered circumstances, the author proposed his own classification of criminal procedure violations, namely: 1) violations committed during the pre-trial investigation (pre-trial criminal procedure violations); 2) violations committed only during court proceedings (judicial criminal procedure violations); 3) violations commission of which may occur at any stage of the criminal procedure.

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LEGAL REGULATION OF PREVENTING AND COMBATING CORRUPTION IN UKRAINE

In this article, the author examines gradual formation of anti-corruption legislation and state policy in the sphere of preventing and combating corruption in Ukraine in 1992-2014.

Analysis of legal provisions in this area allowed making a conclusion that, on the one hand, anti-corruption legislation has swiftly evolved with, on the other hand, no significant improvements in preventing and combating corruption. It can be explained by the permanent crisis of political power, weak democratic traditions, lack of civil society, deep economic problems and uncertain prospects of socio-economic development of Ukraine.

In late 2013-early 2014, the most difficult in the modern history of Ukraine socio-economic and political crisis caused by both internal and external factors wiped out existing anti-corruption policy which, for the most part, was declarative in nature.

Such situation led to the adoption of series of new anti-corruption laws. The problem is that the adoption of qualitatively new anti-corruption legislation does not necessarily mean the completion of the reforms which is the only way to make sure that stated goals and objectives essential to the national security of Ukraine are carried out. Their implementation will actually be possible only in case of establishing right conditions and mechanisms for their correct application.

Positive developments in Ukraine can only be led to by top officials' strong political will to fight corruption necessarily entailing adoption of anti-corruption legislation and common policy in this area, which would include a range of measures of public, political, economic, social and legal nature.

INTERNATIONAL LAW
AND COMPARATIVE LAW

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SEPARATE DOCTRINAL APPROACHES TO THE DEFINITION OF INTERNATIONAL CRIMES IN INTERNATIONAL CRIMINAL LAW

International crimes are illegal acts that may be committed as a result of severe violations of international obligations, which are of fundamental importance for the maintenance of international peace and security, the right of peoples to self-determination, respect for human dignity, protection of the environment, or violated interests not only of the directly affected states but also of an international community as a whole. The importance of this provision is manifested primarily in the fact that it as a solid international legal basis contributed to the establishment of stricter liability regime for international crimes.

This understanding of international crime plays an important role from a practical point of view to maintain international order and the effective development of international relations in the spirit of peace and understanding. The issue of clarifying the nature of the offense also has great theoretical and practical value in case of making decisions on existing international delinquency, and should be guided by the violation of an international obligation, regardless of the object of the latter, i.e. determining whether an international crime is special object of such offences. International crimes occur within the relations of the states that regulate vital interests of the international community. Thus, the author notes the importance of the violated international obligations, their character and interest of not one, but many or all states. The violation of the obligations in accordance with international legal rules, which are essential for vital interests, will constitute an international crime, which is the basis for increased liability. For qualification of international legal acts as international crimes it is required that impaired obligation of the state was fundamental to ensure the vital interests of the international community, which is associated with the natural basis of life for everyone, by the conditions of existence of peoples, of all mankind. Thus, the concept of international crimes can be defined as especially dangerous international offence that infringes on the vital interests of states and nations, undermining the essential principles of international law and constituting a threat to international peace and security. The most serious international crimes are international crimes that threaten the destruction of the existing international order, infringe on the rights and interests of the world community, which, as a rule, are unlawful use of armed forces, other unlawful coercive measures that endanger the existence of the state, etc. The definition of international crimes can be considered as only those actions that are dangerous for humanity, for normal relations between states, regardless of their socio-political structure.

A. Tsybuliak-Kustevych

THE EXPEDIENCY OF CREATING THE INTERNATIONAL MAGISTRATES' COURT

The article deals with studying the suggestion to create a new institution of international justice – the International Magistrates' Court (the IMC), as a body, meant to solve minor cases in the simplified procedure using means of conciliation, and to hear appeals on the national Magistrates' court institutions decisions.

The grounds for such establishment, as explained in the present article, are as follows:

Firstly, the majority of states, having desire to avoid violent methods of dispute resolution, are looking for alternative (peaceful) means of settlement. The significance of the principle of peaceful dispute resolution (including international ones) in developing international and internal intercourse between the subjects of respective legal relations, is only increasing with time, and has a huge importance for the development of both international and domestic law systems. Secondly, having in mind the immense number of Magistrates' courts and Justices of the Peace in the vast majority of states, the principal internal activities of which are reconciliation, mediation and good offices, with the defense of social peace and serenity being the original ground for their establishments, the necessity of existence of international judicial institution resolving and settling minor international disputes in the simplified procedure and to hear appeals on the national Magistrates' court institutions decisions, with further peaceful settlement of a dispute is unquestionably important. Thirdly, the official recognition of the term "significant disadvantage" as a new criterion for claims within the jurisdiction of the European Court of Human Rights (the Court), may be regarded as a legal ground for the establishment of the IMC. Basically, the Court has the right to treat any individual claim as unacceptable, in case when it considers that the applicant has not suffered a significant disadvantage. The purpose of the new admissibility criterion is to enable more rapid disposal of unmeritorious cases and thus to allow the Court to concentrate on its central mission of providing legal protection of human rights at the European level.

However, clarification of all required characteristics in a case for the purpose of declaring it significant both subjectively and objectively is not an easy task, and requires the Court's time and attention anyway. Moreover, claiming the generally versatile and conventional value of a claim, as a criterion for application of the "significant disadvantage" term, is not reasonable, because of different socio-economic living standards of citizens. Besides, a material criterion alone can not be considered as adequate for rejection and acceptance of claims, since the applicant's subjective perception of a situation, and objective circumstances of the case should be taken into consideration. Consequently, establishing the IMC with its jurisdiction over "minor" cases, may facilitate the relief in functioning of the European Court of Human Rights, and provide a possibility for every claim, that may firstly seem to be minor, to be heard in a timely way.

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