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OF THE NATIONAL PROSECUTION ACADEMY OF UKRAINE

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Special issue of scientific and professional journal
"Journal of the National Prosecution Academy of Ukraine"
on the pages of scientific journal "European Science"

Profesor JUDr. Ing. Viktor Porada
DrSc., dr. h. c. mult.
Editor in Chief.

Dear colleagues,

allow me to introduce to you the new issue of the science journal „EUROPEAN SCIENCE", that brings new scientific knowledge, knowledge of theoretical and empirical research, with the focus being this time mainly on current problems of Ukraine in the context of the National Prosecution Academy of Ukraine.

In accordance with that, it brings the best, practically verified European methods of solving current problems and objectives of current times.

The scientific journal you are currently holding in your hands is addressed mostly to the representatives of science, research and education, but also to state organs and institutions of various character, state and local legislatures, organizations and institutions of civil society and to everyone who is interested in creating an effective education system using the valid European methods, with the respect to national priorities in various science disciplines.

Next to articles of academic (theoretical) focus, this journal also publishes articles aimed mainly at specific problems of the European society in the context of globalization. These are articles that bring new information (for example from international, but also national conferences and symposiums), various kinds of reviews (monographs, scientific research, significant scientific and expert announcements), distillations from doctoral dissertations and other successful qualification works, various kinds of case and comparative studies, analyses and comments, proposals of international and national research, abstracts and other publications, for example significant social events, activities etc.

In this issue, we bring you the scientific and professional journal "Journal of the National Prosecution Academy of Ukraine" on the pages of our scientific journal "European Science".

Its goal was, as Professor Loshytskyi Mykhailo, Rector of the National Prosecution Academy of Ukraine stated in the beginning of his contribution, to publish scientific outcomes of VIII International Scientific and Practical Conference "Combating Crimes: Theory and Practice" held on 26 October 2018 in the Academy.

I further acquainted myself with the conference that was organized jointly by the Academy and the Prosecutor General's Office of Ukraine, Academician V.V. Stashis Scientific Research Institute for the Study of Crime Problems of the National Academy of Legal Sciences of Ukraine, the European Union Advisory Mission to Ukraine, and the Council of Europe Office in Ukraine.

Event was attended by representatives of state authorities, international organizations, prosecutorial self-governance, National Police, the State Security Service of Ukraine, the Ministry of Justice of

Ukraine, the National Security and Defense Council of Ukraine, educational and scientific establishments, as well as well-known academicians and practitioners.

At the Conference, a number of issues was of a particular interest, e.g. current state of crime counteraction and challenges of its legal framework, protection of interests of a person, the society and the state in criminal proceedings, improvement of procedures of executing and serving a sentence.

Funded contributions on crime control, search for new ways to study this negative social phenomenon and implementation of measures to stop its dissemination were presented. The event provided a forum to discuss the theoretical and practical problems.

The content of published articles shows that the areas of criminal and criminological framework of crime counteraction, criminal procedure and organization, have been significantly strengthened.

The contributions are based on a number of scientifically based considerations, suggestions and recommendations for improving the current state of the fight against crime and strengthening crime prevention. Therefore, it is quite logical that the conclusions of the conference were sent to the highest and most competent places in the state – specifically to: the Committee of the Verkhovna Rada of Ukraine on Legislative Support of Law Enforcement; the Committee of the Verkhovna Rada of Ukraine on Corruption Prevention and Counteraction – to take it into account when drafting bills; the Cabinet of Ministers of Ukraine – to use it when drafting state concepts, programs and plans on crime counteraction; the Prosecutor General's Office of Ukraine, the Ministry of Internal Affairs of Ukraine – to be used in implementing crime counteraction measures. I express my appreciation to the publishing scientists and practitioners at the conference. All contributions are of high scientific value and practical use. I must particularly acknowledge and admire Professor Loshytskyi Mykhailo, Doctor of Law, Honored Worker of Science and Technique of Ukraine, Rector of the National Prosecution Academy of Ukraine. We greatly appreciate his words, in which he expresses gratitude to the European Institute of Further Education for the opportunity to publish the scientific results of VIII International Scientific and Practical Conference „Combating Crimes: Theory and Practice". But I would like to argue that on the contrary, it is a great honor for the scientific board of our journal that we can publish the outputs of the conference, which have high scientific value and practical use not only in Ukraine but also in other EU countries. I wish you a lot of success and I hope for further fruitful cooperation.

Profesor JUDr. Ing. Viktor Porada
DrSc., dr. h. c. mult.

Editor in Chief.

Prof. JUDr. Ing. Viktor Porada, DrSc., academician, dr. h. c. mult. (1943), Professor of Criminalistics, Doctor of Law Sciences, Doctor Honoris Causa. He graduated from the Czech Technical University in Prague, the Faculty of Physical Education and Sport of the Charles University in Prague, and the College of National Security in Prague, as a science-pedagogue at the Department of Criminalistics, later at the Institute of Criminalistics of the College of National Security, at the Academy of Police of the Slovak Republic, where he was also the first founding rector and head of the department of criminalistics and forensic discipline (1993-1993). Later he worked at the Department of Criminalistics at the Police Academy of the Czech Republic in Prague (1994-2005).

Since 2005, he has worked at the College of Karlovy Vary, gradually in the positions of Head of the Department of Criminal Law, Criminalistics and Forensic Sciences (2005-2015), Vice-Rector for Science, Research and Scientific Institutes (2006-2009) and Rector (2010-2014). He also worked at the Faculty of Law of the Pan-European College in Bratislava (2005-2015) and shortly at the College of Security Management in Kosice as Vice-Rector for Foreign Relations and a member of the Institute of Civil Security (2009-2013), where he guaranteed the subject of forensic medicine. Since 2015 he has been a professor at the Faculty of Law and Administrative Studies of the University of Finance and Administration in Prague.

Prof. Porada is one of the foremost representatives of forensic science, with a broad background of knowledge of forensic engineering, forensic medicine, biomechanics and other related disciplines in the Czech and Slovak Republics. As an important scientific authority, he is also recognized abroad. He is a frequent participant in international workshops, internships, stays, seminars, conferences, symposia and congresses in the field of forensic science and related disciplines. His research focuses primarily on the area of criminalistic theory and methodology, criminalistic traces theory and identification, criminal techniques and methodology of investigating individual types of crime and forensic biomechanics. He is the founder of new research directions in forensic science, forensic biomechanics and police sciences, and later in the security sciences. He was editor-in-chief of the Karlovy Vary Law Revue. He is a member of Editorial Board of journals Forensic Engineering, Znalectvo, Notitiae ex Academia Bratislavensi Iurisprudentiae, State and Law, Crisis management, Editor in chief of Scientific journal European Science, deputy chairman of the European Association for Security Scientific Council.

He is also a member of the Czech Biomechanical Association and Honorary President of the Academy of Forensic Sciences in the Czech Republic, a member of the Scientific and Academic Councils of a number of universities. He is the author of many works published both in Czech and English. He is the

author and co-author of crime-oriented works and approximately 550 publications in both domestic and international scientific literature. Viktor Porada is one of the most important pioneers of forensic science, the bulk of his work falls into the late 20s and early 21st century. His works include the monograph „Theory of Criminalistic Tracks and Identification" issued by the Czechoslovak Academy of Sciences in 1987. Furthermore, it is possible to select the monograph „Road Accident in Theory and Practice" (2000), „Biomechanics" (1985, 1993, 2004), or „Biomechanics aspects of general and forensic biomechanics" (2002), written together with academician Jaroslav Valenta and prof. Jiří Straus. His most recent textbooks and monographs with the leading share in the collective of authors include „Criminalistics" (2001), „Criminalistics - Introduction, Technique, Tactics" (2006), „Criminalistic Investigation Methodology" (2007). As his most important scientific monographs, we can consider the „Analysis of Human Movement for the Identification of Persons in Criminalistics" (2008), „Identification of Persons by Dynamic Stereotype of Walking" (2010), „Police Sciences" (2011), „Criminalistic Footprints" (Theory, Practice) (2012), Criminalistics (Theory, Methods and Methodology) (2014), Criminalistics (Research, Progress, Perspectives) (2013), Criminalistics (2015 SR) and Criminalistics (technical, forensic and cybernetic aspects) (1.edition 2016).

Expert of the Criminalistic Institute of Public Security of the Federal Ministry of the Interior in Prague (1971-1974); from the position of the Rector of the Police Academy of the Slovak Republic, he directed the Criminalistic and Expert Institute of the Police Corps in Bratislava (1992-1993); Director of the Institute of Criminalistics and Forensic Sciences at the College of Karlove Vary (2006-2008).

In this year (2019) prof. Viktor Porada, with a team of co-authors, publishes two extensive collective scientific monographs: Criminalistics (Technical, Forensic and Cybercriminal aspects), (A4, 1200 pages) and Security Sciences (Introduction to Theory, Methodology and Security Terminology), (A4, 1000 pages), in which he states:

1.Criminalistics (Summary)

Considering it's subject-matter and ways of investigation, criminalistics is independent and highly cross-disciplinary discipline of science. It uses certain methods and knowledge from other science disciplines, which are later applied to it's own subject of investigation (patterns of origin, collecting, using traces and judicial evidences), and it creates combination of knowledge and information in the interest of successful revealing, investigating and preventing criminal activity. To those science disciplines, of which certain knowledge is used in a creative way, belongs mostly physical-mathematic and technical disciplines, biology, medicine, psychology, psychiatry, engineering, pedagogy etc. Using of knowledge from specialized disciplines such as bionics, biomechanics, biochemistry, cybernetics, mechanics of solid and flexible objects and environment, discipline dealing with materials, forensic engineering, forensic medicine, psychology, psychiatry, sexology, and others, mainly forensic disciplines, is also important.

Criminalistics flows from realistic and dialectic point of view on possibilities of recognizing materialistic effects and processes of objective world through determination, providing and analysis of their expressions - reflections in materialistic environment and in people's awareness. Criminalistics is based on recognizing traces as results of reflection of delinquent's using of resources in materialistic environment and in people's awareness and also as a result of delinquent's activity.

Monography summs up scientific information in criminalistics, introduced chapters are results of long-lasting systematic scientific work of criminalistic theoreticians and forensic experts from disciplines such as criminalistic technics, forensic medicine, engineering, biomechanics, psychology, psychiatry, sexology and of other experts dealing with researching, revealing, investigating and preventing criminality. None of the related or applied scientific disciplines specializes on problematic of origin, gathering and using of traces and judicial evidences in the process of revealing and preventing criminal activity, and that is the reason why we can not classify criminalistics as specialization with any of the other scientific disciplines. Using of multispecialty thematic is probably connected with internal classification of criminalistics, and also flows from needs of successful revealing, investigating, and preventing of criminal activity. Scientific meaning of solving wide range of problems in the process of revealing, investigating

and preventing criminal activity, is based on role of criminalistics in the struggling with criminal activity. Solving these problems is possible with integration between point of views and knowledges from many scientific disciplines. This integration allows higher quality of new information and deeper contribution to next development of science and social practice.

Very important part of criminalistics is using of feedback method. That means, that we can anticipate criminal activity and accidents, based on objective investigating of their cause. Using this method, we can preserve our economy, health and our lives. We do it by bringing these knowledges to education, affecting theoretical constructions and last but not least by contributing to changing laws in legal and technical norms.

In the system of special criminalistic theories, categories of committing crimes, criminalistic trace, criminalistic identification, criminalistic version and criminalistic situation have a very significant role. Criminalistics serves as a tool to claiming legal rights, and also gives guarantee to public and to citizens that every criminal activity will be revealed and that the delinquent will be prosecuted. We know many kinds of special criminalistic theories of basic criminal categories connected to certain types of relations and interrogations. Both significant materialistic changes and very complicated process of matching the objects of identification are objects of special criminalistic theories.

Dialectics of investigating objects of special criminalistic theories, dialectic of conversion from empirical to theoretical level of knowing is clearly a very complicated object. Subject-matter of these theories are patterns of origin, preservation and destruction of criminalistic traces and of other evidences, and also creating of new evidences.

Conditions for development of criminalistic aspect in the process of substantiation originate on the base of recognizing field and content of situational typical processes of origin and destruction of criminalistic trace. These conditions later become basic for next development of general principles, and those are principles for many situations of behaving in the process of revealing, investigating and preventing criminal activity. From this process, we can later deduce for example existing system of criminalistic-technical a tactical methods, tools, progresses and operations dealing with examination of origin, existence and destruction of criminalistic traces, laws of process of identification of materialistic objects of identification and their use in the process of revealing, investigating and preventing criminal and antisocial activity.

Concept of criminalistics in this monography flows out of physical interpretation and mathematical processing of basic criminalistic problem, that means reconstructing and identifying of criminal by using correct interpretation of crime evidences. Basic concepts and theories flow out of this simple vision. Every criminal is of materialistic origin, and can be convicted based on his interaction with environment. Every criminal must respect physical laws of energetic balance, preservation of dynamics, substance, entropy etc. Interaction of criminal and environment is based on these laws of physics. We can determine a great amount of parameters characteristic for criminal by right interpretation of these laws. Reconstruction of actions and identification of criminal is later done with use of same parameters, which are used for identifying his interaction with environment.

Monography is focused on synergy of collateral technical disciplines; it sums up new knowledges in criminalistics, it deals with scientific and theoretical knowledges from criminalistic technique, criminalistic tactic and criminalistic methodic and perspective development trends.

First part of publication gives attention to present condition and breakthroughs in the field of criminalistic-technical and tactical methods, tools, progresses and operations, which use methods such as video-graphy, video-documentation, video-interaction and psychological analysis used for investigating, psychological profiling of unknown criminal and psychical verification of credibility of testimony.

In this context, we later introduce basic criminalistic categories: way of committing a crime, criminalistic trace and criminalistic identification and biometrical identification. Focusing on functional model of indentifying dominates in this field, because with the use of its qualitative and quantitative formalization in standard and systematic attitude within systematic criminalistic identification can be fulfilled with biometrical identification by using of computing technique. This part of monography is fulfilled with criminaslitic-technical methods of identifying people, objects and with non-identifying investigating of obejcts.

Identification of people based on dynamic stereotype of locomotion of subject offers a new look in identification subject with regard to functional and dynamic features. Locomotion activities are performed based on kinetic models, which are created in the development process of every individual. Whole movement is a result of prepared model of neuronal activity, that is labeled as central motoric program. Realization of walking is performed based on genetically claused model, that is modified with consideration on individual characteristics of every individual in the process of ontogenetic development. This kinetic activity contains many common characteristics, when being performed by different groups of people. But we can also find amount of differences with typical characteristics for certain individual. Identification of subject based on dynamic stereotype of locomotion is possible considering chronological developments of identification points on subject‘ body. These points later create identification traces.

Next part of publication is devoted to criminalistic situation, that affects success of investigating concrete cases in praxis, affects informatics in criminalistics and also affects methods of documentation process acts. Here are introduced standard, but also modern ways of photographic and topographic documentation of crime scene etc.

Criminalistic informatics and IT systems are enforced in criminalistics more and more every day. IT systems have various characters, ways of preserving and processing information. It contains general data and information, that can be used for criminalistic praxis. Depending on concrete case, it is possible to gain basic direct information for the work of safe department, it is also possible to search and verify facts for investigating, proving a crime and also for conviction of criminal. We recognize IT systems, collections, specialized, laboratory and expert‘s IT systems. In this chapter, we also can find informational technologies for processing and analysis of graphical, textual, acoustical information, and technologies for identification based on fingerprints, DNA, voice and portrait of subject.

From point of view of criminalistic tactics, only chosen criminalistic-tactical methods are presented. For example: crime scene, first interaction, examination, hearing of an accused, criminalistic experiment and criminalistic reconstruction.

The most important parts of this publication are included in chapter called Criminalistic and forensic expertise. In that chapter there are not only general questions about forensic work, but also new and present knowledges form the field of criminalistic expertise, forensic engineering, forensic medicine, forensic biomechanics and psychology, psychiatry and sexology. These knowledges have in most cases crucial meaning for clarification and proving of issue on fact of investigated crime. Accent is mostly on application of computing technique in the process of criminalistic identification and analysis of development of traffic accident.

In the final part of this publication there are new methods of criminalistic-technical documentation of crime scene. Breakthroughs in investigating and preventing automobile criminality are also described here. The most effective way of revealing estranged vehicles is consistent and elaborate processes in registration of vehicles and their registering to national car register. Informational control has it‘s grounds in online verification of vehicles information and/or verification of certificates compared to other informational systems. The fact, whether the vehicle is under investigation or is registered in other country etc. is also being verified. Information are verified in national and international vehicles registers, national and international police or Interpol investigation systems and in informational systems of executors etc.

In the last part of publication there are stated breakthroughs in methodologies of investigation of certain kinds of crimes. The methodologies are: methodology of investigating crimes against life, methodology of investigating corruption, methodology of investigating stealing of motorized vehicles, methodology of investigation of income from criminal activity, methodology of investigation of cybernetic criminality, methodology of investigating software piracy, methodology of investigating traffic accidents and methodology of investigation of special cases and affairs ....

These methodologies of investigating certain types of crimes introduce new and still very little known view on progress of work of police employees on revealing, investigating and preventing criminal activity.

The present 2 updated and extended editions of this publication are enriched with new technical, forensic and cybernetic knowledge of forensic science and practice, in particular in the use of videointeraction in criminal proceedings, wider use of specialized identification systems in forensic science and forensic

sciences for new knowledge of forensic traces of external construction object, the theory of stopping traffic accidents.

New chapter on prospective possibilities of identification of persons and things is included. The core chapter of Forensic and Forensic Expertise is enriched by Forensic Anthropology, Forensic Entomology, Forensic Genetics, Forensic Digital Analysis and Forensic Ballistics. Forensic Biomechanics is extensively updated and supplemented by the expression of the tolerance of force and pressure for the occurrence of the fracture of the skull's facial bones and the physical basis of the fall from a height. In addition, the chapter is supplemented by a biomechanical assessment of human reaction time.

In addition, there are updated methodologies: investigation of cybercrime, software piracy, money laundering and corruption.

2. Security Sciences (Summary)

This publication summarizes the achieved results of research, theoretical, publication and other scientific activities of the composite authors. It is addressed to all security subjects functioning in various positions on all levels of a security organization. However, it is also addressed to wider public, people interested in the security problematic, or to subjects, which are directly responsible for citizen's security, security of the state and for public order.

It introduces knowledge gained by researching an urgent social demand, which is rooted in the objective need to constitute and develop an adequate scientific field based on security subjects and security sectors. The publication focuses on basic theoretical and methodological approaches to the correct research of the security profession, goals and the tasks of security subjects.

The sciences about security have their history, sources and literature. Security was always a subject of a person's highest attention. In the ancient era, security was expressed through the worship of the goddess Securitas. Later it was expressed in the demonstrations of faith and prejudices, and today in the basic needs, values and law. Security as a phenomenon is, logically, also an object of interest of science in all its fields and areas. Security is a certain type of an objective condition consisting in the absence of a threat to the existence, development and functioning of a human being. This condition is subjectively perceived by an individual or a group.

The monograph is divided into fourteen consistent parts, which discuss the legal definition of terms connected to security, security strategies, doctrine and the politics of a state. Also, it highlights the fundamental varieties of security (internal, external, European, information and cybernetic).

It also lays out the knowledge of basic terms and theories of security sciences (security event, situation, information, identification) and the chosen types of security theories (security activity of police, intelligence operations, protection of objects (including the projection of security) and the theories of security risks). It is followed by the discourse on the essential questions of constituting the security sciences, their methodology and the system of security sciences. It also focuses on the methodology of practical sciences and the security sciences as practical sciences, on the gnoseological and social components of security sciences, on the urgent need of scientific knowledge for the current security practice and eventually on the transfer of knowledge of security sciences to the police practice. In conclusion, there is the security explanatory terminology, as an attempt to unify the terms of the security science.

The presented outcomes are considered to be the entry stage of the process of a longer development of security sciences. In constituting them as an equal (and by the scientific community accepted) scientific field, it will be necessary to critically re-evaluate the proposed opinions on meritorious problems and gradually develop, deepen, specify and systematically integrate them.

The scientific problem with the highest priority is and undoubtedly will be the precision of the subject matter of security sciences. The current topic of the still unfinished discussions are mainly questions connected to the relationships between police sciences and legal sciences along with the security sciences. Generally, it has been agreed, that the police sciences are merging with the security sciences that are being established.

Another meritorious problem directly conditioning future development of security sciences is their methodological instrumentarium. In other words, the scientific theories cannot gain the status of scien-

tism without presenting the tools to construct these theories. This publication offers yet undervalued methodology of practical sciences, as sciences about security activities, sciences about their projection and in-the-end their optimalization. It highlights the small effectiveness of before preferred methodology of fundamental sciences. This methodology did not demonstrate its function as a tool of developing police and security sciences. Nonetheless significant objectives are connected to other adaptations of other methods of (related) sciences in favor of the security sciences.

The third basic scientific problem, that will stand out in front of the scientific consortium of security sciences, will be the need of systematic expanding and specifying of the categorial apparatus. The practice itself has necessitated the creation of generally used terms, which are more-or-less working sufficiently in the everyday communication. Operating with terms is and will be a very significant part of developing the security sciences.

The fourth basic sign of scientific fields is the building of the system of their own scientific theories. Security sciences, as practical sciences, are developing their theory system, however, in a different way than the fundamental sciences. Its next development is, therefore, a permanent mission of the scientific consortium of security sciences.

Constituting and developing of security sciences is unthinkable without the scientific consortium, i.e. the very highly qualified experts actively functioning in the security sectors, especially in the police, the army and other security subjects and scientific and research facilities for security, and the universities with the focus on security. These institutions have to develop the police and security sciences and provide the knowledge necessary for the transfer of scientific knowledge to the security practice (especially in the police and military academies in the Slovak and Czech Republic), but also to other co-operating subjects, which operate outside of the police and the army. The preparation of these specialists has to become an integral part of the developing police sciences. The development of police sciences will also not work without an active and systematic cooperation with domestic and foreign scientific and scientific-pedagogic institutions.

The development of every specific science is partly determined by the concepts of its place in the system of scientific knowledge. In the history of security activities, solving these questions played and still plays a significant role, for the assessment of its function and the task in the criminal and legal process, but also in the international law and demonstrating the sources which usage increases the potential of the security tools and the methods of controlling the criminal and other anti-social activity.

In current times, the need for new scientific knowledge and for the scientific organization of security activity is significantly increasing. The new structural and functional dimension of security practice needs an effective transfer of scientific knowledge, which works as a permanent extension and a reciprocal influence of scientific knowledge and the practical activity. Its effectiveness is influenced especially by the level of actual usage of the scientific knowledge in the police and security practice.

Security sciences are gradually creating their terminology. Difficulties in communicating within and outside the newly constitutive and evolving multidisciplinary field of science are also reflected in the creation and use of new concepts. Some concepts are already in place and are completely or at least partly understandable. However, it is necessary to clearly define them. Security practice itself has naturally enforced the creation of generic terms, which are more or less satisfactory in everyday communication. However, it is necessary to admit that their uncertainty, inaccuracy and ambiguity often cause miscommunication.

The language of science requires certainty, accuracy and uniqueness. The colloquial language comes into the language of science, but it does so after first defining its terms, and after defining their scope and content. These concepts have, and will continue to have, an important role in the emerging security sciences in the future.

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An invited Guest Editorial

JUDr. Jozef Zat'ko, Publisher of *Europska Veda*, has asked me to prepare and convey a set of guidelines for authors who wish to be successful in preparing and submitting scholarly papers for consideration for publication in world-class, globally scoped academic journals, such as those indexed in Elsevier's **Scopus™** and ScienceDirect™ and/or in Clarivate Analytics' **Web of Science™ databases.** My guidelines provided below are intended for relatively junior authors, with limited prior experience in publishing, who are preparing their manuscripts in the realm of applied sciences. Some of the issues being raised herein are universal and as such they are equally applicable in other scholarly domains as well. I have based these guidelines on my 25+ years of experience as an editor-in-chief of a high-ranking international research journal in my own academic discipline. The journal has been included for a number of years both in Scopus™ and in the Web of Science™, earning their relatively high CiteScore™ and Impact Factor™ designations.

Academics work in an increasingly competitive environment. With many narrowly defined scientific disciplines, the race to the top has become relentless. There are currently over two thousand academic journal publishers worldwide, publishing over twenty thousand journals. The total number of refereed journal papers now exceeds 1.6 million annually and it is still growing rapidly. The largest numbers of such papers originate from the U.S.A., with China closely behind. A growing, and still largely unregulated, market for open-access publications further complicates the publishing environment. Over 90 percent of academic journal papers ever published will have been published in our professional lifetime. Ethical issues in academic publishing abound.

A successful article should contain the following major components, preferably but not necessarily presented in the stated order.

1. The title:
   The title of an article should be as short as possible, but it should reflect the main issue addressed in the paper as well as the paper content. In most cases, the title of the article is decided after the entire content of the article has been completed. The wording of the title should avoid uncommon acronyms or descriptors confining the contents of the paper only to one country or one geographic region.

2. The abstract:
   The abstract is an advertisement of your paper. It should be written in clear, short sentences which

are easy to understand and should accurately reflect the contents of the paper and its main contribution to the global body of knowledge. One must avoid unnecessary sentences that belong to the introduction section of the paper. An good abstract should contain only 6 short sentences as follows: 1) The scientific domain and the problem within the domain which is the subject matter of the paper, 2) The research question to be answered in the paper, 3) The means and methods (scientific tools) used to obtain the answer to the stated research question, 4) The answer to the research question, 5) The meaning and importance of the answer and the results obtained, 6) The future research directions based on the results of the completed research reported in this paper. The entire abstract should not exceed one-half of a printed page.

3. The keywords:
   Keywords are the labels of your manuscript used in scientific databases containing many thousands of papers. A correct use of keywords will determine if your article is noticed by potential readers, or if it is only glanced over before the reader decides to move on the next article in the database without reading yours. Keywords that are generic in nature are always ineffective.

4. The introduction:
   This section should set the stage for what is presented in the article. One must provide a clear description of the problem to be addressed along with detailed explanation of the importance of the problem. One should also define the group of stakeholders – the larger the better – for whom the stated problem is important. This is followed by the definition and detailed description of the specific research question to be addressed. A detailed justification of the importance of the question stated is also essential, along with a description of other related questions which are not being addressed in your paper. A clear definition of the future beneficiaries of the answer to be obtained must also be provided.

5. The literature review:
   One must provide a critical, very brief and comprehensive summary of the most relevant prior research by the author(s) of this paper as well as by other writers worldwide attempting to address the same research question or other closely related questions. Such questions may have been addressed within the same subject domain, but also in different domains - sometimes in scholarly fields unrelated to one's own. All cited publications should be critically reviewed; do not cite publications that you have not fully absorbed and have not explained their relevance to the subject matter presented in your paper. Avoid an excessive number of self-citations or citations of publications from the same country or from the same geographic region.

6. The research methodology (your own selection of means and methods/tools employed to answer the stated research question):
   a. This section contains the detailed description of your approach to obtain the answer to your research question. Provide a clear justification of your selection of this approach and briefly discuss any alternate approaches which were also initially considered but ultimately discarded, along with justification of such a decision. Do not regurgitate a detailed description of established, well-known analytical tools, procedures or testing methods – it should suffice to cite relevant sources. Your description should be complete, i.e. it should be possible for a reader to reproduce the results of your research with the use of the stated means and methods used to obtain your research answer. Describe in detail your data formatting and other requirements related to the performance of statistical tests and analyses. Avoid procedural shortcuts which may render your methodology description useless to interested readers.

7. The research results:
   Provide a clear, detailed description of your results obtained by you with the use of the research methodology described in item 6 above. Concentrate on the main points and avoid digressing to only loosely related or unrelated topics. Your description should be aided by well-formatted and fully readable tables and figures emphasizing the main points being made. Avoid the inclusion of lettering

and labels in a language other than English, as these will be useless for an audience unable to read in that language. Provide clear evidence and description of the validation of the obtained results by other researchers or in professional practice related to your academic field. Normally, validation attempts with the use of computer simulation only based on arbitrarily constructed models will be considered insufficient by reviewers assigned to evaluate your paper, as such reviewers often prefer the evidence of real-life implementation of your results.

8. The discussion of research results (discussion of the importance of the answer to the stated research question):
   This may be the most important section from which the potential reviewers will begin their examination of your paper. Describe what your results mean and why they are important for the audience/readers/stakeholders targeted by this paper. Elaborate in detail on the contribution of your results to the body of new knowledge in your own scientific discipline and beyond.

9. Conclusions and directions for future research:
   This section provides a brief summary of the most important findings produced by the presented research. Describe in detail why this finding may be important to a global audience, not merely to your national or regional stakeholders. One must also describe the limitations of the results obtained and suggestions on how these limitations may be overcome with follow-up research. Additionally, one should provide a detailed description of how the results presented will inspire future generations of researchers worldwide aspiring to make contributions in the same or related fields of academic and professional endeavor.

10. The references:

Make sure that all cited items contain complete bibliographic data. Avoid citing an excessive number of references which may be redundant and references in languages other than English. If one feels compelled to cite a non-English language reference, make sure to provide an English translation of the title (in parentheses next to the title in the language of the publication). There is a growing trend to provide an digital object identifier (DOI) for each journal paper or conference proceedings article being cited that has such an identifier, an ISBN for each book reference, and a web address with the date of last access for all other resources. There is also a diminishing emphasis on a particular format of references (as long as the cited items are listed in a consistent manner), as the article typesetting processes at the publishers are currently automated and conversions from one referencing format to another are straightforward.

Most high-ranking journal publishers have been quietly removing strict limitations on the number of pages or words a paper is allowed to contain due to the fact that most paid subscriptions are currently electronic. This removes the burden of the authors to conform to the volume limitations of their articles, allowing for a complete presentation of relevant research results. Additionally, datasets used in the conduct of the research being presented may be stored in cloud-based repositories accessible by all concerned.

Owing to the limitations of space, this guest editorial does not touch upon numerous contemporary issues related to the publication of papers in scholarly journals. However, I often conduct hands-on, full-day workshops in academic settings worldwide for aspiring and active academics interested in sharpening their writing skills and in becoming successful in publishing their papers in top-ranking international scholarly journals. There are ample opportunities to address individual interests and answer specific questions during such workshops. I hope to see many of the readers of this editorial in a workshop to be conducted in the future in a location near you.

Mirosław J. Skibniewski
10 February 2019
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https://pm.umd.edu
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Jozef Zaťko
Dr.h.c. mult. JUDr. Honor. Prof. mult.
President EIDV, Podhajska

Dear reader!

As scientific knowledge increases and the boundaries of science move forward, setting increasingly ambitious and complex goals involving hundreds or thousands of scientists from different countries is becoming more and more essential for the achievement of the scientific goals.

However, no project would be feasible without the support of an international public opinion fully aware of the importance of its purpose both from a scientific point of view and from that of the technological, economic and social implications.

Close collaboration between scientists and science communicators is therefore more relevant than ever to ensure that information on those issues is accurate, thorough and as broad as possible.

Hence, we would like to bring to your attention the scientific journal EUROPEAN SCIENCE containing the findings on topical scientific directions.

This issue presents a broad-based spectrum of thought provoking articles that are reflective of the ever-expanding Universe. As you read through these articles, be sure to capture the innovative concepts becoming a reality and look for opportunities to apply them to your own efforts at the realization.

We hope, you enjoy this journal, and encourage you to reach out to us for opportunities to publish your own thought-provoking articles in future issues.

Welcoming Address

Loshytskyi Mykhailo

Doctor of Law, Professor,
Honored Worker of Science and Technique of Ukraine,
Rector of the National Prosecution Academy of Ukraine

On behalf of the National Prosecution Academy of Ukraine, I would like to express the words of gratitude to the European Institute of Further Education for this opportunity to publish scientific outcomes of VIII International Scientific and Practical Conference "Combating Crimes: Theory and Practice" held on 26 October 2018 in the Academy.

The Conference, which brings together national and foreign professionals in crime counteraction, has become a tradition.

The Conference was organized jointly by the Academy and the Prosecutor General's Office of Ukraine, Academician V.V. Stashis Scientific-Research Institute for the Study of Crime Problems of the National Academy of Legal Sciences of Ukraine, the European Union Advisory Mission to Ukraine, and the Council of Europe Office in Ukraine.

The event aimed at joining efforts of scientists and practitioners to find a solution to crime counteraction, as well as to elaborate vital recommendations on improvement of criminal, criminal executive, and criminal procedure legislation.

I would like to mention with a great pleasure that the pool of participants is constantly widening. The event was attended by representatives of state authorities, international organizations, prosecutorial self-governance, National Police, the State Security Service of Ukraine, the Ministry of Justice of Ukraine, the National Security and Defence Council of Ukraine, educational and scientific establishments, as well as well-known academicians and practitioners.

I hope the collaboration in the crime counteraction of the above-mentioned institutions will become fruitful and strong as the state is always taking care of crime counteraction matters, and, in respect of social, political and economic situation, this problem requires deliberate discussions and immediate actions.

At the Conference, a number of issues was of a particular interest, e.g. current state of crime counteraction and challenges of its legal framework, protection of interests of a person, the society and the state in criminal proceedings, improvement of procedure to execute and serve a sentence.

The participants elaborated proposals to strengthen the crime counteraction mechanism, as the most important task of the state policy in crime counteraction sphere is the search of new ways to study this negative social phenomenon and implementation of measures to stop its dissemination. The event provided a forum to discuss the theoretical and practical problems. The Conference resulted in proposals to implement crime counteraction measures in the following spheres:

– criminal;

– criminological framework of crime counteraction;

– criminal procedure.

Moreover, the scientific position concerning the improvement of crime counteraction organization was highlighted.

The final proposals were sent to:

– the Committee of the Verkhovna Rada of Ukraine on Legislative Support of Law Enforcement; the Committee of the Verkhovna Rada of Ukraine on Corruption Prevention and Counteraction – to take into account in drafting bills;

– the Cabinet of Ministers of Ukraine – to use in drafting state concepts, programs, plans on crime counteraction;

– the Prosecutor General's Office of Ukraine, the Ministry of Internal Affairs of Ukraine – to use in implementing crime counteraction measures.

I wish you success and hope for the further fruitful cooperation!

Contents

Models for Prevention of Crime: International Standarts and Experiences

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Abstract. *This article explores the field of crime prevention in the countries of Europe. The positive obligations of states, local governments and public organizations in this area are highlighted.*

Keywords: *private life; family life; home; correspondence European court.*

Problem statement

Crime as a social and legal phenomenon is a common problem for all states of the world. With national and regional dimensions, such a phenomenon is endowed with common determinants, which make it possible to develop joint preventive programs (prevention).

Analysis of recent research and publications. The research of the above-mentioned topics is devoted to the work of Ukrainian and Russian scientists Yu. Antonian, O. Bandurka, I. Danshyn, L. Davydenko, T. Denysova, A. Dolhova, O. Dzhuzha, V. Holina, O. Kalman, O. Kostenko, V. Kudriavtsev, N. Kuznietsova, O. Lytvak, V. Lunieiev, P. Fris, A. Zakaliuk, A. Zelinskyi, foreign criminologists T. Benett, D. Hrekhem, P. Rok, H. Shnaider and others.

The question of determining the means of influencing crime in the world has loaded the multi-element system of international organizations and institutions for combating crime, among which: the General Assembly, the Security Council, the Secretariat (sector) on crime prevention and criminal justice, the Economic and Social Council, the International Court of Justice, the Commission on Crime Prevention and criminal justice (established in

1991 on the basis of the Committee), regional research institutes and centers of the UN, etc. Contributions to the development of this topic are also carried out by international non-governmental organizations: International Criminal Law Association; International Criminological Association and others. A special place is given to the International Criminal Police Organization (Interpol). The impact on crime at the regional level is promoted by the Council of Europe (Parliamentary Assembly, Committee of Ministers, European Committee on Legal Cooperation, European Committee on Crime Problems), Central Agency of Criminal Police – Europol.

The purpose of the article is to analyze the scope of international standards in the field of crime prevention and identify effective foreign practices and systems that can be implemented in national law enforcement activities.

Presentation of the main research material. Terminological discussions on the concepts of "prevention", "prevention", "control", "fight", "impact on crime" do not apply to the content of documents developed by these institutions and contain positions of an international level. In fact, international documents deal with two concepts – "prevention" and "combat".

The term "prevention" is used when it comes to activities aimed at minimizing the level of crime and eliminating the factors that determine it (in general or in separate groups of crimes). Essentially, it is a whole complex of preventive measures, and the literal translation and the closest to the meaning is "crime prevention". "Sombating" – the work of authorized agencies for actual crimes: detection, pre-trial and judicial proceedings, measures to influence the offender and reimbursement of victims. The indicated activities are adjacent, closely related, but include relevant nuances in implementation. As a long-term program, the Crime Prevention Model is considered and used. Qualitatively planned crime prevention strategies not only prevent crime and victimization, but also strengthen the security of societies and promote sustainable development of states.

A universal international standard in this area is the United Nations Guidelines for the Prevention of Crime (Economic and Social Council resolution 2002/13) [1].

Today, the UN proposes to consider crime prevention as a four-stage model.

1. Prevention of crime through social development or social crime prevention (promoting personal well-being and motivating socially responsible behavior through social, economic, sanitary and educational measures with a special focus on children and young people, as well as attention to the risk factors of crime and victimization).

2. Prevention of crime at the local level (changes in living conditions affecting the number of offenses, the level of victimization and vulnerability of people to crime through initiatives, experiences and activities of members of local communities).

3. Situational crime prevention (prevention by reducing the possibilities for committing specific crimes, increasing the probability of detention and information on the minimum benefits from such crimes, including by setting up a supportive environment, providing assistance and information to potential and actual victims).

4. Reintegration programs (prevention of recidivism by providing offenders with assistance for reintegration into society and other mechanisms for preventing offenses).

Issues related to crime prevention should be included in relevant socio-economic programs and policies, including employment, education, health care, housing and urban planning, poverty alleviation, social marginalization and isolation. Cooperation and partnership should be an integral part of the effective prevention of crime, taking into account the wide range of causes of crime and, accordingly, the qualifications and powers necessary to eliminate them. This includes partnership at the level of ministries and departments, non-governmental organizations, non-governmental organizations, business circles and individuals. Adequate resources, including the financing of necessary structures and measures, are needed to ensure a sustainable crime prevention. It is necessary to provide a clear system of reporting on the use of financial resources, the implementation of appropriate measures and their assessment, as well as for the accomplishment of tasks.

The UN requires States parties to recognize the crime prevention system as an integral part of

their crime prevention structures and programs and to provide clear responsibilities and tasks within the framework of the management system for preventing crime, in particular by:

– the establishment of centers or coordination structures with qualified personnel and resources;

– development of a crime prevention plan with clear priorities and objectives;

– Establishing interaction and coordination between relevant state institutions and agencies;

– establishing partnerships with non-governmental organizations, the business community, the private sector, professional associations;

– involving the public in active participation in the prevention of crime by clarifying the need for concrete actions and appropriate measures, as well as its role in this activity.

The general requirements for the qualification of personnel in the field of crime prevention are also outlined. Thus, states should promote professionalism in the field of crime prevention by:

– advanced training of the management of the relevant departments;

– means of encouraging universities, colleges and other relevant educational institutions to introduce basic and advanced (specialized) courses on these issues, including in cooperation with practitioners;

– Collaboration with educational institutions and specialists in order to develop attestation and qualification certification procedures.

The general requirements for the methodology of carrying out preventive activities are:

– support in the development of useful and applied (applied in practice) knowledge that would be scientifically sound and reliable;

– assistance in systematization and generalization of knowledge, detection and elimination of gaps in the knowledge base;

– exchange of these knowledge, as appropriate, in particular between scientists, persons responsible for policy development in the field of crime prevention, education professionals, practitioners from other related industries and the public;

– the application of these knowledge through the reproduction of successful experience, the development of new initiatives and the forecasting of new problems in the field of crime;

– Creation of a database to promote more cost-effective crime prevention, including by regularly conducting research on victimization issues.

In the member states of the European Union and the Council of Europe, for the most part there are two levels of prevention of crime: social and situational.

General social – the focus on changing the unfavorable conditions for the formation of human person, especially the microenvironment. Situational comes from the fact that certain categories of criminal acts are carried out under certain circumstances, at certain times and in certain places. The situation itself stimulates and provokes certain types of crimes (street fights, attacks in parks, squares, etc.).

The European Crime Prevention Network (EUCPN) was established by the decision of the Council of the European Union (2001/427 / JHA) of 28 May 2001. Its main objective was to develop a platform for EU Member States to share experiences, knowledge and best practices in crime prevention, and to promote such activities in EU Member States and at EU level.

EUCPN Goals:

facilitate cooperation, contacts and exchange of information and experience among participants in the field of crime prevention;

collect, evaluate and transmit evaluated information, including good practice;

Organize conferences, in particular annual conferences on best practices, and other events, including the annual European Crime Prevention Award, aimed at achieving the goals of the network and disseminating its results widely;

to advise the Council and the Commission as necessary;

implement a work program based on a well-defined strategy that takes into account the needs for responding to the relevant criminal threats.

The EUCPN is represented by a Council consisting of national representatives from each EU Member State and their deputies, if they are appointed. Observers from other European

organizations, agencies and agencies may also be invited to attend meetings on a case-by-case basis. Other professionals, including practitioners and scientists, can contribute to the work of EUCPN as designated contact persons.

The main components of the concept of the network's activities are the study and improvement of existing programmatic approaches to preventing youth crime, crimes committed with the use of cold weapons, crimes in the field of illicit drug trafficking, domestic violence. EUCPN also pays great attention to implementing the concept of public participation in crime prevention [2].

European institutions do not define mandatory requirements for the crime prevention system and structure. All hierarchies, terminology, volumes of influence form the state itself. To understand the differences in approaches to building such an activity, several examples should be considered.

In Estonia, crime prevention is carried out at three levels: state level, local community level, non-state sector. At the state level, prevention of crime is carried out by: the Government of the republic; Council for the Prevention of Crime; Department of Justice; Ministry of Internal Affairs; Ministry of Social Affairs; Ministry of Education and Science; Ministry of Culture.

The Ministry of Justice is the coordinator of crime prevention, other ministries are involved in preventive work according to their sphere, for example, the Ministry of Education and Science – through the work of youth, the Ministry of Internal Affairs – through the work of the police, etc.

The main task of the state is to coordinate crime prevention, which is to prioritize and set goals, develop spheres, based on international directives and legislation. The state's task is also to support local communities in crime prevention activities, mainly through providing relevant information. For example, the Ministry of Justice created a Crime Prevention Website – www.kuriteoennetus.ee, where you can find both methodological guidelines for crime prevention and other data related to this area. Various guidelines are also being developed (for example, "Principles of Early Detection of Crime and Intervention of Local Self-Government"), training and conferences are organized for both self-government workers and other participants in preventive work. The Council for the Prevention of Crime is an advisory commission under the Government of the Republic whose main task is to formulate a concept and make proposals to the Government on the formulation and implementation of criminal policy in the field of crime prevention. In Estonia, such state commissions, networks and councils operate (or are being set up), whose purpose is to reduce the risk of crime and its negative consequences. The role of local self-government (MU) in Estonia is unclear in the legislation right now, so different crime prevention areas are being implemented in different regions, but in general it can be noted that the tasks of the MS are the development of preventive measures in accordance with the needs and capacities of the region and the implementation of such measures. The mission of the MS is also the financing of crime prevention – funded both by the management of the MS itself and community-based projects [3].

In Germany, primary, secondary and tertiary prevention are distinguished. Primary is aimed at overcoming the deficit of sociality and positive sense of justice as the main cause of crime. The secondary is carried out by the police authorities and is connected with the legal means of refraining from committing crimes. Tertiary prevention is the preventive measures and means used in the process of punishment and resocialization of criminals.

Practical activity of the police is based on the thesis that crimes are often committed when a potential offender encounters a vulnerable person without a victim or object. Therefore, preventive measures should be directed either to the perpetrator, to the security system, or to the potential the victim (individual, general and victimological prevention). In this triad, considerable attention is paid to the guardianship and the peculiarities of working with the population, aimed at its self-defense. In the Federal Republic of Germany (FRG), there are currently hundreds of programs to prevent various types of crime, but they are subject to general requirements.

The German Crime Prevention Forum, which restricts crime-related potential in German

society by enhancing citizens' sense of security and harm reduction from crime, plays a decisive role in crime prevention in the Federal Republic of Germany, and is developing a public crime prevention strategy jointly with federal and state government and non-state agencies. In his field of view there is inter-industry preventive activity, in addition, this entity combines numerous preventive initiatives, ensuring the implementation of criminological strategies, programs and activities at the national level. Another significant crime prevention practice in Germany is the program (Information System) entitled "PraVis". It is a special place among crime prevention projects, as it serves as a peculiar system of management and contains mechanisms used to process a large array of data on a national scale.

Prevention of crime in Germany – a task primarily of local self-government and federal states. Today, in 14 (out of 16) lands there are special bodies dealing with the theme "Prevention of Crime". Although in most cases they are organized under the Ministries of the Interior or Justice, they differ in the inter-departmental nature of their work.

For example, the experience of the Land of Lower Saxony and the Beckaria Project – Standards for Quality Management of Crime Prevention Projects should be provided. For responsible persons involved in crime prevention, Beckaria Standards are a guide to quality management of their preventive actions. They must ensure that:

Planning, conducting and evaluating crime prevention projects focused on quality criteria, justified by the results of scientific research and presented in the special literature;

the projects were designed in such a way that they were fundamentally evaluated;

Scientists, experts, customers and sponsors (when applying for a project) had a solid, professional point of view, basis for assessing the purpose and quality of projects [4].

In France, a two-tier system of prevention has been formed: at the national and local levels. The Interdepartmental Committee, established in 2006, plays a significant role in defining the main vectors of preventive activities at the national level. It consists of the ministers of the French government. The leading role is assigned to ministers of internal affairs, justice and education. In this case, the General Secretariat is functioning, which prepares the necessary documents for the committee prior to its meetings. The members of the secretariat are representatives of various administrations: prefect, judge, senior police officer and gendarmerie, one representative of the Ministry of Education and three – the Ministry of Internal Affairs. The main task of the secretariat is to build relationships and enhance cooperation on crime prevention with the local authorities of France.

The main priorities of the modern French concept can be attributed to:

expansion of the network of situational crime prevention (installation of video surveillance cameras in public places, etc.);

inclusion of tasks for preventing crime to urban architectural reconstruction programs;

improving police relations with the local population, especially in suburban areas.

In modern law enforcement in France, you can meet the so-called approximation police (proximity), which is an unarmed body of law and order. In solving the problems of preventing crime in the area of service, police approximation is an independent personnel unit in making appropriate decisions to reduce crime.

A long-term French crime prevention project is the Infos a Gogo program. She started back in 1984 to prevent juvenile delinquency. The goal of the program is to increase the social adaptation of adolescents through communication and social activity through volunteers and volunteers. Program volunteers help teenagers in their socialization by obtaining driving licenses for employment by the driver, passing the professional training courses, the results of which can be obtained from the rescuer's diploma, manager, etc. According to the reports of this project, some of his young participants are hired for part-time work. Improved learning and attendance at school is being tracked. The program's effectiveness is facilitated by close cooperation and communication of volunteers with members of the families of its participants. Parents and relatives clarify the possibilities of establishing relationships and provide information on the successes and achievements of their children. The financing of the program

is carried out at the expense of funds from the budget of local authorities.

The main objective of the crime prevention policy can be to determine not its complete eradication, but to keep it as small as possible, and the material and non-material damage to the community from crime should be judged generally in relation to the cost of its prevention [5].

