



**MINISTRY OF INTERNAL AFFAIRS OF UKRAINE
NATIONAL ACADEMY OF INTERNAL AFFAIRS**



**ISSUES OF APPLICATION OF
ENGLISH LANGUAGE
IN TEACHING OF
CRIMINAL LEGAL DISCIPLINES**

**Materials of Round Table
(Kyiv, June 23, 2016)**



Kyiv 2016

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УДК 343.2/7:378.14=20
ББК X 628.1
II 352

*Recommended to print by the Scientific and Methodical Board
of the National Academy of Internal Affairs
(on 27 May 2016, Protocol № 9)*

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Materials submitted to the author's edition

II 352 **Issues** of Application of English Language in Teaching of Criminal Legal Disciplines [Text] : Materials of Round Table (Kyiv, June 23, 2016). – Kyiv : National Academy of Internal Affairs, 2016. – 118 p.

УДК 343.2/7:378.14=20
ББК X 628.1

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INTRODUCTION

At the present stage of development of legal science and educational activity the use of English language as the international means of communication has become a common practice. Currently modern lawyers and educationalists can not effectively perform the tasks without appropriate foreign language skills. Especially important is the use of foreign languages in teaching of criminal legal disciplines because a lot of educational and scientific materials are presented in English. Studying of original sources (monographs, textbooks, articles, national and international legal documents etc.) that are provided in English, affords us to get familiarized with the achievements of foreign experts in their unique form, make our personal conclusions, compare to Ukrainian translation of provisions, interpret regulations, apply all of them in teaching of Criminal Law in Ukraine.

In this regard, the Department of Criminal Law of the National Academy of Internal Affairs makes the first but not the last step in the considering of contemporary issues of application of English language in teaching of criminal legal disciplines. The form of this review is round table. This step complies with the implementation of the following documents: a) the National Academy of Internal Affairs Action Plan to ensure the realization of the Decree of President of Ukraine dated 16.11.2015 № 64/2015 «On Declaring 2016 the Year of English Language in Ukraine» (the order of the National Academy of Internal Affairs dated 01.02.2016, № 88); b) item 2 of Section 4 «Research Workshops» of the Plan of activities of the Department of Criminal Law of the National Academy of Internal Affairs for 2015-2016 academic year.

The round table will gather representatives of Criminal Law and Foreign Languages Departments, as well as postgraduate students, masters, students and cadets with scientific reports on relevant topics in English. Prior to the roundtable the collection of material will be published and placed for access of the participants at the website of the National Academy of Internal Affairs.

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ISSUES OF CRIMINAL LEGAL COMBATING CRIMES IN THE MARKET OF NON-BANKING FINANCIAL SERVICES IN UKRAINE

With the rapid development of the financial infrastructure and the emergence of new financial market institutions the issues of criminal legal combating crime in the non-banking financial services market in Ukraine require special attention.

Today criminals are using sophisticated methods of manipulation and structured technology and committing various crimes hiding behind activities of non-banking financial institutions – insurance fraud, money laundering, tax evasion etc. Herewith, it concerns wide deceit of clients, using false attributes of worldwide famous companies and telecommunication systems, impact of corrupt officials and much more. There are many cases when crimes in this sphere are committed by organized groups and criminal organizations. The most affected areas include insurance, activities of credit unions, investment activity, non-government pension funds. All these find so much resonance in the society, cause enormous material and moral losses to dozens thousands victims, undermines citizens' confidence in the ability of state represented by law enforcement agencies to protect the financial interests of individuals and legal entities.

It should be noted that the countries with developed market relations also provide reports on the scale of criminality in the market of non-banking financial services. According to Interpol, losses from organized crime in drawing investment area in Europe rank second only to drug trafficking. Hence, national law enforcement agencies (in particular, the National Police of Ukraine, which bears the main burden of fighting crime) are facing new challenges of legislative, regulatory, organizational and applied nature which require effective decisions.