Basic approaches to crime prevention in Italy: the concept of control and the so-called Neighborhood Policing concept, which was introduced in 2002. It consists in moving away from the repressive, exclusively punitive approach of the Italian criminal justice authorities to more humane, connected with the mediation, socially oriented direction of the work of law enforcement bodies. Under the leadership of the Italian Ministry of the Interior, the Italian government and other agencies, the effectiveness of preventive activities depends more on the depth and quality of cooperation with the private sector, local communities than on the severity of responding to criminal manifestations. The implementation of this preventive model began first in 28 provincial Italian cities, and later in the territory of 728 administrative units, including 79 city centers in Italy.

Among the latest initiatives, there is an extension of the network of district police departments to cover the attention of law enforcement officers in a larger area. Recently, in Italy, several projects aimed at preventing crime in one or another field, for example:

– "Home Information Service" (Home Reporting Service) – for reporting on crimes, especially from citizens with physical disabilities;

– Secure Parks (Secure Parks) – Providing the proper legal status of parks in the largest Italian cities by patrolling representatives of the state and nature protection police;

– the opening of police relations with the public in order to enhance cooperation with local communities, as well as informing the public about the disclosure or investigation of the most resonant and serious crimes, which increases trust in the police;

– "The Police is another friend of yours" – Establishing normal benevolent transparent police relations with football fans ("ultras") to reduce hooligan, racist and other illegal manifestations during football matches;

– Implementation of a broad agitation program among students and students of Italian youth in order to raise their legal culture and tolerance, organized by the Italian Ministry of Education and the UNICEF Committee in Italy. The south of Italy is the most criminogenic region in this country, where a significant part of the marginalized Italian population lives, including migrants from other less prosperous countries (Roma from Romania, citizens of the former Yugoslavia, etc.).

In order to stabilize the socio-economic status of these territories and reduce crime, the EU-funded program "Security for the Development of the South (Italy)" was adopted, in particular on social sector reform; material support of the poor; cultural adaptation of foreigners; training of law enforcement officers; increasing the interaction between the police and the local population; the establishment of a partnership between local authorities and local communities, etc. It should be noted that the Italian experience of putting in place peculiar memoranda of safety between the Italian Ministry of Internal Affairs and local government bodies in order to meet the requirements of citizens' security, proper provision of their rights to a single denominator, that is, their compliance with one standard in different Italian regions.

In March 2007, an agreement was signed between the Italian Ministry of Internal Affairs and the Italian Association of Italian Municipalities. In addition, within the framework of the strategy to reduce the possibility of committing crimes in Italy, the practice of installing CCTV facilities in public places and police reports of information from, for example, tax collectors about unlawful acts of other persons is spreading. For this purpose, the central dispatching stations of companies engaged in passenger transportation are connected to the telephone line of the police.

Given that in modern Italy there is a very common phenomenon, such as domestic violence, therefore appropriate measures are taken to reduce its level. So, in this country, a program called "Antiviolence Network in the Urban-Italian Cities" was implemented, in which the project Arianna Project (Arianna

Project) is being implemented, aimed at combating domestic violence. A broad, informal campaign campaign was launched for its implementation to prevent family violence and to protect the rights of women and children who are more likely to become victims of domestic violence. In order to increase the involvement of the public, actual and potential victims of family violence, an anonymous phone call (1522) was launched, which could be used by any victim of violence and receive appropriate psychological, legal or other assistance, even in different languages (Italian, English, French, Spanish and Russian).

Conclusions

Thus, as evidenced by the experience of European states, the concept of preventive action combined with real means of responding to existing crime:

– ensures identification and elimination of its determinants;

– influences the criminal factors, when they have not yet gained strength and are easier to eliminate;

– allows, using various means, to interrupt criminal activity;

– prevents the passage of harmful effects;

– solves the problem of combating crime in the most humane ways, without using the mechanisms of criminal justice at full capacity.

Overall, the study and analysis of international crime prevention and crime prevention models suggests that a preventive approach to crime response is promising and should be implemented while respecting the principles of systemicity, professionalism, adequate staffing, humanism and the full participation of all members of society.

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Restrictions in Business Activities

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Abstract. *The general conditions of business activity (the limits of freedom of entrepreneurship), which apply to all subjects of business activity and all types of entrepreneurship, are considered, and special conditions that in a certain way restrict freedom of entrepreneurship are highlighted. particular attention is paid to such a special condition as licensing, since this institution is implemented in order to safeguard public interests, the rights of other participants in business activities, as well as consumers. It is determined which types of business activity the state imposes on restrictions. It is proved that state intervention in the regulation of business activity is permissible only in exceptional cases and is aimed at ensuring the freedom of entrepreneurship.*

Keywords: *business activity; boundaries (conditions) of business activity; limitation; general conditions; special conditions; licensing; legitimization of entrepreneurship.*

Problem statement

Freedom of entrepreneurship – one of the most important constitutional rights of citizens. Article 42 of the Constitution of Ukraine [1] establishes the provision according to which everyone has the right to conduct business activity, which is not prohibited by law. This provision is specified in sectoral legislation, in particular in civil and commercial law, where freedom of business is enshrined as a basic principle. Consequently, the principle of freedom of entrepreneurship is interdisciplinary, which defines the principles of legal regulation of legal relationships with the participation of entrepreneurs.

Of course, any freedom cannot be unlimited. The category of freedom in the field of entrepreneurship is not abstract, independent of any influence, it is limited by the state through the establishment of certain conditions for the conduct of business activity. Therefore, it is extremely important to define the limits of freedom in the field of business activity.

Analysis of recent research and publications. The questions of freedom of entrepreneurship, as well as the limits of its implementation, are highlighted in the scientific works of S. Aleksieiev, O. Belianevych, D. Diedov, H. Hadzhiiev, V. Hribanov, M. Khavroniuk, O. Kibenko, A. Kolodii, M. Kulahin, V. Laptev, V. Mamutov, Ye. Michurin, O. Podtserkovnyi, S. Pohrebniak, P. Rabinovych, V. Radziviliuk, S. Shevchuk, V. Shcherbyna, O. Vinnyk, A. Yankova, H. Znamenskyi and others.

The purpose of the article is to determine the scope of business, the consideration of general and special conditions for its conduct, as well as the establishment of legal instruments through which the state regulation of individual business activity is implemented.

Presentation of the main research material. Freedom of entrepreneurship is one of the general principles of civil law, enshrined in art. 3 of the Civil Code of Ukraine [2]. At the same time, the principle of freedom of business is enshrined in art. 43 of the Commercial Code of Ukraine [3]. It should be noted that the main legislative act that regulates the state and development of entrepreneurship in Ukraine and gives its

legal definition is the Civil Code of Ukraine. In accordance with the Constitution of Ukraine, it establishes the legal basis for economic activity (management) based on the diversity of economic entities of different forms of ownership, defines the general legal, economic and social bases of business activity by citizens and legal entities on the territory of Ukraine, establishes guarantees of entrepreneurship freedom and its state support.

The theoretical definition of the concept of freedom in the sphere of entrepreneurship is important. Indeed, as T. Kashanin correctly notes [4, p. 75], as no absolute freedom exists in the economy, the entrepreneur has complete independence only in the sense that there is no authority that would establish what to do and in what way.

By proclaiming the freedom of entrepreneurship, the law also establishes certain limitations (limits) for its implementation. Thus, Article 42 of the Constitution of Ukraine establishes the freedom to conduct business activity, as well as certain restrictions on the rights of entrepreneurs. These restrictions relate to: firstly, entities that have the right to conduct business activities; and secondly, they are connected with ensuring equal conditions of business activity. Thus, the law sets restrictions on the business activity of deputies, officials and public servants of state authorities and local self-government bodies, as well as the prohibition of abuse of a monopoly position on the market, unjustified restriction of competition and unfair competition. In addition, given the provisions of art. 42 of the Constitution of Ukraine it can be concluded that business activity is limited in a certain way, if this requires the protection of consumers' rights, ensuring the quality and safety of products, services and works. Consequently, restrictions on freedom of business are established with the aim of protecting the interests of individuals and society as a whole.

Thus, the general rule in determining the limits of freedom of entrepreneurship is the need to comply with the requirements of morality, ensuring general justice. Interaction of participants in economic activity, in particular entrepreneurial, is carried out on the basis of competition. In order to ensure that their conduct is consistent with the criteria of good faith, the state's economic interests, in view of preserving its monopoly on the most important objects of property and activities, as well as the property interests of other participants in economic relations, determine certain rules of conduct for entrepreneurs.

Restrictions on the activities of the subjects of economic relations are aimed at preventing deterioration of the natural environment, preventing the conspiracy of entrepreneurs against consumers, etc. Thus, taking into account the risk nature of any economic (in particular, entrepreneurial) activity, its ability to cause harm to entrepreneurs, other members of society, the security of society and the state, as well as to stimulate socio-economic growth, should reasonably combine the state, on the one hand, targeted impact on the economy and, on the other hand, providing entrepreneurs with independence. Such a policy should include a legislative definition of the grounds and limits of public interference in business, its adequate legal regulation, and the establishment of proper control over its implementation [5].

Today, state regulation of business is expressed in the regulation of the production of products (works) and the provision of services through the establishment of certain rules (norms), which should be guided by business entities, and in the control of compliance with these rules. At the same time in the state regulation of business an important role is played by the administrative-legal regimes: licensing, accreditation, registration, permits, quotas, etc.

The boundaries of freedom of business are also called the conditions of business. By subject and area of distribution, all business conditions are divided into general and special ones.

The general conditions for entrepreneurship, which are applied to all business entities and all types of entrepreneurship. Such conditions include:

1) entrepreneurs are obliged to register in accordance with the procedure established by law;

2) entrepreneurs who use hired labor are obliged to ensure compliance with the requirements of Ukrainian legislation in this area;

3) entrepreneurs are obliged not to harm the environment;

4) entrepreneurs are obliged not to violate the rights and legitimate interests of citizens and their associations, other economic entities, institutions, organizations, local self-government and state.

Special – these are the conditions for entrepreneurship, which apply either to individual (not all) entrepreneurs, or to separate (not all) types of entrepreneurial activity. There is no systematized list of special conditions for conducting business that would be contained in one act of the legislation. Special considerations are all those conditions of entrepreneurship, which are not general. Examples of special conditions for business can be licensing, patenting, quotations, etc. of entrepreneurship.

It should be noted that the feature of state interference in business is that its intensity depends on its sphere. Thus, the largest intervention by the state is founding activity.

The main condition for business activity is the state registration of a legal entity or an individual entrepreneur in accordance with the procedure established by law. According to the Law of Ukraine "On the State Registration of Legal Entities, Individuals-Entrepreneurs and Public Assosiations" [6], state registration means official recognition by means of state certification of the fact of creation or termination of a legal entity, a public formation that does not have the status of a legal entity, acquiring or deprivation of the status of an entrepreneur by an individual, changes in the information contained in the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations, on legal entity and individual entrepreneurs, as well as of other registration activities under this Law.

For violation of the registration law, individual entrepreneurs may be subject to administrative or criminal liability. However, if a citizen conducts business without registration, this will not be grounds for considering such activity illegal, in this case the individual will only be deprived of the protection provided for entrepreneurs. At the same time, according to art. 50 of the Civil Code of Ukraine, if a person commenced business without state registration, having entered into corresponding agreements, he/she has no right to contest these contracts on the grounds that he/she is not an entrepreneur. These are some of the civil law consequences of doing business without registration.

Information about entrepreneurs is recorded in the Unified State Register of Legal Entities and Individual Entrepreneurs. The information in the specified register is publicly accessible. The procedure for state registration is of a formal nature. The registration authority has no right to consider the issue of the expediency of state registration, the observance of legal rules by a natural person (other than those directly related to registration), the readiness of a citizen for entrepreneurship, possession of needed property, education, professional skills, etc. The task of the said body is to check the completeness and correctness of the papers submitted for registration, as well as the fact that the applicant pays the state prescribed fee. Thus, state registration is necessary primarily for state control over economic activities of entrepreneurs, taxation, obtaining information of statistical accounting for regulation of the economy, providing all participants of civil turnover information about registered business entities [5].

The list of documents submitted for the state registration of a legal entity is defined in art. 24 of the Law of Ukraine "On State Registration of Legal Entities, Individuals-Entrepreneurs and Public Associations". In the absence of grounds for refusal to carry out the state registration of a legal entity, the state registrar shall enter a record on the state registration of a legal entity in the Unified State Register. The term of state registration of a legal entity shall not exceed three working days from the date of receipt of documents for the state registration of a legal entity. The state registration bodies have no right to demand additional, besides the documents listed in the law.

The following condition for the conduct of business, which somewhat restricts its freedom, is the condition of the need for entrepreneurs who use hired labor, to provide appropriate and safe working conditions, remuneration not lower than the statutory limit and its timely receipt by employees as well as other social guarantees, including social and health

insurance and social security in accordance with the legislation of Ukraine. These issues are regulated by a large base of legislative acts. First of all, this is the Labor Code, the Convention on the equal remuneration of men and women for work of equal value, the Convention on the night work of adolescents in industry, etc., the Law of Ukraine "On Occupational Safety", the Law of Ukraine "On Vacations".

The obligations of entrepreneurs in carrying out their business are also enshrined in art. 49 of the Commercial Code of Ukraine and do not require harm to the environment. This provision corresponds to the one fixed in the article 293, 282 of the Civil Code of Ukraine on the right to a safe environment, the right to eliminate the danger that threatens the life and health of individuals, etc. Its position is also found in criminal and administrative legislation. Thus, Section VIII of the Criminal Code [7] provides for criminal liability for environmental crimes, namely, responsibility for: violation of the rules of environmental safety, failure to take measures to eliminate the consequences of environmental pollution, conceal or distort information about the ecological status or morbidity of the population, pollution or damage land, air pollution, etc. The Code of Ukraine on Administrative Offenses [8] provides for liability for violation of the requirements for the protection of mineral resources (article 57), violation of plant protection legislation (article 83-1), non-compliance with environmental safety requirements in the process of introducing discoveries, inventions, utility models, industrial samples, innovations, new technologies, technologies and systems, substances and materials (article 91-1), etc.

Article 49 of the Commercial Code of Ukraine also stipulates the duty of entrepreneurs not to violate the rights and legitimate interests of citizens and their associations, other economic entities, institutions, organizations, local self-government and state. This provision is consistent with the constitutional rules on the need to ensure equal conditions for entrepreneurship, the prohibition of unfair competition, etc. That is, this norm is also aimed at protecting the public interests and interests of individuals, which is due to the general requirements of justice.

But for the obligation to stop doing business, such violations must be substantial. This is evidenced by the judicial practice. For example, the court reviewed the case on the lawsuit of L., the Public Organization of the Scientific Society of Students and Postgraduates of Lawyers "YUSTIS" to A. Their claims were motivated by the fact that L., who is a member of the public organization "YUSTIS", is the co-owner of the apartment H. Defendant in the case owns apartment number 5, 6, 7 of the same building. A., who is the subject of entrepreneurial activity, without the consent of the plaintiff and against his will, the share of residential apartments was transferred to non-residential premises and arranged a public catering and trade object, thus creating the plaintiff's obstacles in the use of housing, since indoors, belonging to the defendant, and the presence of a significant number of people violates his usual way of life. The objects belonging to the defendant do not meet the requirements of the State Building Regulations, the Sanitary Epidemiological Station. In addition, the defendant in the entrance of the house arranged the storage of gas cylinders. Asked to remove obstacles in the use of residential space by stopping entrepreneurial activity, stopping the use of apartments for public catering and trade, removing the storage of gas cylinders at the entrance of the house.

Representative of the defendant A. requested the full rejection of the claim, referring to the fact that on the basis of decisions of the Executive Committee of the Yevpatoriia City Council A. the temporary use of the apartment X under the shop-cafeterias with re-planning and the arrangement of the additional entrance according to the technical conclusion is permitted. Use of the defendant's premises belonging to him as a cafeteria is carried out in compliance with the requirements of the legislation. The circumstances referred to by the plaintiff – the creation of the plaintiff of obstacles to the use of housing – are not supported by proper evidence. The statement of the utility company "Zhytlovyk2" on gas cylinders is executed.

According to art. 320 of the Civil Code of Ukraine, the owner has the right to use his property for business, except in cases

established in accordance with the law. The law may establish conditions for the use of the owner of his property for business.

There are no grounds for a court decision to terminate the entrepreneurial activity of an individual entrepreneur.

The court found that the non-residential premises owned by the property of A. have a separate entrance intended for temporary use at the shop-cafeterias with re-planning and installation of an additional entrance, in accordance with the requirements of the current legislation. Taking into account the foregoing, the court concludes that there are no legal grounds for satisfying the claims for removal of obstacles in the exercise of the plaintiff's property rights in this part [9].

Special conditions for the conduct of business, which in a certain way restrict its freedom, belongs primarily to licensing. In accordance with part 3 of art. 43 of the Civil Code of Ukraine, the list of types of economic activities that are subject to licensing, as well as the list of activities, the business of which is prohibited, is established exclusively by law.

Licensing is one of the most common market instruments of the state's actions on the economy, which has become widespread in our country. The license itself is the sole document permitting the nature of the right to engage in a particular type of economic activity, which, according to the law, is subject to restrictions, taking into account the basic principles of state policy in this area. Exercise of activities subject to licensing, without a license or in violation of licensing conditions is recognized as an offense (illegal business). Depending on the degree of social danger and the size of the damage, it entails administrative or criminal liability.

Activities subject to licensing, the exercise of which may result in damage to rights, legitimate interests, health of citizens, defense and security of the state, cultural heritage, etc., and regulation of which cannot be carried out by other methods, except for licensing.

In the original wording of art. 4 of the Law of Ukraine "On Entrepreneurship" of February 7, 1991 provided for only 11 types of activities that cannot be carried out without a special permit (license) issued by the Cabinet of Ministers of Ukraine or an authorized body. Subsequently, by introducing amendments to the said Article of the Law of Ukraine "On Entrepreneurship", the number of activities requiring licensing reached more than 130 species, which indicates an increase in the administrative influence of the state on entrepreneurial activity. Subsequently, this list was significantly reduced (up to 60 species), but it is also quite broad. Currently, the list of types of business activities subject to licensing is established by the Law of Ukraine "On Licensing of Types of Economic Activity" [10].

In particular, the state restricts activities related to the circulation of narcotic drugs, psychotropic substances, their analogues and precursors, which is carried out in accordance with the Law of Ukraine "On the Circulation of Narcotic Drugs, Psychotropic Substances, their Analogues and Precursors in Ukraine". Also limited activities related to the sale of weapons and ammunition to it, amber extraction, the protection of certain particularly important objects of state property, the list of which is determined in the order established by the Cabinet of Ministers of Ukraine, as well as activities related to the conduct of forensic, forensic psychiatric examinations and the development, testing, production and operation of rocket carriers, including their space launches for any purpose.

The activities related to the maintenance and operation of primary networks and satellite telecommunication systems, payment and delivery of pensions, cash aid to low-income citizens, production of motor gas blends containing at least 5 percent of high-octane oxygen-containing additives of absolute technical alcohol are subject to limitation [11].

In legal literature, licensing is seen as a form of business legitimation along with a state registration. Therefore, having decided to engage in activities whose implementation requires a special permit issued by the authorized public authorities, the entrepreneur must obtain a license in accordance with the procedure established by law. This procedure is mandatory. At the same time, the entrepreneur undertakes to carry out such activities, adhering to special rules, and the state grants him /her the right to conduct it.

The Licensing Institute limits the freedom of entrepreneurship in a certain way, but it is a

conscious step by the state, made to ensure public interest, the rights of other business entities, as well as consumers. The value of licensing is that it combines numerous requirements designed to provide certain characteristics of the products (results) of the business, to streamline its functional characteristics, to localize the status of the lawful use of professional criteria of competence.

Direct state regulation of individual business activity, except for the licensing of its individual types, may be carried out by issuing permits for certain actions; issuing obligatory instructions for carrying out any actions; Prohibition of specific actions; registration of certain actions; setting quotas and other restrictions; application of measures of administrative coercion and material sanctions; issuing state orders; control and supervision, etc. Such forms of state action are: the establishment of mandatory requirements (technical regulations), accreditation, standardization, certification, and others. The main purpose of introducing this type of requirement is to establish a legal regime for the conduct of business by all actors [5].

State interference in the regulation of business activity also takes place in order to ensure the protection of competition. Abuse of a monopoly position on the market, unjustified restriction of competition and unfair competition are not allowed. This is explicitly stated in Clause 2 of art. 42 of the Constitution of Ukraine. The above provision is detailed in the sectoral legislation, in particular, in the Civil Code of Ukraine and the Law of Ukraine "On the Protection of Economic Competition" of January 11, 2001.

According to art. 25 of the Civil Code of Ukraine, the state supports competition as a competition between economic entities, which ensures, through their own achievements, obtaining certain economic benefits, thereby causing consumers and business entities to choose the necessary commodity, and at the same time, individual economic entities do not determine the conditions sale of goods in the market. According to art. 26–32 of the Civil Code of Ukraine, the abuse of a monopoly position on the market is prohibited, unlawful agreements between economic entities, discrimination of economic entities, unfair competition. The Civil Code of Ukraine also defines cases where state interference is allowed in order to restrict competition and monopoly.

But with this in accordance with art. 6 of the Civil Code of Ukraine one of the principles of management is the restriction of state regulation of economic processes in connection with the need to ensure the social orientation of the economy, fair competition for entrepreneurship, environmental protection of the population, consumer protection and the security of society and the state. That is, government intervention in business regulation is permissible only in exceptional cases, which is also carried out to ensure freedom of business.

Conclusions

Consequently, as noted in the literature, the freedom of entrepreneurship, which is not prohibited by law, despite the known dualism in the legislative regulation of entrepreneurship, must nevertheless be subject to the principles of civil law regulation. In the structure of the mentioned general principle it is proposed to allocate three of its constituent elements: the freedom to choose business activities; freedom to choose the type of entrepreneurial activity; the freedom of contractual relations in the implementation of this activity (business agreements) [12, c. 17].

Thus, the freedom of entrepreneurship is not limitless. On the one hand, the set of opportunities provided to the specified entity allows the full implementation of business potential, and on the other hand, the state establishes certain limits for its implementation in order to ensure the observance of the rights and legitimate interests of other participants in public relations.

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Legal Definition of Psychological Violance

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Abstract. *The article provides a theoretical and methodological aspects of the definition of the term "psychological violence", the types and forms of its manifestations in interpersonal relations with the aim of improving the legal regulation and enforcement in counteracting this phenomenon.*

Keywords: *violence; domestic violence; mental violence; psychological violence; mental suffering; moral harm.*

Problem statement

The need for the implementation of European standards for the prevention of domestic violence has given rise to the intensification of the process of lawmaking, aimed at modernizing normative legal acts. As a result of legal circle introduced new concepts. For example, as a result, in the legislation on criminal liability, along with the term "mental violence", the term "psychological violence" is used, along with the phrase "moral suffering" – "psychological suffering", etc. Moreover, the Criminal Code of Ukraine does not contain the authentic definitions of these novelties, and their definition in the norms of special legislation on prevention and counteraction to domestic violence does not reveal the true legal and psychological nature of these phenomena, and the terminology used has conflicting essential characteristics that demonstrate different approaches to determining the scope of generic and species concepts of the legislation in this area.

Ukraine's European integration aspirations are linked to the positive dynamics of the implementation of the national legislation of the Council of Europe standards in preventing and combating violence against women and domestic violence. Activation of the process of lawmaking in this direction determines the modernization of legal acts, as a result of which the legal circle introduces new concepts.

Taking a course on the development of a law-governed state, Ukraine recognizes man, his life, health, honor, dignity, integrity and safety as the highest social value, and one of the most priority areas of his activity is the observance and protection of human and civil rights and freedoms. One of the violations of the lawful rights, interests and freedoms of man and citizen, which has recently been of concern to society and the state, is the commission of domestic violence, which has a destructive effect on the personality, the family and undermines their stable functioning as a social phenomenon. The most common forms of domestic violence are psychological violence.

Analysis of recent research and publications. The fundamental foundations of modern theories of violence were laid down in the studies of H. Aranguren, G. Blummer, R. Darendorf, E. Durkheim, S. Freud, E. Fromm, D. Galtung, L. Gumplowich, L. Kozer, R. Merton, G. Mosci, G. Simmel, N. Smelzer, A. Smoll, O. Spengler, W. Sumner, G. Tarda, M. Weber and others.

The legal problems of prevention and counteraction to violence in the family were studied by O. Bandurka, A. Blaha, O. Dzhuzha, O. Kostry, Y. Krupka, L. Kryzna, K. Levchenko, O. Litvinov, G. Moshak, M. Panov, Y. Sotak, O. Starkov and other scientists. The above-mentioned researchers have formed a number of fundamentally important provisions and recommendations on prevention and counteraction to domestic violence. But in today's realities, given the legislative stories and the current practice of law enforcement on the prevention of violence against women and domestic violence, the intensification of the struggle against these phenomena, the problem chosen does not lose its relevance and needs further investigation of its legal characteristics.

The purpose of the article is to develop theoretical and methodological aspects of the definition of the term "psychological violence", the types and forms of its manifestations in interpersonal relations with the aim of improving the legal regulation and enforcement in counteracting this phenomenon.

Presentation of the main research material. Currently, every legal intelligence in the field of domestic violence has a significant impact on the results of sociological and psychological studies of this phenomenon, which makes it difficult to compare the problem of violence with any one discipline. Not by chance O. Juzha rightly emphasizes the fact that domestic violence is an interdisciplinary problem of law, health, psychology, pedagogy, sociology, and its consequences are a burden on society [1]. Other scientists who agree that violence is not only a legal problem [2], but also to a large extent philosophical [3] and socio-cultural [4], resembles a similar point of view.

Domestic violence is a product of family personal conflicts. It is a constant act of violence and an image, the continuous creation of a situation in which the victim is injured, sharing with the offender the dwelling, depending on him and even that is very common, feeling love towards him. Therefore, the main features of domestic violence should be considered a process consisting of an unlawful, guilty, systematic physical or mental impact on family members committed against their will in order to force another person to make undesirable actions for them by causing pain, an image, physical restriction as a threat or punishment. In addition, the use of physical and mental violence in the family concerning minors from persons obliged by law to take care of their education, full physical, mental, moral and intellectual development is particularly adversely affecting the formation of the future individual.

The general objective of legal regulation can only be achieved if the subject of law enforcement has a sufficient set of theoretical and practical knowledge through which means, methods, approaches, rules and ways it is possible to achieve it. The extent to which the legislator applies in its activities, the means of legislative technique and especially the definitions depends on the technical perfection of the acts adopted by it.

The legislator has formed an authentic definition, consolidating it in paragraph 3 of part 1 of article 1 of the Law of Ukraine "On Prevention and Combating Domestic Violence" [5]: "... domestic violence – acts (acts or omissions) of physical, sexual, psychological or economic violence committed in the family or within the place of residence or between relatives or between the former or the present

spouses or between other persons who live together with one family, but not staying in family relationships or in marriage with each other, regardless of whether the person who committed domestic violence resides in the same place as the injured person, as well as threats of such acts".

At the same time, in the Law of Ukraine "On Amendments to the Criminal and Criminal Procedure Codes of Ukraine in order to implement the provisions of the Council of Europe Convention on the Prevention of and Treatment of Violence against Women and Domestic Violence and the Fight against These Phenomena", a lesser-than-standard norm was used in the wording of article 126[1] of the Criminal Code of Ukraine: "Domestic violence, that is, deliberate systematic physical, psychological or economic abuse of a spouse or ex-spouse or other person with whom the perpetrator is in family or intimate relationships, leading to physical or psychological suffering, disorder, health or disability , emotional dependence or deterioration in the quality of life of the victim" [6].

Accordingly, we will make two conceptual remarks. First, this law introduces the concept of "psychological violence", "psychological suffering" for the first time in the criminal law vocabulary. Along with them, the term "mental violence" is widely used in the doctrine of criminal law and criminal liability law to use or to use psychic influence on another person against her will in order to achieve a harmful result. In special studies, it is emphasized that the main thing in mental violence is not the nature of threats and even their presence, but the incentive of any negative impact on the psyche of the individual. In other words, it has an effect on the will and consciousness of the victims of violence in order to subjugate its behavior, or direct it in the right direction. However, we consider the definition of intimidation as the only form of violence to be extremely inadequate. Eg I Hunia, describing the types of violence in criminal law, considers mental violence to affect the mental sphere of man, which manifests itself in her intimidation in any way [7]. We are convinced that this phenomenon is in fact much more complicated, based on at least the legal definition of the psychological effect that is considered: "... the use of directed actions on the human psyche, conscious or unconscious, by means of persuasion, psychological transformation or suggestion for the formation of a certain system of representations, actions and relations that are subjectively perceived by the person as personally belonging" [8].

Secondly, if in general it is a directed influence on the human psyche, that is, the object of such influence is the psyche, then the more correct is the use of the term "psychological violence". We proceed from the fact that psychology as one of the sciences of a person the object of study has the most complex sphere of human life – the psyche. Thus, the categories of psychology and psyche are correlated as an integer and part where the first is a general category and the second is direct. From these reasons, it is difficult to agree with the opinion of A Zaporozhets, what exactly is "mental violence" is a legally defined term, while "psychological violence" more contains a medical component [9].

Comparative and legal analysis of the above norms gives us reason to consider the failure of the lawmakers to develop a definition of domestic violence as a generic concept. As a result, for the needs of different branches of law enforcement proposed different in terms of the essence and definition of the same socio-psychological phenomenon. There is no consistency in the definition of forms of domestic violence (isolated in the form of sexual violence), subjects of such behavior and interaction, motivation and consequences of such behavior. It should be noted, in particular, that in the first case it is only an act (action or inaction, but in the second effect of intentional actions expressed in psychological suffering, disorders (including mental) health, emotional dependence or deterioration of the quality of life of the victim person.

Instead, in section 14, part 1, article 1 of the Law of Ukraine "On Prevention and Combating Domestic Violence", the legislator, revealing the kinds of signs of psychological violence, creates a list of actions and consequences of such a form of domestic violence: "... psychological violence – a form of domestic violence that includes verbal abuse, threats, including against third parties, humiliation, persecution,

intimidation, other acts aimed at limiting the will of the person, control in the reproductive sphere, if such actions or inactivity were caused to the victim fear of their safety or security of third parties caused emotional insecurity, inability to protect themselves or harm the person's mental health" [5].

It is well-known that the application in lawmaking of such a technique of legal technique as an open list (and in the example given by this, the presence of the phrase "other acts" usually complicates the application of a specific norm and expands its discretionary framework. Interestingly, in the previous legislative act, which was devoted to the normative The family-based prevention of domestic violence has been covered by an exhaustive list. Psychological violence in the family was defined by the legislator as violence perpetrated by the action of one member m'yi on the psyche of another family member by verbal abuse or threats, harassment, intimidation, which intentionally caused emotional instability, inability to protect themselves and can cause or causes harm mental health (paragraph 5 of part 1, article 1 [10]);

Finally, one should focus on deficiencies in determining the consequences of psychological violence. The above mentioned absence of a single approach of lawmakers to the formation of legal norms-definitions, contributed to the creation of legal material, which, on the one hand, dissonant with universally recognized in law with negative legal consequences in the form of moral, physical or material damage. On the other hand, the legal, social, vital, psychological, and moral factors, which are concentrated in the legal norm, are, in our opinion, adversely affected by the unambiguousness of the legal assessment of the specific consequences of this form of domestic violence, since they can be broadly and ambiguously interpreted in the process of law enforcement. This equally applies to the concepts that denote the effects of psychological violence: psychological suffering, health disorders, mental health damage, emotional dependence or deterioration in the quality of life of the victim, emotional insecurity, inability to protect themselves, fear of their safety or security of the third persons.

In general, in the current legislation, terms of physical, mental or moral suffering are determined by the legal category "moral harm", where suffering as emotional and volitional feelings of a person is the key word. It means that actions on causing harm must necessarily be reflected in the consciousness of the injured person and cause him a certain psychic reaction.

That is, it can be argued that in the emotional aspect of moral (non-property) harm finds expression in the negative emotional reactions (processes) and human conditions.

These include mental suffering, which manifests itself in feelings of fear, shame, humiliation, insults, guilt, as well as in others unfavorable to a person in a psychological sense, the consequences (sorrow, feeling of loss, experiences associated with loss of work, temporary disability , the impossibility of continuing an active social life, mutilation, etc. [11]). In law practice mental (moral, psychological) suffering is difficult to assess with the help of any technique, because they are not at all evaluable. Suffering is always associated with certain changes in the social and personal life of a person. They are perceived as an inability to fulfill their habits and desires, confusion, fear, experience, excitement, emotional instability, manifestations of depression, changes in blood pressure and the emergence of other psychosomatic diseases, deterioration of interpersonal relationships, loss of confidence of loved ones, etc. According to the fair conclusion V Vasiliev, suffering caused "reduction, the destruction of a certain personal non-property good" [12].

In addition, the mental state of a person caused by psychological (moral) or physiological (physical) feelings and impressions, in psychological science is called emotions. When a person is exposed to moral harm, his/her experiences become negative, negative emotional processes begin to dominate, including negative emotions (fear, anger, grief, despair, irritation, horror, insult, disgust, etc.), emotional states (mood, frustration, affection) and feelings (hate, despair, disappointment, etc.).

Conclusions

As a result of the analysis of various approaches and definitions at the interparadigm level, it can be determined that psychological violence is a socio-psychological influence that forces another person into actions and behavior that were not part of its intentions and violate the individual limits of the personality carried out without informed consent and without ensuring the social and psychological security of the individual, as well as all legal rights; which leads to negative legal consequences in the form of moral, physical or material damage.

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Anti-Corruption and Anti-Legalization Role of the General Prosecutor's Office of Ukraine Through the Prism of International Standards

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Abstract. *This article explores the role of the General Prosecutor's Office of Ukraine and its activities through the prism of international standards. A number of scientific literatures have been analyzed and the main international organizations in the sphere of combating money laundering and combating corruption have been reviewed, as well as positive obligations of the state to them have been highlighted. The author provided statistical materials for a better understanding of the activities of the Prosecutor General's Office of Ukraine, indicated problems of interaction between the GPU and other law enforcement agencies and courts, and suggested ways to improve the situation.*

Keywords: *anti-corruption; anti-money laundering; international standards; MONEYVAL; FATF; law enforcement agencies.*

Problem statement

The issues of countering money laundering and corruption are on the agenda of Ukraine and are in the focus of attention of national law enforcement agencies, in particular General Prosecutor's Office of Ukraine. Such crimes as legalization of criminal proceeds and corruption are the scourge of our times and penetrate the social, political and economic structures of Ukraine. That is why our community try to uproot it at all levels.

The work of our law enforcement agencies, in particular, the General Prosecutor's Office of Ukraine, is no exception. An integrated approach to solving such complex issues is a formula for success that is why Ukrainian authorities make its best. Interdepartmental cooperation is as important in the fight against money laundering and corruption as international cooperation, which includes cooperation with the competent authorities of other countries, as well as compliance with international practices to combat these crimes and adopt best practices. An important role in this scope plays organizations such as the Financial Action Task Force (FATF) – an inter-governmental body established in 1989 by the Ministers of its Member jurisdictions. The objectives of the FATF are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system; Committee of Experts on the Evaluation of Anti-Money laundering Measures and the Financing of Terrorism (MONEYVAL) – a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems.

Critically endangered evidence due to the dominance of corruption in some countries and in the globalization dimension recently were discussed at anti-corruption summit in London. London anti-

corruption forum, held with the participation of Heads of State and representatives of law enforcement agencies, considered it necessary as follows: first of all, to expose real corruption more actively and effectively; secondly, significantly strengthen the criminal responsibility of the VIP-officials for corruption and offshore shadow schemes.

Offshore areas are havens where wealth can be hidden from tax not only by oligarchs and big business owners, and as it is turned high ranked civil servants.

Offshore of the far countries gives an opportunity to hide corruption achievements and to keep financial capital and actives beyond the national control. Chain offshore corruption – civilization evil that is clearly confirmed by the Panamanian documents which also confirmed active participation of Ukrainian politicians and civil servants in the offshore.

According to international estimates annual losses of Ukraine from offshore activity equals to 12 billion. USD, which is equal to the amount of loans received by our state from IMF in 2014–2015. In general, since independence offshore leak of Ukraine (assessment made by Tax Justice Network) equals to 167 billion USD. This is 2% of the country's annual GDP [8].

The Prosecutor General's Office of Ukraine (PGO) has established a list of assets worth $5,5 billion, which were acquired for the funds withdrawn from PrivatBank (Kyiv) [3].

On December 7, 2017, the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) approved the 5th round mutual evaluation Report of Ukraine. On January 30, 2018, the Report was published on MONEYVAL's web-site (https://rm.coe.int/fifth-roundmutual-evaluation-report-on-ukraine/1680782396 [2].

Analysis of recent research and publications. The analysis of scientific literature and data received from the mass media and according to the abovementioned Report, the work of the Prosecutor's Office of Ukraine is in need of improvement.

The most popular researches of the problem were considered by the following scientists and researches: N. Akhtyrska, S. Bychkova, V. Filatova, T. Fulei, H. Khembach, M. Loshytskyi, S. Minchenko, D. Pavlov, O. Yanovska and other scholars.

Presentation of the main research material. Based on a robust legal and institutional framework, and despite an increasing resource strain, the Financial Intelligence Unit (FIU) produces good quality operational analysis. Effective mechanisms are in place to generate financial intelligence originating from a broad range of sources, including the very high number of reports filed by Reporting Entities (REs).

The spontaneous dissemination of cases from the FIU regularly triggers investigations into money laundering (ML), associated predicate offences or financing of terrorism (FT) by law enforcement agencies (LEAs). Most LEAs also regularly seek intelligence from the FIU to support their own investigative efforts. Cooperation among competent authorities is facilitated by a number of institutional mechanisms allowing for the timely and confidential exchange of financial information and intelligence with the relevant authorities.

Strategic analysis produced by the FIU supports the annual update of the reporting criteria, as well as LEAs investigative efforts.

The ongoing efforts aimed at emphasizing the suspicion-based nature of reporting, resulting in a smaller number of better-focused reports, should contribute to alleviating the abovementioned resource strain issues.

The number of ML investigations initiated by law enforcement compared with the increasing number of significant proceeds-generating offences is small, and ML indictments are declining.

Money laundering (ML) is still seen by most interlocutors met onsite primarily as an adjunct to a predicate offence. While investigations may be opened for ML in certain circumstances without a conviction for the predicate offence, it is essential to have a conviction for the predicate offence to take a ML case to court. Some interlocutors considered that an acquittal for the predicate offence means that ML cannot go ahead.

Most ML cases brought to court either involve self-laundering or 3rd parties on the same indictment as the author of the predicate offence. Prosecuting contested autonomous

ML cases, on the basis of underlying predicate crime being inferred from facts and circumstances, has still not been tested.

Before 2014, ML prosecutions rarely confronted one of Ukraine's highest ML risks (top level corruption and theft of state assets). Since March 2014, complex pre-trial investigations are actively being taken forward against senior officials of the former regime. They appear to have resulted so far in one conviction for ML in very significant amounts. The Specialized Anti-Corruption Prosecutor's Office (SAPO) is also now taking action against current senior politically exposed persons, which includes ML.

The sentences for ML are almost always less than for the predicate offences and not dissuasive. Some defendants serve no prison sentence at all for the basic ML offence due to the operation of Articles in the Criminal Code of Ukraine (CC) aimed at reform of convicted persons.

The confiscation legal regime has been updated and improved since the last evaluation through the introduction of special confiscation aimed at proceeds, though confiscation as an additional penalty remains available for many grave offences. It is difficult to assess systematically whether the new system has bedded down in practice in all proceeds-generating cases. It is unclear how regularly the new provisions (as opposed to confiscation as an additional penalty) are being used by the judges and how many significant final special confiscation orders have been made, as most information on this is anecdotal. Not all ML cases appeared to result in confiscation orders.

There appear to be some problems in conducting financial investigations and a lack of resources for them across the board. In practice, thorough financial investigations in major proceeds-generating offences are few and far between, though considerable efforts are made in the biggest cases.

Since 2014, officials from the previous regime and current top officials and politically exposed persons are being investigated and made suspects in cases and their assets are being restrained with a view to confiscation. Credit is given for the determined work that is now ongoing to restrain and confiscate funds in cases of top level corruption and theft of state assets, in line with national ML risks. At the time of the onsite visit there was a considerable gap between obtaining significant restraints and the achievement of final confiscation orders. More final confiscation orders, including those using the new special confiscation provisions, are necessary.

There is not yet a consistent evidential standard for establishing whether alleged proceeds came from crime, when the special confiscation issue is raised after conviction [2].

The purpose of the article is to analyze the anti-corruption and anti-legalization role of the General Prosecutor's Office of Ukraine through the prism of international standards and development strategies of a system of prevention and counteraction to legalization (laundering) of the criminal proceeds, terrorism financing, and financing of proliferation of weapons of mass destruction, as well as the MONEYVAL Fifth Round Mutual Evaluation Report.

The Criminal Procedural Code sets out a suitably comprehensive legal framework for mutual legal assistance (MLA), which enables the authorities to provide a broad possible range of assistance in relation to investigations, prosecutions and related proceedings concerning ML, associated predicate offences and FT. MLA is to be provided in accordance with the requirements set out in international treaties and domestic legislation. The General Prosecutor's Office of Ukraine (PGO) to the extent of procedural action within a criminal proceeding pertaining to the legalization (laundering) of proceeds of crime, terrorist financing or the financing of the proliferation of weapons of mass destruction [5].

The Ministry of Justice (MoJ) and the PGO are the central authorities for the receipt, processing and allocation of Mutual legal assistance (MLA) requests. During the investigation stage, the competent authority for incoming and outgoing MLAs is the PGO, who disseminates the requests to the relevant LEA in accordance with the subject- matter of the request. At the stage of the court review, the competent authority is the MoJ for both incoming and outgoing MLA requests.

When deciding on the range of offences to be covered as predicate offences under each of

the categories listed above, each country may decide, in accordance with its domestic law, how it will define those offences and the nature of any particular elements of those offences that make them serious offences. *Designated categories of offences* means: participation in an organized criminal group and racketeering; terrorism, including terrorist financing; trafficking in human beings and migrant smuggling; sexual exploitation, including sexual exploitation of children; illicit trafficking in narcotic drugs and psychotropic substances; illicit arms trafficking; illicit trafficking in stolen and other goods; corruption and bribery; fraud; counterfeiting currency; counterfeiting and piracy of products; environmental crime; murder, grievous bodily injury; kidnapping, illegal restraint and hostage-taking; robbery or theft; smuggling; (including in relation to customs and excise duties and taxes); tax crimes (related to direct taxes and indirect taxes); extortion; forgery; piracy; and insider trading and market manipulation [3].

In order to determine how embedded confiscation and particularly the new special confiscation provisions are in the general criminal justice system the authorities were invited to provide the evaluators with a statistical overview of convictions and associated confiscation orders for predicate offences in the CC 2014–2016. An extract from the statistics provided on 158 offences in the CC is set out beneath [11].

On the investigation of financial transactions related to corruption, including acts conducted with the participation of the former President of V. Yanukovych, his close persons and officials of the former government, state authorities and local self-government bodies.

In 2016 the SFMS submitted 172 cases (38 case referrals and 134 additional case referrals), related to suspicion of conducting corruption activity to the following law enforcement agencies:

– National Anti-Corruption Bureau of Ukraine – 71 case referrals;

– prosecution authorities of Ukraine – 81 case referrals;

– internal affairs authorities of Ukraine – 9 case referrals;

– Security Service authorities of Ukraine – 10 case referrals;

– fiscal service authorities of Ukraine – 1 case referral.

The abovementioned case referrals content information regarding financial truncations related to legalization (laundering) or commitment of other criminal offenses, amounting to UAH 4,4 billion.

In 2016 the FIU continued active work regarding investigation of the acts of laundering of the proceeds from corruption, embezzlement and misappropriation of state funds and property by the former President of Ukraine Viktor Yanukovych, his close persons, former government officials, associated entities and persons involved in the intentional mass murder.

particular attention is paid to tracking and suspension of funds and assets of all of the abovementioned individuals in banks and other financial institutions of Ukraine.

Thus, as the result of taken measures in Ukraine, the FIU has identified (March 2014 – December 2016) accounts of 103 individuals and blocked funds on 565 bank accounts amounting to UAH 340,7 million, USD 30,5 million, EUR 5,0 million, RUB 21.7 million, precious metals (gold and silver) with a total value of UAH 6.8 million as well as securities with a total value of UAH 1,1 billion.

The FIU blocked funds totalling USD 1,4 billion, USD 303,1 million, EUR 13,6 million, GBP 2,3 thousand and securities with a total value of UAH 2,3 billion and USD 1.0 billion on 96 bank accounts of 42 legal entities (including 21 non-resident companies) associated with the abovementioned individuals.

Overall, corruption permeates all the sectors of the economy. Corruption leads to significant losses for a country. Such losses may contain financial, quantitative, qualitative and political components [2].

Basic consistent patterns which increase "desire" to commit corruption offenses are:

– embezzlement of state funds and accepting bribes, to a greater extent, occur in those areas of the economy which have strategic importance to the country (defence, fuel and energy complex, healthcare, public administration), because of substantial cash flows allocated for them;

– a large amount of funds involved in projects at the expense of state or local budgets, at the state and local levels;

– complex mechanism for determining the value of goods and services, constant changes in market conditions to determine the real value of acquired assets;

– public procurement sphere is not transparent and characterized by high competition, which could create conditions for backroom conspiracies.

The main tools of laundering of the proceeds from corruption are:

– fictitious services;

– usage of affiliates to provide fictitious services;

– advance payment for goods and services to controlled entities, followed by non-delivery/ non-compliance;

– undervaluation of goods by a state-owned enterprise during sale to the companies-intermediaries for subsequent disposal to accumulate profits;

– conclusion of a knowingly unlawful agreements for the purchase of goods at prices, set for social needs, followed by its subsequent disposal;

– usage of enterprises with fictitious features;

– "trading" of public services regarding distribution/registration permits;

– usage of bank accounts, open abroad;

– rejection of competitive tender participation applications in favour of applications from controlled enterprises which offer much higher prices [1].

The most common ways to launder the proceeds from corruption are:

– engagement of people who do not have close family ties with a "corrupt official", while others links are present (distant relatives, drivers, assistants);

– receiving a bribe in cash with its subsequent transfer to cashless form;

– obtaining the proceeds from corruption in Ukraine with the subsequent legalization abroad;

– repeated inheritance from persons, who are not members of the same family;

– purchase of property abroad;

– purchase of corporate rights.

Investigation of laundering of proceeds from corruption obtained in the defence and industrial sector. Realisation of the anti-terrorist operation in the eastern Ukraine significantly increases the volume of costs for reforming and development of the defence and industrial sector, which in turn, increases the risk of committing corruption crimes in this area.

For example, the tendering process can be less transparent due to the fact that the subject of procurement/works in most is confidential, as it concerns national security and its confidentiality is protected by the legislative and regulatory requirements.

Also it should be noted that public procurement in the defence and industrial sector is mainly not addressed to the providers or producers of services, but conducted through a chain of intermediaries, which in turn significantly increases the cost of the tender proposal as "the service value" for government relations of certain entities is influenced by profitability established by each party [6].

Conclusions

Consequently, after analyzing scientific literature and data from open sources and MONEYVAL 5th Round MER, we can conclude that the work of Prosecutor's Office of Ukraine is significant and efficient but have some difficulties and problems. So our aim was to analyze these issues and to highlight these areas. The data and statistics given above shows us how should the law enforcement agencies cooperate, what challenges they face, in particular though the prism of international standards; we have found out agencies and bodies that cooperate with General Prosecutor's Office of Ukraine, the state of affairs in cases that they have investigated and the issues that arise during the investigation process. The same problematic issues were found in the MONEYVAL 5th Round MER. What is more, we have considered the predicate offences, their type and specific features and we have provided the definition and classification of predicate offences from the FATF Glossary.

We can state that fight against corruption and money laundering is our global problem and it is currently on the agenda of Ukraine. But we should gather all the strength of our LEAs and with the help of interdepartmental cooperation at all levels do our best to counter all the challenges. In the view of our article we propose the following.

Stop the decline in the number of ML indictments by ensuring that prosecutors advise LEAs to proactively follow the money in major proceeds-generating offences with a view to identifying how and by whom the proceeds are laundered. Identify specialized prosecutors dealing with ML to guide their colleagues in handling these cases (where they are not handling them themselves) and to advise as necessary on appeals against inappropriate sentences.

Ensure that the personnel and budget resources allocated to the FIU, in particular to it analytical function, are consistent with its workload.

Conduct prosecutorial and law enforcement agencies' trainings covering the FATF standards on ML criminalisation (and Ukraine's obligations under the Warsaw Convention).

Develop short and clear mandatory instructions for prosecutors on when and how to direct law enforcement authorities to pursue financial investigations in major proceeds-generating cases.

There should be developed between the Judiciary and the PGO a workable policy on the level of evidence needed to determine whether assets were the proceeds of crime, after conviction for proceeds-generating criminal offences. This policy should be consistently applied by the courts. To ensure that confiscation is always raised at the conclusion of trials for proceeds-generating offences, the PG should issue directions to all prosecutors in this regard. In the longer term, the authorities should decide whether the law needs amending to include a clause on the confiscation issue in the indictment.

The PGO should ensure that all supervising prosecutors in proceeds-generating cases are trained in modern financial investigative techniques and are capable of directing investigating officers in financial investigations where necessary. More focused guidance on the importance of early restraint and confiscation of proceeds should be issued to all prosecutors.

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National Police Units as Subjects in the Field of Prevention of Domestic Violence (on the Example of the Activities of District Police Officers)

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Abstract. *The work researches the activities of district officers as subjects of implementing the policy of prevention and counteraction of domestic violence in accordance with the Law of Ukraine "On Prevention and Combating Domestic Violence". The main tasks, directions of work and peculiarities of organization of activity are singled out. The problem of interaction of district officers with the population on the basis of partnership is investigated, social factors of the origin of domestic violence in Ukrainian families are considered, as well as the problem of attracting offenders to responsibility, its application in practice and the assumption of gaps in the legal norms of Ukrainian legislation.*

Keywords: *prevention of domestic violence; investigating; combating domestic violence.*

Problem statement

At the present stage of the development of society, the problem of domestic violence has ceased to be a matter only in the sphere of family relations, which is usually silenced and not disclosed. Now this is one of the most pressing problems of the present, because every day it causes the damage to the most valuable – honor, dignity, life and health of a person.

Analysis of recent research and publications. The questions of the role of subjects in the prevention of domestic violence were studied by such Ukrainian scientists and practitioners as: O. Bandurka, V. Bondarovska, T. Buhaiets, O. Kovalev, A. Kochemirovska, L. Kozub, H. Laktionova, K. Levchenko, T. Malynovska, O. Suslova and others.

The purpose of the article is to find out the main powers and responsibilities of police units (for example, district officers) in the field of prevention of domestic violence, in accordance with the legislative requirements, as well as their role in the "family" suffered from domestic violence, as the subject of prevention to solve the problem.

Presentation of the main research material. The problems of domestic violence become even more relevant every year, not only at the national level, but also at the international level. That is why a number of legislative acts were adopted to protect and support the victims of domestic violence and to empower those who are protecting them. Among them should be: the Council of Europe Convention on the Prevention of and Treatment of Violence against Women and Domestic Violence, the Law of Ukraine on Prevention of Family Violence of 15 November 2001 and the Law of Ukraine "On Prevention and Combating Domestic Violence" of On December 7, 2017, which provides for an integrated approach to combating domestic violence, those who protect the victims have more powers and responsibilities.

Investigating the problem of domestic violence, one should agree with the opinion of

scholars who consider the following factors as the main factors of the emergence and origin of domestic violence as a social problem: property stratification of society; lowering the standard of living of a large part of the population; social and everyday disorder; unemployment; legal disability; general psychological tension, which often leads to alcoholism and narcosis; the loss of moral and psychological guidelines, which negatively affects the microclimate in the family and causes a sharp decline in the culture of inter-family communication, and also leads to aggravation of family conflicts and provokes family disadvantages.

Despite some positive developments in tackling gender-based violence in general, domestic violence remains a significant and complex problem. Its magnitude is a matter of serious concern, because it is the most hidden form of violence, with regard to which manifestations there is no reliable statistics. The problem of domestic violence often leads to such phenomena as neglect and homelessness of children, an increase in the number of divorces, the reproduction of violent behavior patterns, the formation of a violent mentality, the loss of universal values, etc., which necessarily affects the quality of life of a substantial part of the population [1, c. 36].

According to the Institute of Sociological Research of the National Academy of Sciences of Ukraine, 68% of women in Ukraine are bullied in the family, of which a quarter "usually" or "often" suffers from beatings. Every tenth girl in Ukraine experiences constant violence. According to the results of the survey, 59% of respondents suffer from members of their family or from partners in intimate relationships, and they all suffer from one hundred percent under the age of 15; at the age of 15–20 years – 62,2%; 20–35 years – 50,0%; after 35 years – 67,3% of women.

According to the results of the survey "The prevalence of domestic violence in Ukrainian families" (presented by GfK Ukraine), commissioned by the Equal Opportunities and Women's Rights Program in Ukraine (UNDP-EU), 44% of respondents acknowledged domestic violence , with 30% – under the age of 18 and 29% – after reaching the specified age. About half of those who were abusive in their childhood experienced it in adulthood.

Men are more likely to suffer from child abuse, and women are older. Speaking of psychological violence, it should be noted that in relation to men, the aggressor is: father (50%) and mother (31%) under 18 years of age, as well as wife (48%) at the age of 18 years. As an aggressor, women serve as the father (41%) and mother (34%) under the age of 18, as well as male (68%) at the age of 18 years. In the case of physical violence, the aggressor against men is: father (59%) and mother (28%) under the age of 18 years, as well as another member of the family of a male (22%), wife (15%) and son (8%) at the age of 18 years. In the case of women, the aggressors are: father (53%) and mother (28%) under the age of 18 years, as well as husband (80%) at the age of 18 years.

For the first time, the problem of domestic violence and its prevention has been made public at the national level. According to the Law of Ukraine "On Prevention of Family Violence", in 2001, public entities that were supposed to protect against the prevention of violence were identified by the Ministry of Social Policy, the Department of Family, Gender Policy and Trafficking in Persons, in particular; children's services, centers for social services for the family, children and youth, units of the preventive activities of the National Police; specialized institutions for people who have committed domestic violence and victims of such violence (crisis centers for family members who have committed domestic violence or have a real threat of committing them; centers for medical and social rehabilitation of victims of domestic violence). Today, all the actors are working and functioning well, but in connection with the adoption of the Law of Ukraine "On Prevention and Combating of Domestic Violence" of 2017 (the Law), the circle of subjects and their powers has been considerably expanded, which in turn , not only take measures to prevent and combat domestic violence, but also protect children from violence and ill-treatment in the family [2].

Thus, according to Section II of the Law [2], subjects in the field of measures to prevent and counteract domestic violence are defined:

– the central executive body, which ensures the formation of the state policy in the field

of prevention and counteraction to domestic violence, and the central executive body, which implements the state policy in the field of prevention and counteraction to domestic violence;

– Council of Ministers of the Autonomous Republic of Crimea, local state administrations and local self-government bodies in the field of prevention and counteraction to domestic violence;

– guardianship and trusteeship offices, children's services in the field of prevention and counteraction to domestic violence;

– authorized subdivisions of the bodies of the National Police of Ukraine in the field of prevention and counteraction to domestic violence;

– educational authorities, educational establishments and educational institutions in the field of prevention and counteraction to domestic violence;

– organs, institutions and institutions of public health in the field of prevention and counteraction to domestic violence;

– centers for the provision of free secondary legal aid in the field of prevention and counteraction to domestic violence;

– general and specialized support services for victims.

If we generalize the scope of the implementation of the functions of all actors, the prevention (prevention of domestic violence) should be determined by the main directions of implementation of the state policy in the field of prevention and counteraction to domestic violence; effective response to the facts of domestic violence by introducing a legal mechanism for the interaction of all public actors who will take measures in the field of prevention and counteraction to domestic violence; proper investigation of the facts of domestic violence, bringing the offenders to statutory responsibility and changing their behavior; assisting and protecting victims, and providing reparation for the harm done by domestic violence [3, p. 321].

Article 10 of the Law defines the main powers of the authorized departments of the National Police of Ukraine in the field of prevention and counteraction to domestic violence, which include:

– Identifying and responding to the dangers of domestic violence;

– Reception and consideration of applications and reports on domestic violence, including consideration of communications received to the Call Center on the Prevention and Counteraction to Domestic Violence;

– Informing victims of their rights, measures and social services that they can use;

– Imposition of urgent prohibitions on offenders;

– taking preventive record of offenders and carrying out preventive work with them;

– control over the implementation of special measures for the abusers to combat domestic violence during their term of office;

– cancellation of permissions for the right to purchase, store, carry weapons and ammunition to their owners in case of domestic violence;

– interaction with other actors involved in the prevention and response to domestic violence;

– reporting to the central executive body implementing the state policy in the field of prevention and counteraction to domestic violence, on the results of the exercise of authority in this area [2].

Given the functions assigned to the units of the National Police of Ukraine, which are the objects of our study, one should distinguish the work of the district – one of the main actors (as I think), which should not only protect, but also prevent the occurrence of domestic violence in a timely manner, it is in those families who, in his opinion, are on the line of the threat.

Thus, the order of the Ministry of Internal Affairs approved the Regulations on the organization of the activity of district police officers on July 28, 2017, which defines the tasks, directions and peculiarities of the organization of the activity of district police officers (Instruction) [4]. The main areas of activity of district police officers (DPO) are the adoption of measures to prevent and terminate domestic violence (paragraph 8 part 2 of the Instructions). The DPO, in order to implement the principle of interaction with the population on the basis of partnership, organizes work in the following areas:

– cooperation with local self-government bodies, representatives of territorial

communities, the population, heads of enterprises, social, educational and cultural institutions, children's protection institutions in order to implement the principle of interaction with the population on the basis of partnership, the exchange of information for further use during the performance of official duties (clause 2, part 1, Section III);

– DPO within the police station conducts public awareness work for the formation of the legal culture of the population, negative attitude towards socially dangerous phenomena in order to raise the image of the police and about ways of protection and self-defense against criminal encroachments;

– DPO in cooperation with social protection bodies of local authorities, local self-government bodies, children's services, charitable organizations, community organizations, representatives of territorial communities, specialized institutions for persons who have served their sentences, work to prevent the commission of offenses, in the including those who are in difficult circumstances [4].

One of the features of the DPP is to formulate a proposal, namely, in accordance with Section 2, part 5, Section III, to take measures to prevent domestic violence, to provide social services to people who are in difficult living conditions.

It is envisioned that the district police officer in his activity puts preventive accounting and, within the limits of his competence, conducts preventive work with the following categories of persons: those released from places of imprisonment who served the will for a deliberate crime and in which the conviction has not been canceled or not repaid in the established law of order; by persons who were officially warned about the inadmissibility of violence in the family [4].

It is the official warning about the inadmissibility of violence in the family that is the basis for taking the person who committed the specified violence, for preventive registration and carrying out preventive work with it. For preventive registration, these persons are placed on the basis of a motivated report of the district police officer. The decision on placing such records is taken by the head of the territorial police body or his deputy.

When carrying out individual and preventive work with this category of persons, district police officers must:

– to seek ways to eliminate domestic conflict in order to reconcile the conflicting parties;

– to exclude the possibility of causing their actions harm to interpersonal relations;

– to check and respond to signals about the unlawful conduct of the conflicting parties in a timely manner;

– it is obligatory to carry out individual prevention in relation to the potential victim of domestic violence [3, p. 322].

Police officer uses a variety of forms of work; they usually include convictions, the provision of necessary assistance, the neutralization of negative conditions, control and supervision, coercion. Depending on the forms, appropriate methods are used, such as: preventive conversation, registration, administrative supervision, administrative liability, preparation of materials on limitation of capacity, deprivation of parental rights, control of behavior, supervision, preparation of materials for referral to organs inquiry and investigation to resolve the issue of a criminal case.

Preventive work of the district police officer extends primarily to the family and everyday life. He is the central figure in organizing preventive work in this direction, since he has the opportunity to interfere in a family conflict at an early stage and is able to prevent a possible crime. In this case, in addition to measures to persuade and provide the necessary legal and other (within the competence) assistance, it is necessary to actively use and preventive coercive measures: the involvement of the person responsible for the conflict (if there are sufficient grounds) to administrative liability for the threat of murder or causing serious harm to health, the problem of light health damage, beatings, hooliganism, including small ones. In connection with this, inadmissible cases of formal, untimely response of district police officers to statements and reports of citizens on the above facts [5, p. 63].

Also, according to the law, special measures for the prevention of domestic violence are:

– an official warning about the inadmissibility of committing domestic violence (made on the basis of the results of an examination of the

statement (notification) about the perpetration of domestic violence or the real threat of its commission. An official warning may be issued to a person who, at the time of his passing, has reached the age of 16 age);

– a protective order (if the person against whom the official warning was issued has repeatedly committed domestic violence, such a person was a district police officer or a criminal police officer for children in agreement with the head of the department or branch office and the prosecutor (up to 90 days)); ;

– taking on preventive registration and removal from the preventive account of family members who committed domestic violence (for preventive registration, family members who committed domestic violence are treated only after they have been issued by a district police officer or a criminal employee the police for children of the official warning about the inadmissibility of violence in the family);

– referral of the abuser to the correctional program (after receiving a person's official warning about the inadmissibility of committing domestic violence, this person is sent by the district police officer or the criminal police officer for children to the crisis center for the correctional program). The correctional program for such person is obligatory).

In examining the main areas of work of the DPO, it should be noted the problems of implementation in practice, those powers provided by law. It is worth agreeing with the opinion of the practitioners that the greatest problem of the local police officer in detecting the facts of domestic violence is the drafting of an administrative offense protocol for violating the requirements of art. 173-2 of the Code of Ukraine on Administrative Offenses (CUoAO), the detention of such a person and bringing it to court. In particular, in art. 263 CUoAO states that administrative detention of a person who committed an administrative offense may take no more than three hours. In exceptional cases, due to the special need of the laws of Ukraine, other terms of administrative detention may be established.

However, in practice, this is not an effective way. For example, a person makes an administrative offense under art. 173-2 CUoAO at 23 h. A police officer or other police officer who arrived at the crime scene with a view to preventing repeat violence in the family, detaining such a person and delivering it to the police department (office) for drafting an administrative protocol. After holding a preventive conversation and drafting an administrative protocol, the person who committed the administrative offense is released at the place of residence, in our case at 2 o'clock. The indicated person is sent to the place of residence, as a rule, he again commits domestic violence, in connection with which the victim reconnects to the police authorities, who are obliged to respond to this challenge and re-send the police station to the place of the event [5, p. 65].

In addition, the above-mentioned problems include non-appearance of the offender in court for consideration of an administrative case under the said article, since the person who committed domestic violence at night does not appear to the court on the second day in connection with with which the court does not make a decision and requires the presence of the offender.

So, to address this issue at the legislative level, scientists have proposed to consider a proposal to amend art. 263 CUoAO (The terms of administrative detention) and keep the offender in violation of the requirements of art. 173-2 CUoAO before a court decision.

Conclusions

Summarizing the above, it should be noted that the role of the subunits of the National Police in the field of prevention of domestic violence is imperfect, since the adoption of the new Law still has established norms and customs that do not allow them to fully utilize their capabilities and powers, especially when discovered the fact of domestic violence should be prevented for him not only for two days. There must be a guarantee that the injured person will be safe, and the offender will be held responsible for the offense committed, without neglecting legal gaps in the legislation.

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Historical and Legal Aspects of Development of Institute of Civil Service in Ukraine (from the Time of the Existence of Kievan Rus to the Establishment of the USSR)

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Abstract. *In article, on the basis of scientific literature, historical and legal analysis of the development of the Civil Service Institute of Ukraine from the time of the existence of Kievan Rus to the formation of the Soviet Union. It was established that in the defined historical period, the service itself was not so much a professional hired activity as a manifestation of duty, a submission to the ruler (the prince), which embodied both legislative, executive and judicial power. It is stressed that from the end of the eighteenth and the beginning of the nineteenth century, the public service began to gain more and more signs of special professional activity, and certain aspects of its implementation are increasingly reflected in the relevant legal acts.*

Keywords: *civil service; historical and legal aspect; emergence; development; state apparatus.*

Problem statement

Today, active reform of the civil service institution is taking place in Ukraine, which is a logical and necessary step in the context of the European integration processes taking place in our country. At the same time, the improvement of this institute is impossible without conducting a historical and legal analysis of the development of the civil service institute in Ukraine, since knowledge and analysis of history allow to avoid mistakes of the past in the future. It is worth noting that the formation of the civil service in its modern form in our country began after the declaration of its independence. However, the organizational and legal foundations of this institute were laid much earlier. The sprouts of the civil service, as O. Obolensky noted, can be recognized in the very first state education in the territory of Ukraine. The nature of the state system of each of the state formations determined the content of the activities of state bodies and persons serving the state in the person of these bodies [1, c. 64].

Analysis of recent research and publications. Some historical and legal aspects of the emergence of the civil service institute paid attention in their studies: O. Bandurka, I. Holosnichenko, A. Kulish, A. Matsiuk, K. Melnyk, O. Mykolenko, O. Protsevskyi, V. Tolkunova, T. Zanfirova and many others. However, the overwhelming majority of scholars usually pay more attention to the development of this institute during the period of the USSR's existence and when Ukraine became an independent state without deepening its detailed analysis of history. The above, in our opinion, is wrong, since the first foundations of legal regulation of the civil service were laid down during the existence of Kievan Rus, which

in the future definitely influenced the formation of the institute in modern conditions.

The purpose of the article is to study the issue of development of the civil service institute since the time of existence of Kievan Rus before the formation of the USSR.

Presentation of the main research material. The peculiarity of the formation of civil service in Kievan Rus was determined by the specifics of its state system and the form of government in it. Current civil servants served the state in the person of the ruling power. In Kievan Rus it was a Grand Duke [1, p. 65]. As a whole, it is quite understandable, since the court of the sovereign was the heart of any European state in the Middle Ages, and Russia did not form an exception [2, p. 57]. O. Obolensky notes that one of the factors that united the great feudal state of Kievan Rus was "the community of the ruling dynasty, in which the prince of Kiev was only older and more venerable." The Grand Duke possessed legislative, judicial power, controlled the work of officials, led the army, organized international relations. The execution of these powers was provided by princes and zemstvo officials. Princes officials who were in Kiev and were dependent on the prince in fulfilling the tasks of state power. They oversaw the princely court, his servants and the household. In their subordination was financial government officials, through which was carried out another function of the prince – the receipt of funds for the maintenance of the family of the prince, his court, troops, courts, administration. Zemsky government officials were elected by the people, later appointed by them the prince. Gradually they turned into princely government officials [1, p. 65]. One can not but pay attention to the fact that the persons who were in service at the princely court did not have a clearly defined legal status, and their relationship between themselves and the prince was bundled, as a rule, in informal ties. This situation led to the fact that all officials, especially the higher rank, de facto fulfilled their duties for a long time. In general, this corresponded to the realities of political life in the Middle Ages, which forced the emperor often to entrust not to certain persons, but to those who were at hand [2, p. 57].

One of the main legal documents of the time was "Russkaya Pravda", which was mainly formed on the basis of the rules of customary law. This codified legal collection is considered the crown of Old Russian law. The original Russian Truth did not survive. She came to us in 106 lists – in chronicles and legal collections of the XIII-XVII centuries. These lists are divided into three editions – Short, Extended and Reduced. The oldest is the Short Edition of the Russian Truth, which reflects the state organization and the Old Russian law of the period of the formation of the feudal system. It consists of the Truth of Yaroslav, Truth Yaroslavich, Pokon vyrnogo, Lesson Bridgeers. The subject of legal protection in the Short Edition is the life and physical integrity of the feudal lords and the prince's warriors; it regulates issues of ownership, possession, succession [3, p. 37].

O. Leist notes that the norms of the n truth are largely formulated by describing a case of an offense indicating the corresponding punishment [4]. Specific indications regarding the mechanism of public administration in general and the civil service institute in particular were not in the text of the Russian truth. Although one should pay attention to the fact that the damage caused to persons belonging to princely executives, imposed more severe penalties. Thus, in this legal document it was stated that "when the husband of a husband dies, then the brother of the slain, whether his father or son, or the brother of the eldest son, or other brothers, has to take revenge. If there is no one to carry out blood vengeance, then make UAH 80 when the prince's husband or prince's thium will be killed. If a bourgeois, a grind, a merchant, a boyar thion, a swordsman, a disciple, or a novice, would be killed, then 40 hryvnia would be paid for him. After Yaroslav, his sons were gathered: Izyaslav, Svyatoslav, Vsevolod and their voivods – Kosnyachko, Perenig, Nikifor, and abolished blood revenge, and set up a kune for bribe to kill. And everything else to judge, as Yaroslav judged. So his sons have established it. If they kill a prince's husband during a robbery, and do not look for a killer, then pay a verve of 80 hryvnia to the verve in which the head of the murdered lie, and when the common man, then 40 hryvnia. When a certain verse begins to pay wild faith, then a few years pays that guilt, because they pay for an unidentified offender. If the perpetrator is from their verve, and in it the will was given to the offender, then the

accomplices should help the offender, paying for the wild vipa. But to pay them a total of 40 hryvnias, and for the crime of the same perpetrator to pay from 40 hryvnias their share of the payment of his wife. If he committed a murder either in a quarrel or at a feast, then he would pay him in a verve if he paid the crime for a plank" [5]. At the same time, it is clear that the increased legislative guarantees of the status of the upper strata of the population can not be directly related to the fact that a significant part of their representatives were in service in the apparatus of the princely court and fulfilled the corresponding state tasks and functions. After all, this state of affairs was typical for the feudal state and law.

It is worth paying special attention to the Galician-Volyn Princedom, which has been preserved in the Ukrainian lands during the whole century after the collapse of Kyiv as a political center in the full force of the tradition of the great-power politics and life of the princely-druid regime, socio-political forms and culture, founded by the Kiev state. The prince embodied the legislative, executive and judicial power. With higher executive power, the prince instructed administrative affairs "to his officials whose positions had different origins: some originated from earlier times, the rest were created to perform certain administrative functions of the princely power" [1, p. 65]. I. Lavrinchuk notes that it is during the period of the Galician-Volyn state that the service in public office is gaining more intrinsic significance. Endowed with extensive administrative, military, judicial legislative powers, the prince appoints officials in cities and townships, established by a legal act on various issues of governance – grants them land titles as a form of remuneration for service in the public sphere of activity. In addition, he noted that the lawyer, Tymoshenko and the Hundreds gradually relocated to the Prince's yard-patrimonial apparatus, occupying the establishment of the provincial governor and local authorities for this purpose. Thus, a certain circle of people, due to their main function, which they perform on a regular basis, for a separate remuneration, begin to create a more isolated legal organization, which is considered in the modern period as a public service [6, p. 38–39]. After the entry of Ukrainian lands into the Grand Duchy of Lithuania for the management of the state borrowed the existing system of governance. Moreover, borrowed not only the very structure of administrative management, but also the content of power of each of the representatives of this power [7, p. 85].

As for the state apparatus of the Grand Duchy of Lithuania, the primary authority with which the prince exercised control over his subjects was a wife. It was in its composition included a land aristocracy. In fact, its representatives simply recognized the power of the Grand Duke over himself and his subjects. By the degree of expansion of the borders of the Grand Duchy of Lithuania and the accession to its composition of other lands, which in many respects differed in ethnic, cultural and socio-economic character, the wife also evolved. She transforms into the Grand Prince's courtyard [3, p. 77]. O. Arkusha and O. Boyko emphasizes that the court itself was the structure from which the state apparatus of the Grand Duchy of Lithuania began to form. Generally during the XIV century the state apparatus did not go beyond the court, because the state was built on separate principalities. Under such conditions, the Lithuanian ruler did not need to have a ramified staff of officials [3, p. 77]. In this regard, Kovbasyuk notes that the great Lithuanian prince not only lacked the need for an extensive state apparatus, but also because of the dominance of natural taxation, especially in the 14th and 15th centuries, it was not possible to hold a large staff of managers on the scattered lands of the country [7, p. 90].

At the same time, the yard demanded the emergence of functional posts that could hold it from the middle. The first officials under the prince may be voivodes and ventures. Voivods initially functioned only as military leaders. As for the others, the ventures were administered by the Grand-Volunteer Volunteers [2, p. 77].

With the elimination of single principalities, the Grand Prince's court took over their functions on their own, which led to its growth. If in the first third of the XIV century the number of nobles is unlikely to exceed several hundred people, then in the XV century it has increased to 1,5 thousand, and in the XVII century – up to 2,5 thousand people. Accordingly, there was a need for the emergence of new posts: Marshal, country house, cannibals, etc. Appearing as

landlords, these posts spread to the entire state. Ultimately, the state apparatus of the Grand Duchy of Lithuania was formed in the second half of the 15th century and was divided into a central one, which directly operated by the government, and a regional one whose task was to ensure the functioning of the Grand Duchy of power on the ground. To the central part of the apparatus belonged about 35 governments, which according to the organization can be divided into three groups: the military apparatus, the office of the Grand Duke and courtyard posts [7, p. 90].

On the ground in the Lithuanian Principality there were also officials: the case, the governors, the mayors, the castellans, the marshals, the Decki, the survivors, the interlocutors, the osmniki, and others. They followed mainly the collection of taxes, repairs of roads and fortifications. Personnel for these positions voivods and old men usually replenished from their surroundings [7, p. 91]. After the Union of Lublin in 1569, Ukrainian lands within the Commonwealth of Poland became the property of its main part – Poland. The supreme state power in the Commonwealth belonged to the king and the great sejm and the senate (as part of the Sejm and at the same time the Royal Council). They were complemented by provincial Voivodship and county seimak. It is these higher authorities that elected or appointed government officials of different levels [2, p. 133]. Within the whole country there were about 40 thousand different official and titular positions – "governments". The local authorities in the districts of Kyiv, Volyn, Bratsk, Podillya, Rus, Belz and Chernihiv, divided into counties, were still concentrated in the hands of voivodes, castells, elders and other city and county officials: the city elder, who was in charge of the court the nobility in criminal cases; Zemsky subcommittee, which resolved border disputes; judges, convictions; county secretary and others. The elderly, whose position became lifelong, he picked up his helpers: substroop, burggrass, etc. All local state governments occupied the nobility, whose number in the Ukrainian lands was about 2,5% [7, p. 91].

A special place in the history of state-building of Ukraine belongs to the Ukrainian Cossack state, which was the first "democratic republic of the time of the world". Although it was militaristic in view of the wars in which it was constantly drawn, both monarchist and democratic elements were combined in its state system. The Cossack state possessed all the characteristic features of the state: a territory, a clear administrative-regimental structure, an institution of state power headed by a hetman elected by the Cossack council and, together with the military council, personified the highest legislative body; division into judicial and executive power: the general court and the judicial process; general (Cossack) officer; financial system, army, international recognition [1, p. 66]. As for the legal system of the Ukrainian Cossack state, it was mostly customary and did not have a clear internal structure. Nevertheless, it had a significant impact on the formation of the judicial authorities in the Ukrainian Cossack state, which arose during the years of the National Liberation War of the middle of the XVII century. It was according to the Zaporizhzhia model that the institutions of the Ukrainian Hetmanate began to be formed [2, p. 201–202]. With regard to the civil service directly, it was during this period, although not yet formed into a separate law institute, but acquired qualitative characteristics of professional activity.

The period of stay of Ukrainian lands under the authority of the Russian Empire, notes M. Inshyn, did not become a separate stage in the establishment and development of the Ukrainian civil service, since at that time the own system of public administration was gradually lost, the imperial imperial was taken over, and the state service was unified with Russian [8]. However, we can not but pay attention to the fact that during this period several important documents were adopted that influenced the formation and formation of the civil service in Ukraine. First of all, this is the "Table on the ranks of all ranks of military, state and court" of January 24, 1722 [9, p. 468–477], which for the first time clearly divided the civil service into military and civilian, and the latter, in turn, into state and court. Accordingly, ranks were distinguished: military, state and courtiers. The new bureaucratic division proceeded from the principle of service and changed the old division of the nobility into the ranks of the duma (boyars, okolnichy, dumnyh nobles,

duma's clerks, all of them sat in the Boyar Duma – the supreme advisory body under the king), the capital (tableshoppers, sleeping bags, etc., including nobles of Moscow), provincial (nobles and children boyar in "cities", that is, in the counties). The rank of rank also divides employees into two groups: board officials and clerical staff [7, p. 96].

In addition to the mentioned "Table on the ranks of all ranks of military, state and court", an important role in the formation of the civil service as a legal institution played: the Decree "On the ordering of pension provision of officials" in the award of labor, lifted in service of December 6, 1827; "Regulations on the order of the noble assemblies, elections and service on the same" with the provision of the state election service status of December 6, 1831; "Statute on the service by definition from the government" (1832–1890), which defines its societal configuration, rights and duties of officials and employees, and also clarifies the requirements of the supreme authority for its qualitative and effective implementation [10].

Conclusions

Thus, the legal regulation of the civil service in Ukraine has undergone a long and complicated path to its formation and development. The first norms regulating official relations arose even in the period of early feudal Kievan Rus and had a customary character. However, since the service itself appeared not so much as a professional hired activity, but as a manifestation of duty, of citizenship to the ruler (prince), who embodied both legislative, executive and judicial power, there was no such need for a full legal settlement of this service. . The exception is the period of existence of the Cossack state, in which, although the customary law prevailed, the civil service began to be settled in a separate institute. This was due to the democratic structure of the mentioned state education. Since the end of the eighteenth and early nineteenth centuries, the public service has begun to gain more and more signs of special professional activity, and certain aspects of its implementation are increasingly reflected in the relevant legal acts. However, as an independent legal institution, the state service began to be formed only after the proclamation of Ukraine's independence.

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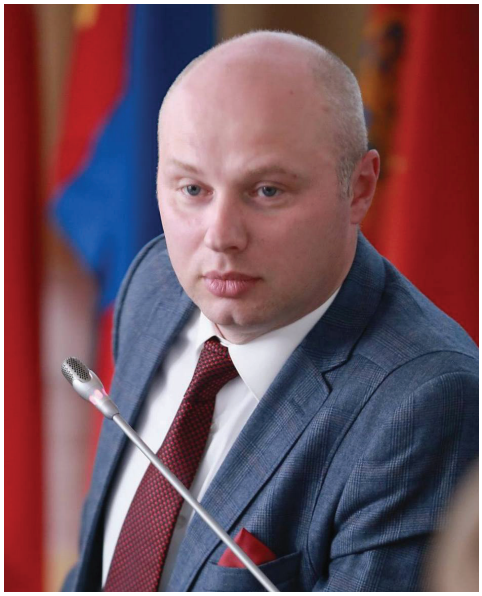
Criminological Significance of Biometrics Technology in the Context of Combating Cross-Border Crimes



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Abstract. *Border security system effectiveness is largely influenced by creation of the conditions under which the use of documents for committing cross-border crimes is impossible or provides for termination thereof. Implementation of biometric technologies in the sphere of documents production allows not only to increase the level of their protection, but also provides the tools necessary for identification of such a set of personal data, which eliminates any possible errors. In turn, this greatly enhances the opportunities for both crime prevention and termination of certain criminal acts.*

Keywords: *cross-border crime; criminology; biometric identification; biometric identity documents; International Civil Aviation Organization (ICAO); e-passport; ID-card; border control.*

Problem statement

Timely and complete necessary information on persons crossing the state border ensures the functioning of the system for countering cross-border crime in the way that corresponds to the characteristics of optimality and efficiency. The undoubted factor that determines the effectiveness of the border security system is the presence of conditions under which the use of personal data and documents to commit cross-border crimes is either not possible at all, or creates opportunities for further suppression of crimes. The introduction of biometric technologies in the process of producing documents for traveling abroad provides an opportunity not only to raise the level of their protection, but also provides the possibility of identification using such a set of personal data, eliminates an error. It also enhances the possibilities of both preventing crime and stopping individual crimes.

Analysis of recent research and publications. Anticriminal significance of biometric technology is a relatively new area of research for criminology. At the same time, in the related sciences, this topic has long been of interest to scientists. In particular, at the level of the thesis of L. Tallanchuk, a study of the criminalistic aspects of the problem was conducted [1]. International standards for the security of documents with biometric data are considered in the works of A. Vollevodza [2]. In the criminological policy in the field of cross-border relations, the strategy of reducing the possibility of committing a crime is of particular importance. In this regard, criminology cultivates the idea that a crime is the result of the realization of the possibility underlying the theory of rational choice and standard activity, which was developed by the American criminologist M. Felson and developed by his followers (R. Lambert etc.). One of the conclusions of the theory is that the proliferation of technologies aimed at minimizing opportunities for the commission of crimes entails a decrease in the level of crime [3; 4]. The opportunity is considered as the cause of the crime.

Considering the above, **the purpose of the article** is to conceptualize the idea of the anti-criminal significance of the use of biometric technologies; it is to minimize the possibility of individual crimes and the corresponding impact of these technologies on the reduction of cross-border crime.

Presentation of the main research material.

1. Forged documents when crossing the state border are used in the commission of such criminal offenses as human trafficking or other illegal agreement regarding the transfer of a person; smuggling; production, storage, acquisition, transportation, shipment, import into Ukraine with the purpose of selling or selling counterfeit money, government securities or state lottery tickets, fraud; malpractice and the like. In art. 358 of the Criminal Code of Ukraine provides for the responsibility for forging documents, seals, stamps and forms, their sale, as well as the use of forged documents [1]. Earlier, we noted that among the conditions for the effectiveness of information support for countering cross-border crime in the coming years should be considered the following:

– within the framework of integrated border management – the trend towards international data exchange, the creation of supranational databases and accession to international information systems;

– application of advanced information from the contiguous side, from the subjects of interaction within the framework of the integrated border management system, etc.;

– the need to minimize the subjective factors associated with unauthorized unlawful interference with departmental databases;

– within the limits of technologization of border control – the use of databases that work with information obtained by means of contactless inspection of vehicles and persons, biometric identification [5, p. 111].

Thus, it dramatically reduces the risks associated with the use of forged documents, the use of biometric technologies, that is, automatic or automated methods for recognizing a person's personality by its biological parameters.

Ukraine's State Migration Policy Strategy for the period up to 2025 for the purpose of protecting documents certifying a person confirms the citizenship of Ukraine or the special status of a person, it is determined that in order to increase the level of security of documents, Ukraine should ensure: "the issuance of biometric travel documents that meet the standards of the International Civil Aviation Organization (ICAO), including in consular offices of Ukraine abroad". It is anticipated that this will "expand opportunities for reducing irregular migration, combating transnational crime and terrorism" [6].

Biometric data is any data that characterizes a particular biometric parameter. With all the diversity of these parameters, a technology that takes into account the three facial recognition features (mandatory) is used in the field of the production of identity documents at the crossing of the state border (some other documents), as well as for biometric identification and verification in the world; fingerprint recognition; recognition of the iris of the eye. Of these, the first two are used in Ukraine. In 2018, a national system of biometric verification and identification of Ukrainian citizens, foreigners and stateless persons was established in Ukraine. The subjects of the national system are the State Migration Service of Ukraine, the State Border Guard Service of Ukraine, the National Police of Ukraine, the Ministry of Internal Affairs of Ukraine, the Ministry of Foreign Affairs of Ukraine, foreign diplomatic institutions, the Ministry of Infrastructure of Ukraine, the Security Service of Ukraine, the Foreign Intelligence Service Ukraine and the Ministry of Defense of Ukraine. The system administrator is the LCA of Ukraine [7]. Such a system, obviously, provides significant advantages in identifying offenders, facilitates the implementation of border formalities. In this case, biometric identification is the search "one to many" by recognizing and comparing one or two biometric data (parameters) of a person with biometric data (parameters) of persons in departmental information systems of subjects of the national system; biometric verification – the search "on a" one to one basis "between" the biometric data (parameters) received from the person at the moment and the biometric data (parameters) available in the departmental information systems of the subjects of the national system [7].

2. In the context of counteracting crime, A. Volovedov proposed the following view on the benefits of using documents with personal biometric data:

– a higher degree of protection against counterfeiting;

– the possibility of automatic verification of ownership of the document, reducing the time to identify the person, increases the speed of the specified procedure and excludes subjectivity in evaluating its results;

– the significant technological potential of the specified document, that is, the chip, other than identification data, can be recorded various other personal data;

– it makes no sense to fake and illegally use electronic documents with biometric data;

– biometric personal data collected when issuing electronic passports can be used in the investigation of offenses [2, p. 108].

3. Given the global nature of the unification of machine readable identity documents and increased requirements for aviation security, the development of regulations and standards in this area is the responsibility of the International Civil Aviation Organization (ICAO), which has been operating since 1968.

In 2005, 188 ICAO member states approved the Doc 9303 standard, according to which the identity documents are:

– machine-readable travel document (passport, visa);

– machine-readable passport (passport conforming to the specifications defined by Doc 9303);

– electronic passport – e-Passport (machine-readable passport containing a chip of a contactless integrated circuit on which the data is stored, including the biometric characteristics of the holder of the passport and data protection element) [8].

The unification of documents certifying a person when crossing the state border according to IKAO standards is in direct correlation with effective security provision in various spheres – border, aviation, and sea. Undoubtedly, technology in the areas of border control and others where there is control (for example, aviation security services) increases the possibilities for effective prevention of cross-border crime [10, p. 248]. It also speeds up the implementation of border formalities and control procedures related to the need to provide increased protection of objects protected from penetration of unwanted persons, and secondly, it is connected with the need for control and passage of a significant number of people in limited time.

4. Any automated identification method is based on the comparison of the data of the identified object and the biometric standard. The units of border control for this purpose are equipped with software and technical complexes with functions of processing information about persons crossing the state border, their passport documents using electronic media of information, including the function of biometric control. Progress has not been in place and since the mid-2000s, automated Border Control systems – e-Gates (in the UK and Ireland), SmartGates (analogues in Australia and New Zealand), Parafe have been installed at various airports in the world. (in France), Global Entry (in the US), EasyPass system (in Norway), J-BIS (in Japan), Smart Entry Service (in Korea), Viajero Confiable (in Mexico). The number of e-Gates deployed globally at airports and train stations in Europe, Australia, Asia and America has tripled from 1100 in 2013 to over 3200 in 2018.

Travelers themselves pass ABC in the presence of a uniform ICAO ePassport. Upon completion of the identification process, a turnstile for the passage is opened. In addition, Dubai Airport – the only one in the world installed a LIDAR system that works when passengers pass through the corridor before luggage is delivered. Here, in automatic mode, they are identified by 3D scanning of individuals [11].

Today, more than 100 countries and international organizations issue ePassport, with over 490 million published. For example, the United Nations issued an electronic passport (e-UNLP) from 2012 for a period of five years [9].

5. The use of biometric technologies is extremely important in the fight against terrorism. This became clear with the spread of aviation terrorism. The first delights of the Arab terrorists of passenger aircrafts of the Israeli airline El-Al in 1968 were when the air safety system did not provide for thorough passenger control.

The focus of UN Security Council Resolution 2396 (2017) concentrates on the use of biometric technologies in the fight against terrorism [12]. In particular, art. 15 of this document stipulates that "Member States shall develop and implement systems to collect biometric data, which could include fingerprints, photographs, facial recognition, and other relevant identifying biometric data, in order to responsibly and properly identify terrorists, including foreign terrorist fighters, in compliance with domestic law and international human rights law, calls upon other Member States, international, regional, and subregional entities to provide technical assistance, resources, and capacity building to Member States in order to implement such systems and encourages Member States to share this data responsibly among relevant Member States, as appropriate, and with INTERPOL and other relevant international bodies" [12]. Today, Interpol has biometric data of more than 41,000 foreign terrorist fighters (FTFs).

6. Border control units in Ukraine are equipped with an automated workplace with the function of fixing biometric data. The system of measures for improvement of border control is shown in the table 1.

Table 1

Place of biometric technologies in the system of measures for the improvement of border control

№ с / п	Examples of Measures to Improve Border Control	Results
1	**In the field of regime and control of compliance:**	
	a) risk management in the presence of a four-level entry and exit control system	Responding to challenges and threats with simultaneous simplification for non-risk groups
	b) output of BCP of separate elements of control procedures using the system of transmission of the previous information	Systematization of the work of the control services
2	**In the field of technical means of border control:**	
	a) systems for contactless inspection of vehicles and goods, as well as people, such as "body scanners"	Increasing the likelihood of detecting caches and determining the type of substances with the help of a scanner
	b) biometric readers	Minimizing mistakes in personal identification and documents. Minimizing corruption risks. Increasing the level of integration, personalization and data transfer process of passports and other primary documents certifying a person. Fast and systematic transmission of information about lost and stolen passports to the Interpol database
	c) self-service kiosks such as "Smart border"	Minimize errors in person identification and documents. Reducing corruption risks to a minimum

№ с / п	Examples of Measures to Improve Border Control	Results
3	**In the area of database application:**	
	a) introduction of common information systems with EU countries, in particular: – on the identification of passport documents for the right to cross the border by means of transport, etc.; – persons crossing the border who have committed offenses which are not allowed to enter the country or which are temporarily restricted to the right of departure, invalid, stolen and lost passport documents, etc.	Complete automation of detection processes of persons and vehicles that may be the subject of "interest" of law enforcement agencies. Concentration of attention of law enforcement personnel on "risk groups". Sharp increase in the effectiveness of detecting criminal offenses or control over the actions of offenders

This is made, in particular, for the purpose of implementing the measures envisaged by the Strategy of the State Migration Policy of Ukraine for the period up to 2025:

– by 2021 – to automate the processes of the National Biometric Verification and Identification System in the implementation of modern technical means, including biometric (parameters) recognition systems, in particular the face, and automatic photo quality check / matching;

– constantly – to intensify cooperation with EU Member States, international and non-governmental organizations in training on the safety of biometric travel documents and detecting forgery of identity documents.

Such systems have been developed, established and show positive results in some countries of the world. For example, from 2006 to 2016, the number of people who arrived in Australia increased from 21,7 million a year to 37,7 million, that is, almost 47%. This was due to the development and installation of the national system EBIS. The mentioned system is designed for 100 thousand transactions a day and greatly increased the possibility of collecting and storing biometric information, which obviously gives significant advantages in identifying offenders and facilitates the implementation of border formalities.

Conclusions

Recently, the information retrieval systems of biometric identification of a person by facial image on the operational data from cameras located in public places are becoming widespread in the world. Taking this fact into consideration, the possibilities of improving the automated information and information retrieval systems that are being armed with law enforcement agencies of Ukraine should be explored.

In some cases, a law-abiding ePassport owner is not interested in having a history of his travel discovered at the border. For example, some Arab countries are denied entry visas to third-country nationals holding Israeli visas. In some cases, a citizen, entering the United States through Canada, may not be interested in discovering the fact of a visit to a country that is included in the United States in the list of countries contributing to terrorism. Consequently, individuals with justified fears about entry bans are interested in partially falsifying passports by replacing a page with an unwanted visa or entry mark. These examples demonstrate the argument in favor of introducing an e-Visa electronic record that is recorded on the ePassport chip. This requires the improvement of the system for collecting

biometric information from applicants for a visa for the unique identification and further use of such data in the course of border control.

Since the introduction of electronic media containing biometric data of its owner allows to exclude the possibility of using these documents by another person, this is not only critical in light of the simplified visa (or visa-free) regime of movement across the state border, but also opens up new opportunities for the prevention of cross-border crime . In this case, the vulnerable place in the application of biometric technologies in Ukraine is the procedures for filing and processing applications for the issue of travel and primary documents. Another vulnerable place is the possibility of remotely removing data from the electronic chip, which determines the potential risk of unauthorized monitoring of people, which in turn poses a threat to human rights violations.

Perspective, in our opinion, is a study that will identify ways to minimize these risks from the use of biometric technologies.

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Organizational and Legal Basis for Increasing the Effectiveness of the Interaction of the Department of the State Guard of Ukraine with Other Entities for the Provision of National Security

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Abstract. *The article examines the state of normative regulation of the interaction of the Department of the State Guard of Ukraine with other security and defense sectors, based on the analysis of doctrinal and expert approaches, the directions of organizational and legal support for increasing the effectiveness of this interaction in the context of security sector reform in accordance with European standards and changing the paradigm of ensuring the national security.*

Keywords: *national security, security and defense sector, cooperation, coordination, state security.*

Problem statement

National security is an integral and predominant function of any sovereign state, which means "the security of state sovereignty, territorial integrity, democratic constitutional system and other national interests of Ukraine from real and potential threats" [1].

The systemic security and defense sector reforms in Ukraine require adequate and sufficient conception of existing and potential threats to legislation, defining the principles of national security and defense leadership, standardizing the structure and complex of the security and defense sector, management, coordination and interaction systems of its bodies, the implementation of a comprehensive risk-oriented approach to planning in the field of national security and defense in order to ensure a productive civil democratic control over the bodies and units of the security and defense sectors.

Taking into account the adoption of the Law of Ukraine "On National Security of Ukraine", there is a need for the coordination of other normative legal acts with its provisions, including the Law of Ukraine "On Protection of State Authorities of Ukraine and Officials" [2].

Moreover, in conditions of open military aggression against Ukraine, the increase in the level of terrorist threat and manifestations of separatism, the situation is complicated not only by numerous attempts to discredit the bodies of state, but also by the systematic work of the enemy intelligence, aimed at attempts to intimidate and physically destroy officials, the illegal capture of especially important infrastructure objects, the issue of increasing the effectiveness of the Department of the State Guard of Ukraine (hereinafter – DSG), ensuring effective collaboration and cooperation between DSG and other defense and security agencies. The growth of its significance requires further study of this crucial issue.

The subject of the article is the legislative provision to increase the effectiveness of the interaction between the Department of the State Guard of Ukraine and other subjects-providers of national security.

The purpose of the article is to elaborate proposals to the current legislation on improving the mechanism of interaction between the Department of the State Guard of Ukraine and other subjects-providers of national security.

Analysis of recent research and publications. As the theoretical grounds for studying the problem, we have chosen the works of leading scholars in the filed of administrative law: O. Andriiko, V. Averianov, O. Bandurka, A. Berlach, Yu. Bytiak, A. Chubenko, R. Kaliuzhnyi, V. Kolpakov, O. Komisarov, S. Konstantynov, O. Kopan, O. Korystin, M. Kucheriavenko, O. Kuzmenko, V. Lipkan, M. Loshytskyi, M. Lytvyn, T. Minka, S. Mosondz, N. Myronenko, V. Nechai, Nevidomyi, N. Nyzhnyk, V. Olefir, O. Orliuk, L. Savchenko, O. Tkachenko, L. Voronova and others.