Moreover, criminal legal science should assist in solving the aforesaid problems. In particular, in the process of our research of

materials of criminal cases (proceedings) there were singled out main groups of crimes committed in the market of non-banking financial services. These include appropriation of another's property (Articles 190–191 of the Criminal Code of Ukraine (the CCU)), preparation to commit, commitment and concealment of appropriation of another's property (Articles 205, 209, 358, 361–362 of the CCU), as well as related abuse of managers and employees of business entities (Articles 364 and 366 of the CCU). The analysis of practical materials indicate that «economic» forms of fraud in the activity of non-banking financial institutions differ from «traditional» in a number of features, including the characteristics of offender and victim, ways of committing a crime, the size of damage.

Basing on the experience of other countries, we offer to complement Paragraph 3 of Article 209 of the CCU («Legalization (Laundering) of the Proceeds of Crime») by a qualifying sign – actions envisaged in Paragraphs one and two of this Article committed by an official using his official position. It is advisable to enshrine legislatively conditions for special exemption from prosecution for person who committed the legalization (laundering) of proceeds from crime if this person voluntarily reported about the crime committed by him before the beginning of criminal proceedings and contributed to its disclosure and voluntarily returned the proceeds of crime. In order to improve measures to combat money laundering it is viewed necessary to provide legislative framework for the possibility to transfer part of seized or confiscated by law enforcement agencies funds to a special state fund.

We support the position of scientists regarding the necessity of withdrawal of crimes that can not be predicate on to the legalization (laundering) of proceeds from crime, a crime under Article 212 of the CCU. There should also be formulated reasons for the prosecution for the legalization (laundering) of proceeds from crime and for criminalization of organization of financial pyramids. In parallel, there should be made appropriate changes to non-criminal law as well.

We hope that the suggested proposals to enhance the effectiveness of criminal legal combating crime in the market of non-banking financial services in Ukraine will be realized and implemented by national legislator.

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CORRUPTION CRIMES IN CRIMINAL LAW OF UKRAINE

Under the note to Article 45 of the Criminal Code of Ukraine (the CCU) **corruption crimes** should be considered crimes provided for in Articles 191, 262, 308, 312, 313, 320, 357, 410, in case they were committed through abuse of one's official position, as well as crimes provided for in Articles 210, 354, 364, 364-1, 365-2, 368–369-2 of this Code.

At that, corruption crimes:

- first, are conventional, i.e., they are determined in provisions of international (including European) conventions;
- second, they are criminalized in the legislation of many world states, including those that emerged on the territory of the former USSR (the Kyrgyz Republic, the Republic of Moldova, etc.) and the legal systems of which appear close to the legal system of Ukraine.

All this gives grounds to assert that the definition of corruption crimes in the national criminal law is justified and viewed as a necessary step.

Along with the legislative definition of «corruption crimes» there is a need for in-depth scientific and application research. Corruption crimes should be considered as system-creating components of corruption and at the same time have the typical signs of socially dangerous acts provided for by the Criminal Code of Ukraine [1, p. 149]. So, in theory, by corruption crimes are understood those provided for exceptionally by the Criminal Code of Ukraine, socially dangerous and punishable intentional acts having signs of corruption and committed by special subjects. The list of these crimes should be expanded and clarified, while those should be recognized corruption crimes committed by «an official person by use of official position» (not just «by abuse of official position»).

There should be coordinated the national list of corruption crimes and the list of such crimes, which is provided for in international conventions (in particular, should be considered as corruption crimes

those offences that are associated with legalization (laundering) of proceeds of crime, – Articles 209, 209-1, 306 of the CCU), meanwhile it is disputable whether legislator should consider as the category of corruption crimes those offences which are committed by negligence (e.g., of a crime under Article 320 «Violation of the established rules for turnover of narcotic means, psychotropic substances, analogues thereof, or precursors» of the CCU).

Committing a corruption crime entails a wide range of negative criminal-legal consequences, concerning relief from criminal responsibility, assignment of punishment, relief from punishment and serving thereof, removal of record of conviction and grounds for application to legal persons of measures of criminal legal nature.

The classification of corruption crimes suggested by the author is of theoretical and practical significance [2, p. 162–165]. In particular, all of these can be classified according to the following criteria: the presence or absence of full signs of corruption; the sequence of grouping of corruption crimes in the note to Article 45 of the CCU and committing or non-committing the crimes by abuse of official position; generic object of crimes; subjects of crimes; the presence or absence of items of crimes; the purpose and other signs of *corpora delicti* of the corruption crimes, or other criteria.

Important points appear the unvariability of the anti-corruption criminal legislation, abandoning of constant adjustment of its norms and protection from politically motivated influence. When creating new criminal legal provisions and improving existing acts legislator should not allow technical errors. It is necessary to cease the practice of duplication in the CCU of terms, which are important for the qualification of corruption crimes (in particular, it concerns the terms «official person» and «undue advantage»), while the High specialized court of Ukraine for civil and criminal cases should issue an appropriate resolution on the qualification of corruption crimes. In theory and practice it is vital to decide on a single approach to the interpretation of core criminal legal terms that refer to specific features of corruption crimes («significant damage», «grave consequences», «undue advantage», «bribery», «abuse», «use», «position», «offer», «promise», «receiving of an undue advantage», «giving of an undue advantage», «request to provide an undue

advantage», etc), while legislator ought to preserve the norms on responsibility for corruption crimes, on condition of a conceptual reforming of the national criminal legislation in the future. It is also considered necessary to clarify the text of the translation into Ukrainian language of a number of terms contained in international conventions on combating corruption (in particular, while using such controversial and/or obsolete structures as «хабар», «хабарництво», «розкрадання», «неправомірне привласнення», «участь», «підсобник»). Hereby, there may take place a continued scientific debate about the optimality and admissibility of the official translation of the term «undue advantage».

Since the penalties for corruption crimes vary and appear not subordinate to any system, it may have a negative impact on their practical application by Ukrainian courts. Under these conditions, there is the need to develop a unified approach regarding assignment of punishment, relief from punishment and serving thereof. The revision also requires certain types of punishments for corruption crimes (in particular, those referred to in the Paragraph 2 Part 1 Article 365-2 of the CCU).

Criminal liability for corruption crimes is primarily stipulated by the specificity of respective elements and signs of their corpora delicti, qualifying (particularly qualifying) circumstances, as well as types and limits of punishments for committing such crimes.

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COMPARATIVE ANALYSIS OF SEPARATE PROVISIONS OF UKRAINIAN AND FOREIGN COUNTRIES CRIMINAL LEGISLATION RELATED TO THE SUBJECT OF CRIME

In criminal law, subject of crime is an obligatory element of any crime content. Criminal code of Ukrainian Soviet Socialist Republic had no definition thereof and in only in the Criminal Code of Ukraine in 2001, the legislator defined the notion of crime subject an foreseen a separate section IV in its general part, defining and explaining all main issues related to this phenomena – definitions and types of crime subject (art. 18); arbitrability and immunity from jurisdiction (art. 19); limited arbitrability (art. 20); peculiarities of criminal responsibility for crimes, performed in state of intoxication (art. 21); and age of persons for application of criminal responsibility (art. 22).

Subject of crime according to p. 1 art. 18 CC of Ukraine «is a physical person, subject to jurisdiction, who conducted a crime at the age when according to Criminal code a criminal «responsibility» may occur. On the basis of this legislative definition, necessary signs for a subject of crime are as follows: 1) physical person, 2) arbitrability, 3) age of person since which criminal responsibility may occur.

Arbitrability is a mental state of person in which such person at the time of conducting a crime could be aware of his/hers actions (inactivity) and control them. Accordingly a person immune from criminal responsibility is such who during conduction of a socially dangerous act, foreseen by CC of Ukraine was in a state of immunity from jurisdiction and could not be aware of his/hers actions (inactivity) or control them as a result of chronic mental illness, temporary mental disorder, mental handicap or other mental sicknesses. Under general rules of criminal responsibility all persons who reached the age of sixteen on the moment of criminal activity performance are subjects to criminal responsibility. P. 2 art. 22

Criminal code of Ukraine describes all types of criminal activities resulting in criminal responsibility at the age of fourteen. Special subject is a person who has special (peculiar) signs besides of obligatory general ones. Such special (peculiar) signs are described in articles of Special Criminal code section for peculiar crimes content.

Legal persons in Ukraine are not subjects of crime; however, other means of criminal-legal origin may be applied to them (fines, property confiscation, and liquidation).