Presentation of the main research material. In accordance with the Law of Ukraine "On National Security of Ukraine" the realization of the tasks for ensuring national security directly relies on the security and defense sector. The structure of the security and defense sector includes: the Ministry of Defense of Ukraine, the Armed Forces of Ukraine, the State Special Transport Service, the Ministry of Internal Affairs of Ukraine, the National Guard of Ukraine, the National Police of Ukraine, the State Border Guard Service of Ukraine, the State Migration Service of Ukraine, the State Service of Ukraine for Emergencies, The Security Service of Ukraine, the Office of the State Protection of Ukraine, the State Service for Special Communications and Information Protection of Ukraine, the Apparatus of the National Security and Defense Council of Ukraine, central executive authority, which ensure the formation and implementation of the state military-industrial policy.

An analysis of the current and prospective state of a security environment can help to increase the importance of such a direction of law-enforcement activity, as ensuring the proper functioning of public authorities and the security of officials, since it is from this that not least depends on the proper performance of their powers. The security of senior officials of the state is an integral part of the national system of ensuring the national security of Ukraine and includes the implementation of security, information, political, organizational, operational, technical and other measures and is implemented through the implementation of the state policy of national security [3, p. 1–2].

The protection of state authorities and officials in Ukraine, as a specific area of law enforcement activities, is primarily for the DSG of Ukraine, which, by virtue of its appointment, occupies a separate place in the system of law enforcement agencies. At the same time, the activity of the DSG of Ukraine, like any other law enforcement agency, is aimed at protecting the rights, freedoms and legitimate interests of citizens, the interests of society and the state from various unlawful encroachments [4, p. 55–61].

The legal basis for the interaction of the DSG of Ukraine with other law enforcement bodies of Ukraine is the Constitution of Ukraine, the Laws of Ukraine "On National Security of Ukraine", "On State Protection of State Authorities of Ukraine and Officials" [2], "On Operational Investigative Activity", "On Legal the regime of martial law", "On the National Guard of Ukraine" [5], "On the State Border Guard Service of Ukraine", "On the National Police" [6], "On the Security Service of Ukraine" [7], the Ordinance of the Ukrainian Armed Forces from May 27, 2011, "On Approval of the Procedure for the Security of Officials, on which the state protection is carried out in places of permanent and temporary residence" [8], as well as interagency instructions and orders regulating the interaction of the MLA of Ukraine and other law enforcement fronts of the state in the sphere of state protection of state authorities of Ukraine and officials.

According to art. 10 of the Law of Ukraine "On State Security of State Authorities of Ukraine and Officials" [2] The National Police, the specially authorized central executive authority on issues of the state border guard of Ukraine, other central executive authorities of Ukraine, the Security Service of Ukraine within its competence and Interaction with the Office of State Security Administration of Ukraine is involved in the implementation of state protection. Interaction takes place on the principles defined in the first place by the normative acts specified above.

The interaction of the DSG of Ukraine with the subjects of ensuring national security in

the broad sense can be regarded as a state of communication between them, which is characterized by mutual influence, and includes the exchange of people, activities, information in order to protect the legitimate interests of individuals and legal entities. Interaction in the narrow sense – this is a common or coordinated in space and time activities of two or more entities to achieve one or more goals.

The issue of interaction is important, since operational information that became known to the SBU and the Ministry of Internal Affairs in relation to offenses and those who are planning them should be transmitted further and proceed to the last point of protection – the RIA of Ukraine in its entirety. Operational information that Ukraine receives from the SBU, SZR, the Ministry of Internal Affairs, the National Police, the State Border Guard Service of Ukraine and other institutions and organizations gives an opportunity to assess the situation that may arise in the surrounding administrative buildings in the near future, on the basis of which decisions are made on the implementation of a number measures to strengthen the security of objects of protection. Also important is information about individuals who plan or threaten to commit an offense against state authorities. In order to prevent such actions and to ensure safety, in all objects that are subject to state security, especially in buildings where the state authorities are located, the State Protection Department of Ukraine establishes a regime in accordance with the law [9].

Accordingly, the urgent need for the present is to create a unified integrated national security system, where special services work in a coordinated manner and receive information from various sources. Special services should be in constant interaction not only during security measures, but also with training, advanced training, which will significantly improve their interaction. A powerful reserve for improving the efficiency of operational and service activities of the DSG of Ukraine is the activation of scientific and analytical, innovation activities and qualitative improvement of the personnel training of the state security department. In other words, it is a question of increasing the weight of the intellectual, innovative component in the RIA of Ukraine [10].

RIA Ukraine is a highly specialized law enforcement agency, whose activities are aimed at diverse security and the normal functioning of protected public authorities and officials. The effectiveness of its law enforcement activities not least depends on the proper organization and productivity of interaction with law enforcement and other government bodies, enterprises, institutions and organizations. Currently, the administrative and legal regulation of the principles, grounds and order of interaction of the DSG of Ukraine is still rather fragmentary and incomplete, which greatly slows down and complicates the practice of interaction of the DSG of Ukraine with other actors of ensuring national security [3, 11–12]. The general principles of the organization of the interaction of the DSG of Ukraine with the organs of state power of Ukraine, enterprises, institutions, organizations and officials are defined in the Law of Ukraine "On Protection of State Authorities of Ukraine and Officials", in accordance with art. 14 of which "The Office of the State Security Administration of Ukraine interacts with other bodies of state power of Ukraine, enterprises, institutions, organizations and officials that contribute to the fulfillment of its tasks" [2].

As it is rightly noted in scientific sources, this norm only states assistance from the mentioned subjects of the DSG of Ukraine, while it does not stipulate the obligatory nature of such assistance, does not specify what it is, which can negatively affect the performance of the relations of the DSG of Ukraine with different bodies and organizations. It is difficult to disagree with the fact that the term "assistance" in its content is too abstract, which does not contain any legal limits or the scope of involving the relevant bodies and organizations in the implementation of the tasks of the Office of the State Security Administration of Ukraine [11, p. 80–85].

Another disadvantage is the incompleteness of the legally established circle of subjects of interaction with the DSG of Ukraine. This ambiguity also manifests itself in relation to the principles of interaction between the Security Service of Ukraine and state bodies, enterprises, institutions, organizations and officials who, in accordance with part 1, article 8 of the Law of

Ukraine "On the Security Service of Ukraine", as well as in relation to the DSG of Ukraine, should "promote" to the tasks of the Security Service of Ukraine [7]. At the same time, at art. 17 of the above-mentioned Law determine the peculiarities of the SBU's interaction with law enforcement and other state bodies of Ukraine: "The Security Service of Ukraine interacts with the Office of State Security Administration of High Officials of Ukraine, law enforcement and revenue and assembly bodies in accordance with the procedure and on the principles determined by laws, decrees of the President of Ukraine and adopted on they are based on the acts of the Security Service of Ukraine and the relevant department" [7, 11]. It should be noted that the provisions of this article should be clarified as part of the interaction with the DSG of Ukraine (and not the Office of the Security Administration of High Officials of Ukraine).

Similarly, the issues of the organization of interaction, including the DSG of Ukraine, the National Police of Ukraine, are not sufficiently specified. According to art. 5 of the Law of Ukraine "On the National Police of Ukraine", the police, in the course of its activities, interact with the law enforcement agencies and other state authorities, as well as local self-government bodies in accordance with the law and other normative legal acts [6]. At the same time, the rules are devoted to the peculiarities of interaction with the DSG of Ukraine in the absence of the law.

Another important subject of national security, the interaction of which with the DSG of Ukraine requires a proper legal regulation, is the State Border Guard Service of Ukraine. In particular, taking into account the specifics of existing threats, it is neceDSGry to strengthen the activities aimed at countering terrorist threats and improving existing ones and creating new information-telecommunication systems and databases.

Also, special attention should be paid to the interaction of the DSG of Ukraine with the National Guard of Ukraine, whose functions are in accordance with art. 2 of the Law of Ukraine "On the National Guard of Ukraine" is the provision of protection of state authorities, a list of which is determined by the Cabinet of Ministers of Ukraine, participation in the implementation of state protection measures of state authorities and officials; protection of important state objects, the list of which is determined by the Cabinet of Ministers of Ukraine; protection of diplomatic missions, consular offices of foreign states, representations of international organizations in Ukraine; participation in activities related to the termination of terrorist activities, etc. The National Guard of Ukraine carries out the tasks assigned to it in co-operation with law enforcement agencies, the Armed Forces of Ukraine, the Office of the State Guard of Ukraine, and other military formations established by the laws of Ukraine, local self-government bodies, prosecutor's offices, state authorities, public associations and religious organizations, as well as with the administration and the regime bodies of protected objects and the population [5].

It should be noted that the methods of interaction of the DSG of Ukraine with other subjects of ensuring national security can be considered taking into account the following directions of its implementation:

1. In implementation of the state policy of combating unlawful attacks against officials: holding joint meetings of the colleges of interagency ministries and agencies, operational meetings of the heads of their structural units in order to address the most urgent problems of law enforcement activities, to adopt agreed decisions on the implementation of state crime prevention programs against officials, implementation of legal acts on unlawful encroachments on officials; development and implementation of joint plans, programs for combating unlawful attacks on officials; publication of joint departmental regulations regulating the order of interaction; creation of joint working groups of representatives of law enforcement agencies for studying specific problems of combating unlawful attacks on officials and developing proposals for their solution, etc. [10].

2. In prevention of crimes against officials and other offenses: development and submission to the projects of state programs for combating unlawful encroachment on officials of agreed proposals on the prevention of crimes and other offenses, including general and individual prevention, prevention of the most common

types of offenses; informing law enforcement bodies of each other about the reasons and conditions that have been revealed by them in the course of their functions, which facilitate crimes and other offenses directly controlled by another law enforcement body; the definition of a list of information, the operational exchange and use of which may contribute to the timely implementation of measures to prevent the unlawful encroachment on officials. Regulatory consolidation in case of necessity, the order of exchange of such information between law enforcement and other bodies; studying the problems of preventing illegal encroachments on officials and developing proposals and measures for their solution; preparation and submission to joint bodies, ministries and departments of joint proposals to eliminate the causes and conditions conducive to the commission of unlawful encroachments.

3. In revealing, stopping, disclosures and illegal encroachments against officials: the definition of common regulatory acts of the order of interaction of operational and investigative units in the disclosure and investigation of illegal encroachments against officials with detailed regulation of the actions of these units.

4. In the direction of improving the legal framework for combating unlawful encroachments on officials, the following forms are distinguished: joint study of the practice of applying legislation on combating unlawful attacks on officials with the aim of developing unified recommendations for its implementation, identifying deficiencies and gaps and preparing agreed proposals for their elimination; exchange of information on the practice of implementing legal acts on law enforcement issues and the problems that arise therewith, proposals and recommendations for their solution; creation of working groups on the initiative of law enforcement agencies to prepare new bills, proposals for amendments and additions to legislation; joint discussion of the bills by the heads of law-enforcement bodies concerning the issues of combating unlawful attacks on officials and the development of agreed solutions. conducting coordination meetings of the heads of law-enforcement bodies; exchange of information on combating unlawful attacks on officials; publication of joint orders, instructions, preparation of information letters and other organizational and administrative documents; mutual use of the possibilities of law enforcement agencies for the improvement of the skills of employees, conducting joint seminars, conferences; development and approval of coordinated coordination plans and other forms of practice. The choice of forms of coordination activities to determine in each case, based on the situation and the nature of the issue that needs to be addressed. Such coordination should be carried out within the limits of the powers determined by the legislation, without interference with the organizational and regulatory activities of other law enforcement agencies [10].

Conclusions

As a result of the study of peculiarities in interaction of the DSG with other subjects of national security, we state that the current state of interaction requires the following measures: 1) harmonization of the legal framework, elimination of the conflict of laws and improvement of the current legislation; 2) development of criteria for assessing the effectiveness of interaction adequate to the realities of the present; 3) establishment of interaction with the public in the context of democratization, implementation of educational and preventive work aimed at increasing the responsibility of public associations and citizens for the security situation; 4) development of an effective communication system for timely and prompt implementation of the interaction of the MSG of Ukraine with other actors of ensuring national security; 5) introduction of a system of continuous monitoring and mutual information and exchange of information between actors in the sphere of security, formation of common information and telecommunication bases; 6) compulsory discussion of the results of the interaction of security agents not only at the departmental level, but also with representatives of other law enforcement agencies, and, if necessary, with representatives of the public, etc.

Taking into account the necessity to specify and clarify the provisions of the current legislation, it is expedient to consolidate the duty of state bodies of Ukraine, local self-government, enterprises, institutions and organizations to promote the activity of the DSG of Ukraine, which, in turn, should coordinate (with the exception of local self-government bodies) activities on state security issues. The assignment of coordination powers to the DSG of Ukraine in general is consistent with the practice of organizing the activities of other law enforcement agencies. For example, according to art. 9 of the Law of Ukraine "On the Security Service of Ukraine", the Anti-Terrorism Center operates under the auspices of the Security Service of Ukraine for the organization and conduct of anti-terrorist operations and the coordination of activities of actors that are combating terrorism or involved in counter-terrorist operations [7]. Accordingly, it is expedient to legislatively establish the powers of the DSG of Ukraine regarding coordination of the security and defense sector bodies in matters of state protection of state authorities and officials. To resolve this issue, it is necessary to create and approve interagency normative-legal act on issues of interaction of law enforcement bodies and on its basis – creation of a permanent coordination headquarters. The created coordination headquarters will allow to increase the level of effectiveness of interaction of law enforcement bodies in the system of providing state protection [10].

In addition, the urgent need of the present is to ensure compliance with the Law of Ukraine "On State Protection of State Authorities of Ukraine and Officials" to the level of existing and potential threats to national security, aligning it with the provisions of the Law of Ukraine "On National Security of Ukraine". It should also be taken into account that the activity of the DSG of Ukraine, in fact, in its content is not limited only to security measures, but involves the implementation of a set of preventive measures aimed at implementing the tasks entrusted to them by law [12, p. 120–124]. With this in mind, the DSG of Ukraine developed and forwarded to the President of Ukraine a bill on amendments to the Law of Ukraine "On state protection of state authorities of Ukraine and officials", according to which the security agency will change the name, and the directions of its activities and functions will be coordinated with the most effective the standards of work of European security services.

Taking into account the experience of European security services that provide security for officials and the functioning of state authorities, the Office of State Protection of Ukraine is transformed into the State Guard Service of Ukraine [13]. The existence of a practical need to change the name of the DSG of Ukraine was also emphasized in domestic scientific sources [3].

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Inquiry and Proof in Jurisdictional Process

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Abstract. *The article analyzes theoretical approaches in the legal science to the essence and the relation between the concepts of "inquiry" and "proof". The mechanisms of inquiry and proof in the jurisdictional process are highlighted. The purpose and object of cognition and proof are determined.*

Keywords: *inquiry; proof; mechanisms; goal; subject.*

Problem statement

The problem of the correlation of inquiry and proof is one of the fundamental in the area of the jurisdictional process. Jurisdictional legal relations is a multi-level reflection of legal proceedings, in which the law defines the participants and competent authorities. At the level of generalization, they are a system represented by several levels: the functions inherent in certain participants in the proceedings according to their purpose and / or interests; separate stages of legal proceedings, the mechanism of which leads to their logical and consistent order; a set of procedural actions aimed at ensuring the rights and freedoms of the participants in the process, the collection and evaluation of proof, the issuance of a decision, etc. The place of inquiry and proof at each of these levels requires a separate detailed examination.

Analysis of recent research and publications. The problem of the process and the peculiarities of inquiry and proof in the legal sphere are devoted to numerous works of domestic and foreign scholars. (V. Bihun, L. Biletska, K. Enhel, S. Haak, V. Ishchenko, K. Kalynovskyi, D. Kei, K. Klermont, A. Kukhta, O. Lytvyn, L. Nikolenko, I. Reshetnikova, V. Shepitko, Dzh. Vitman, V. Zelenetskyi, L. Zonhzhi, та ін.). However, in the context of the equilibrium of such a system, this problem was not previously covered.

The purpose of the article is the consideration of the theoretical foundations of the relation of inquiry and proof in the jurisdiction process.

Presentation of the main research material. The analysis of scientific publications makes it possible to state that there are two points of view on inquiry and proof in the jurisdiction process [1–4]. Let's examine them in more detail.

Representatives of the *first direction* identify the concept of inquiry and proof. In their opinion, the activity of participants in the process is to establish with the help of procedural means and methods specified in the law, the presence or absence of facts necessary for the resolution of the case (the establishment of truth). The subjects of such activity include the participants in the court session and other persons involved in the case. It consists of a series of consecutive procedural actions: testimony of the parties and other interested persons regarding the facts to be proved; gathering evidence, research and evaluation.

Representatives of the *second direction* distinguish the concept of "inquiry" and "proof" and emphasize that these are independent types of procedural activities, and the concepts differ among themselves in a number of features.

Proponents of both the first and second points of view justify them, based on the legislative provisions according to which each party must prove the circumstances referred to in justifying their claims or objections. However, the former consider that it is not necessary to admire the evidence in advance, since only the court: determines the subject of evidence; in necessary cases, assists individuals in providing evidence activity. The second denies: it is necessary to clearly distinguish between cognitive and evidence. On a practical side, it defines the duty of a particular subject to prove the facts to which he/she refers. Since the court does not have preprocess information, it can be the subject of only knowledge, and only at the stage of making a judicial decision becomes the subject of evidence.

In our opinion, the position of combining and harmonizing the above concepts is more interesting. Therefore, we believe that *knowledge in the jurisdictional process* is a cumulative result of the interaction of two separate processes: knowledge and proof, that is, it is not necessary to divide these phenomena as separate entities. They should be taken into account in the complex due to the interconnectedness and interdependence of the components.

Accordingly, the proof in the legal field should be understood as a certain process of knowledge of the subjects of this process, which is realized as the collection, verification and evaluation of evidence. In this case, the right is the area of specification of the general laws of being in modern conditions in general and justice in particular. That is, knowledge and evidence in the jurisdictional process is based on the principle of "here and now", on the rules of life of a particular society.

It is advisable to approach the analysis of knowledge and evidence in the jurisdictional process from the point of view of procedural and legal regulation and consider knowledge and proof not as separate activities for the submission, study and evaluation of evidence, but as its mechanisms. We believe that such a conceptual approach will enable to identify all the system-forming components of knowledge and evidence, which will contribute to a more accurate and complete understanding of the essence of these phenomena.

We understand the broad scientific interest in problems of cognition and proof in the legal plane. However, despite the popularity of the subject, the study of publications on this topic makes it possible to argue that the doctrinal use of the terms "knowledge" and "evidence", their legal nature and place in the structure of procedural and legal regulation until they have the proper theoretical justification.

In our opinion, it is necessary to investigate the mechanisms of these phenomena as components of the general system of procedural and legal regulation: this sphere unites all legal phenomena associated with knowledge and evidence at all stages of the jurisdictional process. In turn, as an integral complex and system education, the jurisdictional process has its own elements that characterize it and reveal its legal nature. Each of these elements plays an independent role in the mechanism of knowledge and proof. At the same time, their full value is revealed only in their dialectical interaction.

Consider the components of knowledge and evidence in the jurisdictional process as such elements that are of independent importance and are characterized by specific methods of influence. These processes, in our opinion, are a system and are subject to the actions of the laws of structural functioning. In particular, the aggregate of their properties is a result expressed in the functional purpose of this legal instrument.

The logic of the operation of this system is obvious from its name. From the formal point of view, knowledge and evidence in the jurisdiction process serve to translate the rules of evidence of the law into the practical activities of the subjects of knowledge and evidence regarding the establishment of the actual circumstances of a particular case. We believe that such an approach to understanding the mechanism of knowledge and evidence in the jurisdictional process makes it possible to consider it not as a mechanical set of certain stages, but as an actual social and legal phenomenon.

Based on the above, we propose our vision of what is a fundamental basis, guided by which participants in the jurisdictional process are able to operate with knowledge and evidence. Thus, in the system of coordinates

of procedural legal relations in order to know and prove certain events, the following *mechanisms of influence on the social and legal reality should be applied among themselves:* the rules of procedural law; legal facts mediating procedural legal relationships; procedural legal relations; procedural procedures and acts of law enforcement; procedural legal culture; methods (methods, techniques) of proof; legal consciousness of the subjects of evidence.

The first three mechanisms are rather documentary, that is, they constitute the provisions enshrined in the relevant acts. Other components provide for the consideration of the psychological aspects of legal relationships and require more detailed disclosure.

In contrast to the legal procedure, the procedural procedure is a term that does not have a legislative definition and a clear unambiguous content. Under *procedural procedures,* they usually understand the procedure for committing certain procedural actions – demanding evidence, reviewing their location, questioning a witness, etc.

Procedural acts of application of the rules of law are considered in the following aspects:

– an independent legal category as a legal means of public administration of society;

– one of the legal forms for the exercise of state functions;

– organizational form of activity of state bodies and certain public organizations;

– the most important means of realization of legal norms;

– Individually defined legal acts;

– a special legal fact, etc.

In our opinion, law enforcement acts directly affect the emergence, development, change and termination of procedural legal relations in the jurisdiction. Accordingly, they are to a large extent consistent with the essence of procedural legal facts that the subject of the jurisdictional process can operate in the course of knowledge and proof. Although the procedural norms and legal relationships nevertheless cover the notion of procedural acts.

Legal culture and legal awareness – the concept is closely interconnected. In this context, the legislator requires the observance of high standards precisely when knowing and proving it in the jurisdictional process. For example, the court is not entitled to take into account the evidence obtained by an investigator from an unsatisfactory level of legal culture who obtained those evidence in an unauthorized search by way of tampering with facts, etc.

We consider the legal culture of a lawyer as an individual and a professional as a characteristic of the state of development of the individual's sense of justice and of his activities in the legal field. In addition to the impact of legal education, the level of legal culture determines the individual-psychological and age-specific features, as well as the impact of a particular environment with an appropriate system of values.

In our opinion, all this is influenced not only by the legal culture of the person, but also its legal consciousness and professional culture. Accordingly, knowledge and evidence in the jurisdiction process is related to how the person perceives the right, as the attitude is manifested in its actions, emotions, and the like. All this characterizes the level of respect for the law and other manifestations of legal culture and legal consciousness. In turn, the above mentioned indicators of the development of a lawyer, the more effective his activity in the field of knowledge and proof in the jurisdiction.

Cognition and proof in the jurisdictional process is impossible without the right choice of legal instruments: *methods, means, approaches* that directly affect the effectiveness of its results.

Procedural legal fact and procedural legal relations are also mechanisms of knowledge and proof in the jurisdiction process. They contain, in their structure, the elements related to the evidentiary activity. The first element is the rules of procedural law regulating knowledge and proof and defining their purpose, principles, order and limits of their implementation.

Element of the mechanism of knowledge and proof in the jurisdiction process are only those rules that determine the procedural aspect of establishing the factual circumstances of the case, in particular, the activities of participants knowledge and evidence, the procedural form of application of methods of proof, evidence, etc. For example, in proving the case, the person must submit evidence that confirms or

refutes one or another circumstance, but their legal qualification is exercised only by the court. When a person is involved in a case, she refers to the legal rules that have been violated, and justifies the affiliation of a particular norm to the circumstances of a particular case.

Cognition and proof here are expressed in the definition and justification, which exactly the rules of substantive law have been violated. After all, they protect personal non-property and property rights, determine the procedure and conditions for their implementation, and in many cases, the content of acts that violate these rights.

This argument can be deduced in the opposite direction. Thus, the mechanism of procedural regulation, which is the system of procedural and legal means, begins to operate when the implementation of legal norms becomes impossible or difficult in the absence of definite rights and obligations in the relevant decision of the jurisdiction authority.

In our opinion, the rules of procedural law, which govern the lawyer in the process of knowledge and proof in the jurisdiction, can be grouped as follows:

– principles of procedural law, which are realized in cognitive and evidentiary activity;

– general provisions on knowledge and evidence (evidence and means of proof);

– the rights of persons involved in the case, in relation to proof, namely knowledge and evidence, the grounds for exemption from proof;

– the procedure for obtaining evidence by a court: the submission of evidence by the persons involved in the case, judicial orders for the gathering of evidence, the demanding of evidence;

– the order of storage and return of evidence;

– the procedure for appointment of forensic examination;

– the order of research and evaluation of evidence;

– peculiarities of evidence in the review of court decisions.

We believe that knowledge and evidence in the jurisdictional process can also be regarded as tools by which a certain picture of objective reality is created (in the legal context). Let's pay attention to what exactly they operate. It is a question of *procedural legal facts,* which after their classification by means of knowledge and proof in their totality constitute a procedural actual system.

The list of facts is defined in the legislation: they must contain the data necessary for the decision of a concrete case. The essence of procedural legal facts in the mechanism of evidence is revealed during the analysis of their main features. Accordingly, procedural legal facts are those in which there are:

– social content, that is, actions that in one way or another relate to the rights and interests of society, state, individuals, etc., and therefore require legal regulation;

– objectivity, external manifestation, that is, actions, expressed on the outside, or inaction as a conscious refrainment from the implementation of the provision of the legal norm;

– normative – only the action of the participant of the process is recognized, the legal model of which is mentioned in the procedural law and for which the law usually provides a specific legal result directly;

– concreteness, individuality, that is, actions generated by certain subjects and carry specific social and legal content. The procedural law defines a list of actions that may be committed in the course of proving in the jurisdiction of the court, and the circle of persons who have been granted the right to commit such acts or who are obliged to commit them or who have the authority to commit them;

– ability to create legal consequences.

Thus, in the process of knowing and proving, based on legal norms and upon certain legal facts, procedural legal relations are transformed into a real system of actions of subjects of the jurisdictional process. Continuing this opinion, we can note that procedural legal relations within the mechanism of knowledge and evidence create a certain balance of authority of the relevant subjects:

– the persons involved in the case, realize their rights;

– participants in the jurisdictional process, performing duties in the field of evidence-based cognitive activity;

– a court exercising its powers of proof.

Thus, in the mechanism of knowledge and proof of procedural legal relations, they perform

the function of distributing legal instruments among the participants of evidence.

The structure of building the mechanism of knowledge and proof can not exist without proper evidence, even the regulation of the jurisdictional process as such depends on the presence or absence of evidence. This is a reflection of the principles of competition and defines a qualitative characteristic of the jurisdictional process in view of the active behavior of the participants in the case, which manifests itself in the process of *operating evidence – that is, knowledge and evidence*.

In view of the above, we propose the definition of *knowledge and evidence in the jurisdiction process* – it is a component of the mechanism of procedural and legal regulation, which is expressed in the finding and use of valid evidence in the case, through which the disclosure of the circumstances of the case and obtaining knowledge about the facts that have value for her.

The purpose of cognition and proof – the establishment of objective truth, the solution of the case in such a way that, on the one hand, to achieve compliance findings in the case of the presence/absence of certain facts with real reality, on the other – to identify all legally significant signs of these facts. The purpose of knowledge and proof can be considered achieved only when all these conclusions correctly reflect the objective reality, which confirms their truth.

In the context of our study, the *subject of knowledge* is the parties, properties and relationships with the outside world, identified in the jurisdictional process and transformed into an object of making cognitive efforts to reveal their specific patterns and structure. *The subject of proof* should be considered: circumstances substantiating the claims and objections of the persons involved in the case; other circumstances of importance for proper consideration and resolution of the case; in fact, the very event of the offense; guilt of the person who is being prosecuted.

That is, the subject of knowledge and evidence embodies all the facts that are important for the jurisdictional process, which are determined by evidence. However, despite the fact that the parties point out certain circumstances in their claims and the objection to the claims of the opposing party, by providing evidence that confirms them, the final range of facts and circumstances relevant for the case is determined by the court.

Along with the notion of the subject of proof in the theory of criminal-procedural law, the term "circumstances of importance to a case", whose content is the circumstances which are subject to proof, as well as the so-called auxiliary (intermediate or evidence) facts used to establish the circumstances, are used. which belong to the subject of proof.

Conclusions

Inquiry and proof in the jurisdictional process are considered as interdependent and interconnected. At the same time, the proof is a certain process of knowledge, and together they act as a toolkit, through which creates a legal reality with the use of mechanisms of influence on the social and legal reality. Cognition and evidence in the jurisdictional process is an integral part of the mechanism of procedural and legal regulation. The subject of knowledge is the legal realities for the disclosure of their specific patterns and structure, subject of evidence - legally significant facts that characterize a particular case. The boundaries of one and the other determine the termination of the specified activity, provided the goal is achieved.

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Formation of a Qualitative Prosecutors Corporation Based on European Standards as One of the Factors of Increasing Efficiency of Crime Combating in Ukraine

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Abstract. *It was formulated six main institutional drawbacks in the construction of a system for the formation of the prosecutor's corps in Ukraine, requiring a legislative solution: the dependence of the Prosecutor General on political bodies; absence of the majority of prosecutors elected by their colleagues as part of the qualification-disciplinary commission of prosecutors; the lack of a regular assessment of the performance of official duties by prosecutors on the basis of pre-established and objective criteria, as well as transparent and more detailed regulation of the increase / career advancement of prosecutors; fuzzy formulation of disciplinary offenses, the need to expand the list of available disciplinary sanctions, increase the statute of limitations of prosecutors' involvement in disciplinary liability; failure to take into account the experience of member states of the Council of Europe on certain significant moments in the construction of a system for the selection of prosecutors; the institutional dependence of the Prosecutor's Office of Ukraine and the Qualifications and Disciplinary Commission of Prosecutors from the General Prosecutor's Office of Ukraine.*

Keywords*: crime criminality; prosecutor's body; European standard; authorities of the prosecutor's self-government; Board of Prosecutors of Ukraine; Qualifications and Disciplinary Commission of Prosecutors.*

Problem statement

Although the relationship between the prosecution corps and the effectiveness of the fight against crime seems obvious, solving this problem is not an easy task. Today, the focus for identifying individual correlations in this relationship is significantly shifted from the statistical indicators of the state of crime and the work of prosecutors in coordinating the counteraction of crime towards the formation of a high-quality prosecutorial corps and ensuring proper working conditions for a particular prosecutor. It is the quality and working conditions of the prosecutor that is the cornerstone on which the whole mechanism of the further influence of the prosecutor's corps on the state of counteraction to crime in the state is built.

Analysis of recent research and publications. Among Ukrainian scientists, the issues of staffing the prosecution authorities of Ukraine and the experience of other countries in this were studied by O. Dolhyi, I. Koziakov, O. Lytvak, I. Nazarov, Yu. Polyanskyi, A. Pronevych, O. Tolochko and others.

The purpose of the article is to provide a theoretical understanding of the optimal organizational and legal characteristics of a modern legal structure for the formation of a high-quality prosecutor corps in Ukraine. In this context, new institutional mechanisms for the formation of this corps are considered as

one of the factors for improving the impact of prosecutors on the effectiveness of countering crime.

Presentation of the main research material. According to F. Fukuyama, "public sector organizations provide primarily services, and service sector productivity is extremely difficult to measure and evaluate. It is difficult to monitor and report in private sector organizations, but at least there is a profit criterion, while there is almost no specific assessment of the product in the public sector. Since the latter cannot be accurately measured, then ultimately there can be no formal mechanism for ensuring transparency and accountability" [1].

The foregoing demonstrates that it is impossible to assess the quality of the prosecution corps and the effectiveness of its activity as a whole, as well as of any other corps of public servants. The main problem with this is that the assessment can not be given for specific periods of time, and only public opinion is the measure. Moreover, it is difficult to separately evaluate the effectiveness of the work of the prosecutor's office alone, not in the context of the work of the entire justice system and law enforcement agencies, because for the society the "end product" of this activity of the state is a feeling of legal security from criminal encroachments authorities in the fight against crime on the other. The definition of who in this system is the "weak link" and for whatever reason, is mainly based on subjective impressions. Even experts who conduct research in this field have different opinions on this issue.

A narrow list of tasks that are solved thanks to existing methodologies for evaluating the effectiveness of the work of prosecutors as a whole is recognized by Ukraine's European partners, noting that this process has limited goals, namely, to improve resource management and assist in the allocation of funds [2].

So, although the relationship between the prosecution corps and the effectiveness of anti-crime seems obvious, but solving this problem is not an easy task. Today, the focus for identifying individual correlations in this relationship is significantly shifted from the statistical indicators of the state of crime and the work of prosecutors in coordinating the counteraction of crime towards the formation of a high-quality prosecutorial corps and ensuring proper working conditions for a particular prosecutor. It is the quality and working conditions of the prosecutor that is the cornerstone on which the entire mechanism of the further influence of the prosecution corps on the state of counteraction to crime in the state is built.

The formation of the prosecution corps in accordance with European standards complies with the foreign policy course of Ukraine for entering the European legal space and fulfilling the criteria to be met by the candidate countries for accession to the European Union (Copenhagen criteria) [3].

One of the stages of the implementation of this course was the publication of the Decree of the President of Ukraine of May 20, 2015 No. 276/2015, which approved the Strategy for reforming the judicial system, legal proceedings and related legal institutions for 2015–2020 [4].

The strategy proceeds from the fact that in Ukraine there is a problem of insufficient level of functional independence and the virtues of prosecutors, there is a need for more developed tools for performance management, much more stringent ethical requirements and disciplinary rules for prosecutors. By addressing the problem is to achieve a balance between independence, authority, responsibility and effectiveness of the prosecutor's office, including through changes to the management of the prosecution system, appointment procedures, performance management and professional and continuous training systems.

The further work led to the adoption on June 2, 2016 by the Verkhovna Rada of Ukraine of the Law of Ukraine "On Amendments to the Constitution of Ukraine (on Justice)" [5], which entered into force on September 30, 2016. This Law defines not only the new constitutional and legal status of the prosecutor's office, but also constitutional foundations were laid for solving a number of important issues on the formation of the prosecution corps on principles that comply with European standards in this field and the status of prosecutors as representatives of the justice system.

According to Article 131 of the Constitution of Ukraine [6], in the justice system, in accordance with the law, bodies and institutions must

be established to ensure the selection of prosecutors, their training, evaluation, and consideration of cases for their disciplinary responsibility.

At the same time, it should be noted that the current Law of Ukraine "On the Prosecutor's Office" [7] (Law), which was adopted in October 2014, although received at one time positive feedback from leading European institutions that assist Ukraine in legal reforms [8], but still not aligned with constitutional amendments.

The analysis of the norms of the Law allows to conclude that they provide for the existence of three types of subjects of administration of the prosecution system (synonyms – management, administration, management). The first is the traditional one, represented by prosecutors who occupy administrative posts, and personifies the hierarchy of the prosecution system. The activity of this group of managers is primarily aimed at fulfilling the functions of the prosecutor's office. The second is represented by the bodies of the procurator self-government and personifies democratic self-governing principles of governance. The activity is aimed at solving internal issues of the prosecutor's office activities The third is represented by the prosecutors qualification and disciplinary commission (hereinafter referred to as the Commission). Its functions are part of those functions that must be performed by the judicial system authorities, referred to in the above art. 131 of the Constitution. These functions were previously performed by the first of the indicated group of administrative subjects, the consequence of a significant limitation of such guarantees of the prosecutor's activities, as his independence, and the principle of transparency in the activities of the prosecutor's office. Therefore, a separate body of the prosecutor's office was created with special competence in the formation of the prosecutor's corps – the Commission.

The last two groups of subjects are also new elements of the mechanism of checks and balances, as the main means in the rule of law to prevent excessive concentration of power and abuse of it, which for a rather long historical period was characteristic of the activities of the Ukrainian prosecutor's office.

In total (but not fully), the current model of the formation of the prosecutor's corps complies with European standards [9], thanks to the transfer of most of the career prosecutors' issues to the competence of the Prosecutors Council of Ukraine and the Commission. For this purpose, the European practices of creating special institutional mechanisms to ensure the functional independence of prosecutors are taken as examples.

Institutions of a similar legal nature are created in many European countries, which include the High Office of Public Prosecutor of Albania, the National Council of the Prosecutor's Office of Poland, the State Procurator's Council in Serbia, Croatia and Slovenia, the High Council of Prosecutors of Moldova and Portugal, the Prosecutor's Council of Georgia and Spain, and also the Council of the Prosecutor Generals of the Netherlands.

At the same time, the most important novelty for the Ukrainian prosecutor's office was that the powers to establish the bodies responsible for the formation of the prosecutor's corps were received by the prosecutors themselves through the bodies of the prosecutor's self-government. Such a mechanism is currently essential to avoid attempts to exert political influence on the activity of prosecutors, which is a serious problem for Ukraine and served as a reason for the low efficiency of the work of prosecutors on combating corruption, especially at higher levels of state power. Prosecutors' career will continue to depend not on the Prosecutor General, but on the appointment and dismissal of which political mechanisms are preserved, and on bodies formed on a non-political basis.

Thus, the Council of Prosecutors of Ukraine consists of thirteen members, of which eleven prosecutors appoint an all-Ukrainian conference of prosecutors, and two – a congress of representatives of legal higher educational institutions and scientific institutions. Only on the advice of the Council of Prosecutors of Ukraine, the Prosecutor General has the right to appoint or dismiss prosecutors who occupy the most influential administrative posts in the prosecutor's office, such as Deputy Prosecutor Generals, heads of regional prosecutors and their deputies, heads of local public prosecutors. At the same time, the Prosecutor General has

the right to reject the recommendations of the Council.

As part of the Commission, only five out of eleven members are prosecutors appointed by the All-Ukrainian Conference of Prosecutors. Two other persons (scientists) appoint a congress of representatives of higher educational institutions and scientific institutions; one person (lawyer) appoints a congress of lawyers of Ukraine; three persons are appointed by the Commissioner of the Verkhovna Rada of Ukraine on Human Rights in consultation with the Verkhovna Rada of Ukraine Committee, whose authority includes the organization and activities of the prosecutor's office. The minority of prosecutors in the Commission was due to fears of closure of the prosecution system.

The powers of the Commission include determining the level of professional training of persons who have expressed their intention to take the post of prosecutor, and resolving issues of disciplinary liability, transferring and dismissing prosecutors from post. In addition, in case of dismissal of the Prosecutor General by administrative post by the President of Ukraine or termination of his powers in an administrative position as a result of the Verkhovna Rada of Ukraine expressing no confidence in the Prosecutor General, the President of Ukraine or the Verkhovna Rada of Ukraine, respectively, will obtain from the Commission an opinion on the performance of professional duties by the Prosecutor General.

Regarding this, attention should be drawn to the Report on the results of the 4th round of evaluation of corruption prevention among MPs, judges and prosecutors in Ukraine, compiled by experts of such a body of the Council of Europe as the Group of States against Corruption (GRECO) and approved by the 17 –23 of June, 2017 [10].

First, GRECO is concerned at the fact (p. 209 of the Report) that the dependence of the Prosecutor General on political authorities may jeopardize the independence of the prosecutor's office and recommends that due consideration be given to reviewing the appointment and dismissal of the Prosecutor General in order to make this process more durable to the political influence and more focused on objective criteria of professional qualities of candidates (the Venice Commission also notes) [11].

Secondly, GRECO is concerned (p. 216 of the Report) that current legislation does not ensure that most of the seats in the Commission will have prosecutors. This distinguishes the situation in Ukraine practically from all the GRECO states that have formed similar bodies. Ensuring that most of the public prosecutors in the Commission are selected by their colleagues is an appropriate measure that will help them to fully defend their legitimacy and credibility, and to strengthen their role as the guarantor of the independence and autonomy of prosecutors. As a result, GRECO recommends that changes be made to the provisions on the composition of the Commission to ensure that most of the seats are held by prosecutors chosen by their colleagues.

Thirdly, GRECO drew attention (p. 228 of the Report) to the fact that in Ukraine there is still no statutory regular assessment of the performance of official duties of prosecutors on the basis of pre-established and objective criteria, while ensuring that prosecutors have sufficient opportunities to participate in the evaluation process. The establishment of formal mechanisms for assessing the performance of official duties will not only ensure the possibility of proper monitoring and evaluation of the work of prosecutors, but will also contribute to the creation of a more objective and transparent mechanism for promotion, free of any inadequate influence. In the context of Ukraine, this is especially important given the frequent allegations of political interference and the low level of public confidence in the prosecutor's office. Regular assessments of the performance of official duties in the prosecutor's office should provide guarantees of procedural justice, allowing prosecutors to express their views on their assessment. Such assessments will, of course, have a positive effect on the quality of the promotion process. In this regard, GRECO also recommends the introduction of more detailed regulation on the promotion / career advancement of prosecutors in order to ensure uniform, transparent procedures based on clear and objective criteria, in particular the candidate's prior achievements, and to ensure that any decisions on raising / raising growth

were substantiated and could be challenged (p. 223 of the Report).

Fourthly, with regard to the implementation of the Commission's responsibility for addressing the disciplinary liability of prosecutors, GRECO drew attention to the need to provide more clear wording of disciplinary offenses concerning the behavior of prosecutors and their compliance with ethical standards; to expand the list of available disciplinary penalties in order to increase their proportionality and effectiveness; to increase the limitation period of prosecuting prosecutors to disciplinary liability, which is now only one year.

In our opinion, this list of problems with formation of the prosecutor's corps in Ukraine, which are mentioned in GRECO, should be supplemented by two others.

The first concerns the selection of prosecutors.

Although the Council of Europe member states have different legislative arrangements for the selection of prosecutors, most of them have some common features that are absent in the Ukrainian selection system, which significantly reduces its effectiveness, namely:

1. A non-differentiated approach to candidates for a post of prosecutor, depending on the experience (work experience) of work in the field of law in determining the length of special training, on the one hand, and unequal conditions for access to the profession of prosecutor when appointing to positions in local and specialized prosecutors, on the other hand.

2. Lack of the opportunity to obtain the relevant experience (experience) in the field of law, which is required as a mandatory qualification for appointment by the prosecutor of the local prosecutor's office, directly in the prosecutor's office.

3. Preparation of the qualifying examination for candidates for the positions of prosecutors of the local prosecutor's office and determination of their place in the rating for filling vacant positions before the start of special training, and not after its completion.

4. The lack of norms in the legislation implementing the "competent" approach to the selection of prosecutors is determined by the bodies that should develop and approve profiles of prosecutors' offices, in particular, the profile of the office of the prosecutor of the local prosecutor as the basis for, firstly: the formation of mutual expectations between the candidate for the vacancy and future employer – the prosecutor's office, as well as an understanding of the needs of the latter from the Commission; and secondly, the development of a qualifying examination program, a plan and a special training program and the corresponding assessment methods.

The second problem concerns the institutional dependence of the prosecutorial authorities and the Commission on the leadership of the prosecutor's offices, which raises doubts both from the public and prosecutors about the functional independence of these bodies. Thus, the legislation for the Council of Prosecutors of Ukraine and the Commission does not provide for the possibility of their influence on solving issues related to the financing of their activities, the availability of separate premises, their own auxiliary staff. All these issues are solved by the General Prosecutor's Office of Ukraine. The members of the Prosecutor's Office in Ukraine are ordinary prosecutors who carry out their duties on a voluntary basis. Members of the Commission, albeit working on a permanent basis, however, determine and pay the wages of the General Prosecutor's Office of Ukraine.

Conclusions

In our opinion, the ways of solving all these problems are to amend the current legislation of Ukraine. Since the positive effect of improving staffing is always remote in time, the delay in legislative changes to improve the quality of the prosecutor's corps can also be considered a negative factor in the effectiveness of counteraction to crime.

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Prevention of Crime in Economic Activity

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Abstract. *The article focuses on the prevention of crimes in the sphere of economic activity, in particular, regarding the creation of a state law enforcement agency whose activities will be aimed at identifying, preventing, terminating, investigating and disclosing criminal offenses in the sphere of economic activity that are attributable to its jurisdiction that directly or indirectly cause damage, public finances, as well as fight against crime in the field of taxation, customs and budgetary spheres, and prevent their commission in the future.*

In addition, approaches to the definition of types of criminal offenses that can be categorized as committed in enterprises, institutions and organizations by type of economic activity are analyzed.

It is stressed that among scientists there is no unanimous opinion regarding the interpretation of the essence of the concept of "economic crimes" and their classification. The lack of common approaches to the issue under discussion creates some difficulties in practice, which significantly reduces the level of crime prevention in the field of economic activity.

The article also states that the requirements of paragraph 26 of the Regulation on the procedure for conducting the Single Register of pre-trial investigations, approved by the order of the Prosecutor General of Ukraine of April 6, 2016, No. 139, according to which criminal offenses (persons who committed them) by types of economic activity are determined and are entered in the Register only with the use of the National Classifier of Ukraine "Classification of Types of Economic Activity", need to be improved.

To this end, it is proposed to standardize the procedure for recording crimes committed at enterprises, institutions and organizations by types of economic activity, by the relevant legal act, to determine a clear list of articles of the Criminal Code of Ukraine. In determining the types of crimes that can be attributed to crimes in the field of economic activity, be guided by the following provisions: a crime committed by a special subject (official), which is related to the implementation of organizational and administrative or administrative functions, to be attributed to committed at an enterprise, institution or organization irrespective of the form of ownership; a crime the subject of which is a general subject to account for the Classifier of types of economic activity, provided that he is committed: an employee of an enterprise, institution or organization in the performance of labor duties, another person whose criminal actions are caused to damage the enterprise, institution, organization or a business entity. Thus, the specified list will determine a clear procedure for attributing criminal offenses to the number committed at enterprises, institutions and organizations by type of economic activity.

Keywords: *crime prevention; types of criminal offenses; economic crime; classification of types of economic activity; the procedure for registering crimes; special-criminological activities.*

Problem statement

The development of statehood in Ukraine, the change in its political and socio-economic structure, the conduct of the antiterrorist operation, and the reform of the law-enforcement system led to an increase in the level of crime, in particular economic.

This phenomenon also contributes to such negative phenomena as decline in production, inflation, lower living standards, rising unemployment, which leads to the creation of tension in society and the solution of people their problems by criminal means.

It should be noted that economic crime is an extremely dangerous phenomenon that has rooted in all spheres of state functioning and is a negative factor on the way to the development of a new European state. Therefore, preventing crimes in this area is an important task facing public authorities.

Analysis of recent research and publications. The issue of prevention of economic crime, the formation of measures to prevent and prevent economic crime in Ukraine in the context of providing economic security and counteracting offenses in this area is the subject of research by many scholars. Significant contribution to the study of this problem was made by O. Bandurka, Yu. Baulin, M. Bazhanov, V. Bilous, V. Borysov, S. Cherniavskyi, I. Danshyn, V. Filonov, V. Holina, N. Hutorova, O. Kalman, M. Kamlyk, M. Korzhanskyi, O. Kostenko, Ya. Kurash, O. Lytvak, V. Mandybura, H. Matusovskyi, M. Melnyk, V. Navrotskyi, O. Perepelytsia, V. Popovych, V. Stashys, Ye. Streltsov, V. Tatsii, V. Tuliakov, I. Turkevych, V. Shakun, V. Shepitko A. Zakaliuk, V. Zelenetskyi and other researchers.

Therefore, despite a fairly significant number of publications, as well as taking into account the recent changes in the legislation on the identified issues, there is a need for additional discussion of the issue of common approaches to the definition of types of criminal offenses that can be classified as enterprises, institutions and organizations by economic activity.

Prevention of crime is one of the priority directions of the state's activities, which are divided into general social, special and criminological and individual measures for the prevention of crime.

In the context of the problem under consideration, attention should be paid to special crime prevention measures. The subjects of such measures are traditionally considered state bodies, public organizations, social groups, officials and citizens who deliberately carry out the development and implementation of crime prevention measures, in connection with which they have rights, responsibilities and responsibility for the implementation of the obligations imposed on their tasks [1, p. 93]. Depending on the goals and tasks, as well as the functional responsibilities, scientists divide the actors of counteracting crime into two groups: actors acting on the general social level, and special subjects [2, p. 167].

However, with a sufficient number of special actors who, under their legal status, are obliged to actively counteract economic crime, the issue of the necessity of developing an optimal and effective organizational and management structure and its legal support in combating economic crime, in particular the creation of a new state structure (special entity for the prevention of economic crimes).