Notion of crime subject is not similar for all countries of the world. Each country defines the crime subject in their own ways or in general refers to one of objective signs elements. Yet a distinctive feature for all the countries, are the signs of a crime subject in criminal law, namely a physical person, age since which a criminal responsibility is applied and issues related to person's arbitrariness. However each country independently sets its own criterions for each of these signs. For example, each country has different age limits, although in some of them, such limits are the same (Russia and Ukraine). Another difference is that in some countries, criminal responsibilities of legal persons is foreseen, which differs from Ukraine, Russia, Germany. Criminal legislation of such countries as: Russia, Lithuania, Belorussia, Moldova as well as Ukraine define that a person who reached the age of 16 and in cases, foreseen by the law – 14 years. The difference is only in the list of deeds which are subjects of criminal responsibility if committed by persons at the age of 14-16 years.

Arbitrariness in the legal point of view is a notion with plenty of meanings. From one point, arbitrariness means a possibility of convicting a person for a crime, committed by him/her. From the other side – a capability of person to bear responsibility for committed crimes. Criminal law of Eastern European countries provides definitions, according to which a person is immune to jurisdiction at the moment of committing a crime, namely the: mental illness, mental handicap or heavily «impaired judgment» as a result of which such person was unable to realize the unlawfulness of its deeds or act with understanding of such unlawfulness (Switzerland, Austria); through any mental or neuro-psychic disorder was unable to control or realize its actions (France). Similar definitions are provided in CC of Denmark, Norway

and Finland. As we see, they indicate only medical criteria of jurisdiction immunity.

Requirements of defining legal persons as criminal responsibility subjects are foreseen by many norms of international law. Besides that, latest trends of international legislation testify that UN Conventions increasingly refer to enhancing legal person's criminal responsibility. Therefore, criminal responsibility of legal persons is not restricted, but instead often encouraged.

CC of European countries majority were approved before criminal responsibility of legal persons was considered a necessity. As a result of this and some other reasons, Criminal Codes of European countries usually lack sections, dedicated to these issues and when the necessity of such responsibility arises, these issues are governed by separate articles. It is explicitly defined that criminal responsibilities of legal persons cannot cancel criminal responsibility of physical person, committing, planning or promoting criminal activities. There are countries which adopted so called quasi-criminal responsibility of legal persons. Such countries are for example Federal Republic of Germany, Switzerland and partially Spain (where only punitive measures are applied to legal persons, instead of punishments), and also Italy and Belgium (in Italy such is possible only in cases of violation of legislation about freedom of competition, and in Belgium – for violation of tax, customs and agricultural legislations). In general, sanctions to legal persons under CC of foreign countries preferably have preventive means instead of oppressive and destructive by leaving a chance to correct their behavior and to conduct further activities in accordance with the law. This goal however requires comprehensive collective and criminal sanctions, complying with other branches of law, including civil and administrative.

In order to improve provisions of national Ukrainian legislation related to responsibilities of legal persons we suggest to: take optimum use of international experience related to this issue; adopt corresponding amendments to CC of Ukraine, related to the part of creating separate articles about general principles of criminal responsibility of legal persons and types of corresponding punishments; extend and specify the list of crimes (legal offences) for which legal persons may be liable.

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FEATURES OF CRIMINAL LAW COUNTERACTION TO ILLEGAL MIGRATION

Illegal migration in Ukraine is becoming increasingly common phenomenon. Ukrainian gangs and every now and then transnational criminal organizations are using Ukraine as a transit area for smuggling citizens of underdeveloped and economically unstable countries to Europe. However, they do not ignore any illegal means, which are prejudicial to the interests of the state, rights and freedoms of citizens, and sometimes to their lives and health. Good resistance to illegal migration is provided for in legal norms of different branches of the legislation of Ukraine. Criminal liability is applied for the attempt with a high degree of public danger in this area. Thus, a group of offences against the order of crossing the border is assigned in Chapter XIV of the Special Section of the Criminal Code of Ukraine «Crimes in the sphere of state secret, inviolability of state borders, providing recruitment and mobilization».

Art. 332 «Illegal people smuggling across the state border of Ukraine», is applied more often for counteracting illegal migration; it establishes the liability for the organization of people smuggling across the state border of Ukraine, the leadership of such actions or assistance in their commission by giving advice, instructions, providing means or removing obstacles.

Particular attention when considering this category of crimes should be paid to the fact that most of these offences provided for in the Criminal Code of Ukraine are close to administrative offences because they do not have the degree and nature of public danger, typical for crimes. Administrative liability is directly provided for some of these acts in the Code of Ukraine on administrative offences, and in other cases, they are difficult to distinguish from related

administrative offences. Thus, in one case, the law recognizes the act as a crime, in another one – an administrative offence.

Despite the fact that according to Ch. 2, Art. 9 of the Code of Ukraine on administrative offences, administrative liability is applied only when relevant violations do not entail criminal liability, practice goes the other way. Based on the fact that certain acts under Art. 332 of the Criminal Code are examples of excessive criminalization of acts, when initiating criminal proceedings the provisions of Ch. 2, Art. 11 have to be taken into account, according to which an activity or inactivity, which formally contains signs of any act under the Criminal Code, but because of its insignificance is not a public danger, is not a crime.

If the law has established that in case of the competition of rules of Special Sections of the Code of Ukraine on administrative offences and the Criminal Code the liability is applied not under the Criminal Code, but under the Code of Ukraine on administrative offences – it means decriminalization of many acts, which are now treated as crimes, including those that are provided for the liability for illegal migration. The similar situation has already occurred to Art. 331 of the Criminal Code, which is decriminalized according to the Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine on crossing the state border of Ukraine», dated 18 May 2004, and the liability for such act is applied according to Art. 204-1 of the Code of Ukraine on administrative offences.

This issue is becoming more topical in the context of the necessity of the implementation of the institute of misdemeanors in criminal law of Ukraine.

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CHARACTERISTIC OF CRIMINAL LAW MEASURES AGAINST VARIOUS OFFENCES IN STATISTICAL INDICATORS

The punishments invoked by courts in different times reflect the government policy concerning struggle against criminality. Only the modern perfect legislative framework which regulates fundamental legal principles of infliction and servicing of criminal penalties is able to secure the most complete, appropriate and effective execution of principles of responsibility for crimes. The effective activity of law enforcement bodies and judicial system is the further important factor of criminal policy. They perform functions of detection and termination of criminal activity, bringing of offenders to responsibility for their illegal behavior as well as punishment of offenders.

The punishment system of Ukrainian criminal legislation includes various penalties which differ in restriction of rights and freedoms of convicted offenders.

The criminal policy of Ukrainian state is described with different parameters. First of all, statistical data with respect to the state and dynamics of total number of convicted citizens as a whole and for separate type of offences are evidence of political, social and economic processes arising in the Ukrainian society as well as evidence of activity of law enforcement bodies.

One of the qualitative indicators of law enforcement effectiveness is the coefficient of convictions, that is to say, ratio of convicted persons to the Ukrainian population which shows changes in the law enforcement practice of our state. During 1993-2000 221 persons were convicted per 100 thousand in population, in 2000 468 persons were convicted, in 2009 – 318, in 2012 – 35,7, in 2013 – 27,0.

As previously stated, during 1993 – 1998 the number of recorded offences reduced and the total number of convicted persons increased.

The total number of convicted offenders is changing with different periods in Ukraine. Over the last years the number of persons convicted by court is seen to be reduced. In 2012 162881 persons were convicted, in 2013 – 122973, and in 2014 Ukrainian courts passed judgments on 102170 offenders. These figures show that during ten years the fewer offenders appeared in the court and drew a sentence. In the same time the question that has to be answered is for which crimes the offenders were convicted and which penalties were invoked or other criminal law measures were taken with regard to them.

In 90's the most offenders were convicted for robberies, hooliganism and for crimes related to illicit traffic in narcotic drugs and psychotropic substances. Among this group law enforcement officials brought to responsibility mainly those who produced, manufactured, acquired, kept, transported and transmitted narcotic drugs or psychotropic substances without purpose of their sale (art. 229-6 of Criminal Code of Ukraine of 1960) and did the same actions with respect to the target of crime in small (art. 229-8 of Criminal Code of Ukraine of 1960) illegally. The number of offenders convicted according to these two articles of Criminal Code is in total 82% of all persons convicted for narcotic criminal actions in this period.