Thus, the National Security Strategy of Ukraine, approved by the Decree of the President of Ukraine dated May 26, 2015, No. 287/2015, identified the economic crisis, the depletion of the financial resources of the state, and the decrease of the living standards of the population among the actual threats to the national security of Ukraine.

The main objectives of the Strategy are to establish the rights and freedoms of man and citizen, to ensure the new quality of economic, social and humanitarian development, to ensure Ukraine's integration into the European Union and to create conditions for joining NATO. To achieve it, it is necessary to form a qualitatively new state policy aimed at effective protection of national interests in the economic, social, humanitarian and other spheres, comprehensive reform of the system of ensuring national security and the creation of an effective security and defense sector of Ukraine.

Among the main directions of the state policy of national security of Ukraine, the system counteraction to organized economic crime and "shadowing" of the economy was determined on the basis of the formation of the advantages of legal economic activity and, at the same time, consolidation of institutional capacities of financial, tax, customs and law enforcement agencies, detection of assets of organized criminal groups and their confiscation.

It is noted that effective counteraction to the threats to the financial security of the state is possible provided that the special system of timely detection and elimination of systemic threats in the field of public finances is maintained, and the prevention of their occurrence in the future is maintained. This year, the Committee on Legislative Support of Law Enforcement Activities of the Verkhovna Rada of Ukraine developed a draft Law of Ukraine "On the National Bureau of Financial Security of Ukraine" (Reg. No. 8157 of March 19, 2018) [3].

The justification for its adoption states that the current system of countering financial security of the state, which includes the National Police of Ukraine, the Security Service of Ukraine, the Tax Police, the Prosecutor's Office, the National Anti-Corruption Bureau of Ukraine, the State Financial Monitoring Service of Ukraine, the State Audit Office of Ukraine and the Accounting Chamber, has significant branching, in connection with which its work is very ineffective.

The purpose of the bill is to create the organizational and legal basis for the activities of the National Bureau of Financial Security of Ukraine (NBFS of Ukraine) as a state law enforcement agency, which, on the basis of criminal analysis and risk analysis, should rely on eliminating threats to the financial security of the state, including by preventing, detecting, termination, investigation and disclosure of criminal offenses in the area of economic activity that are attributable to its jurisdiction, which directly or indirectly cause damage to public finances, combating crime taxation, customs and fiscal areas, preventing their occurrence in the future [3].

Thus, an attempt has been made at the state level to create a single law enforcement agency whose task is to secure the state's financial security by protecting public finances at the entrance to the budget, allocating budget resources, combating money laundering, detecting assets derived from investigated economic crimes . The jurisdiction of the NBSE of Ukraine will include pre-trial investigation of crimes stipulated in art. 159^1, 191, 204, 205, 205^1, 209; 209^1, 212, 212^1, 216, 218^1, 219, 220^1, 220^2, 222, 222^1, 223^1, 223^2, 224, 231, 232, 232^1, 232^2, 233 of the Criminal Code of Ukraine.

According to the author, the submitted legislative initiative may be supported, but certain provisions set out in the draft Law "On the National Bureau of Financial Security of Ukraine" (Reg. No. 8157), cause comments and need to be finalized, primarily in terms of certain powers that duplicate the powers The State Fiscal Service of Ukraine, the Security Service of Ukraine, the National Police of Ukraine, the National Anti-Corruption Bureau of Ukraine, the National Agency of Ukraine for the Detection, Investigation and Asset Management, Receipt and of corruption and other crimes, prosecutors, the State Service for Financial Monitoring of Ukraine, the State Audit Service of Ukraine, the Accounting Chamber of Ukraine and other organs.

At the same time, it is extremely important to take into account the European experience of the functioning of such structures. Economic crime in Europe for a long time (several decades) is the subject of scientific discussion. The need to effectively counteract its proliferation causes the task of practical reformation of the law-enforcement system. However, there is no single institutional model. The reason for this is not only the various legal systems and traditions of state construction, but also the complexity in determining the very phenomenon of economic crime.

In European countries, as well as in Ukraine, the system of combating economic crime consists of the following main elements: police authorities; specialized law enforcement agencies; tax services; customs services; financial intelligence agencies. The full integration of economic functions within a single law-enforcement structure is rather an exception than the rule [4].

Taking into account that the final institutional model of the system for combating economic crime is not yet formed, the definition of the

concept of economic crime and the definition of types of crimes that can be classified as "economic crime" remains extremely relevant, since it clearly depends on the formation of approaches to crime prevention actors in the sphere of economy, to a single procedure for accounting for crimes committed at enterprises, institutions and organizations by types of economic activity.

Note that the types of economic crime depend on the object of the attack, therefore, one should agree with the opinion of those scholars who believe that economic crime, regardless of the type, is complex and consists in criminal acts of subjects of entrepreneurial activity that infringe on the order of management economy, cause damage to the state, society or individual citizens. In addition, economic crime is characterized by close links with organized crime and corruption, which, in turn, causes its high latency. Latent economic crime is unrelated to the shadow economy. Indeed, it is in the illegal business sector that significant financial resources are accumulated through illicit trade, mediation, and concealment of tax revenues. Shadow enterprises receive income because they do not pay compulsory payments to the budget, enjoy uncompetitive benefits, thus undermining the legal economic activity of other economic entities [5].

There is no single definition of "economic crime" and types of crimes that can be attributed to this category. Thus, it is proposed to consider economic crime as an aggregate of intentional selfish crimes and those who committed them in the sphere of legal and illegal economic activity, the main direct object of which is property relations and relations in the sphere of production, exchange, distribution and consumption of goods and services [6].

The definition of economic crime as a crime that causes damage to social relations in the production, credit, financial and trading sectors also contributes to the unification of the concept of "economic crime". Thus, N. Kuznetsova regards economic crime as a component of crimes against property and entrepreneurial crimes. According to A. Litvak, economic crime is an aggregate of intentional selfish crimes committed by officials, other employees of enterprises and institutions, regardless of their forms of ownership, by using their position and place of work [7].

V. Franchuk offers the following classification of economic crimes: crimes against property – appropriation, embezzlement or possession of property by abuse of status (articles 185, 186, 188–192 of the Criminal Code of Ukraine); crimes in the sphere of economic activity (articles 199–235 of the Criminal Code of Ukraine), the most dangerous of which are: smuggling (article 201), false entrepreneurship (article 205), legalization (laundering) of proceeds from crime (article 209) misuse of budget funds, implementation of budget expenditures (article 210), evasion of taxes, fees (mandatory payments) (article 212), fraud with financial resources (article 222); crimes in the field of the use of electronic computers (computers), systems and computer networks (article 361–363 of the Criminal Code of Ukraine); crimes in the sphere of official activity (articles 364–370 of the Criminal Code of Ukraine), in particular: abuse of power or official position (article 364), excess of authority or official authority by an employee of a law enforcement agency (article 365); official forgery (article 366); service negligence (article 367); acceptance of a proposal, promise or obtaining an unlawful benefit by an official (article 368); a proposal, a promise or an unlawful benefit to an official (article 369); provocation of bribery (article 370) [8].

S. Cherniavskyi divides economic crimes into the following principle: crimes in the sphere of property relations (articles 190–191 of the Criminal Code of Ukraine); crimes in the financial sphere ("financial" crimes) (articles 199–200, articles 207–212[1], art. 215–224); crimes in the sphere of entrepreneurship, competitive relations and other activities of business entities (articles 202–206, art. 213–214); crimes in the field of protection against monopoly and unfair competition (article 228, art. 231–232[1]); crimes in the sphere of realization of consumer rights and service of the population (articles 225–227, article 229); crimes in the sphere of privatization of state or communal property (articles 233–235); crimes in the field of customs regulation (article 201) [9].

Taking into account the above said, it is seen that there are no unanimous approaches in the scientific literature to the interpretation of the concept of "economic crimes" and there are controversial views of researchers on the

question of the classification of economic crimes. Thus, the lack of common approaches to the discussed issue in science creates some problems in practice, which significantly reduces the level of prevention of crimes in the field of economic activity. That is why there is a need to standardize the types of criminal offenses that can be categorized as crimes in the field of economic activity.

It should be noted that according to the clause 26 of the Regulation on the procedure for conducting the Single Register of pre-trial investigations, criminal offenses (persons who committed them) by types of economic activity are determined and entered in the Register using the National Classifier of Ukraine "Classification of Types of Economic Activities" (CTEA), approved by the order of the State Statistics Service of Ukraine of December 30, 2013, No. 426 (as amended).

However, attention should be paid to the fact that the main purpose of the CTEA – is the definition and coding of the main and secondary types of economic activities of legal entities, separated divisions of legal entities and sole proprietors. In addition, the CTEA must provide statistical records of enterprises and organizations by type of economic activity; to conduct state statistical surveys of economic activity and analysis of statistical information at the macro level (to compile indicators of national accounts – production accounts and income generation, tables "cost-issue"); to compare national statistical information with the international one through application of uniform statistical terminology, statistical units and principles of definition and change of types of economic activity of enterprises and organizations.

That is, CTEA – is a statistical tool for streamlining economic information that does not always meet all user needs outside of the statistical system, which may lead to controversy regarding the legal use of the CTEA code. It should be borne in mind that the code of the type of activity does not create rights or obligations for enterprises and organizations, does not cause any legal consequences. The code of the type of activity is not necessarily a sufficient criterion for the fulfillment of the conditions stipulated by the normative acts. In the application of regulations or contracts, the code of a type of activity is an assumption, but not a proof.

Thus, the record of criminal offenses and the introduction of data on these offenses into the Unified Register of Pre-trial Investigations using the CTEA is not perfect. Such a conclusion is based on the analysis of normative legal documents, which at one time standardized the issue under discussion.

So, in order to ensure a uniform procedure for assigning crimes to enterprises, institutions and organizations by types of economic activity, the reliability of statistical indicators characterizing the state and structure of crime in this area, the Office of the Prosecutor General of Ukraine together with the Ministry of Internal Affairs of Ukraine on September 12, 2011 Instruction No. 117 "On a Uniform Procedure for the Recording of Crimes committed at Enterprises, Institutions and Organizations by Types of Economic Activity" was introduced, which defined the list of articles of the Criminal Code of Ukraine for crimes that can be committed classified as enterprises, institutions and organizations of economic activity.

In determining the types of crimes that could be attributed to crimes in the field of economic activity, the following provisions should be guided: the crime committed by a special subject (official) that is related to the implementation of organizational and administrative or administrative and economic functions, attributed to be committed at an enterprise, institution or organization regardless of ownership; a crime the subject of which is the general subject, to account for the Classifier of types of economic activity, provided that he is committed: an employee of an enterprise, institution or organization in the performance of labor duties, another person whose criminal actions are caused by harm to an enterprise, institution, organization or a business entity. Thus, the list indicated a clear procedure for assigning criminal offenses to the number committed in enterprises, institutions and organizations by type of economic activity. According to this list, the number of articles of the Criminal Code of Ukraine, which directly related to those committed in the sphere of economic activity, amounted to 96, and the

number of alternatives, based on the type of the subject of the crime, was 98. Consequently, an effective mechanism for determining the types of crime was created, committed in the field of economy, which had a positive impact on law enforcement activities related to the prevention of economic crime.

However, on June 21, 2013, the Prosecutor General of Ukraine, together with the Head of the Security Service of Ukraine, the Minister of Internal Affairs of Ukraine and the Minister of Income and Assembly of Ukraine, signed an instruction letter No. 80/11228 / 3r / 292, which abolished the joint instruction dated September 12, 2011 No. 117 "On the Uniform Procedure for Criminalization of Crimes committed at Enterprises, Institutions, Organizations by Types of Economic Activities, and List of Articles of the Criminal Code of Ukraine, which may be classified as belonging to enterprises, establishments and organizations for kind we economic activities" and introduced a new procedure for keeping this category of crime. Thus, prosecutors of all levels, investigating units of the prosecutor's office, the bodies of internal affairs, security organs, bodies supervising the observance of tax legislation, when filling in line 26 "Types of economic activities in which a criminal offense was committed" was obliged to be guided by a national classifier Of Ukraine "Classification of Types of Economic Activity", approved by the Order of the State Committee for Consumer Rights of Ukraine dated October 11, 2010 No. 457, as amended by the order of the State Committee of Ukraine for Technical Regulation and Consumer Policy of 29 November 2010 number 530. This approach creates significant problems in practice, since records of criminal offenses and entering data on these offenses to the Unified Register of pre-trial investigations using only CTEA is highly controversial.

Summarizing the above, it should be noted that the definition of types of criminal offenses that can be categorized in the sphere of economic activity requires clear regulatory consolidation, which will facilitate the proper qualification of these acts, the reasonable introduction of information to the Unified Register of Pre-trial Investigations and increase of efficiency in the prevention of crimes this category.

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The Significance of the Legal-Linguistic Component of Law for its Implementation

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Abstract. *The article covers the axiological aspect of the legal-linguistic component of law in the process of its implementation. It is noted that the value of legal and linguistic knowledge in the implementation of the norms of law is directly related to understanding the essence and content of legal acts by their addressees, especially given the fact that the normative provisions are a specific form of legal construction of potential social relations by linguistic means.*

Keywords: *axiology of legal-linguistic knowledge; text of normative-legal act; realistic school of law; certainty of law; objectivity.*

Problem statement

An important aspect that reflects the significance (value) of the legal and linguistic component of the law is the behavior of capable and competent persons in social relations, which reflects the normative and legal provisions – the sphere of the exercise of law.

Presentation of the main research material. The concept of the implementation of legal norms, the classification of law, and the characteristics of individual forms of implementation are traditional issues that are comprehensively considered within the scope of both scientific monographs and textbooks and manuals on the theory of state and law. It should be noted that despite the importance of the realization of law (since understanding of the mechanism for the implementation of legal norms in the actual behavior of members of society can be, firstly, a component of legal technology, resulting in the created legal constructs will be effectively implemented, and secondly, the means of improvement the level of legal consciousness and legal culture and, accordingly, the reduction of the level of legal nihilism), it did not become the subject of a comprehensive study of domestic legal science. At the same time, the question of the relation of law and values is considered in the works of such modern Ukrainian scholars as T. Andrusiak, M. Antonovych, O. Bandura, M. Kostytskyi, O. Myronenko, V. Nechyporenko, P. Rabinovych, O. Skakun, S. Slyvka, and others. At the same time, we see the need to address the axiological perspectives of legal-linguistic knowledge from the point of view of the behavior of subjects of law.

The purpose of the article is to study the value aspect of legal-linguistic knowledge in the field of its realization.

The methodological basis of the proposed article is a special legal method that allows studying the value aspects of the

implementation of the behavior of subjects of law and analyzing the legal-linguistic aspect of the realization of law through the prism of the provisions of a realistic law school.

The implementation of legal norms is primarily connected to the behavior of the individual, and not the public authority. In view of this, an important issue that needs to be addressed is the understanding of the subject of law by the content of the regulations of normative legal acts.

In general, the current scientific views on the solution of this issue can be reduced to two approaches:

1. The text of a normative legal act should be clear, unambiguous, and understandable, only then it can be implemented as provided by the subjects of legal regulation. Therefore, the vocabulary used must be universally applicable.

2. The text of the normative legal act should be clear and unambiguous, therefore the vocabulary of the law should be special, within the official-business style. Although a person without legal education may not always be able to correctly understand the content of certain legal requirements, only in this way can the unanimous perception the text of the normative legal act be reached by specialists. "Function forming opportunities for the discourse of law are realized when there is a quality provider of legal information for the perception and assimilation of the addressee, and his consciousness. Here it is necessary to take into account the fundamental knowledge of the language and its ability to master the art of word formation for the best ways of producing, representing, transmitting, and storing legal information that determines the solution of a particular legal task or causes its solution" [1, p. 59] – notes T. Pantielieieva and M. Akhidzhakova.

Both the first and second approaches emphasize the linguistic features of the legal text. After all, an important condition for the implementation of the provisions of the legal acts is their understanding. You cannot require a person to perform a duty that he does not know. That is why according to art. 57 of the Constitution of Ukraine "Everyone is guaranteed the right to know his rights and obligations. Laws and other normative legal acts defining the rights and duties of citizens must be brought to the attention of the population in accordance with the procedure established by law. Laws and other normative legal acts defining the rights and duties of citizens are not brought to the attention of the population in accordance with the procedure established by law are ineffective" [2].

In this context (although the circumstances of the case relate to the sphere of law enforcement, however, as we have indicated above, the application of legal norms is carried out in the same forms as the immediate realization) one cannot but mention the Supreme Court's Resolution of May 17, 2018, in case No. 761/15138/16, in the reasoning part of which it is stated "In view of the above, since the Supreme Court has erroneously opened the cassation proceedings under the cassation appeal of PJSC "Delta Bank" for judgments in insignificant cases that are not subject to appeal, the cassation proceedings must be closed" [3]. It should be noted, that art. 396 of the Civil Procedure Code of Ukraine "Closing the Cassation Proceedings" does not contain such grounds for closing the cassation proceedings as "erroneously opening of cassation proceedings"; at the same time, the correctness of such a decision is indicated by common sense.

The above-mentioned resolution and the decisions outlined in it once again raise the question of the adequacy of the reflection in the texts of legal acts of social reality, the rules of the activity of public authorities, models of human behavior. Moreover, this situation also makes it possible to actualize the issue of the relationship between law and legal acts: what should a judge follow while judge – law or legal acts? And what does it mean: the implementation of the law or the implementation of the prescriptive text? In this context, one cannot but mention the well-known case of Riggs v. Palmer, which is studied by law students in Europe and the United States of America. This case is described in detail by Ronald Dvorkin. Under the circumstances of the case, the heir deliberately deprives the testator of his life, confesses to the murder and, in this case, claims recognition of his inheritance, referring to civil law, which does not provide for the murder of a legacy for the

purpose of obtaining an inheritance as a ground for deprivation of the inheritance. The judge decided to refuse recognition of the right to inheritance, based on the rule of law principle [4, p. 44]. So, in this case, were the provisions of civil law enforced? And was the implementation of the law?

The questions raised should be the basis for answering questions about the forms of realization of the right through observance, execution, and use. In addition, the question needs to be answered: Is the right implemented in the case of so-called abuse of the law?

Cortical provisions that allow answering the questions posed are G. Hart's argument that society, according to the views on its existing rules of behavior, is divided into two parts:

– the first part considers these rules as standards of conduct, as an example of how to behave (and not simply as information about what will happen to them when they do not implement them);

– the second part (mostly offenders or "victims of the system") interprets these rules as a source of punishment. Therefore, these standards of behavior are imposed on them either by force or threat of use of force.

If a society has built a fair system that takes into account the interests of everyone from whom the implementation of the established rules is required, it will be appreciated by the majority of members of society and, accordingly, will be stable. And, conversely, if such a system functions in the interests of a small group, it will increasingly become repressive and unstable, will be on the verge of a social blast [5, p. 203–204]. That is why the right must conform to morality, only in this way can the order of the society be ensured.

It should be noted that in the aforementioned legend of Rex L. Fuller, as an example of an imaginary monarch who only came to power and full of desire to create effective legislation, began to carry out a legal reform, describing eight principles, the failure of which (at least one of them) indicates the illegal nature of both the law and the public authority itself, which adopts regulatory acts. Such principles, according to the philosopher of law, include the following:

– insufficiency of legal regulation of certain social relations is a factor of non-system justice;

– nondisclosure of normative legal acts to citizens is a factor of the impossibility of realization of legal requirements;

– incomprehensibility, fuzziness of legal provisions leads to the failure to implement them;

– normative legal acts cannot have retroactive effect;

– the existence of conflicts in the legislation is a factor in its inefficiency;

– shortcomings in the construction of a legal provision, consisting in impossibility of their implementation by the subjects;

– permanent changes to laws are a factor in their instability;

– incompatibility of the application of the law with its requirements [6, p. 38–42].

One of these requirements directly concerns the legal and linguistic aspects of the effectiveness of legislation: incomprehensibility, unclear legal requirements lead to the unfulfilled of the latter. L. Fuller described this situation as follows: "Now Rex has understood that it is impossible to avoid publishing a code of law that should apply in future disputes. However, the embarrassment of Rex subjects increased even more when his code became available and it turned out that it was a true masterpiece of confusion. The lawyers who studied it stated that there was no place in it that would be understandable not only to the ordinary citizen but also to an educated lawyer. The upheavals were common and in front of the royal palace a picket with a banner soon appeared: "How can one adhere to rules that nobody can understand?" [6, p.40].

It should be noted that the occurrence of one of the most ancient monuments of Roman law – the laws of XII tables (leges duodecimo tabularum) – was due to a requirement of the plebeians to formalize the customary law to avoid abuse of it by the patricians and to enhance the clarity and comprehensiveness of this customary law. The resulting Laws were set out on twelve boards that were displayed on the square for familiarization with them. "According to some information, – as V. Pankratov notes, – every young man entering into the ranks of citizens had to know the laws by heart. It was believed that without this one cannot perform the duties of a citizen, especially judges" [7, p. 32].

A well-known philosopher Montesquieu stressed the necessity for legal provisions to be clear and easy to understand. In the work "On the Spirit of Laws", he notes that the content of the law should be concise, precise: "The laws of the Twelve Tables serve as an example of accuracy: the children learned them to memory. Justinian's Novels are so verbose that they had to be cut" [8, p. 500].

The style of a legal act should be simple. Direct expressions are always more accessible to understanding than complex ones. According to Montesquieu, the essential condition for the effectiveness of the laws is that the terms used in the legal act must be equally understood by all people. If certain concepts in the law were precisely defined, then it would not be appropriate to return to obscure expressions. "In the criminal law of Louis XIV, after an accurate list of all cases of jurisdiction of the royal court, it was added: "and those cases that at all times were considered by the royal courts" – a definition that forces us to return to the same arbitrariness, from which we have just gone" [8, p. 500].

In the opinion of the French philosopher, the laws must not be overburdened with details, since their addressees are ordinary people, therefore, the laws "do not contain the art of logic, but the concept with the common sense of the simple father of the family" [8, p. 501]. You cannot give the laws a form that contradicts the nature of things [8, p. 503].

So Montesquieu also pointed out the need to comply with certain requirements (which are expressed in the modern language as legally-linguistic ones), the observance of which will contribute to the implementation of prescriptive texts and to raise respect for the law as a regulator of social relations.

Jeremy Bentham also emphasized the need for clarity and understandability of the text of the law: "Take, for example, the law: "You should not steal". If such a command was on that, it would never have been able to sufficiently fulfill the intention of the law. Such an indeterminate and obscure word can fulfill this in no way but as a general inspiration of various provisions, each of which, in order to become understood, requires a more specific number of terms" [9, p. 399]. The above considerations of G. Hart concerning the peculiarities of legal concepts, similar to the arguments of the founder of utilitarianism, gives the following example. Is it possible to consider a sufficient definition of theft as "Taking a thing belonging to another, a person who does not have the right to do so with the awareness that this person does not have this right". Is it possible to implement the definition of theft of the law? The first answer, which comes to mind and is commendable, will be false. After all, what does "a man who has no right to take a thing" mean? [9, p. 399]

Studying the problem of the certainty of law and the issue of free judicial law-making, the Russian lawyer of Ukrainian descent I. Pokrovskyi noted that one of the important and essential requirements for the law from a developing person is the requirement of legal certainty. This requirement is conditioned by the fact that a person cannot be outside the scope of the legal norms, he must coordinate his actions with legal requirements. Thus, the first condition for the ordering of the life of society is the certainty of legal norms. "Any ambiguity in this respect is contrary to the very concept of law and order, and places a person in a rather difficult situation: it is unknown what to do and what to adapt to. And naturally, the more the individual consciousness develops, the greater the need for the certainty of law increases" [10, p. 42].

Such a principle of scientific knowledge as objectivity necessitates the consideration of the subject of research through the prism of a rather actual trend in law – legal realism.

The Realistic School of Law arose in the twenties of the twentieth century in the United States of America. In accordance with the provisions of this school, the law is not a set of formally determined rules of conduct that may be contained either in a legal act or in a precedent. Such a conclusion is made because these forms are "frozen», they do not keep up with the development of social relations, and therefore should not be recognized as the primary regulators of social relations, as the law. The law is unique, and is therefore sought primarily by the judiciary in each particular case, taking into account the facts of the case, which must be thoroughly analyzed and judged by the court (once again we recall that the decisions

of the domestic judicial authorities up to now contain, in general, only an indication of the relevant point and/or part of the article of the normative legal act). It is in this case that the law is created. The factors contributing to this or on the basis of which a particular decision is made are psychological in essence. "The methods of work of judges and lawyers, their skills and their sense are a source of certainty in the law. Predictability is not due to the subordination of judges to precedents and legal norms, but due to working methodology, case facts and "living standards" (norms of real life)" [10, p. 401–402] – says V. Mataras.

Judges find a fair decision based on the facts of a particular case, and then they refer to separate normative prescriptions of prescriptive texts, that is, as M. Melnyk notes, referring to S. Roederer, "realists believe that the legal norms are used only to rationalize the solution that is already was preliminarily adopted without an analysis of the provisions of legislation but a way of applying common sense, life, and professional experience, intuition, and a sense of justice" [12, p. 68]. This provision is consistent with the thesis of G. Hart about the ascriptive nature of legal expressions. According to the concept of G. Hart, the legal assessment of an act of a person is not only the description of the situation (and here the facts are important and their assessment) and its subordination to a certain legal norm, but also the reliance on the person of responsibility for the legal consequences of such actions [13, c. 85]. At the same time, as A. Didikin notes, ascriptibility in the legal language is interpreted as a combination of the imperative nature of legal regulations with their consequences that we can observe, and therefore the change of legal arguments depends on their linguistic content and on the interpretation of the content of legal rules [13, p. 85].

Excessive emphasis on facts by the realistic school is due to the fact that, according to Jerome Franco, one of the developers of this legal field, there is no law for a person until there is a court decision (with an analysis of all the circumstances of the case). By this time, it is possible to speak only about the legal positions of the lawyer, prosecutor, etc., which are not law [14, p. 50].

According to the founders of a realistic school of law, a factor of uncertainty in legal norms is the uncertainty of the language used in everyday life. Therefore, the court decision is intuitive and based primarily on moral principles, judge's ideological convictions or on his professional qualifications. At the same time, attention is paid to the fact that uncertainty exists in all situations that are considered by the judicial body. "Legal rules in the process of their interpretation allow a plurality of alternatives to the adoption of a court decision, – said A. Didikin, – therefore, the subjective choice of judge determines the essence and nature of the decision and its subsequent consequences (confirmation or the abolition of the highest judicial instance)" [13, p. 86].

In this understanding of law, the issues of its realization (in the context of existing domestic doctrine on the implementation of legal norms formed by Soviet jurisprudence), as well as legal-linguistic requirements for legal discourse are not relevant (with the exception of the simplicity of perception and the logical justification of a court decision).

Y. Timoshyna, A. Kraievskyi and A. Salmin also came to the same conclusions, studying the methodology of judicial interpretation in the context of human rights competition: "The uncertainty and variability of the content of the legal norm, the priority of expediency, make the traditional search of formally logical grounds for judicial argumentation, based on the fundamental structures of language and logic of the system of law, intellectually inferior, ethically lucrative, politically short-sighted, ultimately marginal" [15, p. 9].

In general, not denying the provisions of the realistic law school, let's note the following.

First, excessive attention to facts, while leveling regulations is not a factor of the rule of law. Thus, generally accepted within the limits of Western culture is the principle of "state bodies can only do what is expressly provided by law". In addition, legality is an integral part of the rule of law and provides for the existence of a quality law that allows for prediction of the behavior of public authorities. Therefore, there should be a law on the judiciary, which will determine, in particular, the principles of the administration of justice, the limits of the

judge's discretion, etc., which will facilitate the continuity of judicial practice, the adoption of fair decisions.

Secondly, in this approach, the right in some way is deprived of normative character and becomes individual in nature, since it is actually created for the participants in the trial. In this connection, the question arises of the use of state coercion among participants in public relations that commit offenses (especially in the context of the characteristics of the subjective part of the offense).

Thirdly, such an approach to the understanding of law reduces the implementation of the legal norms to the enforcement of a court decision, since the latter creates the law. Therefore, the question of the forms of realization of law, given its lack of practical significance, is in fact not considered.

Fourth, one cannot fully agree with the provisions of the realistic school of law with respect to the uncertainty of the law, which is substantiated by the uncertainty of everyday language. Following the rules in each case is carried out within the framework of the corresponding social discourse (we described above, characterizing the speech acts), while learning is a factor in promoting certainty. Wittgenstein's arguments to the founders of the realistic school of law, and the interpretation of the latter relate only to mathematical rules and cannot be extrapolated to legal phenomena without legal justification, taking into account cases where legal norms are uncertain even with a correct understanding of linguistic rules. It is the practice of law enforcement that allows solving complicated litigation, as well as the constant refinement of the requirements of legal norms [13, p. 86]. In this context, the parallel with the Convention for the Protection of Human Rights and Fundamental Freedoms and the practice of the European Court of Human Rights is relevant in this context. In accordance with Ukrainian legislation, the Convention and practice are a source of law (this, as we have found above, is expressed expressis verbis in article 17 of the Law of Ukraine "On the Enforcement of Decisions and Application of the Practice of the European Court of Human Rights": "The courts apply in the consideration of cases The Convention and the Court's practice as a source of law" [16]). For a long time, domestic lawyers have pointed to the incorrectness of the wording of the above normative order, since the source is not the practice of the European Court of Human Rights, but directly the Convention for the Protection of Human Rights and Fundamental Freedoms. The norms of this Convention (as well as many other international treaties, as well as national legal acts in the field of human rights) are implicit in being formulated in a rather vague and simple way, providing pluralism of choice (as we have already noted, in many judgments the European Court of Human Rights the person himself emphasizes the freedom of the Member States to the Convention on the legislative regulation of individual relations, which are subject to regulation and this Convention). Therefore, the practice of the European Court of Human Rights inter alia reveals the content of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms; the judgment of the Court is a peculiar part of the Convention. At the same time, the judgment of the European Court of Human Rights, based on the Convention for the Protection of Human Rights and Fundamental Freedoms, must be adopted ex aequo et bono.

Thus, the question of the axiology of legal and linguistic knowledge in the realization of the rules of law is directly related to the understanding of the essence and content of legal acts, their addressers and addressees, especially given the fact that normative prescriptions are a peculiar form of the legal construction of potential social relations with linguistic means. Through the use of linguistic rules and means, the basic relations in society are formalized, the boundaries of the activities of the public authorities, including the use of state coercion, are determined. At the same time, it is also important for individuals to understand the content of a normative legal act, which allows for predicting possible negative consequences of their own behavior (it is precisely to be clearly foreseen, since the lack of legal certainty indicates a lack of "quality of the law" and deprives the prescriptive text of normative quality). In addition, the constitutional principle recognized in the definition of human behavior: "Allowed everything that is not

directly prohibited by law" actually obliges individuals to clearly understand what act is an offense and what legal liability for its commission is foreseen. However, one cannot but agree with M. Batiushkina, who notes that "the problem of perceiving legislative texts is, of course, that most people who are not related to the legal sphere do not see the various implications of the law (legal, political, economic, etc.), do not perceive the legislative text as a legal phenomenon, its essential basis and purpose – the construction of a certain model of behavior in different situations of legal discourse" [17, p. 75]. In this case, the presence of basic skills in interpreting the text of a legal act is not a factor in the unambiguous understanding of such a person's content of the normative prescriptions of this act. "The recipient, as a non-governor, and a lawyer, cannot only "narrow down" the content of the text and the limits of the application of the legal norm, but, on the contrary, "broaden" this content, bring a new meaning, which was not in the design of the legislative text, but which is necessary the recipient to create the completeness of perception of legal information, the completeness and integrity of the communicative situation in the relevant sphere of social relations" [17, p. 75] summarizes M. Batiushkina.

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Some Aspects of Combating Crimes in the Sphere of Manufacturing and Trafficking Medicines: Problems of Timely Detection

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Abstract. *The problems of the timely exposure of crimes committed in the sphere of production and circulation of medical supplies, by the divisions of the Department of Economic Protection of the National Police of Ukraine are considered. In particular, the reasons for the lack of reliable statistics on the number of counterfeit medical supplies in circulation in Ukraine were investigated. The provision on the feasibility of introducing labeling of medical supplies to ensure their tracking from the moment of entering the market until the moment of selling in pharmacies has been substantiated.*

Keywords: *medical supplies; pharmaceutical market; falsified or unregistered medical supplies; crime latency; drug labeling.*

Problem statement

The domestic pharmaceutical industry is developing intensively. According to the results of the research "Pharmaceutics of Ukraine. Infographics Atlas", which was presented in the Chamber of Commerce in the spring of 2018, the volume of sales of pharmaceutical products in Ukraine in 2017 increased by 20% – up to 70 billion UAH [1]. Along with this, experts predict a further growth of the Ukrainian pharmaceutical market, taking into account the existence of a corresponding global trend. Thus, the global pharmaceutical market is growing annually by 5–6%, and according to forecasts for 2017–2021, it will grow by 34% – to $ 14,85 billion. At the same time, countries with pharmaceutical emerging markets will give almost a quarter of this increase [1].

In general, the pharmaceutical market is a powerful industrial sector, which is among the five most profitable sectors of the world economic complex [2, p. 56].

During 2015–2017 in Ukraine, the number of valid licenses for carrying out economic activities for the production of medicines practically did not change, while the number of valid licenses for wholesale and retail trade in pharmaceuticals increased by 11%, for imports of medicines – by 15%, which to a certain extent indicates the profitability of these activities [3, p. 15].

Among the medical supplies sold in the pharmaceutical market of Ukraine, almost 70% of foreign production [3, p. 42]. At the same time, domestically manufactured medicines are also mainly manufactured from foreign-made substances.

However, recently, despite all the positive characteristics of the domestic pharmaceutical market and alongside the intensive development in Ukraine of the pharmaceutical industry, there is a shadow business in the pharmaceutical production and drug circulation, intensification of falsification of medical

supplies, resulting in a number of counterfeit, low-quality or unregistered drugs. In our state it has increased significantly. If from 2011, when criminal liability for falsification of drugs was first introduced, until August 2014, when a moratorium was imposed on inspections of pharmaceutical companies, law enforcement agencies found only three cases of clandestine production of counterfeit medical supplies (underground warehouses in Lviv, Vasylkiv, and falsification of drugs of the company "Heel"), since August 2014 and up to 2016, 18 such cases have already been recorded [4].

Analysis of recent research and publications. Crime in the production and circulation of medicines by legal scholars A. Bailovym, Yu. Baulinym, Yu. Danilevskoiu, I. Horbachovoiu, O. Hrebeniuk, O. Huk, I. Kovalenkom, V. Melnychukom, V. Merkulovoiu, A. Muzykoi, H. Pochkun, O. Stankevych, Ye. Streltsovym, O. Tretiakovoiu, I. Vartyletskoiu was mainly considered taking into account the provision of the criminal law characteristics of these crimes, disclosing the composition of these crimes, the problems of their qualifications in law enforcement practice, the provision of proposals for improving criminal standards on responsibility for committing crimes in the sphere of production and circulation of drugs, criminal law and criminological countering the treatment of counterfeit medical supplies, etc. However, require in-depth study of the question of disclosure and analysis of problems of timely exposure of law enforcement bodies of Ukraine of crimes committed in the sphere of production and circulation of drugs. This article is devoted to these questions.

The purpose of the article is to uncover the problems of the timely exposure by law enforcement agencies of Ukraine of crimes committed in the production and circulation of medicines, as well as to identify the main drawbacks of control in this area.

Presentation of the main research material. During 2010–2015, only the State Service of Ukraine on Medicines and Medicines Control (State Medical Service) and its territorial bodies revealed more than 9,600,000 packages of substandard and falsified medicines totaling more than 270 million hryvnias [4].

To this it should be added that during 2015–2017, the State Department provided [5]:

– 98 prescriptions banning the circulation of 84 items of substandard medicines;

– 82 orders prohibiting the circulation of 57 items of counterfeit medicines.

In the world there is no uniform methodology for calculating the number of prohibited falsified series of medical supplies, therefore, various experts use different methods to calculate the percentage of falsification on the pharmaceutical market of Ukraine, as a result of which their data obtained by applying these methods differ significantly. Some experts claim that now 30 percent or more of counterfeit medicines are sold in pharmacies [6]. At the same time, official data on counterfeit in the pharmaceutical market of Ukraine is much less.

So, in 2018, the State Committee for State Service cited the following statistics regarding imported foreign-made medicines imported to Ukraine [5]:

– in 2015 – 0,12%;

– in 2016 – 0,12%;

– in 2017 – 0,004%.

Information about identified and prohibited by the State Committee of the Republic of Belarus on medicinal products of inappropriate quality is sent to law enforcement agencies.

According to experts, on the whole, in Ukraine, State Medical Service found in circulation counterfeit medicines, along with low-quality and unregistered medicines, constitute no more than 1,5–1,8% [7]. However, these indicators characterize only the amount that was discovered, that is, the domestic pharmaceutical market is characterized by a high latency of crimes related to falsification of medical supplies.

Evaluation of the effectiveness of the state control bodies needs to be improved [8, p. 7]. Now available to the public information about the quality of medicines in circulation is limited. This makes it difficult to assess the results of the work of regulatory bodies (for example, on the dynamics of reducing the share of low-quality and counterfeit medicines on the market as compared with the input parameters (number of inspections and expenses for them)). Now

the number of inspections remains the main indicator of success for regulatory bodies.

In open access there is no reliable statistics on identified counterfeit drugs. There is no single electronic base of counterfeit in the sphere of production and circulation of medicines and methods for calculating the share of counterfeit in the pharmaceutical market [8, p. 68]. The absence of such information makes it impossible to monitor the fight against counterfeit and low-quality drugs and to evaluate the results of the work of the relevant state regulatory body in this field of activity. This assessment should be based on an analysis of the effectiveness of using funds to ensure the safety and quality of medicines and demonstrate progress in reducing the share of low-quality and falsified goods on the Ukrainian market [8, p. 68]. And this is very important from the point of view of the development of instruments for monitoring and adjusting the size of state financing of regulatory bodies. It is a situation when the main indicator of the effectiveness of the controlling body is the number of inspections [8, p. 68].

Therefore, it is advisable to develop a method for calculating the share of counterfeit and low-quality medicines on the market, as well as to create an electronic database of counterfeit and low-quality medicines [8, p. 70].

In addition, it is necessary to increase the transparency of the quality control system of medicines and introduce an effective mechanism for public monitoring of its effectiveness. To this end, it is necessary to develop criteria for the effectiveness of the state drug quality control system, to which include indicators of results (and not the process!) Work to ensure the quality of medicines, including an indicator of the volume of detected poor quality and falsified pharmaceutical products in Ukraine and its share in the pharmaceutical market, and also to introduce a public disclosure of information on the performance of regulatory bodies.

Ensuring the proper quality of medicines essentially depends on the proper organization of the control, its effectiveness and efficiency. However, the criminal proceedings of this category, completed in the court of conviction, account for a few.

So, in spite of impressive data on substandard, unregistered and falsified medicinal products identified in recent years by the State Medical Service and its territorial bodies, judicial practice on these facts is insignificant. So, according to court statistics of the State Judicial Administration of Ukraine under art. 321-1 of the Criminal Code of Ukraine (Criminal Code of Ukraine) were convicted [9]:

– in 2017 only 4 people: 2 people – according to part 1 of art. 321[1] of the Criminal Code of Ukraine and 2 more people – under part 2 of art. 321[1] of the Criminal Code of Ukraine (one of them was deprived of liberty for more than 5 years to 10 years, inclusive, another was released from punishment – with probation, additional types of punishment were applied to one person – confiscation and punishment were given in aggregate);

– in 2016 – 3 people: one person for each of the three parts of art. 321[1] of the Criminal Code of Ukraine (the same 3 people were released from punishment with probation);

– in 2015 – 9 people: 8 people – according to part 2 of art. 321[1] of the Criminal Code of Ukraine and 1 – for hours 3 art. 321[1] of the Criminal Code of Ukraine (the same 9 people were exempt from punishment with probation, while for one person additional types of punishment were used – confiscation and a total punishment was imposed) except 9 people convicted under art. 321[1] of the Criminal Code of Ukraine, two more cases were closed;

– in 2014 – 6 people: 4 people – according to part 1 of art. 321[1] of the Criminal Code of Ukraine and 2 people – for part 2 of art. 321[1] of the Criminal Code of Ukraine; of these 6 people, one person was punished with imprisonment for 1 year, another 4 people were exempted from punishment with probation, and two types of punishment were respectively imposed on additional types of punishment – confiscation and the punishment was given in aggregate;

– in 2013 – 13 people: 4 people – according to part 1 of art. 321[1] of the Criminal Code of Ukraine, 6 people – for part 2 of art. 321[1] of the Criminal Code of Ukraine and 3 – for part 3 of art. 321[1] of the Criminal Code of Ukraine, of which 1 person was deprived of liberty for a term of over 3 years to 5 years inclusive, 9 people were released from punishment with probation, up to 3 people were subjected to an additional type of punishment – confiscation,

of them up to two people were also punished by aggregate;

– in 2012 – 4 people: 2 people – according to part 1 of art. 321[1] of the Criminal Code of Ukraine and 2 people – for hours 3, art. 321[1] of the Criminal Code of Ukraine, of which 3 people were exempted from punishment with probation and a fine was imposed on one person.

We support the scientific position on this issue I. Horbachova, who considers the reasons for such a state of judicial statistics or the existence of difficulties in implementing the provisions of this article of the Criminal Code of Ukraine, or the actual impossibility to identify the perpetrators [10, p. 228].

So, the majority of falsifiers of medicines manage to evade responsibility, therefore effective control is required from both the controlling authorities of the executive and the law enforcement agencies.

Judicial statistics from 2012 to 2017 under art. 321-2 of the Criminal Code of Ukraine is absent altogether, that is, under this article, persons were not convicted during this period. Bye according to art. 321[2] of the Criminal Code of Ukraine are missing both judicial and investigative practices. Regarding judicial statistics under art. 305 of the Criminal Code of Ukraine, it should be noted that this article takes into account criminal acts related both to the smuggling of counterfeit drugs and to the smuggling of narcotic drugs, psychotropic substances, their analogues or precursors, that is, data on the smuggling of counterfeit drugs are not separately identified, therefore provide information about judicial statistics under art. 305 of the Criminal Code Ukraine makes sense.

Along with the lack of effectiveness of the state system of control of the pharmaceutical industry, there are problems in the activities of the practical units of the Department of Economic Protection of the National Police of Ukraine (DZE NPU) to identify these crimes.

So far, the directions of the operative search for relevant information on criminal and other offenses committed in the sphere of production and circulation of medicines, the units of the Department of Computerization and Dentistry of NHE do not always pay enough attention. The main reasons for this are:

1. The weakness of the operational positions in this field of activity does not allow the employees of the Department of Public Opinion Physics of the NHRI to timely receive the necessary and reliable information.

2. Insufficient level of training of employees of the Department of Computerization and Drug Control of NHRIs, capable of conducting work on the timely detection of criminal activities of business entities engaged in the illegal distribution of falsified drugs on the pharmaceutical market.

In addition, there are difficulties arising in the process of counteracting the said criminal and other offenses related to the lack of awareness of the employees of the Department of the Department of economic and economic activity of the NHRI with the peculiarities and regulatory regulation of economic activities in the pharmaceutical industry. In practice, there are no scientifically developed – taking into account the current state of the problems of counteracting crimes and other offenses committed in the sphere of production and circulation of medicines – methodological materials on organizing the detection and prevention of these crimes and other offenses.

Law enforcement agencies in the fight against the spread of counterfeit drugs on the pharmaceutical market have serious difficulties due to the imperfection of the legal framework, contradictions in the interpretation of the law, the lack of generalization of legal and judicial practice, as well as scientifically based recommendations on the qualification of socially dangerous acts of this category.

In 2012–2013, the introduction of drug labeling was discussed for a long time in order to ensure their tracking from the moment they entered the market to the time they were sold in pharmacies. This step was considered as a tool to fight counterfeiters on the pharmaceutical market, as well as a means to combat corruption related to the possibility of selling drugs purchased for public funds (primarily in pharmacies in hospitals). The necessary software was purchased, the cost of marking was calculated (from 0.01 to 0.08 UAH per package) [8, p. 64].

A pilot project for the introduction of individual external labeling of drug packaging

has been developed by the State Committee of Services. It was supposed to apply an individual number to the packaging of each medicinal product. Marking the outer packaging of each drug in the form of a two-dimensional bar code that conforms to the GS-1 standard, minimized the possibility of fraud in legal circulation, and also provided an opportunity to identify drugs in real time [11].

The impetus for labeling discussions was the intention to introduce mandatory labeling of prescription drugs over the next few years in the EU [8, p. 65]. Accordingly, participants in the pharmaceutical market feared that because of this, the volume of counterfeit drugs in Ukraine could increase if a similar system was not introduced. However, this project, despite the efforts made, has not been implemented.

We consider it is necessary to reanimate this project, to increase the number of counterfeit drugs in circulation. Therefore, it is advisable to consider the possibility of implementing a project on the labeling of drugs entering the Ukrainian market in order to increase the effectiveness of activities to identify counterfeit drugs and fight corruption in the consumption of drugs purchased for public funds [8, p. 71].

In addition, we believe that the practice of conducting scheduled inspections of drugs circulation should be reviewed, by canceling the warnings of the subject of the inspection on the exact date of the inspection [8, p. 70].

The mechanism of planned quality checks of drugs in circulation is not very effective [8, p. 67]: the supervising authority should warn about the scheduled inspection in advance – 10 days in advance. In this case, it is almost impossible to detect counterfeit, because unscrupulous business entities have the opportunity to hide all problematic drugs.

In practice, it is advisable to ensure that inspections of business entities are carried out, depending on the degree of risk that they carry out business activities in the production and circulation of medicines (based on an assessment of compliance with the requirements of good practice).

Conclusion

Based on the study and synthesis of relevant law enforcement practices in relation to crimes committed in the sphere of production and circulation of medicines, it is necessary to develop and introduce new methods of exposing and investigating these criminal offenses, for which you need to have a clear idea of the types and typical ways of their perpetration; develop a set of economic, legal and criminological measures to identify ways to combat these criminal acts and other offenses; to study, analyze and summarize the regulatory framework governing the process of manufacturing, importing and trading in medicinal products, as well as to study the criminogenic determinants that contribute to the commission of crimes in the pharmaceutical market.

Important is the cooperation of the Department of economic analysis and economic analysis of national industrial establishments with the State Service, the employees of which are authorized to control the observance of licensing conditions for economic activities in the production and circulation of medicines by business entities. Specialists of this service can not only provide information on identified offenses in this area, but also be part of the investigative and operational team in the implementation of investigative (investigative) actions to identify violations in the pharmaceutical industry about the treatment of drugs.

Only under the condition of well-coordinated cooperation between government regulatory, regulatory, law enforcement agencies and drug manufacturers can the flow of fakes and the distribution of counterfeit drugs on the pharmaceutical market of Ukraine be stopped.

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Prosecution Service of Ukraine as Institute of Human Rights and Freedoms, Public and State Interests Protection: History of Development

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Abstract. *The article analyses the establishment and development of the prosecution service of Ukraine in the system of human rights and freedoms, public and state interests protection.*

Keywords: *prosecutor's office; system of human rights and freedoms protection; public and state interests; development.*

Problem statement

The democracy of any state is determined by its relation to human rights and freedoms, public and state interests. Therefore, to develop and strengthen a democratic state is impossible without strengthening the public consciousness and social practice of inalienable rights and freedoms, enshrining their guarantees in legislation, working out the mechanism of human rights protection and their violation prevention.

One of the elements of such a mechanism is the Prosecutor's Office of Ukraine, the establishment of which took place under the influence of socio-economic and political factors. Scientists have suggested that the history of the prosecutor's office has more than seven centuries. This state institute arose from the needs and interests of the royal authorities (as is known, the homeland of the prosecutor's office is France) and was originally formed as an independent institution. On the territory of Ukraine, which was part of the Russian Empire, and then the USSR, the prosecutor's office has been existing for 270 years [1, p. 10].

Analysis of recent research and publications. The research of the establishment and development of the prosecutor's office in Ukraine was carried out by leading Ukrainian scholars, in particular: L. Hrytsaienko, S. Kazantsev, V. Kravchuk, V. Lakuziuk, O. Lytvak, M. Mandryk, A. Matviiets, S. Podkopaiev, V. Rudenko, R. Savuliak, P. Shumskyi, V. Sukhonos, O. Tolochko and others.

The purpose of the article. It is impossible to determine the current priorities of prosecutor's office development as of the institute of the system of human rights and freedoms, public and state interests protection without studying analyzing the activities of the prosecutor's office of Ukraine in previous periods.

Presentation of the main research material. Ukrainian scholars have different approaches to the study of the genesis of the prosecutor's office in Ukraine. O. Lytvak, P. Shumsky, A. Matviets, O. Mykhailenko and others present historical and legal analysis as one whole, from ancient times to the present [1, p. 10; 2, p. 35–45; 3; 4, p. 9–11].

M. Siryi has quite an interesting approach to highlighting the stages of the historical development of the prosecutor's office. He distinguishes between three historical and legal traditions: the tradition of the Russian imperial prosecutor's office as an administrative and supervisory body (the prosecutor's office – the eye of the sovereign); the Ukrainian historical and legal tradition of the formation of the prosecutor's office from the X to the XVIII century and at the time of the Ukrainian National Republic (based on close ties with the advocacy and the court); the historical and legal tradition of the prosecutor's office of the Soviet era with the inherited ideas of the Russian Empire [5].

M. Mychko determines and measures the time constraints of the establishment and development of the prosecutor's office of Ukraine, and distinguishes between the four historical and legal periods of the establishment and development of the prosecutor's office: Ukraine within the Russian Empire (1722–1917); the Ukrainian National Republic (1917–1922); Soviet period (1922–1991) and post-Soviet period (modern) [6, p. 14].

It is worth agreeing with V. Kravchuk, who points the impoverishment of scientific research by authors who leave out the attention of the period of development of the prosecutor's office during the period of the revival of the Ukrainian state (1917–1921) [7, p. 90]. The author proposes his periodization of the stages of development of the prosecutor's office in Ukraine and allocates five periods: the emergence and development of the functions of the prosecutor's office in the times of the Cossack state – the period of the Ukrainian Cossack state; Prosecutor's Office on Ukrainian lands during the Russian Empire – the period of Ukraine's stay in the Russian Empire; Prosecutor's Office in the time of the Ukrainian National Republic – the period of the rebirth of the Ukrainian state at the beginning of the XX century; the Soviet prosecutor's office – the Soviet period; the prosecutor's office of the modern Ukrainian state is the period of the establishment and development of sovereign and independent Ukraine [7, p. 92]. However, this approach, in our opinion, is incomplete, since, according to V. Maliuha, the prosecutor's office has its origin from antiquity [8, p. 182].

Thus, it is worth highlighting the eight main periods of the formation and development of the prosecutor's office in Ukraine:

1) prosecutor's office in antiquity;

2) prosecutor's office in the Cossack state;

3) prosecutor's office on Ukrainian lands during the Russian Empire;

4) prosecutor's office in Galicia;

5) prosecutor's office during the period of the revival of the Ukrainian state;

6) prosecutor's office of the USSR;

7) post-Soviet prosecutor's office;

8) prosecutor's office of modern Ukraine.

Each period is characterized by a special complex of powers of the prosecutor, the procedure of formation of the prosecutor's offices, the presence of a system of bodies or individual prosecutors, indicating the place and role of the prosecutor's office in the system of protection of human rights and freedoms, the interests of the state and society.

For example, in antiquity, the prosecutor was a sole proprietor, endowed with rights not only in criminal proceedings, but also in various civil and commercial relations, and there was no public prosecutor's office as an authority.

In the city-state of Olbia in the VI century BC (the territory of modern Ukraine), the prosecutor participated in the proceedings. There was a time when so-called prosecutors managed estates, libraries, the economy of the king. This position was sold, passed on to inheritance [8, p. 182].

The prosecutor's office in the days of the Cossack state is characterized by the emergence of an institute of instigatorism. The priority task of instigators (prosecutors) was to ensure the rule of law, and the main function – to monitor compliance with laws in various spheres, mainly in judicial institutions [9, p. 103].

In the Ukrainian lands of the Russian Empire the Institute of public prosecutor's office dates back to 1722. By decree of Peter I, it was set: "There shall be the Prosecutor General and the Procurator at the Senate, as well as the Prosecutor in any board, who shall report to the Prosecutor General". The created prosecutor's office was a model of a special control state body, the so-called sovereign's eye – the prosecutor's office, which was supposed to oversee the central and local government bodies [10, p. 31].

By further decrees of Peter I, the prosecutor's office was established in the provinces, at the courts, and at the Holy Synod. The prosecutor's office, which was operating on the territory of then-Ukraine, was the component of the prosecutor's system of the Russian Empire. The Prosecutor General in the guberniya, who was the eye of the sovereign in the guberniya, was obliged "to watch and care about the preservation of any order defined by law" [11, p. 184].

On May 16, 1722, in accordance with the Decree "On the Establishment of the Little Russia Collegium in Hlukhiv and the Appointment of a Brigadier Veliaminov", a position of a prosecutor was introduced on the territory of Ukraine. The main task assigned of the prosecutor was to oversee the legality of the activities of state bodies and structures. Also, the prosecutor's office provided for the supervision of law and order, the fight against corruption, control and supervision of places of detention of inmates. N. Muraviov noted that the activities of the prosecutor's office during Peter I and to the judicial reform of Alexander II aimed at general (administrative) supervision, all other activities were only an addition to its supervisory functions [12, p. 325].

An important role in the formation of the Prosecutor's Office of Ukraine was played by the formation and operation of the prosecutor's office in Halychyna in the Austrian and Austro-Hungarian regions from 1849 to 1918. The significance of the prosecutor's office in Galicia is due to the fact that it was formed according to the models of the European legal system.

For the first time, the posts of public prosecutors were instituted in 1840, and in 1855 a single system of public prosecutors was created, which consisted of the highest state prosecutors and the public prosecutors subordinated to them. An important aspect is the creation in 1851 of the Galician Finance Prosecutor's Office in Lviv with its subordinate exhibits (departments).

The prosecutor's office during the rebirth of the Ukrainian state begins its existence with the adoption of a legislative act on the procuracy of an independent Ukrainian state – the Law "On the formation of the General Court", according to which the civil, criminal and administrative departments and the prosecutor's office were in the court.

On January 4, 1918, the Central Rada adopted the Law "On the Office of Prosecutor's Supervision in Ukraine", on the basis of which prosecutors were established at appellate and district courts. The prosecutors were appointed by the Secretary General of the court proceedings.

The decree of the Council of People's Commissars of February 19, 1919, abolished all judicial institutions, including prosecutorial supervision, which acted on the territory of Ukraine prior to the establishment of Soviet power.

However, on June 28, 1922, the All-Ukrainian Central Executive Committee resolution established the State Prosecutor's Office of the Ukrainian Soviet Socialistic Republic and approved the Provision on Prosecutor's Supervision in the Ukrainian SSR. It is determined that the prosecutor's office is founded in the interests of correct statement of the issue of combating crime and monitoring the observance of laws. The Prosecutor's Office was a member of the People's Commissariat of Justice as a separate department subordinated directly to the People's Commissar of Justice, and oversaw the legality of the actions of all People's Commissariats, as well as administrative and judicial supervision, which provided for the supervision of the activities of all investigative bodies and inquiry, participation in administrative sessions courts, prosecution of criminal proceedings and participation in civil proceedings.

In addition, the prosecutor's office supervised the lawfulness of the execution of sentences and the detention of detainees, as well as the correctness of detention in places of detention.

By the decree of the All-Ukrainian Central Executive Committee of March 21, 1934, in all regions of the Ukrainian SSR it was envisaged the creation of district prosecutors to improve the supervision of the implementation of revolutionary legality.

The Prosecutor's Office of the Ukrainian SSR was founded as part of the People's Commissariat of Justice and was directly subordinated to the People's Commissar of Justice.

The main functions of the Prosecutor's Office of the Ukrainian SSR included: exercising on behalf of the state supervision of the lawfulness of the actions of all authorities, economic institutions, public and private organizations and individuals through the prosecution of criminal charges against the perpetrators and the protest of decisions that violate the law, supervision of the activities of the inquiry agencies and investigation in the disclosure of crimes, support for public prosecution in court, participation in civil proceedings, supervision of the proper detention of prisoners in custody [13, p. 158–159].

The next stage of the prosecutor's office in Ukraine is the establishment in June 1933 of the United Soviet Socialistic Republics Public Prosecutor's Office, which was entrusted with the functions of management for the activities of the prosecutor's offices.

The Constitution of the Ukrainian SSR in 1937 gave authority to appoint the prosecutor of the UkrSSR directly to the competence of the prosecutor of the USSR. Thus, according to Art. 112, 113 of the Constitution of the Ukrainian SSR in 1937, the highest supervision over the exact implementation of the laws by all people's commissars and their subordinate institutions, as well as separate civil servants, as well as citizens on the territory of the Ukrainian SSR was carried out as a prosecutor of the USSR, directly and through the procurator of the USSR. The Prosecutor of the Ukrainian SSR was appointed by the prosecutor of the USSR for a term of 5 years [14].

After 1937, the Prosecutor's Office of the USSR finds its legal regulation in the Provision on the Prosecutor's Office of the USSR, approved by the Decree of the Central Executive Committee and the Council of People's Commissars of the USSR of December 17, 1933, and the Provisions on Prosecutor's Supervision in the USSR, approved by the Presidium of the Supreme Soviet of the USSR of May 24, 1955.

The Constitution of the USSR in 1977 and 1978 contained provisions on the organization and activities of the prosecutor's office. In particular, it was established that "the highest supervision over the exact and uniform implementation of laws by all ministries, state committees and departments, enterprises, institutions and organizations, executive and regulatory bodies of local Soviets of People's Deputies, collective farms, cooperative and other public organizations, officials, as well as citizens on the territory of Ukraine is carried out by the Prosecutor General of the USSR and his subordinates to the Prosecutor of the Ukrainian SSR and the lower prosecutors". The Prosecutor of the Ukrainian SSR and prosecutors of the regions were appointed by the Prosecutor General of the USSR. The district and city prosecutors were appointed by the Prosecutor of the USSR and approved by the Prosecutor General of the USSR [14].

The Law "On the Prosecutor's Office of the USSR" of November 30, 1979, defined the main tasks and main directions of activity of the prosecutor's offices, as well as the system of these bodies. According to art. 3 of the Law the prosecutor's office acted in the following areas: supervision of the implementation of laws by public authorities, enterprises, institutions and organizations, officials and citizens (general supervision); supervision of the implementation of laws by the authorities of inquiry and preliminary investigation, courts, places of detention of detained persons and pre-trial detention; the fight against crime, the investigation of crimes and the prosecution of persons who committed a crime, etc.

The Ukrainian Prosecutor's Office of the USSR undertook general supervision and prosecution of perpetrators. Analyzing this period of activity of the prosecutor's office of Ukraine, one can conclude that the totalitarian regime directly influenced the activity of the said institute. The institute of representation of citizens and the state suffered the most in a court, which in fact was absent during this period.

The decisive stage in the formation of the post-Soviet Ukrainian prosecutor's office was the adoption on August 24, 1991 by the Verkhovna Rada of Ukraine of the Declaration on State Sovereignty. On November 5, 1991, the Verkhovna Rada of Ukraine adopted the Law "On Prosecutor's Office", in art. 5 which defines the main functions performed by the prosecutor's office, including the supervision of the observance of laws by all bodies, enterprises, institutions, organizations, officials and citizens [15].

Articles 121–123 of the Constitution of Ukraine in 1996 define the prosecutor's office as a single system, its functions, the procedure for the appointment and dismissal of the Prosecutor General of Ukraine, the term of his powers. Taking into account the requirements of the Constitution of Ukraine, the Verkhovna Rada of Ukraine introduced the relevant amendments to the Law of Ukraine "On Prosecutor's Office". The Transitional Provisions of the Fundamental Law of Ukraine stipulate that the prosecutor's office shall continue to perform the function of supervising the observance and application of laws and the function of preliminary investigation, in accordance with the laws in force, before the enactment of the laws regulating the activities of state bodies for monitoring compliance with laws and the formation of a pre-trial system investigation and enforcement of laws governing its functioning [16].

Prosecutor's Office of Ukraine. The Law of Ukraine of September 18, 2012 "On Amendments to Certain Legislative Acts of Ukraine on Improvement of the Prosecutor's Office" introduced the relevant amendments to the Law of Ukraine "On the Prosecutor's Office" regarding the procedure for prosecutors to supervise the observance and application of laws. It is in this edition that modern conditions are regulated and the order of their implementation is regulated.

With the accession of Ukraine to the Council of Europe and the definition of the pro-European course of development, the task of reforming the prosecutor's office of Ukraine arose.

The commitment made by Ukraine to the Council of Europe on reforming the prosecutor's office led to the need for further improvement of the legislation and the adoption by the Verkhovna Rada of Ukraine on October 14, 2014 of the new Law of Ukraine "On Prosecutor's Office", which defined the role and place of supervision over observance and application of laws in the prosecutor's activities. Such supervision is carried out under the new Law exclusively in the form of representing the rights and freedoms of a citizen, the interests of society and the state [17].

Conclusions

Therefore, when investigating the historical process of development of the prosecutor's office of Ukraine, it should be noted that in all determined periods of the formation of the prosecutor's office of Ukraine, its place and role in the system of protection of human rights and freedoms, the interests of society and the state was determined by the stage of development of the state, the existence of the state as such, the state regime of Ukraine.

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Criteria to Estimate the Cost of Crime

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Abstract. *In research analyzed the criteria of the crime's cost a criminological indicator, to consider and suggest possible ways (methods) for its definition.*

Keywords: *methodology of definition of the crime's cost; criteria of the crime's cost; crime cost; quantitative index; criminological measures to prevent crime.*

Problem statement

The need to study the issue of "the cost" of crime due to controversial in the science of criminology options for calculating the cost of crime, which is hindering the clarification of the actual social consequences of crime.

Analysis of statistical data. According to statistics, in recent years there has been a steady increase in crime, which is directly proportional to the increase in its cost. Thus, for the 9 months of 2018, 407,334 criminal offenses (in 2017 – 446,158) were taken into account in Ukraine, 2159 violations were prevented during the preparation and attempt stage (2017 – 1798). In particular, 9258 criminal offenses were detected by employees of the prosecutor's office (2017 – 9 432). The total amount of the established pecuniary damage is UAH 7 542 760 (2017 – UAH 16 690 490), the reimbursed reference was UAH 1 696 219 (in 2017 – UAH 1 096 063), including reimbursed with the assistance of the prosecutor's offices – 81: UAH 702 (2017 – UAH 150 708).

The overall level of crime in Ukraine for the 10 months of this year has decreased by 13%, the number of serious and especially grave crimes in the total amount of criminal offenses decreased by 11%.

52,755 criminal proceedings were filed in the single register of pre-trial investigations, which is 13% less than in 2017 [1, p. 2].

Based on official figures, there is an urgent need to study the issues of calculating the total effects of crime on a particular territory during the reporting periods.

Analysis of recent research and publications. Criminological studies, which reflect the cost of crime within the criminological profile of certain types of crimes, their quantitative and qualitative dimensions, were carried out by such scientists as: Yu. Antonian, M. Babaiev, O. Bandurka, M. Byrheu, I. Danshyn, L. Davydenko, T. Denysova, V. Dromin, O. Dzhuzha, V. Holina, B. Holovkin, O. Kalman, T. Korniakova, O. Kostenko, O. Kulyk, V. Lunieiev, O. Lytvak, O. Lytvynov, P. Serdiuk, N. Smetanina, V. Shakun, D. Shestakov, A. Zakaliuk, V. Zelenetskyi and others. However, the works of these authors do not have a comprehensive analysis of the cost of crime, but only indirectly provided a characteristic within a specific group of crimes.

These works are important developments in the study of quantitative and qualitative indicators of crime, but modern conditions in Ukrainian society require a new reflection of this problem.

Determining the cost of crime requires today a new criminological understanding, the rejection of simplistic approaches to this important and complex issue.

The purpose of the article within the scope of this article is to identify the criteria that need to be included in the pseudo-cost definition of crime and to suggest ways (ways) to determine it.

Presentation of the main research material. V. Holina and S. Broiakov, studying the theoretical and applied questions of the concept of the cost of crime and the possibility of its calculation, indicate that the progressive growth of crime directly affects the growth of the "cost" of crime, and suggests to its content to pecuniary damage, which is determined in numerical terms and contains the total cost of the criminal offenses committed losses incurred by any objects of the material world; moral (non-material) harm is defined as the harm caused by a crime to encroach on life, health, morale of the victim and close people of the victim [2, p. 5]. This position of scientists does not accurately determine the problem issues in determining the "cost" of crime. Apart from the attention of the scientists, questions remained about all the criteria of calculation.

The cost of crime involves a quantitative indicator, according to which the material, social, moral and physical damage caused by the crimes are deducted. Most criminologists say that it is inappropriate to use such a concept as the cost of crime, because it is in their opinion impossible to determine.

Huge quantitative scales are estimated losses in preventing crime. This is the cost of maintaining an operational search, prosecution facility (for example, reimbursement of damage for unlawful arrest, detention or detention). Taking into account the current situation of the socio-economic, political imbalance of our state against the backdrop of military events in certain annexed and especially designated territories of Ukraine, the complete destruction of the Eastern part – Donetsk and Luhansk oblasts, additional expenditures from the budget considerably exceed salary sizes. This situation requires an immediate cost-effective analysis and planning of personnel costs, which includes both material motivation justifying each item of expenditure, making estimates of all production costs for each structural unit (cost centers). Therefore, we believe that only under such conditions a clear analysis, it is possible to talk about improving the system of personnel management in the context of material motivation of staff.

If to analyze the state and tendency of crime in Ukraine, first of all, it is necessary to take into account the level of local budget financing, pension and social security, compensation of damages that can not be determined only by statistical indicators of law enforcement agencies. From here, you can form the cost of crime, the level of material damage, as well as the possibility of effective development of measures to prevent and prevent such violations through the use of monitoring activities of quantitative and qualitative indicators.

It is also the cost of expertise, the costs of retaining the penitentiary system, carrying out scientific activities, paying pensions, compensating victims according to information on the material damage from crime, and the costs incurred in preventing crime. As a criterion for the cost of crime, the total assets of criminal organizations are also allocated. This component of the crime cost is proposed by analysts from the Word Federation Group, which executes the UN order. O. Shostko notes that organized crime worsens the existing dangerous indicators of economic inequality of the population in the world dimension. Its size is estimated at 2 trillion US dollars, as evidenced by a recent study conducted under the auspices of the United Nations. The annual profits of criminal groups around the world are staggering: they are equal to the GDP of Great Britain and double the combined defense budgets of the countries of the world [3, p. 1]. And according to the United Nations Office on Drugs and Crime, total criminal proceeds from all illegal activities of international syndicates now make up about 3,6% of the world's GDP, which is equivalent to 2,1 trillion dollars. Symantec, a company dedicated to software development in the field of computer security, cites data that in 2011 the world economy lost about $114 billion as a result of online crimes [4, p. 32–33].

But over this criterion one has to think again, since these assets can be included

in ectonomics, pay legal products, create jobs, etc.

Particularly difficult to determine and calculate harm are crimes committed against a specific person. You can calculate the cost of treatment as a direct material damage, but it is difficult, even sometimes impossible, to determine moral and psychological costs in the monetary equivalent, an image of honor and dignity, a change in the attitude of the person to the environment and himself after the crime (direct personal harm).

The crime cost is defined as a mandatory quantitative indicator for the calculation and reimbursement of losses incurred as a result of the commission of crimes, at the stage of investigation of criminal proceedings, the establishment of guilty persons, their prosecution and the imposition of punishment. Litigation in court sentences indicates only the amount of damages caused by a person as a result of a crime and the possibility of a civil claim for damages.

The methodology for determining the costs of combating crime can be defined within the following areas:

– direct harm from criminal behavior;

– costs of the person, supesydity and the state for the prevention of crimes, bringing the perpetrators to justice;

– the costs of the offender.

Thus, the cost of crime should be defined as the total amount of injuries, deaths, stolen motor vehicles, lost working days, etc., it is also direct and indirect costs of physical, material, spiritual and moral character, due to perfect criminal offenses, costs of society in connection with the need to overcome the consequences of criminal acts, the content of the entire law-enforcement and penitentiary system, other institutions of the state, as well as the assets of criminal organizations in support of its illegal activity ones.

By the provisions of this work, in our opinion, it is necessary to determine the social consequences of crime:

1) criminal-law consequences, that is, damage, direct and indirect losses;

2) material, moral and physical harm to specific citizens;

3) social costs associated with responding to crime and counteracting it;

4) expenses for the maintenance of law enforcement bodies, development of legislation and measures of counteraction.

Scientists S. Denisov, T. Denisov, S. Kulik, O. Sheremet, complexly generalizing the theoretical foundations of criminological science, suggest, taking into account the calculation "cost" of crime to approach the solution of the problem in the following way:

1. To evaluate the damage extended in time by taking into account the consequences not only of crimes committed in the year under consideration, but also of past crimes, if the consequences of these crimes still continue to have a negative impact.

2. To assess the damage caused by a fixed method in which the damage was caused (for example, a calendar year), based on the assessment of only the damage caused by crimes committed during the year included in the object of research [5, p. 201]. The indicated ways of solving the problem of determining the "cost" of crime can be carried out in order to form an adequate effective criminological policy.

The questions raised may be reduced to the possibility of determining the "cost" of crime as the aggregate number of crimes of general-criminal orientation, resonant crimes and lost working days; direct and indirect costs of physical, material, spiritual and moral character, caused by a person as a result of committing criminal offenses; expenses of society in connection with the need to overcome the consequences of criminal acts; the maintenance of the entire law-enforcement and penitentiary system and other state institutions; general assets of criminal organizations and their referral in support of all unlawful activities.

The above concept can be introduced into the draft law "On Prevention of Crimes (Criminal Offenses)" or to be included in the Comprehensive Crime Prevention Program for the relevant years.

Proceeding from the above, social consequences, as one of the content components, may contain real harm, which is caused by a crime of public interest, is expressed in the form of direct or indirect negative consequences falling within the comprehension of social values, and also the totality of economic and other expenses of society, Combating crime and social prophylaxis.

Conclusions

Proceeding from the above, within the limits of this article, to determine the "price" of crime we propose:

1. Normally regulate the possibility of determining the price of crime as direct and indirect costs of physical, material, moral, socio-ethical, spiritual nature for the state and society as a whole as a result of committed crimes aimed at overcoming the consequences of criminal acts, the content of all law enforcement, penitentiary systems, other institutions, assets of criminal gangs, total number of corporal injuries, deaths, stolen vehicles, lost working days, etc.

The peculiarity of determining the harm done by a particular crime depends on the direct object of the criminal encroachment (life, health, social values, objects of the material world) on the basis of the method of personification as a combination of methods, methods and techniques that are consistent, systematic, reasonable use to determine the negative impact of direct and indirect harm, depending on the type of socially dangerous act.

2. To calculate losses from committed crimes to determine the amount of loss taking into account monetary (determination of monetary equivalent) non-material damage to life, health, the moral state of the victim and his relatives, as well as the calculation of the incidence of harm to crime (the price of "prevention" of criminal acts and damage to the immaterial state of affairs of society). The price of preventive measures to combat crime: the cost of society to properly finance mechanisms and institutions aimed at preventing manifestations of deviant criminal behavior, victimization.

3. Establish specialized monitoring centers to process the data received and inform the public.

Thus, given the complexity of the criminological indicator and the methodology, the methods of calculation, there is a need to develop a calculation table for determining the price of crime, taking into account the type of crime in accordance with the uniform statistical form of the Prosecutor General's Office of Ukraine, which will facilitate the assessment of the level and state of crime in Ukraine, the determination of the crime situation in the state, the development of effective, cost-effective means of combating crime at the state and interstate levels, the prognosis of development and, in turn, the timely response the society's attention to the challenges of crime.

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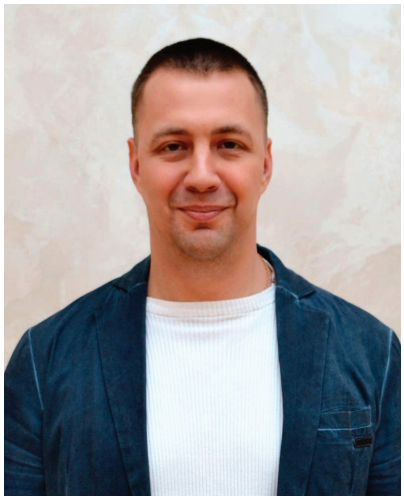
Theoretical, Legal And Organizational Principles for Optimizing the Financial Control and Audit Mechanism in the Security and Defense Sector of Ukraine



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Abstract. *The article examines the peculiarities of the mechanism of financial control and audit in the security and defense sector, based on the analysis of the norms of the current legislation and doctrinal approaches, the directions of organizational and legal support for its rationalization in the context of security sector reform in accordance with the modern world standards and changes in the paradigm of ensuring national security are determined.*

Keywords: *national security; security and defense sector; financial control; audit; internal audit; budget program; performance indicators.*

Problem statement

The urgency of the study of the issues of organization of financial control and audit in the field of security and defense is conditioned by the need for a new paradigm of national security, which should be based on an effective system of financial and material resources, based on effective control mechanisms. Optimization of the mechanism of financial control and audit of the use of budget funds for national security and defense is an important scientific and practical problem, the urgency of which, taking into account the tendency to increasing threats of military-terrorist nature, and, accordingly, the costs to counter such threats, is constantly increasing. particular attention is needed to the issue of optimizing control in the security and defense sector in the context of the adoption of the new Law of Ukraine "On National Security" [1].

Analysis of recent research and publications. The theoretical basis of the study are the works of leading scholars on financial and administrative law, namely: D. Bekerska, A. Berlach, A. Chubenko, R. Kaliuzhnyi,

V. Kolpakov, S. Konstantinov, O. Kopan, O. Korystin, M. Kucheriavenko, O. Kuzmenko, M. Loshytskyi, A. Nechai, V. Nevidomyi, V. Olefir, O. Orliuk, L. Savchenko, L. Voronova and others.

The purpose of the article is to identify the main areas of optimization of the financial control and audit mechanism in the security and defense sector through the introduction of progressive forms and methods of control.

Presentation of the main research material. The reform of state financial control, including in the field of security and defense, is carried out as an integral part of reforming and modernizing the system of public finances. The main objective of the control system in modern conditions is not only the prevention of financial violations (in particular, the corruption factors of their commission), but also the creation of a rational and effective mechanism for the distribution of limited financial resources, based on the concentration of efforts on the priority tasks of the development of the state and society, taking into account selected strategic priorities. Taking into account that financing of the security and defense sector is carried out at the expense of budgetary funds, the main attention in our study will be devoted to the analysis of areas of improvement of budget control and internal audit in this area.

It should be noted that control is more effective not when the fact of violation is established, but when conditions are created that would enable them to be avoided. This task is precisely auditing. In many developed countries, auditing has become a leading form of budget control, since, by verifying the authenticity and completeness of budget reporting, accounting for primary documents and other information on the activities of the manager or recipient of budget funds, auditors have the opportunity to identify weaknesses in managing budget funds and develop proposals that give an opportunity to increase the efficiency of their use [2; 3].

Legal bases of budget control and audit are defined in art. 26 of the Budget Code of Ukraine, entitled "Control and audit in the budget process". At the same time, as rightly notes L. Savchenko, the very title of the article is not entirely correct since the audit is a kind of control [4, p. 303–304]. Art. 26 is general in nature, since it actually defines the tasks of control, although it states what it is aimed at, in particular, that control over observance of the budget legislation is aimed at ensuring efficient and effective management of budget funds and is carried out at all stages of the budget process by its participants in accordance with this Code and other legislation, and also provides: 1) evaluation of management of budget funds (including conducting public financial audit); 2) the correctness of accounting and the reliability of financial and budget reporting; 3) achievement of economy of budget funds, their purposeful use, efficiency and effectiveness in the activities of the budget managers by means of the adoption of reasonable management decisions; 4) conducting analysis and evaluation of the state of financial and economic activity of the budget funds managers; 5) prevention of violation of budget legislation and ensuring the interests of the state in the process of managing state-owned objects; 6) the reasonableness of the planning of budget revenues and expenditures [4; 5].

In the field of national security and defense, an important role is played by internal audit, which aims to provide recommendations for improving the public sector, enhancing the efficiency of governance processes that favor the achievement of the goal by the public sector body. The role of internal audit in countering corruption in the security and defense sector is important. In this case, developed countries use the model of internal control and containment of risks, entitled "Three lines of defense" [6, p. 85–91]. The vanguard of the prevention and reduction of corruption (first line) is the management control and measures of internal control. Management control is not separate divisions, but the daily activities of each manager of a structural unit, commander, chief (first of all those responsible for procurement, construction, and acquisition of housing, management of state enterprises, etc.). On the second line of defense, there are units that carry out special types of control: control of financial institutions, inspections, legal control, quality control, control of personnel, control of executive discipline, control over observance of legislation in the field of state secrets, etc. The third line of defense is an internal audit that

assesses how strong and reliable the first two lines of defense are. The internal audit does not affect the adoption of managerial decisions. It draws attention to the risks that were not covered by the previous lines of defense and makes recommendations and proposals for their reduction [6, p. 85–91].

In analyzing the most risky areas of activity of the structural units of the security sector, the main risks that require particular attention when improving the resource management system are centralized and decentralized purchases of goods, works and services for public funds (possible violations – procurement of goods, works and services without appropriate justification for the need for these procurements; the purchase of goods, works and services at overpriced prices from intermediaries, and not from producers (including by way of shredding procurement of goods, works and services of inadequate quality and without appropriate safeguards, specification of technical specifications of the subject of procurement for a particular supplier, unreasonable extension of the terms of delivery of goods (performance of works and provision of services) entailing late satisfaction of security needs and, in some cases, an increase in the final price of goods, works and services; inadequate claims for work seeking compensation for damages inflicted on fulfillment of the concluded agreements, etc.). In addition, special attention from the management of the security sector and relevant internal audit units is required for the issue of the alienation of military property; expenditures for the payment of cash benefits and other types of payments to servicemen, police, rescuers, etc.; rational resource provision (including during the conduct of the OOP – prevention of excessive spending of funds to pay poor nutrition for servicemen, failure to register actual material wealth received, including charitable assistance, groundless cancellation of material assets); the exploitation of immovable military property and land of defense; capital construction and housing acquisition; activity of business entities that are in the sphere of management of the security sector and defense sector [6, p. 85–91].

The ability to provide independent and objective guidance is the main difference between internal audit and other forms of control. At the same time, centralized internal audit is a public internal audit conducted by the State Audit Office of Ukraine. The direction and coordination of a centralized internal audit is carried out by the Ministry of Finance of Ukraine, and decentralized internal audit is carried out by an authorized independent unit (an official) subordinated directly to the management of the public sector body, but functionally independent of it, within the public sector body itself or within the system of its management [4–6]. External audit in the security and defense sector is carried out by the Accounting Chamber of Ukraine.

Scientists distinguish the following types of audit: audit of reporting, authenticity (traditional financial control); audit of activity (herein the activity means all operations performed by any controlled entity); compliance audit (analysis of the activity of the controlling entity for the purpose of how it fulfills the order of an organization or institution that is superior to it, that is, the audit of the compliance of the laws, control compliance with the instructions, norms, orders of the management body) [4].

At the same time, there are different points of view among scholars and practitioners regarding the relationship between the tasks and content of different types of audit. Yes, V. Konovaliuk notes that financial audit is a method of state financial control, which consists in checking and analyzing the activity, the actual state of affairs in relation to the lawful and effective use of state or communal funds and property, other state assets, the correctness of accounting and the reliability of financial statements, the functioning of the system internal control of economic entities of the state sector of the economy, as well as other economic entities receiving (received during the period under review) funds of all budgets and public funds, or use (used during that verified) state or municipal property [7–8]. The Methodological Recommendations for the Accounting Chamber of the Financial Audit indicate that the financial audit is to verify, analyze and assess the correctness of the conduct, completeness, and reliability of reporting on revenue and expenditure of the budget, establishing the actual state of affairs regarding the use of budget funds, compliance with law in the conduct of operations with budget funds [9].

The Methodological Recommendations also state that the implementation of audit procedures may be accompanied by the application of such methods as verification, request, questioning, confirmation, recalculation, analytical procedures; the main methods of actual control, which are used for the purpose of obtaining audit evidence, are: inventory; control measure; expert evaluation; field observations and more; In practice, other methods of documentary control are used to disclose the content of financial and business transactions and processes carried out and to confirm their legality, reliability and appropriateness, in particular such as verification, verification, review, evaluation, re-calculation, comparison, observation, testing, generalization, examination, etc. [9].

It should be remembered that the effectiveness of spending budget funds or the level of their returns cannot always be determined by the financial audit because the criterion of effectiveness is the level of achievement of the goals, which largely depends on the quality of management decisions. Therefore, in world practice, along with the financial audit, a form of control such as an audit of administrative activity, which is also called the operational and managerial audit, has long been used. Audit of administrative activity is a form of budgetary control, which examines the procedures for the adoption and implementation of management decisions by the subjects of the budget process in order to achieve certain goals. An integral part of the audit of administrative activities is the audit of the effectiveness of using budget resources. It represents the quality control of management decisions in terms of cost effectiveness and efficiency of using budget funds. It can be used as an audit of the effectiveness of using budget funds in implementing certain budget programs (functions), and on auditing the effectiveness of the functioning of the budget system (its separate components). The purpose of the effectiveness of an audit is to assess the level of return on invested budget funds and analyze the reasons for not achieving the goals [3, p. 448–450].

Conclusions

In modern conditions, the transformation of the ideology of state financial control, the shifting of emphasis from the formal verification of the reliability of expenditures to the analysis of the efficiency of management of budget funds and public property is taking place. Accordingly, in the process of effectiveness audit, performance, efficiency, cost-effectiveness of use of funds and legality, timeliness and completeness of management decisions, etc., are determined in the process of effectiveness audit, and in financial audit – correctness, completeness, reliability of reporting, target use of funds, etc. [1; 10].

The optimization of the financial control and audit mechanism should be based on the conceptual approach formulated in the doctrinal sources to the development of the financial control legislation of our state, which should be based on a basic comprehensive document that would determine the directions of development of public financial control in Ukraine. The improvement of the organization and implementation of public financial control, in the first place, should include the development and adoption of a Strategy for the Modernization of Public Financial Control, the Law "On Public Financial Control". The existence of special legislation will be one of the grounds for the allocation of financial control right in an independent branch of law [4, p. 299–301].

An urgent need for the present is the development of a single sectoral methodology for assessing state target and budget programs in the field of security and defense. Otherwise, it is virtually impossible to really assess the effectiveness of using budget funds, especially in cases where various target indicators are used in state target and budget programs.

In addition to the indicators of the end result – increasing the level of national security – must take into account indicators of the structure of security threats. The structural analysis allows for a reasonable choice of relevant measures in the area of ensuring national security, depending on the nature and nature of threats.

An important element of the financial control and audit of the effectiveness of spending on security and defense should be the use of a comparative analysis that compares the social outcomes of domestic security programs with similar indicators in countries with a developed market economy or in countries that are on the way to transition to market economy, which will provide an opportunity to identify

the facts of artificial overestimation of budget expenditures or inefficient use of funds and to take appropriate measures adjustment funding. Another advantage of this method can be the refusal of the implementation of programs, the social effect of which in other countries was insignificant [11].

The priority task for the state and society in the context of the hybrid war is to create such institutional capacity of the financial control system that would allow the risk-oriented approach to external and internal audits of the security and defense sector and the relevant state and budgetary programs, taking into account their vulnerability to corruption, wastefulness, misuse and mismanagement, which will also largely determine the main ways of reforming the security sector and the defense in general and its separate components. In particular, in today's conditions, it is extremely important to use the audit methodology to identify possible duplication of budget financing by existing state programs and to constantly seek opportunities for rationalizing budget expenditures.

A prerequisite for increasing the effectiveness of financial control in the field of national security in the context of the application of the program-target budgeting method is the principle of publicity, when all results of control and monitoring of expenditures (other than secret) should be accessible to the public, including scientific and expert and journalistic communities. Citizens as end-users of public services in the security sector should have a realistic picture of the nature of threats and measures aimed at their prevention, as well as the amount of funding for these measures and the effectiveness of the use of funds. Publicity provides a permanent self-improvement of both the security sector itself and the system of indicators for assessing its effectiveness, it allows an objective assessment from domestic and foreign experts [5]. We must note that the norms for carrying out public control were reflected in the Law of Ukraine "On National Security of Ukraine".

In order to effectively regulate the peculiarities of financial control and audit in the field of security and defense, and taking into account the importance of this group of public relations, we propose to develop and adopt the Law of Ukraine "On the peculiarities of state financial control in the security and defense sector".

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Special Pre-trial Investigation in Criminal Procedure of Ukraine. Activity of a Prosecutor

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Abstract. *The criminal procedure mechanism of such a special order of proceedings, which is in absentia, is considered. The first results of implementation of this concept are obtained. The statistical data have been studied, which confirms that the procedure of a special pre-trial investigation in Ukraine has actually worked and developed a stable state practice. The activities of the prosecutor aimed at persuading an investigating judge to carry out the specified type of proceedings are described. Objective information is provided on court decisions on receipt and refusal of the procedure (in absentia). Changes to the current criminal procedure law are offered.*

Keywords: *prosecutor's activity; investigator; motion; indictment; special pre-trial investigation (in absentia).*

Problem statement

New approaches to reforming the criminal justice system of Ukraine led to significant changes in the criminal procedure law. Along with the existing forms of special procedures for criminal proceedings in the current Criminal Procedure Code of Ukraine (CPC of Ukraine), under the influence of various factors, there are now completely new and unknown before special procedures, e.g. on the basis of agreements, special pre-trial investigation of criminal offenses, pre-trial investigation of criminal misdemeanors, special regime of pre-trial investigation under martial law, state of emergency or in the area of anti-terrorist operation. Consequently, the procedure for a special pre-trial investigation in the absence of a suspect introduced by the current CPC of Ukraine is an unknown step. In view of the above, the logical question arises: whether the specified procedure of the proceedings will be effective, and whether it will guarantee the restoration of the violated rights and freedoms of the individual, as well as the interests of the state. To do this, it is necessary to investigate its legislative regulation, empirical results and the practical component of the activities of the prosecutor and its effectiveness in this direction.

Analysis of recent research and publications. The issue of a special pre-trial investigation in absentia attracted the attention of many scholars, in particular: O. Baulin [1], M. Bortun [1], V. Halahan [2], O. Heselev [1], Yu. Sevruk [2], O. Shylo [2], A. Stolitnii [1], I. Tsiupryk [3] L. Udalova [2], and others. However, the issues related to the organization of the preparation of the investigation materials, the filing of the motion, the dialectical processes of proving the necessity of the prosecutor to apply this institute of the criminal procedure, remain insufficiently researched.

The purpose of the article is to characterize the results of the activities of the prosecutor during the implementation of a special

procedure for a special investigation, analysis of legislative norms and statistical indicators for the possibility of improving this order.

Presentation of the main research material. In carrying out a special investigation, the Ukrainian prosecutor is the subject of a dialectical action, the engine that initiates criminal procedural activities in this direction. The indicated legal institute is the latest in criminal proceedings, since it arose in accordance with the Law of Ukraine of October 7, 2014 "On Amendments to the Criminal and Criminal Procedure Codes of Ukraine Regarding the Inevitability of Punishment for Certain Crimes Against the Basics of National Security, Public Security and Corruption", which supplemented the CPC of Ukraine with the chapter 24^1 "Special features of a special pre-trial investigation of criminal offenses". Despite this, researchers, as well as prominent scholars, are interested in studying this issue [2; 4; 5].

The procedural institute of the special pre-trial investigation is an integral part of in absentia criminal proceedings in Bulgaria, Denmark, Estonia, Lithuania, Germany, Romania, France, the Czech Republic, Switzerland and other countries whose experience has shown its expediency and compliance, subject to observance a certain procedure, European standards of human rights.

This mechanism is provided for by a number of international documents, in particular, verdicts in absentia are set forth in paragraph "f" of art. 1, part 2 of art. 9, arts. 21, 22, 23 and other articles of the European Convention on the International Validity of Criminal Judgments of 28 May 1970. Recommendation of the Committee of Ministers of the Council of Europe No. 6R (87) 18 of 17 September 1987 *On the Simplification of Criminal Justice* granted the courts of first instance of the Member States the right to consider cases and to rule in the absence of the accused, provided that s/he was properly informed of the date of the trial meeting and the right to legal or other representation.

The European Court of Human Rights has repeatedly considered the issue of the fairness of proceedings in the application of in absentia procedure in a number of cases (*Somogyi v. Italy*, *Krombach v. France*, *Sejdovic v. Italy*, *Thomann v. Switzerland*). Analyzing each particular situation, the court concluded that a fair trial could be conducted even in the absence of the accused [6].

If prior special investigation was possible only with regard to persons who are outside the state, now investigating judges give permission to conduct a special pre-trial investigation concerning persons who are in the temporarily occupied territory of Ukraine or in the area of anti-terrorist operation (ATO) [3].

Thus, according to art. 297^1 of the CPC of Ukraine, a special pre-trial investigation (in absentia) is carried out in respect of one or more suspects in accordance with the general rules of the pre-trial investigation provided for by the CPC of Ukraine [7]. The special pre-trial investigation is carried out on the basis of the decision of the investigative judge in the criminal proceedings concerning crimes stipulated in arts. 109, 110, 110^2, 111, 112, 113, 114, 114^1, 115, 116, 118^1, parts 2–5 ст. 191 (in case of misuse of an official by his official position), arts. 209, 255–258, 258^1, 258^2, 258^3, 258^4, 258^5, 348, 364, 364^1, 365, 365^2, 368, 368^2, 368^3, 368^4, 369, 369^2, 370, 379, 400, 436, 436^1, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447 of the Criminal Code of Ukraine (CC of Ukraine) concerning a suspect, other than a minor, who is being hid from the authorities and the court for the purpose of evasion from criminal liability and declared in an intergovernmental and/or international search.

The special pre-trial investigation of other crimes is not permitted except in cases when the crimes committed by persons who are being hid from the authorities and the court for the purpose of evasion from criminal responsibility, or declared in an international search and are prosecuted in one criminal proceeding with crimes, indicated in this part, and the allocation of materials concerning them may negatively affect the completeness of pre-trial investigation and trial.

By the end of 2016, some practice has been developed to apply a special pre-trial investigation. Despite the introduction of this institute from October 31, 2014, this procedure was initially initiated for the first time in mid-2015. In general, between January 1, 2015 and September 1, 2016, pre-trial investigations were carried out in 338 criminal proceedings against 597 people (of which: by the National

Police of Ukraine – in 37 proceedings against 41 persons, by the Security Service of Ukraine – in 156 proceedings against 168 persons, by the prosecutor's offices of the regions – in 64 proceedings against 78 persons, by the Prosecutor General's Office of Ukraine – in 16 proceedings against 240 persons, by military prosecutor's offices – in 51 proceedings against 53 persons, with signs of organized crime – in 14 proceedings against 17 persons).

Courts refused to satisfy 19 relevant motions. The main reasons for the refusal were the lack of reliable data on the presence of suspects on the territory of the antiterrorist operation, the occupied territory, temporarily uncontrolled to Ukrainian authorities, outside Ukraine, and also the lack of evidence of the hiding of the suspect from the investigation authorities and the court directly for the purpose of evasion from criminal responsibility, in the materials of the investigation.

In addition, the grounds for two orders of investigative judges to refuse motions were the lack of evidence for suspecting the reopening of a pre-trial investigation, the restoration of his/her suspect's status and his/her prosecution, as well as the refusal of Interpol to declare a person to an international search.

According to the results of the investigation, 307 indictments were sent to the court regarding 341 suspects (including: by the National Police of Ukraine – in 32 proceeding against 35 persons, by the Security Service of Ukraine – in 156 proceeding against 168 persons, by the prosecutor's offices of regions – in 60 proceeding against 74 persons, by the General Prosecutor's Office of Ukraine – in 4 proceeding against 5 persons, by military prosecutor's offices – in 43 proceeding against 44 persons, with signs of organized crime – in 12 proceeding against 15 persons). The courts reviewed 16 proceedings against 18 persons with convictions and conviction of the perpetrators of various types of punishment [1, c. 11].

According to the requirements of art. 297^2 of the CPC of Ukraine the document from which the prosecutor's criminal proceedings are commenced in this type of investigation, is a motion. The document, as a rule, is made by the prosecutor to the investigative judge or the investigator in agreement with the prosecutor. A clear procedure for the content of the motion is defined in part 2 of the article.

The motion is considered by the investigative judge within 10 days from the moment of receipt with the obligatory participation of the prosecutor and a lawyer.

We draw attention to the fact that during the consideration of the motion the principle of the adversarial process of the criminal proceeding is clearly displayed, as the prosecutor and the investigator as the prosecution party must prove that the suspect is hiding from the investigating and judicial bodies in order to evade criminal responsibility and declared in an international search. The prosecutor must also take into account the position of the defense party, which will most likely express the desire to obtain the motion of the prosecution party. In this case, the lawyer is given a copy of the motion, as the corresponding right is stipulated in art. 20, part 4 of art. 46, parts 14, 15 of the art. 42, art. 221 of the CPC of Ukraine.

In accordance with the praxis of the work of the prosecutor, in order to obtain a positive result, s/he prepares him/herself in detail to defend his/her position in the examination of the motion. By approving the relevant motion, s/he must make sure that the document complies with all the necessary requirements provided by the CPC of Ukraine. It is about all the formal details of the document and, undoubtedly, the nature of the case, the plot of the crime with a detailed statement of the circumstances of its commission, qualification, place and authority of investigation, the justification of the suspicion and evidence, which confirms it, the full data of the suspect and the grounds for announcing him/her to the wanted list of persons which, in the opinion of the prosecution, should be questioned. If necessary, the documents attached to the application, which, in the opinion of the prosecutor, confirm the circumstances set forth in the motion.

Immediately when considering the motion, the prosecutor in front of the investigative judge clearly justifies the need to initiate the specified type of investigation, specifically highlights the circumstances of the case and relying on the requirements of the current legislation, indicating compliance with each rule of chapter 24^1 of the collected materials, and

declares at the end a logical conclusion on the need for special investigations.

Depending on how the prosecutor was prepared, how well the evidence and the necessary objective data were collected and convincing, the investigative judge made the appropriate decision.

Having heard the arguments of the parties, having read the available materials, the investigative judge:

1) satisfies the motion;

2) refuses to satisfy;

3) returns it to the prosecutor and the investigator. Following the decision of the judge, the investigative judge makes a decision, which justifies the stated procedural position.

A copy of the order is sent to the prosecutor, investigator and lawyer.

If the motion is returned, then this does not prohibit the prosecution party, after eliminating the deficiencies, turn it to the judge again for the second time.

In case of refusal to accept a request for special pre-trial investigation, pre-trial investigation is carried out further in accordance with the general rules.

A repeated request for a special pre-trial investigation to an investigative judge in a single criminal proceeding is not allowed unless there are new circumstances that confirm that the suspect is being hid from the investigation authorities and the court in order to evade criminal responsibility and declared in an interstate and/or international search.

The prosecution party in the person of the prosecutor may appeal the decision to reject the appeal court (p. 12, part 1, art. 309, art. 310 of the CPC of Ukraine).

In the case of granting permission to conduct a special investigation, the investigative judge, the prosecutor and the investigator conduct it in accordance with the general rules, however, in the absence of the suspect. If in the course of the proceedings the interests of the suspect are represented by a defender, all procedural and investigative actions are carried out with his/her participation. If the defender is absent, the investigating authority discloses the invitation of the suspect to conduct investigative actions on the web resources of the law-enforcement agency, official publications, thus the suspect is considered to be notified of the said measures.

After the investigation, the prosecutor and the investigator complete it in the forms provided by the CPC of Ukraine.

The analysis of these provisions in their systemic connection with other procedural rules, enshrined, among others, in chapters 24 and 24^1 of the CPC of Ukraine, makes it possible to conclude that in the main a special pre-trial investigation ends with an appeal to a court with a criminal act. At the same time, in the presence of the reasons given in pp. 1, 2, 3, 4, 5, 6, 8 part 1 art. 284 of the CPC of Ukraine, the possibility of the prosecutor's decision to close the criminal proceedings and the change of the special regime of pre-trial investigation into the general if the suspect in respect of which he was detained or voluntarily appeared to the pre-trial investigation body provided for in part 5 art. 297^4 CPC of Ukraine.

This is also indicated by the results of the practice of the criminal justice bodies. Thus, during 2015 and 2016, pre-trial investigation authorities of Ukraine conducted a special pre-trial investigation in 338 criminal proceedings against 596 persons, which resulted in 307 indictments against 341 suspects sent to court, from which 16 criminal cases were considered by courts in respect of 18 persons with extradition convictions. According to the results of the trial, in this category of criminal proceedings no acquittal was imposed, and they were not closed for rehabilitation reasons [8].

Conclusions

Summarizing the above, it should be noted that the special pre-trial investigation is an independent institution of criminal proceedings with a special procedure of application and specific features. Despite the novelty and short time of existence in criminal proceedings, it filled the gap, which required a solution to this group of criminal procedural legal relationships. However, state practice is still being developed and there is no single understanding of the law enforcement of this institution among scientists and practitioners. Since, on the one hand, such a mechanism simplifies the procedure and complicates on the other. Yet, as the practice of special investigation shows, it is a functioning institute that successfully and effectively used by prosecutors in criminal proceedings.

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Shadow Economy and Crime in Ukraine: Features of Mutual Effects

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Abstract. *This article deals with the definition of the peculiarities of the mutual influence of the shadow economy and crime in Ukraine. In particular, the author determines the main segments of economic relations, which are closely connected with shadow economic activity and criminal demonstrations.*

Keywords: *shadowing of economy; shadow economy; criminalization of the economy; national security; legalization (laundering) of incomes, obtained in a criminal way; state material reserve; corruption; fake entrepreneurship; raiding.*

Problem statement

At the present stage of Ukraine's development, the shadowing of the domestic economy becomes especially urgent, as it is a significant threat to the national security of the country in the economic sphere, hampers the socio-economic development of the state. In particular, according to section 3 of the Strategy of National Security of Ukraine, one of the topical threats to the national security of Ukraine is the high level of "shadowing" and criminalization of the national economy, as well as the criminal-clan system of distribution of public resources [1].

The spread of shadow relations in the economy leads to the criminalization of economic processes and the widespread corruption. In our opinion, in particular with crimes committed in the sphere of shadow economic activity are connected such crimes, which are committed in sphere of economic activity as legalization (laundering) of incomes, obtained in a criminal way, false entrepreneurship, misuse of budget funds, fraud with financial resources, tax evasion, illegal reimbursement of value added tax, other crimes of economic and corruptive nature (in particular, obtaining illegal benefits, illegal enrichment, abuse of influence, production and sale of counterfeit alcoholic beverages, tobacco products, medicines and medical products, plant protection products, illegal sale of agricultural land, unauthorized occupation (seizure) of land, raiding, etc.). The shadowing of the economy in Ukraine is primarily due to the concealment of cash from taxation and subsequent transfer to cash; conducting business without proper registration (fictitious companies); conducting non-commodity operations.

The shadow economy is not isolated in society, but is the basis for the commission of a number of property, service and economic crimes.

Analysis of recent research and publications. A number of domestic scientists in the field of criminal law and criminology addressed the problem of counteracting the criminal manifestations of a shadow economy: P. Andrushko, A. Bandurka, V. Borysov, I. Danshyn, O. Dolzhenkov, E. Dydorenko, O. Dzhuzha, V. Hlushkov, V. Holina, A. Horshchak, E. Fesenko, V. Ivanov, O. Kalman, M. Korzhanskyi, V. Lykholob, H. Matusovskyi,

P. Matyshevskyi, M. Melnyk, P. Melnyk, V. Navrotskyi, M. Panov, V. Popovych, V. Shakun, V. Stashys, V. Tatsii, I. Turkevych, S. Yatsenko, A. Zakaliuk, V. Zelenetskyi.

Significant contributions to the development of the conceptual foundations of criminal legal counteraction to criminal demonstrations in the shadow economy were made by such well-known scientists of the near abroad as R. Akutaiev, V. Burlakov, A. Dolhova, O. Hurov, I. Karpets, N. Kuznetsova, V. Kvashys, V. Lunieiev, B. Volzhenkin.

Despite the considerable number of publications devoted to the problem of shadow economy by representatives of economic, legal and managerial sciences, in numerous works of prominent scholars in this field are not sufficiently worked out the issues of identifying the features of mutual influence and the problems of the correlation of the shadow economy and crime, in particular, in Ukraine, which necessitates further scientific research in this direction.

The purpose of article is to consider the main segments of economic relations, closely related to shadow economic activity and criminal demonstrations.

Presentation of the main research material. Shadow economic relations have become widespread in such industries as agriculture, fuel and energy complex, banking, mining.

That is, the growth of the shadow economy covers all spheres of social production: property relations; production, distribution, exchange and consumption of the produced product; financial and banking activities; the sphere of public administration; foreign economic activity [2, p. 111].

The main institutions of the shadow economy, which accumulate significant amounts of financial resources, include fictitious financial and economic transactions and the illegal transfer of cashless cash, shadow export-import operations, shadow outflow of capital, shadow investment, shadow employment, non-target use of budget funds, shadow payment for services of officials, corruption, etc.

According to the Ministry of Economic Development and Trade of Ukraine, in 2017 the highest level of shadow segment was recorded in the field of financial and insurance activities – 49% of the official gross value added (GVA) of this type of economic activity [3]. Despite the significant reduction, the level of shadow in the extractive industry remained rather high (44% of the level of the official GVA emissions of this type of activity), which is largely due to the high level of monopolization in the market under consideration [3]. The traditionally low level of shadow economy remains in agriculture, forestry and fisheries – 6% of the level of the official GVA level of this sector [3].

On the basis of the generalized materials of the Department of National Economy of the National Police of Ukraine and the State Audit Office of Ukraine, we will consider the main segments of economic relations (major areas and sectors of the economy), which are closely linked to shadow economic activity and criminal demonstrations:

1. *Agrarian sector*. This is primarily the "shadow" turnover of agricultural land in Ukraine, illegal non-transparent land allocation, raiding land grabbing and other offenses committed in the field of land allocation, circulation and use of land resources, in particular, related to illegal alienation and change in the purpose of land use.

The analysis of crimes committed in the field of land relations shows that most of the illegal encroachments are agricultural land. Today exist corruption schemes and mechanisms for the transfer of land ownership rights by passing the moratorium on the sale of agricultural land, widespread agricultural raidering.

According to expert estimates, the volume of "shadow" land market in Ukraine is over UAH 800 billion [4, p. 33]. At the beginning of 2016, the State Geocadaster estimated the "shadow" market of only agricultural land worth 5 billion UAH [5]. However, in 2017, according to the Association "Ukrainian Agribusiness Club" (UCAB), the "shadow" market for agricultural land will amount to 10–12 billion UAH [6]. For comparison: the budget of expenditures for the Regional Development Fund in 2017 amounted to 9 billion UAH.

2. *Alcohol industry, alcohol and tobacco production*. Production and sale of counterfeit alcoholic beverages, tobacco products, production of non-alcoholic alcohol, withdrawal of working capital of State Enterprise "Ukrspyrt".

In the absence of adequate control by the controlling and law enforcement agencies, there is an increase in the volume of illegal production and circulation of unlawfully manufactured cigarettes. At the same time, the volumes of illegal trade in tobacco products are practically not analyzed by the relevant state authorities. According to the materials of the control measure of the Accounting Chamber of Ukraine at the end of 2014, during the period 2012–2013, the shadow market of cigarettes reached more than 9% of the domestic market, while volumes of legal production of tobacco and tobacco products decreased by 10% [7]. Under these conditions, the reserve of revenues to the state budget in 2013, under the excise tax only, amounted to almost 1,4 billion UAH [7].

In addition, at the end of 2014, the Accounting Chamber of Ukraine emphasized that the shadow sector of alcohol production increased to 30–50% against the backdrop of a decrease during the period of 2011 – the first six months of 2014, the volumes of legal production of alcoholic beverages at 16,5% and wine products on 33%, which, as a result, does not provide an increase in payments from the excise tax on alcoholic beverages to the state budget [8].

According to the results of the state financial audit of the State Audit Office of Ukraine, the activities of the SE "Ukrspyrt" and its separate places of business activity, as well as enterprises belonging to the management of the Concern "Ukrspyrt", for 2015–2016 and the first quarter of 2017 revealed a number of schemes and operations, which can indirectly testify to the production of unpolished alcohol, the withdrawal of working capital of the enterprise [9, p. 17]. In particular, SE "Ukrspyrt" unreasonably transferred funds to questionable economic entities, which are currently absent from the actual and legal addresses, for supposedly delivered grain crops, fuel, etc.

According to the EU, Ukraine has become a leader in the production of illegal alcohol [10]. As the European Parliament points out, the domestic shadow market for alcoholic beverages reaches 60% and deducts about € 360 million from the budgets [10].

3. *Fuel and energy complex, including illegal production, import and circulation of illegally produced gasoline for motor vehicles and other petroleum products, illegal mining of mineral resources and use of mineral resources (use of natural resources).* So far, the state has not been provided with effective and efficient control over the volumes of production of motor gasoline for cars and the import of these products, which is the subject of taxation of excise tax. The share of petrol imported for automobiles in filling the domestic market is constantly increasing compared to the production of these products in Ukraine. As a result, Ukraine's dependence on imports of petroleum products from other countries has become critical. At the same time, the share of excise tax on petrol for motor vehicles in the general structure of tax revenues to the state budget is practically not increasing, despite the growth of volumes of imported petrol motor, indicating a large scale shadow oil market in the country due to the evasion of business entities from paying excise taxes.

According to the calculations of the auditors of the Accounting Chamber of Ukraine, volumes of the illegal motor gasoline market for cars in 2013 amounted to 35–38% of the total consumption of these products [11]. In 2014, the situation improved somewhat – the volumes of the illegal market decreased to 15–20% of the total volume of gasoline used for motor vehicles [11]. In particular, the analysis of data from Ukrzaliznytsia and the State Fiscal Service of Ukraine (SDFS of Ukraine) regarding volumes of imported gasoline for motor vehicles in Ukraine has shown that in 2013 rail transport imported this product by 602 thousand tons more than the customs clearance of gasoline by motorized customs authorities [11]. In general, due to illegal import into Ukraine and illegal production of gasoline for motor vehicles, the amount of losses of the state budget in the period under investigation from the non-receipt of excise tax on the said products was estimated at more than 5 billion UAH [11].

In addition, the state budget loses significant amounts of rent for the use of subsoil to extract oil from non-payment of sub-users of tax debt.

It should be added that due to inadequate monitoring of the conservation and effective use of forest resources in almost every region of Ukraine, the facts of illegal and unauthorized logging of forest resources have been established [9, p. 15].

The illegal extraction of amber is widespread in Ukraine.

4. *The sphere of the state material reserve.* Demenstrations of shadow economic processes in the field of the state material reserve, which are closely related to the commission of criminal acts in this area, are: documentary registration of non-commodity transactions for the pledging of material assets to the state reserve by the responsible custodians, namely the purchase by the State Reserve of third-party (often – fictitious) companies material values and the conclusion of contracts with these companies on the storage of these supposedly set material values without the actual availability of the latter; official negligence on the part of officials of state enterprises during the conclusion and execution of contracts with companies involved in the process of acquiring tangible assets into the state reserve, which leads to an unjustified increase in the cost of services of the latter; inefficient, misuse of material assets of the state reserve; realization (purchase) of inventories of the state reserve for underestimated (overpriced) prices; the artificial application of the bankruptcy procedure and the subsequent sale of an integral property complex of a state-owned enterprise, which was under the jurisdiction of the State Reserve, at a reduced cost; numerous unreasonable resale "on paper" by the responsible custodians of the State Reserve of material values transferred to these custodians by the State Reserve for storage.

The lack of proper control over the actual placement of tangible assets into the state reserve provides the opportunity for enterprises to carry out non-commodity transactions or, in fact, take over budgetary funds and lead to unnecessary reimbursement of costs for the preservation of material assets that, in fact, have not been set in the state reserve.

The most widespread offenses committed by custodians of the material assets of the state reserve are the untimely return to the state reserve of borrowed material assets, their unauthorized alienation (use) and sale.

In practice, often the custodians of the material assets of the state reserve are, in essence, fictitious, since they either are either eliminated or absent from the addresses, or actually do not act as custodians of the material assets of the state reserve.

There are facts when the responsible custodians of the state material reserve were absent not only at the legal address, but also did not submit financial statements to the DFS of Ukraine (that is, they ceased their activity) from the moment of receipt of funds from the State Reserve, which calls into question the fact of laying material values to the state reserve.

5. *The sphere of healthcare and the sphere of production (manufacturing), storage, sale, import of medicines and medical products.* In the pharmaceutical market of Ukraine common cases of sale of low-quality, falsified and unregistered medical products are widespread. There is no systematic control over the availability of taxpayers licenses for the right to make wholesale and retail trade in medicines. The facts of unjustified receipt of privileges by importers of medical products due to the incorrect classification of products under the codes of UKTZED in the customs clearance of these goods are not unequal. No necessary measures are taken to control the validity of the declared customs value of pharmaceutical products, which, in many cases, is overstated by 2 to 4 times due to mediation schemes.

In addition, in Ukraine are sold, according to various estimates, up to 50% of counterfeit medicines [12]. Most often counterfeit medicines, which are in daily demand and advertised on television and radio, include painkillers, antibiotics, psychotropic substances. In addition, it exists misleading labeling of medicinal products, their smuggling, the sale of substandard (substandard) and unregistered drugs and handicraft products or other means (including, for technical purposes) and therefore can not be used for treatment.

6. *Production of plant protection products (pesticides, agrochemicals)*. According to expert estimates and operational data of law enforcement agencies, about 20–25% of all pesticides and agrochemicals, other plant protection products used on the domestic market of Ukraine, are falsified, imported or repackaged illegally [13]. Thus, the proportion of counterfeit on the domestic market of plant protection products is striking – 30% of the total pesticide market [14]. At the same time, as experts point out, the entire market of plant protection products in Ukraine is estimated at $ 1 billion.

According to expert estimates, today every six out of ten packages of plant protection products are fake. At the same time, if 30% of them – obvious falsification, then 60% – contain dangerous substances [15].

Imported plant protection products make up about 95% of the legal market, but according to the Ukrainian Agricultural Association (UAA), almost half of the total market for plant protection products is in the "shadow" [16, p. 14].

In addition, today the implementation of falsification of plant protection products through the Internet becomes extremely large.

Criminals cover their illegal activities, using fake companies, falsifying accompanying documents. Most often they use methods of separate delivery of packaging components and the counterfeit product of plant protection.

Today, the most widespread offenses in the field of the circulation of plant protection products are the turnover on the market of end-of-life plant protection products, the production, re-packaging and distribution of counterfeit pesticides in Ukraine, as well as the contraband of counterfeit plant protection products.

7. *Banking activity: legalization (laundering) of incomes, obtained in a criminal way.* Due to the globalization of financial systems, international banking networks are being developed and electronic trading operations are spreading, which also has negative consequences in the form of creating favorable conditions for manipulating financial instruments to evade taxation and legalization (laundering) of proceeds from crime, in particular through transfer pricing [4].

In January 2018, the report of the Council of Europe's Special Committee of Experts on Mutual Measures to Combat Money Laundering and Terrorist Financing (MONEYVAL) on Ukraine stressed that "Ukraine faces significant risks in terms of money laundering through corruption and illegal economic activity, including fictitious entrepreneurship, tax evasion and fraud" [17]. The report states, in particular, that "the enormous size of the shadow economy, aggravated by the large-scale use of cash, makes the country particularly vulnerable. Among the common mechanisms for money laundering in Ukraine are so-called conversion centers, through which money flows from the real to the shadow economy and are used to transfer money into cash with further exportation from the country" [17].

Conclusion

Therefore, on the basis of the above, should be emphasized the importance of overcoming the various demonstrations of the shadow economy in many sectors of the economy, since the growth of the shadow economy is directly related to the growth of crime rates, in particular economic ones. The shadow economy is a direct threat to the economic security of Ukraine, which is one of the elements of national security. The shadow sector interdepends with economic and common criminal crime, and therefore needs to be taken into account when analyzing and making managerial decisions at the state level, both in terms of preventing crime, and in shaping forecasts and prospects for further economic development of the country. Ignoring this phenomenon can cause serious mistakes in determining the indicators and developing these predictions.

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Corruption Offence in the Field of Higher Education in Ukraine: Factors of Development and Directions for Prevention

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Abstract. *The causes of corruption offenses in the sphere of higher education are investigated and directions of combating corruption in this sphere are proposed.*

Keywords: *corruption offenses in the field of higher education; counteracting corruption.*

Problem statement

Despite the positive changes in national anti-corruption legislation, anti-corruption measures in the field of higher education need to be improved, in particular in terms of developing an integrated approach at the national level, as well as at the level of the institute of education, the educational process and the public.

Analysis of recent research and publications. During the existence of Ukraine as an independent state, monographs on anti-corruption issues were conducted by L. Arkusha, O. Hida, O. Lukomskyi, L. Melnyk, E. Nevmerzhytskyi, O. Novakov, A. Safonenko, S. Shalhunova, O. Tereshchuk.

Some issues of combating corruption and corruption-related offenses were reflected in the research of P. Andrushko, M. Bazhanova, Yu. Baulina, V. Borysova, V. Harashchuk, O. Hladun, O. Kalman, M. Kamlyk, V. Klymenko, O. Kostenko, O. Lytvak, M. Melnyk, M. Mykhailenko, V. Navrotskyi, V. Shakun, N. Yarmysh, Z. Zahynei, A. Zakaliuk, V. Zelenetskyi and others.

At the same time, beyond these and other studies, the question remains about the need to further study the factors that influence the commission of corruption offenses in the field of higher education and to improve ways of overcoming this phenomenon.

The purpose of the article is to study the factors of the occurrence of corruption offenses in higher education institutions during the educational process and fulfillment of organizational and administrative functions by officials who work in the field of higher education, in order to improve the directions of combating this negative phenomenon at the national level, at the level of Institute of Education and Initial Process.

Presentation of the main research material. After Ukraine chose the vector of integration development, aimed at joining the European Community, the state faced an urgent problem

of combating corruption in various spheres of society. In this regard, the priority measures for the authorities are primarily to overcome corruption in the state.

Therefore, in recent years, a number of anti-corruption legal acts aimed at counteracting corruption have been adopted in Ukraine. Also was changed the Criminal Code of Ukraine (CC of Ukraine) in the part of differentiation and strengthening of responsibility for the commission of corruption crimes.

However, a survey conducted in September-October 2017 by Ilko Kucheriv Democratic Initiatives Foundation and Company "Ukrainian Sociology Service" showed that almost half of the population, 44% – estimates corruption as the most serious problem in Ukraine. Among those people who during the last year faced corruption, the majority (51%) did so in medical institutions, in higher educational institutions (24%), in local authorities (about 15%) [1].

The aforesaid shows that counteracting corruption in the sphere of higher education in the Ukrainian society is still very relevant. Fighting corruption in higher education is an urgent problem today. In society, especially among young people was formed a cult of money and power, and not a cult of reason and knowledge. This is evidenced by sociological research conducted by Ilko Kucheriv Democratic Initiatives Foundation and Company "Ukrainian Sociology Service" in December 2016. Thus, among the most serious problems of Ukrainian higher education is the corruption of the teaching staff in higher education institutions (HEI) (37%, whereas in 2015 – 50%) [2].

Therefore, the effectiveness of the fight against corrupt manifestations is impossible without a well-grounded analysis of the causes of corruption and a clear understanding of the essence of this phenomenon.

The emergence of corruption offenses in HEI at the level of the educational process can be divided into three contingent stages:

1) *entering* (this problem was partially solved by the introduction of an external independent evaluation in 2008). However, the basis for corruption was the calculation of additional points for future entrants for the republican olympiads and student work performed in a competition held by the Small Academy of Sciences of Ukraine;

2) *educational process* – the most widespread and most uncontrolled stage of spreading and prosperity of corruption in HEI.

The analysis, which was conducted in 2012 showed that corruption actions during the learning process in HEI faced 74,6% of respondents, including in defense diploma – 23,3%, to prevent the deduction from HEI – 22,9%, when deciding on the postponement of the session, its premature delivery, obtaining permission to re-arrange an item – 11,5% of the respondents. The following tendency is threatening: the number of students faced with corruption by the teachers or the administration of EIE increases according to the year of study [3];

For example, in the case of an oral face-to-face format, in which take place the examinations, there is almost no supervision of the evaluation process and its regulation. You can pay for reassembly or increasing ratings obtained in written exams, etc. Another example, which is often fixed, is offering students the opportunity to take paid "private lessons", which are obligatory for successful studying and obtaining a diploma. Another form of corrupt manifestations is gifts from student groups that have grown into the same conventional bribe form, as well as the purchase of textbooks or other publications by teachers and professors [4];

3) *the completion of the educational process, postgraduate training, academic and scientific degrees*. Today, in Ukraine, unfortunately, there are "prices" for obtaining scientific degrees.

The HEI workers can also commit corruption offenses not only at the aforementioned stages, but also during the performance of organizational and administrative and administrative-economic functions. In particular:

– the heads of the departments may receive remuneration for the placement of staff for admission to the postgraduate study and the successful completion of the candidate's examinations, the deans and their deputies – at the entrance exams;

– rectors, pro-rectors may assign state and extrabudgetary funds;

– administrative staff of deaneries and similar units – for false statements, certificates of training and education diplomas (this kind of corruption in the administration of academic institutions is a particularly complex and secret);

– other categories of teaching and support staff (methodists, technicians, secretaries, employees of HR departments, dean's offices, even librarians) – for performing mediation functions in the sale of control, laboratory, course and diploma.

At the same time, in the institutions of higher education there is a rather low level of public counteraction to corruption: the lack of adequate public control over the examination sessions, the passivity of student self-government in eliminating corruption, and lack of cohesive solidarity among teachers in counteracting abuse [4].

Cases of counteraction to corruption in the field of higher education from the part of law enforcement bodies, as a rule, relate to the lower level of administration of educational institutions, as rectors are not under the attention of law enforcement bodies, although in pedagogical collectives there are actively discussed instances of invisible nepotism and misuse of budget funds, namely higher management of the HEI. The only exception is the detention in 2013 of a bribe of P. Melnyk – the rector of the National University of State Tax Service of Ukraine, and in 2015 the opening of criminal proceedings against the head of the Ukrainian Center for Educational Quality Evaluation I. Likarchuk, two of his deputies and four persons for abuse of office and falsification of the results of external independent evaluation during 2014-2015.

However, Borodyanskyi District Court of the Kyiv Oblast, on December 5, 2017, acquitted the ex-rector P. Melnyk, and the Solomyanskyi Court of Kyiv in March 2017 returned the indictment against the employees of the Ukrainian Center for the Evaluation of the Quality of Education to the General Prosecutor's Office of Ukraine. A similar situation is also observed with respect to other criminal proceedings, where high-level officials are involved in sphere of higher education.

In this regard, we can identify a number of factors that contribute to the causes of corruption offenses in the HEI:

– imperfect legislative framework regulating education activities and anti-corruption activities in the complex (many provisions are such that they allow ambiguous interpretation of the law, a number of provisions are not fully coordinated with each other, and the need for its systematization and unification);

– underdevelopment of the modern labor market from the point of view of low demand for highly skilled specialists (lack of connection of studying and training in higher educational institutions with employment and wages);

– deformation of the value system – the general depreciation of morality as a necessary component that determines behavior; low value of self-development; the low value of education and knowledge, as a consequence, the loss of motivation: at the level of students before acquiring knowledge; at the level of the teaching staff – to the honest performance of professional duties;

– outdated educational process (conservative methodology of teaching and learning, lack of external assessment at the stages of studying in higher education institutions, subjectivity of assessment of students' knowledge (assessed by teachers who teach discipline, absence of external monitoring, state order and struggle among higher educational institutions for public places an order blocking student deductions);

– disappointment and apathy by teachers to the educational process due to low remuneration for work and the lack of professional growth opportunities (many teachers go to work in other fields or go abroad);

– lack of respect for teaching work by students;

– inactivity of students who have their reasons for corruption actions (availability of different ways of financing education, in particular, contracting education – less corrupt, budget – has a field for the development of corruption);

– unwillingness of some students to make efforts to acquire knowledge and to find ways to obtain a positive assessment of the exam, term paper, diploma, provoking the teacher's actions;

– students are silent about cases of giving and extortion of monetary or other material remuneration;

– low level of public control over the examination sessions and the passivity of student self-government in eradicating corruption [4, 5].

In addition, officials who work in the field of higher education and do not work in the HEI are left out of the way, in particular, it concerns the employees of the Ministry of Education of Ukraine, branch state authorities, whose sphere of management includes institutions of higher education (Ministry of Defense of Ukraine, Ministry of Internal Affairs of Ukraine, Ministry of Health of Ukraine, Ministry of Infrastructure and others), authorities of the Autonomous Republic of Crimea, local self-government bodies, whose sphere of management includes institutions of higher education, persons who provide educational services under the contract, etc., which according to the Law of Ukraine "On Higher Education" also belong to the system of higher education of Ukraine [6]. The employees of these bodies control the work of institutions of higher education, issue licenses, carry out accreditation, distribute state funds, carry out state purchases, etc. Therefore, when performing these functions, there is a high probability of committing them with corruption crimes.

Thus, the valuation of the HEI activity is carried out, mainly on the quantitative indicators that the educational institution seeks to provide in any ways. For example, to report on the availability of areas, renting unnecessary and unfit for the organization of the educational process of the premises.

To achieve certain indicators among the teaching staff of candidates of sciences, associate professors, doctors of sciences, professors, they do their best to increase their number. Not a level of qualification and professional skills, and the presence of a scientific degree and a scientific rank determine the attitude of the teacher and his status in the HEI, which will not be fired even if there are significant shortcomings in the work, will forgive the acts of corruption, since without it it's impossible to pass accreditation.

Another problem of Ukrainian education is the lack of transparency and openness in the distribution of state budget funds among educational institutions. At the official level, corruption in education is fixed, mainly at the stage of public procurement [4].

Conclusions

Taking into account the above-mentioned overcoming of corruption in the sphere of higher education, it is necessary to carry out at different levels, in particular:

– on the national level – improvement of the normative base and implementation of the reform in the economic sphere of education;

– changes at the level of the institute of education – increase of remuneration for teachers, strengthening of the responsibility of the education worker for committing a corruption offense, elaboration of a clear program and plan of measures for combating corruption, etc.;

– the reform of the initial process – the introduction of new European forms of education, the implementation of impersonal forms of examination and examination, the introduction of external evaluation of the main subjects at certain stages of training, increase teaching, etc.;

– at the public level (student council) – initiation of regular meetings with higher education administration to improve the educational process, monitoring corruption risks directly by students, establishing cooperation with public organizations, etc.

This is also confirmed by the poll conducted by the Ilko Kucheriv Democratic Initiatives Foundation and Company "Ukrainian Sociology Service" in December 2016. Thus, according to the population, the first steps to improve the quality of higher education should be: combating all forms of corruption and dishonesty in higher educational establishments (bribes, writing off course papers and theses, etc.) – 44% (in 2015 – 59%), stimulating scientific (39% vs. 32% in 2015), salary for teachers – 37% (in 2015 – 38%), establishing cooperation with the best world universities – 35% or more linking teaching with the needs of the future profession – 33% [2].

Only an integrated approach of these and other measures, as well as the combined efforts of the relevant state bodies in the field of education, anti-corruption subjects, leaders and professors of higher educational establishments, the students themselves, as well as public organizations, will allow for effective work aimed at to overcome corruption in this area.

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The Problem of Defining the Concept of Subject of Safety in Road Transport

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Abstract. *In the article, on the basis of the analysis of scientific views of scientists and the norms of the current legislation of Ukraine, the author's definition of the concept of subjects of safety in road transport" was provided. It is substantiated that today in the legal literature there is a lack of scientific works devoted to the problems of safety in transport, including automobile. It is emphasized that in order to ensure qualitative changes and changes in the field of safety in road transport, it is important to develop a meaningful scientific and theoretical basis, which will allow to carry out expedient, timely, consistent and understandable steps towards improvement of this sphere of social relations.*

Keywords: *subject; subject of law; subject of legal relationship; public law; private law; security; subjects of safety in road transport.*

Problem statement

Since the declaration of independence in 1991, our state is trying to build a reliable, efficient and effective mechanism of state administration. To this end, the Concept of Administrative Reform in Ukraine was introduced in 1998. In particular, this document stated that the formation of a modern, effective system of public administration in Ukraine is necessary, since the current one is in general ineffective, it combines eclectically both the institutions inherited from the Soviet era and the new institutes that were formed during the period independence of Ukraine. This system is internally contradictory, incomplete, cumbersome and detached from people, and as a result, existing public administration has become a brake on socio-economic and political reforms [1]. The purpose of the administrative reform is the gradual establishment of a system of public administration that will ensure the formation of Ukraine as a highly developed, legal, civilized European state with a high standard of living, social stability, culture and democracy, will enable it to become an influential factor in the world and in Europe. Its purpose is also the formation of a system of public administration, which will become close to the needs and demands of people, and the main priority of its activities will be service to the people, national interests. This system of public administration will be controlled by the people, transparent, built on scientific principles and effective. The cost of maintaining the managerial staff will be adequate to the financial and economic state of the state [1].

Since the adoption of the above Concept and the initiation of administrative reform (which is happening today), it has already passed 20 years, and a number of its provisions regarding the problems in the system of public administration in Ukraine still loses relevance, which testifies to both their extreme complexity and their low the quality and effectiveness of the work of the entities that must ensure the implementation of the specified reform. One should not deny that a lot of our country has already been made to improve both the mechanism of state administration in general and its individual institutes. However, it should be noted that a number of important issues in this area have not yet

received a satisfactory solution. This situation is not due to the state's lack of attention to the issue, but due to the lack of proper scientific basis for constructive steps to resolve existing problems. As a result, the changes introduced and transformations often do not have the positive result that they were oriented to.

One of such important institutions of public administration, where more or less serious changes have only started to be introduced in the last few years, is the provision of road safety, which is due, above all, to the introduction of European standards for transport safety. M. Noniak noted in this connection that, in the course of 20 years, in Ukraine there was almost no proper control over transport safety, the introduction of which is one of the European obligations of our state [2]. In order for the institute to be reformed, it should be based on a thorough and meaningful scientific elaboration of its main aspects.

Analysis of recent research and publications. Problems of safety of transport in their works paid attention: S. Azarov, I. Bulhakova, O. Chornomaz, E. Demskyi, V. Hizhevskyi, Yu. Marchenko, V. Razvadovskyi, S. Rudenko, O. Sokolov, L. Svystun, H. Sytnyk and others. Paying tribute to the scientific work of these and other researchers in this field, it should be noted: firstly, some of them are outdated and do not fully correspond to the realities of transport; and secondly, a number of works relate to economic-legal and civil-law aspects, and not administrative-legal, that is, managerial ones. In addition, it should be noted that the transport industry is comprehensive and involves carrying out state policy in several general directions – automobile, railway, electric, sea, river transport, etc. Management of each of them requires separate scientific and theoretical elaboration, since they have both common and specific features.

The purpose of the article is to clarify the essence of the concept of "subject of safety in road transport".

Presentation of the main research material. Any social activity, regardless of its forms and (or) directions of implementation, presupposes the obligatory presence of the subject, which, in fact, carries out, acts as its source. Activities, as noted by G. Dvoretska, is a manifestation of human activity in order to change or transform the elements of the world, the consciousness of the person himself. It is always characterized by purposefulness, consciousness, because its subject can be only man [3]. That is why, in the general sense, the term "subject" is associated with a person, an individual, a person who conducts some kind of practical and (or) cognitive activity, and, accordingly, is opposed to the object of such activity. In the literal translation from the Latin language, the term "subject" ("subjectum") means "one that underlies" [4, p. 553]. In the philosophical dictionary and encyclopedic literature, the category "subject" is interpreted as: the carrier of substantive properties and characteristics that determine the qualitative features of the object; endowed with the will and consciousness of a person who actively acts and knows; an active component of the cognitive relation, the opposite of the recognizable reality – the object; carrier of subject-practical activity and knowledge – the source of activity directed to the object; an individual as a carrier of any properties [5, p. 439]

Like any other organizational and managerial activity, ensuring safety in road transport takes place within the appropriate legal field, and therefore, the person performing it are subjects of law and the relevant legal relations. For the sphere of law, the concept of "subject" is one of the main, which is usually used as part of such conceptual and terminological constructs as "subject of law" and "subject of legal relationships". Yes, O. Skakun writes that the subjects (participants) of the legal relationship – individual or collective subjects, which, based on legal norms, use their legal personality in specific legal relationships, that is, implement the subjective rights and legal obligations, powers and legal responsibility. To become the subject (participant) of the legal relationship, you must be a subject of law that is to have a personality [6, p. 394]. M. Marchenko under the subjects of law understands individuals or organizations in which the state recognizes the ability to be the bearers of subjective rights and legal obligations [7, p. 591]. From the position of V. Averianov, the subjects of administrative law determine – they are participants in social relations, which

have subjective rights and fulfill the legal (subjective) responsibilities, established by administrative and legal regulations [8, p. 189]. The scientist emphasizes that it is very important to see the difference between these concepts – the subject of administrative law and the subject of administrative legal relations. After all, the subject of administrative law, has only a potential ability to enter into a legal relationship. In a particular case, he may not be part of them [8, p. 189]. E. Matusov notes that the concept of "subjects of law" and "subjects of legal relations" are in principle equivalent, but it should be borne in mind that: a particular citizen as a permanent subject of law can not be simultaneously a participant in all legal relations; newborns, young children, mentally ill individuals, being subjects of law, are not subjects of most legal relationships; legal relationship – not the only form of realization of law [9, p. 482]. V. Protasov writes in his writings that the subjects of law are potential participants of the legal relationship, these are persons who can only be the bearer of legal rights and obligations. In turn, the subjects of legal relations – the subjects of law, which realized their legal personality and became participants in specific legal relations. The lawyer stresses that any subject of legal relations is always a subject of law (without this he simply could not become such), but not every subject of law – a participant in a particular legal relationship [10, p. 43].

Consequently, as in the general philosophical sense, in the sphere of law the subject is also the bearer of certain properties, characteristics, characteristics, but they are not intangible persons, but are given to it from outside the rules of law. That is, the subject of the right person becomes only because it recognizes it as the right due to the presence of its relevant, legally significant properties. That is why not only individual individuals, but also collective educations act in the right subjects. Recognized by the right ability (ability) of a person to be the subject (participant) of the relationship, to exercise directly or through his representative, subjective rights and legal responsibilities referred to as legal personality [6, p. 395]. Subjective – is the type and measure of the possible or permitted conduct of a person belonging to an entity, guaranteed or guaranteed by law and law, regardless of whether he is in legal relations with other subjects or not [11, p. 342]. The content of subjective law is expressed through the following powers: the right to own positive actions (right doing); eligibility for other actions (legal proceedings); eligibility of claim (law enforcement); the power to use social benefits (lawful use) [12, p. 388–389]. A legal obligation is also a form and a measure of conduct, but that is required by the subject in a particular situation. That is, duties, in contrast to the rights exercised by the subject at his own discretion, constitute a legally necessary behavior, the implementation of which is ensured by the force of state influence up to coercion. The content of the legal obligation consists of elements that are specific legal requirements for the obliged party to perform certain actions (active duties) or refrain from them (passive duties) – this obligation is an act; to respond to the legitimate requirements of the authorized party for their implementation – this is a commitment to implementation; to bear legal responsibility in the event of refusal to perform legal duties or improper performance of them, that is, contrary to the requirements of the legal norm – an obligation to be subject to restrictions or deprivation of benefits; not to interfere with the rightful party to enjoy the good that she received rightfully – this is an obligation not to hinder the contractor [12, p. 389–390].

Consequently, taking into account the above, we can conclude that the subjects of safety in road transport are collective and individual subjects of law, in which the current legislation imposes rights and obligations in the specified sphere. Individuals (officials, citizens, foreigners, stateless persons) act as individual entities. As far as collective entities are concerned, they are legal entities, public associations, political parties, etc. Analysis of the current legislation shows that the main subjects of safety in road transport are physical and legal persons of public law. Public law – a set of agreed norms, united in the field of law, regulating public (state, interstate and public) relations of subordinate entities with the help of an imperative method of legal regulation. Here the leading is the public interest [12, p. 295]. At

the same time, it is not necessary to reduce this provision exclusively to the activities of bodies and officials of the state, and not less important in this process belongs to the subjects of private law. Private law is a set of norms regulating relations that are not related to the exercise of public authority functions in the realization of private interests, with the help of a discretionary method. The subject of private law is the relationship associated with the realization of private interests [13]. In this regard, one should agree with the position voiced by O. Stepanov, I. Nahluk. They emphasize that the state of transport safety affects the fundamental interests and individuals, and society, and the state, the interests of all physical and legal persons involved in the operation of the transport complex. Therefore, issues of the strengthening of transport security can not only be of interest to public authorities, but should concern everyone and everyone. Only the only force will be able to provide stable and lasting safety, including in road transport. The state can not and should not solve this problem alone, because it requires significant material, financial and human resources. The public must actively participate in the task of ensuring transport security [14].

For a more detailed understanding of what constitutes the subjects of safety in road transport, it is necessary to determine the essence of the concept of "safety". Y. Surmin writes that security is a state of no threat; This is the state of the object in which it can not be caused material damage or harm; a state of stable existence (development) of an object, in which the probability of unwanted change in any characteristics (parameters) of its life (functioning) is small; acceptable level of danger (acceptable degree of protection against threats), depending on the cost of limiting the factors causing danger; the ability of an object, phenomenon or process to maintain its main characteristics (parameters), the essence of negative actions by other objects, phenomena or processes [15, p. 59]. V. Pasichnyk understands safety as such a state of protection of being, values and interests of the subject (object) from threats and dangers, in which the optimal conditions of his life, development and self-fulfillment are provided. The researcher notes that security is carried out by observing the necessary parameters (indicators) and norms, in which all existing processes take place in a stable and balanced manner. They are supported by a system of measures aimed at creating and maintaining safe conditions in which the danger is not present or minimized, and the potential risks and challenges do not pose a real threat [16].

Conclusions

Consequently, in view of the above, we can define the concept of "subjects of safety in road transport" as a system of bodies and officials of public administration, as well as private organizations and representatives of the public who, in compliance with the obligations imposed on them by the current legislation, and , taking advantage of the same (that is, legislation) the range of legal opportunities (rights), take measures of political-legal, organizational-managerial, educational-educational and other nature for maintenance of safety operation of the automobile transport sector, that is, that which does not endanger the life and health of a person and a citizen (both passengers and other persons), property, public safety and order, environmental safety, other important interests of individuals and legal entities, regardless of ownership forms , society and the state as a whole. The activities of these subjects are aimed at: firstly, the establishment of the most appropriate in terms of safety rules for the use of motor vehicles, the behavior in it; and secondly, to counter (prevention, prevention, termination) of unlawful behavior (offenses of an offense) in the specified sphere; thirdly, to prevent emergencies in the field of motor transport and to effectively eliminate the consequences of their onset; fourth, to ensure the restoration of violated rights, legitimate interests and compensation for damage caused by the onset of appropriate threats.

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To the Question of Signs of Objects of Intentional Murder and Intentional Grievoius Physical Harm in Case of Exceeding the Limits of Necessary Defence

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Abstract. *The article deals with the question of determining the features of the object of crimes envisaged by Articles 118 and 124 of the Criminal Code of Ukraine. The focus is on the direct object. The life of third persons can not be the object of the specified.*

Keywords: *excess of the limits of the necessary defense, the state of necessary defense, the direct object of crime, life and health of the person.*

Problem statement

In the course of an investigation into intentional murders committed in excess of the limits of the necessary defense (article 118 of the Criminal Code of Ukraine), an important circumstance to be proved in the criminal proceedings is the state of necessary defense. The results of empirical studies make it possible to state that investigators of the National Police of Ukraine during the investigation of this crime find it difficult to establish the state of necessary defense (89,5%), there is a need to provide forensic recommendations (74,1%). In recent years, the number of intentional murders committed in excess of the limits of necessary defense, which necessitates the use of reaction measures, is significantly increased. Thus, the comparative characteristic of the statistics of the Prosecutor General's Office of Ukraine for the years 2015, 2016, and 2017 shows that, in accordance with the Unified Register of Pre-trial Investigations (REDD), 34, 37 and 113 events were reported on the grounds of the crime provided for in article 118 of the Criminal Code of Ukraine. There were reported suspicions of committing a crime in 33, 37 and 108 cases; with the indictment sent to court 31, 36 and 106 criminal proceedings. During the six months of 2018, 72 cases of criminal proceedings were filed with the YRDD, 64 were reported, and 47 criminal cases were sent to the court [1].

Analysis of recent research and publications. The concepts relevant to determining the main moments of the object of intentional murder and intentional severe bodily injury in case of exceeding the limits of the necessary defense were researched in their works by such scholars as: Yu. Baulin, M. Bazhanov, O. Bodnaruk, H. Borzenkov, O. Dudorov, L. Husar, M. Isaiev, A. Istomin, S. Kelin, V. Kudriavtsev, N. Kuznietsov, O. Kvasha, O. Lupinosova, S. Miliukov, M. Moshenets, V. Osadchyi, A. Piontkovskyi, N. Plysiuk, A. Savchenko, M. Sharhorodskyi, V. Soloviov, N. Tahantsev, N. Yarmyshand other scholars.

The purpose of the article is to analyze the components of crimes envisaged by articles 118 and 124 of the Criminal Code of Ukraine, their objective and subjective features. This

is important because the crime is a legal basis for bringing a person who committed a crime to criminal liability and is the legal basis for the qualification of crimes [2, p. 58].

Presentation of the main research material. The correct solution to the issue of the object of the crime is important not only the theoretical but also the practical significance. The object of the crime is defined as that which the subject of the crime infringes, who is or may be caused by a crime with a certain harm.

Despite the rather high practical value, the more considering the heterogeneity of judicial practice on this issue, the definition of the object of the crimes provided for in articles 118 and 124 of the Criminal Code of Ukraine was not studied in the literature. In particular, in the works of various researchers you can find the following. "In the murder committed in excess of the limits of the necessary defense, the object of the crime is the life of the attacker" [3, p. 101]. The object of the excessive defense is "the rights protected by the rights of the person who committed an attack on public or individual interest" [4, p. 107.].

The notion of the object of a crime, as a social relationship, is enshrined in Article 1 of the Criminal Code of Ukraine. Public relations are quite diverse (socio-political, economic, ideological, etc.) and regulated in society by different norms – norms of law, norms of morality and customs.

O. Naumov proceeds from the fact that the theory of the object of the crime as a social relationship, protected by the criminal law, can not be considered universal, and believes "...possible return to the theory of the object as a legal good ..." [5, p. 78]. This theory, created at the end of the nineteenth century within the classical and sociological schools of criminal law, was supported and developed by M. Tahantic. This point of view is shared by A. Pashkovska, who writes: "...the object of a crime is the socially significant values, interests, and benefits protected by a criminal law, committed by a person who commits an offense and who, as a result of a criminal act, causes or is likely to be caused significant harm" [6, p. 64].

As rightly notes O. Lupinossova, the constructive sign of the concept of the object of the crime is seen at the same time and in the fact that it is violated by a crime, is exposed in the process of its commission, changes as a result of such influence, requires its criminal law protection, is harmful [7 , p. 175].

Some authors consider the object of the crime and the subject itself. "An offense causes or threatens to cause harm not to anything (benefits, norms of law, relations, etc.), but anyone and, therefore, as an object of a crime need to consider not something, but someone" [8, with. 29]. It is alleged "... that the object of any crime, and not only directed against the person, is the people who, in some cases, act as separate individuals, in others – as a kind of a set of individuals who have or do not have the status of a legal entity, in the third – as a society (society)" [8, p. 60].

In our opinion, such an understanding of the object of the crime contradicts and the position of the legislator, and does not meet the main requirement of the concept of the object of the crime – to determine why it is caused or may be caused by harm as a result of a criminal encroachment. This interpretation, as it were, changes the notion of object and object of crime, mixing here with the category of the victim.

N. Tahanets defined the object of a criminal act as a "commandment or norm of law, which found its expression in the scope of subjective rights protected by this norm of the interest of life" [9, p. 178]. It was noted that the norm of law in its vital manifestation, which directly encroaches on the perpetrator, represents two points: either it protects well-known interests that exist in the state as though independently; or she protects them only as a manifestation of the rights of the individual. In this regard, the object was meant by law-protecting interest [9, p. 144].

"...The general object of the crime is not a permanent system of social relations (which is given once and for all), but a mobile (changing) system, which depends on the criminal law (for example, in connection with the criminalization and decriminalization of socially dangerous acts, all system ... of public relations, which forms the general object of criminal law protection)" [10, p. 14].

The object of the crime is defined as that which the subject of the crime perpetrates,

and why the crime is or may be caused by a certain harm. Along with the object of the crime should be allocated and the object of the crime, which acts as an optional feature of the crime. The subject of the crime should be considered any things of the material world, with certain properties of which the criminal law links the presence in the actions of a person of a specific composition of the crime. The subject of crime as an independent sign of crime is always associated with the object. It is the object and object of the crime in aggregate form an independent element of the crime. However, unlike the object of a crime, which is a mandatory feature of a crime, an object is an optional feature.

The subject is different from the object and the fact that it is not always harmed. If the damage caused to the object is always social in nature, then the object of the crime as a result of a socially dangerous attack, first of all, causes physical damage, which, in turn, causes a certain negative social change in the object.

A. Piontkovskyi did not see any fundamental difference between the object and the subject of the crime. "If it's just a renaming of a direct object to an object of an attack, then essentially nothing changes, because the direct object is the object to which it affects. Therefore, to identify the subject as something directly affected by the perpetrator (property, human health, etc.), and, leaving this subject in the doctrine of the object, do not call it an object – it means merely unjustifiably to change the previously established and more correct terminology" [11, p. 119]. Adhering to the idea that any crime directly or indirectly impinges on social relations, A. Piontkovskyi did not object to the allocation of the general, generic and direct object of the crime. He considered it permissible to give public relations the role of only the general and generic object of the crime, but only not that which is usually designated as direct. Since in the concept of this author the direct object is the object of influence that can be perceived (property, health, etc.), it turns out that the proposed A. Piontkovskyi's decision did not substantially substantiate the question, but denied the thesis of social relations as the object of a crime.

In this concept, there is no reason at all to distinguish between the object and the direct object of the crime. The commission of a crime in it agrees with the act of direct influence not on itself the social relations, but on the fact that, according to the author, one can directly perceive (property, health, freedom, etc.).

First of all, it should be noted that causing a deliberate murder or deliberate severe bodily injury in case of exceeding the limits of the necessary defense by its nature and socio-legal nature are the privileged crimes.

particular attention deserves the provision that the crime, stipulated by Article 118 of the Criminal Code of Ukraine, refers to a crime of minor gravity. The sanction of this article in comparison with other sanctions of articles of Section II of the CCU, which provides for the responsibility for the murder, provides corrective labor for up to two years, restraint of liberty for a term up to three years or imprisonment for a term up to two years. This sanction is even less than the sanction of article 119 "Murder through negligence", according to which a murder committed through negligence is punishable by restraint of liberty for a term of three to five years, or imprisonment for the same term.

That is, in fact, the legislator provides for a case in which a person, having committed "intentional murder" in excess of the limits of the necessary defense, is less responsible than the person who committed the "murder through negligence". This, of course, requires a certain correction of such a situation by the legislator. When determining the sanctions of the articles of this section of the Criminal Code of Ukraine, the legislator should approach this in a comprehensive and systematic manner, taking into account, in particular, the social danger of each crime foreseen by him and the fact that today Article 119 of the Criminal Code of Ukraine is the only one that provides for responsibility for murder through negligence.

The system of crimes against life A special part of the Criminal Code of Ukraine is a set of criminal law that establishes the list and legal features of acts dangerous to the individual, society and state and have a direct object of encroachment on human life. Deprivation of human life is thus recognized as an objective basis of criminal responsibility. Section II of the Criminal Code of Ukraine "Crimes against life

and health" includes the following crimes that directly encroach on life: murder (articles 115, 116, 117, 118 of the Criminal Code of Ukraine); infliction of death by negligence (article 119 of the Criminal Code of Ukraine); bringing suicide (article 120 of the Criminal Code of Ukraine).

In view of the above, it should be noted that the object of the crime envisaged by article 118 of the Criminal Code of Ukraine is the recognition of human life. It should also be noted that the right to life in modern Ukrainian legislation is considered as an element of the general civil capacity of an individual arising from a person from the moment of his birth (article 252 of the Civil Code of Ukraine). Article 6 of the Law of Ukraine "On the Protection of Childhood" states that "every child has the right to life from the moment of its determination as a live-birth and viable according to the criteria of the World Health Organization" [12, p. 20]. Life can be characterized as higher non-material good, which arises from the moment of separation of a viable child from the mother's body and continues throughout the period of functioning of the brain.

Consequently, in contrast to other crimes against life, the direct object of the crime under consideration (article 118 of the Criminal Code of Ukraine) is the life not of everyone, but only of those who encroached upon the rights and interests of other persons protected by law. At the same time, the criminal law protects the person of the attacker only in the case that those who are defending allowed to exceed the limits of the necessary defense, which was expressed in the deprivation of life of the attacker. In the light of the provisions of the current wording of article 36 of the Criminal Code of Ukraine, only the life and health of the assailant, whose attack was not accompanied by the use of violence dangerous to the life of the defending person, or other persons, can act as the object of exceeding the limits of the necessary defense.

Agree with A. Istomin, who emphasized that the murder of man – is not only the deprivation of his life as a biological being, but at the same time and the destruction of the totality of social relations that make up its essence [13, p. 111]. The immediate object of the analyzed crime is the life of a person who committed a socially dangerous attack prohibited by a criminal law. In this regard, in our view, a false one is the point of view of S. Tasakov, according to which the object of this crime is the human right to life [14, p. 16]. Not right, but human life ends after a criminal encroachment.

The conditions in which the attacker is deprived of life can't be compared with those in which a simple or qualified assassination takes place. Some authors believe that the first victim becomes a protected person, and she, while protecting her rights, hurts another person. Such a position, according to the remarkable remark of Professor V. Kvashis, on the scale of values determined by the fact that the right to physical integrity of the attacker "compromised" and to some extent derived from under criminal law [15, p. 134]. In turn, the right to cause harm to the offender can't be considered "not right" on the grounds that, in its essence, "it is directed not against social values, but on the contrary – acts as a means of protecting them".

Thus, the legal status of the attacker, who turned out to be the object of defensive action, is double. On the one hand, his life, health, will, property and other interests in certain cases fall out of the protection of the criminal law, and the reason for this is the commission of a socially dangerous encroachment. On the other hand, the life and health of the attacker are subject to criminal law protection, if the person who is defending, as a result of violation of the established rules of exercising the right to the necessary defense goes beyond the allowed protection, in connection with which his defensive actions acquire the character of an unlawful socially dangerous attack.

The object of intentional murder when exceeding the limits of the necessary defense can only be relations with the protection of the life of the attacker, and not relations with the protection of other rights and interests that belong to him.

The object of this deliberate murder can't be the lives of third parties. It can't be considered as a deliberate murder in excess of the boundaries of necessary defense in the defense against a socially dangerous assault on the attacker, but to another person who is mistaken for the attacker, for example, a citizen standing next to the latter and not taking part in the attack. In this case, the crimes stipulated

by article 118 of the Criminal Code are absent. Such a murder should be qualified as a careless murder, even if it represented an excess of defense, provided that similar damage was done to the attacker. The rules of the necessary defense to such actions may only be applied if the defender's defect is apologetic, that is, the victim has committed any act that was mistaken for the attack, and because of the situation, the defendant was not knew and could not know that this person was not involved in the attack.

We can't, in the framework of this study, draw attention to the fact that article 118 of the Criminal Code of Ukraine contains one more case of legal protection – a deliberate murder in case of exceeding the measures necessary for the apprehension of the offender. It should be noted that the problem of the application of this norm does not lose its relevance since the adoption of the current Criminal Code of Ukraine.

The legislator equated in one article of the Criminal Code of Ukraine the significance of two different circumstances that exclude the crime of an act, since the detention of a person who committed a crime is quite independent and difficult to apply the circumstance that excludes the crime of an act along with the necessary defense. Part 1 of article 38 of the Criminal Code of Ukraine states that the criminal actions of the victim and other persons not directly after the commission of an attack aimed at apprehending the perpetrator of crime and its delivery to the relevant authorities are not recognized if it was not allowed to exceed the measures necessary for the detention of such a person.

The detention of a person who committed a crime as a circumstance precluding the crime of an act is determined by the current CC of Ukraine too widely. Thereby, criminal acts of not only the victim but also other persons aimed at apprehending the person who committed the crime and bringing it to the appropriate authorities immediately after the assault is not recognized. This provision is intended to ensure the rights and freedoms of the person who has been attacked and serves as a guarantee of their restoration through further administration of justice.

From the disposition of article 118 of the Criminal Code of Ukraine it follows that deprivation of life of the offender during his detention, if the necessary measures for this measure were not exceeded, may be legitimate. However, scientists rightly point out that article 38 needs to be amended to eliminate this possibility. The argument is that the person who committed the crime can't even be deprived of life under the court's decision, since the death penalty in the Criminal Code of Ukraine does not exist. Moreover, it is impossible to allow death in the custody of a perpetrator to be brought to the appropriate authorities. However, for the time being, the law still allows it (of course, subject to the conditions laid down in article 38 of the Criminal Code of Ukraine). In the scientific literature there is a point of view that the deprivation of a person's life in connection with her detention is always in excess of the measures necessary for this detention, according to article 118 of the Criminal Code of Ukraine. Unfortunately, this is not really the case. Indeed, in the disposition refers not to "murder while apprehending the offender", but about the murder in excess of the measures necessary for detention. One can only hope that the legislature will correct the situation over time and formulate the article in such a way that there is no doubt that the law does not allow deprivation of life of a person in the situation under consideration [16, p. 59].

If for citizens the defense is a subjective right, then for the employees of the internal affairs bodies the protection of the interests of the state, society, as well as the interests of citizens is a duty of duty. The right to necessary defense in accordance with article 36 of the Criminal Code of Ukraine, police officers possess on an equal footing with all, without exception, citizens. The actions of citizens, police officers, servicemen and other persons performing official duties aimed at preventing a socially dangerous attack, while complying with the requirements of the law, do not include the crime. Only if the conditions of the lawfulness of the necessary defense are not met, a person who has been protected from a socially dangerous attack, is subject to prosecution.

In addition, the basis for the detention of a person is "the commission of a crime". This is a purely formal reason for the detention of a person, since the commission of any socially dangerous

attack is not yet grounds for the use of violence against the person who committed it. A person performing detention actions must be convinced of the crime committed and realize that the delinquent is delayed, and not the other person. Confidence must be based on the evidence of the crime and the person who committed it. In the event that the victim is conscientiously mistaken in relation to the crime of the perpetrator or the offender, the question must be decided on the rules of the imaginary defense.

However, in our opinion, the person who is detained in the law as a criminal is not entirely correct. A person is found guilty of committing a crime and can't be subjected to criminal punishment until her guilt is proved in a lawful manner and established by a conviction of a court (article 1, article 62 of the Constitution of Ukraine).

According to the object of the crime, stipulated by article 118 of the Criminal Code of Ukraine, is the life of the perpetrator, and in Article 124 of the Criminal Code of Ukraine, the health of such a person.

The object of the crime, which involves responsibility for causing severe bodily harm in excess of the limits of the necessary defense, should be understood as an attack on the health of the attacker. Harm to health is caused by the forced, suddenly arising threat to life and health of a person who has recently attacked, and now is protected. It should be understood that the increased public danger of crimes against life is due to the fact that they commit irreversible consequences that are not subject to any compensation or reparation. So, for example, when a property crime is committed – the damage can be relatively easily recovered.

Conclusions

Summarizing the above said, it should be noted that the object of the crime envisaged by article 118 of the Criminal Code of Ukraine is the life not of every person, but only of those who encroached upon the rights and interests of other persons protected by law. In the context of this, it should be noted that it can't be considered as a deliberate killing or deliberate infliction of grave bodily harm in excess of the limits of the necessary defense in the protection against socially dangerous encroachment of death or serious bodily harm not to the attacker, and to another person who was mistaken for the attacker, for example , a person who stands next to the latter and does not participate in the attack, in other words, has nothing to do with socially dangerous actions. In this case, there is no crime in accordance with articles 118 and 124 of the Criminal Code of Ukraine. When speaking about such a murder, it is important to note that it should be qualified as a careless murder, even if it is an excess of defense, provided that the attacker is similarly harmed. The rules of the necessary defense to such actions may only be applied if the defender's defect is apologetic, that is, the victim has committed any act that was mistaken for the attack, and because of the situation, the defendant was not knew and could not know that this person was not involved in the attack.

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Conceptual Directions of Penitentiary System Reforming: Ukrainian Experience

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Abstract. *The sphere of implementation of international standards in the field of functioning of penitentiary systems and their implementation in the strategic documents defining the conceptual principles of the reform of the penitentiary system of Ukraine is explored. The main directions of reforming the system of execution and serving of sentences are determined, and the peculiarities of their implementation at the present stage of the state development of Ukraine are revealed, which can be taken into account by the European community in the implementation of the reform processes in this area.*

Keywords: *punishment; penitentiary system; reforming; Council of Europe standards; the principles of reforming the penitentiary system.*

Problem statement

Ukraine's implementation of the course for integration into the European Union necessitates the modernization of many aspects of public administration in various spheres of social relations and the harmonization of national norms and rules with European standards of governance of state institutions. In this context, the reform of the penitentiary system and its organizational and legal support with the use of positive foreign experience to improve and improve the efficiency of penitentiary institutions, humanization and optimization of criminal-enforcement procedures and the formation of "zero tolerance" for human rights violations is essential.

The current stage of the modernization of the national penitentiary system requires the improvement of the current criminal-executive legislation to ensure the effective operation of investigative detention facilities, penal institutions and institutions, as well as bringing the protection of the rights of persons serving sentences in line with international standards and rules.

The purpose of the article is to review international standards in the field of functioning of penitentiary systems and their implementation in strategic documents defining the conceptual framework for reforming the penitentiary system of Ukraine.

Presentation of the main research material. Paragraph 11.7 of Opinion No. 190 (1995) of the Parliamentary Assembly of the Council of Europe (PACE) on Ukraine's accession to the Council of Europe indicated that the responsibility for the management of prisons and the enforcement of judgments should be transferred to the Ministry of Justice by the end of 1998. Paragraph 13.7 of Resolution 1466 (2005) of the PACE states: "(With respect to respect for the rule of law and human rights, the Assembly calls on the Ukrainian authorities) ... to end the transfer

of the State Department for the Execution of Sentences to the Ministry of Justice" [1]. In this way, the Council of Europe has recommended that the penitentiary and the system, as a whole, be transformed into a civilian agency, inter alia, as a prerequisite for the introduction of dynamic security in penitentiary institutions and better enforcement of human rights in practice.

Today, the reform of the penitentiary system is one of the priorities of the Ministry of Justice of Ukraine. The reform is envisaged by the Medium-Term Plan of Priority Actions of the Government by 2020, approved by the Resolution of the Cabinet of Ministers of Ukraine dated April 3, 2017 No. 275-p [2], the Strategy for the Reform of the Judiciary, the Judiciary and Related Legal Institutions for 2015-2020, approved by the Presidential Decree of 20 May 2015, No. 276/2015 [3], the Concept of Reformation (Development) of the Penitentiary System of Ukraine, approved by the Cabinet of Ministers of Ukraine from September 13, 2017 No. 654-p [4] and other strategic and program documents.

The above Concept of reforming (development) of the penitentiary system of Ukraine is a program document that establishes general principles for the further reformation and functioning of the penitentiary system in Ukraine.

The purpose of the Concept is to further reform the penitentiary system of Ukraine for the unconditional adherence to human and civil rights and the humanization of the criminal-executive mechanism, to establish consistency between the tasks and functions of such bodies, on the one hand, the structure and their number, on the other, and financial support, on the third, as the system has been financed in the amount of 40 percent of the needs during the years of independence.

For the reform of the penitentiary system and probation, a logical model (passport) of the reform approved by the decision of the Ministry of Justice of March 29, 2018 (Minutes No. 1/2018), has been developed, according to which strategic goals, operational goals and tasks of the reform were defined till 2021 [5] The logical model and subsequent planning of its implementation are developed jointly with experts from EDGE (Expert Support Program for Governance and Economic Development) in accordance with the best world-wide practice of results-The main tasks of the reform are:

– attracting new staff to the system at all levels – first of all, by raising wages;

– development of legislation in the field of operation of investigative detention facilities and penitentiary institutions in accordance with the legislation of the European Union;

– increase of operational efficiency of state enterprises in the penitentiary system at the expense of the creation of industrial associations according to the branch principle; procurement of ProZorro electron systems;

– construction of new investigative detention centers and penitentiary institutions in large cities of Ukraine in the framework of public-private partnership.

With the decision to liquidate the State Penitentiary Service of Ukraine, the administration of the Ministry of Justice of Ukraine involved 148 penitentiary institutions and investigative detention centers (113 criminal enforcement agencies, 12 detention centers, 17 penitentiary institutions with the function of investigative detention facilities, six educational colonies), 90 industrial and 11 agricultural enterprises of penitentiary institutions, 18 health facilities of the State Penitentiary Service, other institutions and institutions.

The results of the analysis of the filling of penitentiary institutions and investigative detention facilities indicate that during the past three years the number of persons serving sentences in penitentiary institutions has decreased by 1,4 times, and those who were held in detention centers increased by 1,2 based strategy-based planning.

At the same time, with a significant reduction in the number of convicts, the number of personnel of the colonies remained virtually unchanged, and in some of them exceeded the number of persons who held them.

There is also an outdated material base of the existing penitentiary institutions, most of which buildings and structures are in unsatisfactory condition, and some of them in an emergency, due to which the conditions for the imprisonment of prisoners and prisoners are not ensured: insufficiency of natural and

artificial lighting in the cells; the lack of forced ventilation and constant access to running drinking water; insufficient number of wash basins, sockets, drainage of water in toilets; excessive humidity and fungal wall chambers and the like.

One of the fundamentals of further reform was the further optimization of the existing network of criminal-executive agencies and investigative isolators, as well as their organizational and staff structure.

Among the main problems in this area should be the turnover of personnel associated with low wages of staff punishment bodies and institutions, low level of social protection of staff and pensioners penitentiary system, which affects the prestige of the profession and creates conditions for the emergence of corruption risks.

Thus, during the year 2017, 30 criminal offenses were committed by the personnel of the State Penitentiary Service. In addition, given the complex criminal structure of the convicted persons and those taken into custody, a complex of measures of operational and preventive nature aimed at documenting their unlawful conduct and neutralizing the negative impact on the state of the operational situation in penitentiary institutions and investigative detention facilities is necessary.

The level of technical equipment of penitentiary institutions and investigative detention facilities by means of security is low, which forces the heads of institutions to pay more attention to the organization of physical protection with the involvement of a significant number of personnel, rather than the application of modern engineering and technical means of protection and surveillance, security, information and telecommunication systems.

The existing system of execution of criminal sentences and pre-trial detention does not fully comply with the principles of humanism and respect for human rights and freedoms. Conditions for the detention of prisoners and detainees need to be in line with European standards. For example, today the buildings of investigative insulators that were built more than 200 years ago – 12%, from 100 to 200 years ago – 58%, from 50 to 100 years ago – 14%, from 10 to 50 years ago – 14% remain in operation. Given the long term of use of buildings, they are significantly worn out and obsolete, in the materials themselves, from which buildings are built, destructive processes continue, and wear and tear of engineering equipment networks leads to their failure to perform their technical functions.

As a result of active military operations in eastern Ukraine, some residential, administrative and social service facilities, as well as engineering and technical means for the protection of individual penitentiary institutions in Donetsk and Luhansk regions, have been damaged or destroyed.

The urgent issue is the provision of high-quality medical care to prisoners and prisoners: organization of treatment for people with tuberculosis or other dangerous infectious diseases, insufficient staffing of medical institutions by skilled personnel, and low level of provision of medical equipment. Consequently, convicts are not able to receive qualified medical care, which leads to an increase in the incidence and mortality among them.

The solution of these problems will help to eliminate the reasons that cause the appeals of citizens of Ukraine to the European Court of Human Rights on improper conditions for the detention of prisoners and persons taken into custody, their medical, logistical support, which, first of all, entails additional expenses of the state for payment compensations and causes the formation of a negative image of Ukraine in the world community.

Further reform of the penitentiary system is supposed to be carried out in such directions.

1. Improvement of the legislation regulating the penitentiary system

In connection with this, there was a need for the drafting of the Law of Ukraine on the penitentiary system in which the issues of optimizing the structure of the penitentiary system would be simplified, simplifying the management of the totality of its units, which would make it more flexible, operational and effective, introduce new approaches to the promotion of its staff, the introduction of effective management of the enterprises of penitentiary institutions, and the implementation of measures aimed at

improving the conditions of serving sentences and detention for detainees and persons taken into custody.

As of November 2018, the draft Law of Ukraine "On the Penitentiary System" (No. 7337) was considered at a meeting of the Committee on Legislative Support of Law Enforcement, which approved the decision to recommend to the Verkhovna Rada of Ukraine to adopt the Draft Law as a basis [6]. The bill is awaiting its consideration at the plenary session of the Verkhovna Rada of Ukraine.

2. Optimization of the structure of the bodies of the State Penitentiary Service, the system of functioning of penitentiary institutions and investigative isolators, the staffing of the said Service and increase the effectiveness of its activities in the context of the implementation of the new public administration policy

The Office of Penitentiary Inspections has already been set up within the structure of the Ministry of Justice of Ukraine, whose main tasks include the following:

– formation and implementation of state policy in the field of execution of criminal penalties in the organs and institutions of the State Criminal-Enforcement Service of Ukraine;

– monitoring of the effectiveness of the administrative activities of the inter-regional departments on the execution of criminal penalties and probation of the Ministry of Justice of Ukraine (interregional administration), authorized agencies on probation, penitentiary institutions and investigative detention facilities of the State Criminal-Enforcement Service of Ukraine (bodies and institutions of the State Internal Affairs Committee of Ukraine);

– organization of control over observance of human rights and citizen, requirements of legislation on execution and serving of criminal penalties, realization of legal rights and interests of convicts and persons taken into custody, and personnel in the organs and institutions of the State Internal Affairs Committee of Ukraine);

– organization of inspection of the organs and institutions of the Internal Affairs Committee of Ukraine regarding the state of effectiveness of their management activities and observance of human and civil rights during the execution and serving of criminal penalties;

– to exercise control over the observance of equal rights and opportunities for women and men during the execution and serving of criminal penalties in the organs and institutions of the DKVS of Ukraine;

– drafting proposals for the implementation of the comments and recommendations set forth in the reports of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of the UN Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and control over the state of their implementation;

– ensuring coordination of interregional departments and agencies and institutions of the Ukrainian SSR in accordance with the tasks entrusted to the Office of Penitentiary Inspections;

– organization of conducting official investigations on the facts of extraordinary events and committed crimes, violation of human and civil rights and freedoms during the execution and serving of criminal penalties in the organs and institutions of the State Committee for Internal Affairs of Ukraine;

– organizational and methodological support of interregional departments, bodies and institutions of the Internal Affairs of Ukraine for the protection of human rights and citizen during the execution and serving of criminal penalties, in accordance with the requirements of the legislation and in accordance with the principles enshrined in national legislation and international standards;

– ensuring interaction with ministries, other central executive authorities, institutions and organizations, scientific and educational institutions on the issues of the implementation of human rights and citizen in the organs and institutions of the State Committee on Internal Affairs of Ukraine;

– formation of requirements for the professional competence of personnel of the interregional department inspections units and preparation of proposals for its selection and training;

– ensuring interaction with observation commissions and public associations of public control over the observance of the rights and lawful interests of convicted persons in the

execution of criminal penalties in the organs and institutions of the State Internal Affairs Committee of Ukraine;

– implementation of international partnership in the field of observance of human rights and citizen in the execution and serving of criminal penalties.

In addition, to create a complete system of probation capable of ensuring a balance between public safety, crime prevention and crime prevention / rehabilitation of offenders, a single state agency "Probation Center" is created, with the submission of its authorized probation bodies, which will provide an opportunity to improve the organizational structure, mechanism the use of financial, material and technical conditions for the functioning of probation bodies for the effective use of tasks.

3. Optimization of the network of penitentiary institutions and their enterprises, ensuring their effective functioning and profitability (profitability) of production activity

In its 11th General Report (2001), the European Committee for the Prevention of Torture criticized the very principle of detainees placement in dormitories with a large number of places, because often holding in such hostels led to the hold in the cramped and harmful conditions [7]. In addition to the lack of privacy, the Committee also identified a high risk of intimidation and violence of individual prisoners and staff control issues. Moreover, proper placement of prisoners according to their individual risk became practically impossible.

During a visit to Ukraine in 2009, the Committee criticized collective detention, indicating the specific violations in connection with such detention in the Bucha Penitentiary. In the document "Residential space for prisoners in prison facilities: the standards of the European Court of Human Rights", the Committee concludes that, given the problems of collective holding in hostels, he has long been advocating the departure from multi-dwelling hostels in favor of smaller residential units [8].

The maintenance of semi-empty colonies with a low level of technical equipment and unsatisfactory material and technical facilities for sentenced prisoners requires the adoption of managerial decisions on their optimization. This would reduce the number of penitentiary institutions, reduce the large number of their staff, and release the resources allocated to re-equipping other institutions, which would ensure the establishment of appropriate conditions for the arrest of convicts.

In accordance with the resolution of the Cabinet of Ministers of Ukraine of June 7, 2017, No. 396, the Ministry of Justice of Ukraine decided to optimize the number of penitentiary institutions (bringing it to an economically justified level) by preserving 12 colonies and re-profiling one [9]. The passport for the reform of the penitentiary system and probation has already provided for the re-equipment of the buildings of structural units of penitentiary institutions for block placement of convicts in 70 state institutions.

At the level of the Concept for Reforming (Development) of the Penitentiary System of Ukraine, it is proposed to introduce modern information technologies in the activities of organs, penal institutions and investigative units, including by creating a comprehensive electronic register of convicts and persons taken into custody, as well as probation subjects.

The conceptual issue is the issue of ensuring the effective use of land plots and state property of institutions temporarily unused. The notion of efficiency should be determined primarily as a ratio of resources spent and the results obtained. In this regard, one of the effective ways to effectively manage state property is to study the issue of leasing it, the benefits of which may first of all be that the lease does not lead to a change of owner, so the ownership of the property remains in the state. Also, taking into account the possibility of carrying out current and capital repairs by the tenant, payment of utilities, it is also very important to reduce the costs of the owner (the state) for the maintenance of such property.

4. Improving the effectiveness of counteracting crime and ensuring law and order in the penitentiary system

In order to counteract the manifestations of corruption among the staff, increase the effectiveness of counteracting crime and ensure the proper law and order in penitentiary institutions and investigative detention facilities, it is necessary to ensure interaction

with law enforcement agencies in detecting, stopping and preventing crimes, strengthening control over the staffing of key positions in penitentiary institutions, investigators isolators, selection and training of candidates for appointment to these positions, to improve the work of the operational units for prevention and HIV principles for good governance crimes shoots and unauthorized places left serving sentence convicted and crimes related to illicit drugs.

One of the directions for further modernization of the penitentiary system should be the replacement of obsolete telecommunication equipment and communication facilities, the organization of round-the-clock video surveillance and the creation of a multi-level video monitoring system to reduce the impact of the human factor, optimize the protection of penitentiary institutions and investigative isolation units, prevent crime and violations of the punishment procedure. .

5. Ensuring the conditions of detention of detained persons and those convicted in accordance with the requirements of the European Penal Code, the creation of conditions of detention that do not violate the human dignity and the prevention of violations of the Convention for the Protection of Human Rights and Fundamental Freedoms

In order to create conditions for ensuring the observance of the rights and legitimate interests of convicts and persons taken into custody, bringing the conditions of their detention in compliance with the requirements of legislation and European standards is necessary:

– to fully implement the recommendations of the inspection bodies of international organizations in strengthening the guarantees of the protection of the rights and freedoms of persons serving in penitentiary institutions and investigative detention facilities;

– create an effective system for combating torture, cruel, inhuman or degrading treatment or punishment, as well as conditions for the prevention of ill-treatment;

– to improve the infrastructure of penitentiary institutions;

maximally involve public organizations in working with convicts;

– arrange reserve sources of heat supply for alternative fuels in all facilities using natural gas for heating, hot water supply and cooking.

In the future, special attention should be paid to the health care of convicted persons and persons taken into custody.

The necessity of paying special attention to preventive medicine was emphasized by the CRP in its Third General Report [10]. Thus, the task of medical services in places of deprivation of liberty is not limited to the treatment of sick patients only. They also bear responsibility for social and preventive medicine. Medical services in places of detention (who interact with other authorities in case of need) are required to control the organization of food (quantity, quality, preparation and distribution of food) and compliance with hygiene conditions (cleanliness of clothes and bed linen, access to cranes from running water, plumbing equipment), as well as to monitor the quality of heating, lighting and ventilation of the chambers. They also have to control the conditions of work organization and outdoor activities.

Harmful conditions of detention, overcrowding, prolonged isolation and lack of physical activity may result in the need for medical assistance to an individual, or any action by medical personnel against the prison authorities responsible for such a state of affairs.

The medical service in places of detention should regularly disseminate information on infectious diseases (especially those such as hepatitis, AIDS, tuberculosis, dermatological infections) both among inmates and among prison staff. If necessary, medical supervision of those persons with whom the prisoner has regular contacts (persons who are in camera with him, prison staff, regular visitors) should be carried out. With regard, in particular, to AIDS, then appropriate support should be given to the psychologist both before and after the examination (if necessary). Prison staff should be constantly trained on preventive measures and behavior with respect to HIV-infected people. Personnel should also receive appropriate instructions to prevent people from being discriminated against or for disclosure of confidential information.

The Committee noted that there is no medical evidence for the separate holding of a prisoner of HIV-positive who feels healthy.

Prevention of suicide is another issue that should be within the competence of medical services in places of deprivation of liberty, which should ensure proper awareness of this problem throughout the institution and provide for appropriate procedures.

Medical examinations upon arrival and the whole admission process should play an important role; Properly executed, such measures could identify at least some of those at risk and partly alleviate the anxiety that is common to all newly arrived prisoners.

In addition, the staff, regardless of what duties they perform, must be acquainted (which involves training in recognition) with signs of the threat of suicide. In this regard, it should be noted that there is an increased risk of suicide directly before and after the trial, as well as in some cases and in the period prior to dismissal.

An important comment of the CRPC is the recommendation that a person who can provide emergency assistance is permanently present on the territory of the penitentiary institution. This person should, if possible, have an officially certified nurse qualification. This rule should also be enshrined in a healthcare order that will provide more opportunities for emergency assistance in cases of force majeure that are not uncommon in such specialized institutions as penitentiaries, including at night.

Today, in order to ensure the rights of prisoners and detainees, the Ministry of Justice is planning to establish a state healthcare institution that will enable the reforms of the medical service of the penitentiary institutions and make the doctor independent of the head of the penal institution, which will promote impartial diagnosis and quality provision of medical care.

The next step should be to adopt a set of measures to transfer the function of providing medical assistance to the convicted and detained persons, from the Ministry of Justice of Ukraine to the Ministry of Health of Ukraine.

Conclusions

Thus, the conceptual directions of penitentiary reform in Ukraine are:

– improvement of the legislation regulating the penitentiary system;

– optimization of the structure of bodies that are part of the penitentiary system and increase the efficiency of their activities in the context of the implementation of a new public administration policy;

– optimizing the network of penitentiary institutions and their enterprises, ensuring their effective functioning and profitability (profitability) of production activity;

– increasing the effectiveness of counteracting crime and ensuring law and order in the penitentiary system;

– bringing the terms of detention of detainees and convicts in accordance with the requirements of the European penitentiary rules, creating conditions that do not violate human dignity, and prevent violations of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Their content and practice of implementation provides an opportunity to conclude that one of the main strategic objectives of the penitentiary system reforming is the observance of human rights in penitentiary institutions by creating conditions of treatment and retention in accordance with international standards.

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Security and Law Enforcement Activities: Correlation of Terms and Spheres of Criminal and Legal Protection

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Abstract. *On the basis of modern researches the definition of concepts of security and law-enforcement activity, their features and subjects is given. The author expresses his opinion on the necessity of the appearance of non-state law enforcement activities in Ukraine. It is emphasized on the need for comprehensive criminal law protection of both state and non-state security activities in our country. It is proposed to introduce appropriate amendments to the legislation that regulates the activity of the subjects of protective activity.*

Keywords*: security activity; law enforcement activities; law enforcement function of the state; security guards; private security activities; criminal law protection.*

Problem statement

In the scientific environment there is a rather lively discussion about the definition and correlation of the concepts of security and law enforcement activities. There is an urgent need for comprehensive criminal law protection of both state and non-state security activities in our country, which requires the introduction of appropriate changes to the legislation that regulates the activities of these entities.

Analysis of recent research and publications. This problem is considered by specialists in the field of civil, administrative, labor, criminal law and criminology, criminal procedural law. It is investigated in the works of V. Hryshchuka, M. Khavroniuka, Yu. Kravchenka, V. Kovalskoho, M. Mazepy, M. Melnyka, M. Rudenka, O. Tykhomyrova, Yu. Vedernykova, S. Yurka and others. But there is no unity in the views. The author in this article expresses his own opinion on this complex issue.

The purpose of the article is to determine the grounds for delimiting these two types of activities and to determine the limits of their criminal law protection.

Presentation of the main research material. In our view, security activity is a type of economic or one of the areas of law enforcement in the system of legal, organizational, economic, technological, physical and other measures that are carried out by actors with specific rights and responsibilities for the protection of life and the health of individuals and their property, property of legal entities or the state from unlawful encroachment, which are determined by laws, by-laws and civil law agreements.

Consider the concepts and features of law enforcement activities that are interpreted differently in science. Its subjects are also determined differently. At the legislative level, there is no concept of law enforcement.

In a broad sense, law enforcement (human rights) activities are understood as any activity aimed at ensuring human rights and freedoms

in the amount defined and enshrined in international legal instruments [1, p. 79].

In the narrow sense, law enforcement is understood as the activity of the state as a whole or as the activities of its special bodies for the protection and protection of those specific rights and freedoms of citizens (subjects of law), which are reflected and enshrined in the current national legislation [2, p. 42].

An analysis of the definitions of law-enforcement activity allows us to conclude that there are two main directions of interpretation of the latter. Representatives of the first of them define law enforcement as a type of police "force" activity aimed at countering offenses and other offenses. Therefore, these authors are included in the list of law enforcement bodies, mainly law enforcement agencies that counteract crime and administrative offenses, using police powers: arrest, delinquency, verification of documents, execution and removal of things that are prohibited or restricted, use of force and weapons, etc.

Representatives of the second – interpret it as a collective concept, which includes several relatively independent, but related activities: justice, prosecutorial supervision, pre-trial investigation, protection in criminal cases and cases of administrative offenses, provision of legal assistance, organizational support the activity of courts, the commission of notarial acts, etc. The main purpose of law enforcement activities in this approach is to protect human rights.

According to M. Melnyk and M. Havroniuk, only specially created state bodies deal with this activity. Law enforcement activities in the field of combating crime, in their view, include the use of coercive measures envisaged by law for those who commit socially dangerous acts, and measures to restore the rights and legitimate interests of legal entities and individuals that have been violated as a result of their commission [3, p. 26–27]. Need to agree with O. Tykhomyrov and Yu. Vedernikov, despite the diversity of scientists' views about the nature and place of law-enforcement activity, they are the only ones in recognition of her as a state-power activity, which is carried out in legal form and is directly related to the prevention and prevention of offenses [4, p. 168].

We believe that law enforcement should be seen as a kind of "force" of police activity. Law-enforcement activity stems from the law-enforcement function of the state. The main legal forms of the exercise of state functions include: law-making, law enforcement, law enforcement, constituent, controlling and supervisory. "The law-enforcement function is the direction of the state's activity, which expresses its essence at this historical stage, aimed at solving the main tasks of ensuring the protection of the constitutional system, the rights and freedoms of citizens, the rule of law and law and order, all regulated by the right of social relations, and is carried out in appropriate forms and special methods" [5, p. 68]. The law enforcement function of the state and law-enforcement activity should be distinguished. The function of the state is the main direction of its activity, which determines the activity of all state bodies, and law enforcement activities are only one, albeit main, form of the implementation of the law-enforcement function of the state.

The signs of law enforcement activities include: the focus on the protection of the rights and freedoms of citizens, the rule of law and the rule of law of all regulated by the law of social relations; is realized on the basis and in accordance with the law and, preferably, in the appropriate procedural form; when it is implemented, as a rule, legal means are used; carried out by specially authorized actors on a professional basis. The purpose of law enforcement activity is to: protect human and civil rights and freedoms; provision of public order and public safety; maintenance of law and order; realization of the rule of law principle. This goal is specified in the tasks. These should include: preventing violations of the requirements of the law, preventing an unlawful encroachment on human security; Detection and termination of offenses and abuses by law; in cases of committing crimes and other offenses – their prompt disclosure, establishment of guilty parties and bringing the latter to legal liability; preventing unwarranted allegations of innocence; overseeing the enforcement process; impartial enforcement of decisions envisaged by law; legal assistance to citizens.

Given this, the law-enforcement system in the state must perform certain functions. They

are divided into main and secondary ones. The first ones are: preventive; protective; guarded; execution of sentences, decisions, decisions and decisions of courts, orders of bodies of pre-trial investigation and prosecutors. As minor, the following are indicated: control (supervisory); permissive; right explanatory; analytical and / or methodical; informational; norm-setting; coordination

Scientists who are investigating the problems of law enforcement have introduced the concept of "model of law enforcement". It should be understood as a system of norms and principles that underlie the legal regulation of law enforcement activities, the subject structure and directions of this activity, the objects on which it is directed, the forms and methods of its implementation.

In the 90 years of the twentieth century in our country there is a scientific opinion about the need for the emergence of subjects of non-state law enforcement activities. First of all, the author's team criticized the axiom that was established at the time: enforced enforcement of the law and law enforcement functions are carried out solely by the state in the person of the authorities authorized by it. The authors noted that the limitation of modern state forms and control over them is the reason that often the rights, freedoms and legitimate interests of citizens, their collective formations remain without proper protection and protection. Global democratic sociopolitical practice has developed a variety of non-state law enforcement activities. To such forms they were enlisted by non-state security and investigative agencies. In order to develop new law enforcement structures, the authors proposed to accept some suggestions, such as the possibility of arrest and immediate delivery to the militia of criminals and the rights to use weapons by security and intelligence agencies, even with current standards of development of legislation and legal science, are relevant enough [6, p. 24].

Subsequently, the theme of non-state law enforcement activities was supported by Y. Iliushin and L. Sobolevskyi, who expressed their concern about legislative unregulated activities of non-state law enforcement structures, lack of effective state control over their activities, which creates real threats of merging these structures with the criminal world. These authors distinguished between the two main organizational forms of non-state law enforcement activities: non-state specialized corporations, firms and bureaus that provide services to all interested public and private institutions, organizations and individuals (detective activity, personal protection, etc.); internal "security services", the so-called private police created by industrial companies, firms and organizations (protection of commercial and official secrets, studying the activities of competitors, security functions, etc.) [7, p. 48].

S. Krasnokutskyi investigated non-state law enforcement activities in the context of legal activity. The scientist understands law enforcement activities as being carried out with the aim of protecting the rights of specially authorized bodies through the application of legal measures of influence in strict accordance and for the strict observance of the order established by him. The author considers the main essence of non-state law enforcement activity in securing the security and protection of business rights, while the limits of the competence of non-state law enforcement activity are limited to the counteraction to manifestations that violate or restrict the rights of entrepreneurs. Among non-state law enforcement subjects the scientist includes: private law offices; arbitration courts; private security enterprises; individual detective enterprises and their associations; Unions and Associations of Investigation and Protection; Separate units of legal entities created for conducting security and investigative activities in the interests of the safety of the founder (security services); non-state educational institutions for the training of private detectives and guards [8, p. 61, 76].

Russian author L. Kvasha combined private detective and security activities with the term "private police" [9, p. 74]. This approach is found in the literature, but it is questionable. Private police in the United States and some European countries are generally only referred to as security agencies that provide public order and security services on the basis of treaties with state authorities and local self-government. Such companies can actually use the word "police" in their official name.

S. Yurko proposes to determine the non-state law enforcement as a specialized activity of civil society to search for persons fleeing from justice, disclosure violations, protection of natural and legal persons, their property and public order by unlawful acts by coercive measures in accordance with statutory procedures [10, p. 199].

Non-state law enforcement activities may have commercial (security agencies) and non-profit nature (public law enforcement formations); carried out on a professional (private detective) or non-professional basis (a member of the public formation of public order protection). Non-state law enforcement activities can also be public (the activities of municipal law enforcement agencies) and private (the activities of security services enterprises).

State and non-state law enforcement activities have common and distinctive features. The defining features of law-enforcement activity in general are specialization, the possibility of applying coercive measures and procedurality. Special features of non-state law enforcement activities are that it is carried out by non-state actors on behalf of the client or community and is more narrow than the state protection object. Optional features of non-state law enforcement activities are of mainly, contractual nature, the focus on protecting private-law interests and the limited use of measures of legal liability.

The subjects of non-state law enforcement activity should include: private security enterprises; security services of enterprises; private detective associations, or detectives who carry out their activities individually; public law enforcement formations; public law enforcement assistants and other individual legal forms of assistance.

It should be noted that non-state law enforcement activities have not received proper legal regulation. In our opinion, it is a promising direction for improving the law enforcement activities of the relevant actors. We agree with S. Postolnyk, who notes that non-state law enforcement activities have historically been an alternative to the state because of objective and subjective reasons. However, currently in Ukraine, it is only at the stage of formation [11, p. 123].

Already, such ways of interaction of non-state security enterprises with law enforcement agencies have been developed: participation of employees of private security enterprises and security services in preventive measures together with law enforcement officers; use of forces and means of private security enterprises and security services to enhance the protection of vital objects; joint participation in the conduct of measures for the disclosure and investigation of crimes, the protection of public order during mass events; the interaction of private guards with district police inspectors for the elaboration of the housing sector in the conduct of operations and raids for the identification of persons inclined to offenses living without registration, as well as compliance with the owners of the conditions for the storage of firearms; training of private guards in the specialized institutions of the Ministry of Internal Affairs of Ukraine (and in the future and detectives); assistance in emergency situations.

It should be noted that, as a rule, law enforcement agencies are attracted to those security structures on the basis of which public organizations are created for the protection of public order and the state border. But this issue is not properly regulated in the current legislation. There is a good deal of opinion from practitioners that the legislation that regulates these issues needs to be amended accordingly. Yes, it is proposed to supplement art. 18 of the Law of Ukraine "On Protection Activities", a clause which would stipulate that during the taking of measures to prevent the offense it is allowed to involve authorized security guards to the implementation of information exchange and establishment of business contacts within the established limits with law enforcement officers for the purpose of coordination of law enforcement activities on the prevention and suppression of offenses. The Law of Ukraine "On National Police" should be amended – a separate section "Relations between law enforcement agencies and security guards". The author of this work fully supports this position.

Summing up, it should be noted that the protective activity of state entities is simultaneously a type of economic activity and one of the areas of law enforcement activity. The latter is a broader concept than security

activity. Within the framework of realization of criminal law protection of law-enforcement activity, such protection of its separate direction is carried out as state security activity. The implementation of criminal law protection of non-state security activities is ensured by the application of certain norms of criminal liability law.

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VIII International Scientific and Practical Conference "Combating Crimes: Theory and Practice" was held

On October 26, 2018, the 8th International Scientific and Practical Conference "Countering Crime: Theory and Practice" began at the National Prosecution Academy of Ukraine. This event of the international level was organized by the Academy together with the Prosecutor General's Office of Ukraine, the Scientific Research Institute for the Study of Crime Problems named after Academician V. Stachis of the National Academy of Legal Sciences of Ukraine, the Consultative Mission of the European Union to Ukraine and the Office of the Council of Europe in Ukraine.

The event was opened by the rector of the National Prosecution Academy of Ukraine Mykhailo Loshytskyi, who emphasized that the prosecutor's office is the central body of the state designed to counteract crime, in connection with which he expressed his hopes about the fruitfulness of the work of the conference and the usefulness of the recommendations that will be made.

Deputy Speakers of General Prosecutor Anzhela Stryzhevska and Yevhenii Yenin addressed the audience with salutations.

Anzhela Stryzhevska expressed the wish that the theme of the conference was the question of the effectiveness of the fight against crime: "In addition to the scientific trends of effective fight against crime, I would like the theme of today's event to be to introduce the achievements of science into practical activities". After all, as she noted: "We are working to preserve the safety of citizens, their health, honor and dignity …"

Yevhenii Yenin stressed the importance of international cooperation in the field of combating crime. Pointing out that an important link in this matter is the National Prosecution Academy of Ukraine, which provides, in particular, the linguistic training of prosecutors, which facilitates the exchange of information during international cooperation and significantly influences the results of the investigation of crimes in this category.

The meeting was attended by the Senior Advisor on the Prosecutor's Office of the European Union's Consultative Mission to Ukraine Carolina Rius Alarco, who emphasized the importance of cooperation between the European Union Consultative Mission and the Ukrainian authorities in the field of combating organized crime.

He welcomed the participants of the conference and shared his country's experience in crime prevention with the Vice-Rector of the Academy of Law Enforcement at the Prosecutor General's Office of the Republic of Kazakhstan, Rosa Dosimbekova, who expressed gratitude for the invitation to take part in this event and hoped that the work of the conference would contribute to the implementation of new ideas.

Greeted the participants at the conference also professor of the Department of Criminal Law of the National Academy of Internal Affairs, chairman of the Coordination Bureau for Criminology of the National Academy of Legal Sciences of Ukraine, Vasyl Shakun, the head of the city center of the All Ukrainian Civic Law Association "Criminal Law Association of Ukraine", who conveyed greetings to the participants of the event from the leadership of the National Academy Ministry of Internal Affairs and the Research Institute for the Study of Crime Problems named after Academician V. Stachysa of NPRr of Ukraine. "Only in close cooperation can we stabilize the state of crime in the state", – he emphasized.

The Rector of the Academy Mykhailo Loshytskyi pointed out that the holding of the VIII International Scientific and Practical Conference "Counteraction to Crime: Theory and Practice" is dedicated to the anniversary of the formation of the National Prosecution Academy of Ukraine. On this occasion, the Academy staff were awarded with the Diploma of the Prosecutor General, guests and the Academy scholar – the "National Prosecution Academy of Ukraine", and the Academy's employees were encouraged by the Diploma and the Gratitude of the Rector.

Mykhailo Loshytskyi invited the participants to the event.

The participants of the conference, including Oleksandr Kostenko, Oleksandr Yarmysh, Ihor Kopotun, Anton Monaenko, Nataliia Yarmish, Mariia Ostrovska, discussed the issues of modern Ukrainian criminology, the concept of "anti-crimes" as a doctrinal basis of ensuring law and order in Ukraine, the anti-criminal resource of modern Ukrainian society, corruption risks and ways of their elimination, veiled extortion of unlawful benefits, involvement of a lawyer in a special criminal procedure (in absentia), opposition to loyalty through improvement of the procedural status of the victim, criminal liability and other criminal-law measures in the system of combating crime in Ukraine, lawful detention and arrest of a person for violation of customs rules and smuggling taking into account the practice of the European Court of Human Rights, prospects for the development of international cooperation in combating crime, as well as issues affecting the successful investigation and trial of organized crime cases.

Conferences are to be Held in the National Prosecution Academy of Ukraine in 2019

1. III All-Ukrainian Scientific and Practical Conference "Foreign Language Training for Law Enforcement and Security Sector Officers" ..... March
2. Round Table "Probation in Ukraine: Current State and Prospects of Development" ..... April
3. Round Table "Civil Service in Ukraine: Ways of Reforming" ..... May
4. Scientific and Practical Conference "Protection of Human Rights in Ukraine: Theory and Practice" ..... May
5. Round Table "Representation of State Interests in Court by Prosecutor (Land Cases)" ..... June
6. II International Scientific and Practical Conference "European Court of Human Rights Case-Law in Work of Prosecutor's Offices and Courts: Challenges and Prospects" ..... June
7. Round table "Application of Criminal Legal Measures to Legal Entities" ..... July
8. Round table "Electronic Criminal Proceedings" ..... July
9. International Scientific and Practical Conference "Professional Training of Judges, Prosecutors and Law Enforcement Officers: National and Foreign Experience" ..... September
10. Round table "Prosecutorial Self-Government: International and National Experience" ..... September
11. Round table "Powers of Prosecutor on Determining the Limits of the Trial" ..... October
12. Round Table "Challenges of Civil, Commercial and Administrative Justice: Theory and Practice (to the II anniversary of the new Civil Procedure Code of Ukraine, Commercial Procedure Code of Ukraine, Code of Ukraine on Administrative Justice") ..... October
13. IX International Scientific and Practical Conference "Crime Counteraction: Theory and Practice" ..... November
14. Round table "Peculiarities of Military Organization of Ukraine" ..... November
15. Round table "Issues of Distributing Duties between Prosecutors of Local Prosecutor's Offices" ..... December
16. International Scientific and Practical Conference "III Kyiv Polygon on Problems of Anticorruption Policy of Ukraine" ..... December

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