And which measures do take law enforcement bodies and courts with regard to such offences and offenders nowadays?

There are no changes in the number of persons convicted for robberies during many years and this number is still a maximum. Although offenders related to the narcotic crimes are still at the first place in the criminal rating as before. Every fifth convicted committed the same crime.

According to statistical data, in 2010 21146 persons were convicted by Ukrainian courts for illegal production, manufacturing, acquisition, keeping as well as transmission of narcotic drugs of psychotropic substances without purpose of their sale. This group comes to 68% of all offenders convicted for crimes related to traffic

of narcotic drugs, psychotropic substances, their equivalents or precursors. In the same time the number of persons convicted for illegal actions with respect to narcotic drugs of psychotropic substances for the purpose of their sale and for sale of such substances is much fewer – only 19%.

So, our law enforcement system proceed with its policy, that is to say, to fight not against offenders who helps to extend drug addiction in the society but against those who have nothing to do with the sale of dangerous substances and need in medical measures.

Persons on whom judgments for non-payment of child support were passed by courts are on the fourth stage among the total number of persons convicted in 2010 and in the following years. Their number is 73% (6366 persons) of persons convicted for crimes against elective, employment and other personal rights of human and citizen.

Which grounds does this irregular attitude to different categories of offenders have? First of all, this process is explained by insufficient effectiveness of law enforcement activity concerning detection and investigation of mostly serious crimes, bringing to responsibility and punishment of offenders who commit crimes under aggravating circumstances.

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THE VEHICLE AS A SUBJECT OF TRAFFIC RULES VIOLATIONS OR EXPLOITATION OF VEHICLES BY PERSONS WHO DRIVE VEHICLES

The crime under the Article #286 of the Criminal Code of Ukraine (traffic rules violations or exploitation of vehicles by persons who drive vehicles) can only be committed during the driving of vehicles listed in the note to the Article#286 of the Criminal Code of Ukraine.

According to the note of the Article #286 of the Criminal Code of Ukraine under the vehicles in this Article and Articles ## 287, 289, 290 all kinds of cars, trams and trolley-buses, motorcycles and other motor vehicles should be understand.

The legislator has defined the term «vehicle» through the numbering of its specific types. Let us consider its characteristics referring to the current legislation.

According to the Section 1.10 of The traffic rules, approved by the Cabinet of Ministers of Ukraine on 10th of October 2001, the motor vehicle is defined as a vehicle that is driven using the engine. This term is applicable for tractors, self-propelled machines and mechanisms, trolley-buses and vehicles with electric power more than 3 kW as well (provision # 1306) [1].

To the types of vehicles, in particular, belong: all types of buses; all types of cars, including special and specialized (i.e., health, fire, sports and watering, auto-cranes, loaders); tractors – propelled vehicles (wheeled or tracked) assigned for goods carriage or performance of the agricultural, construction, forest and other works; propelled machines assigned to perform agricultural, road construction, land reclamation and forest work – harvesters, graders, bulldozers, excavators, cranes, etc .; urban electric vehicles – trams and trolley-buses, including passenger, cargo, repair, special purpose, track-layers; motorcycles, in particular, traffic, sports, special purpose motorcycle with side trailer or without it; motor, cycle-mechanical and other transport vehicles, the maximum authorized mass of which do not exceed 400 kg; other motor vehicles – off-roads, snowmobiles, amphibians, trailers etc.).

Underground rolling stock, funicular and other types of railways (passenger and freight trains, locomotives, trolleys etc.) are not the types of vehicles. [2].

The term «vehicle» is defined in the Article 1 of the Law of Ukraine «On Automobile Transport» dated 05.04.2001, which defines the term `car` – as a wheeled vehicle that is propelled by means of energy source, has at least four wheels designed for movement cartage roads and is used to transport people and (or) cargoes, towing vehicles, special work performance [3].

All types of buses are also vehicles which by their design and

equipment assigned to carry passengers with sitting places in quantity more than nine, including the drivers`. [3]

Tractors are propelled wheeled or tracked machines assigned for goods carriage or performance of agricultural, construction, forest and other work [2].

Other self-propelled machines are also vehicles designed to perform agricultural, road construction, land reclamation and forest work (harvesters, graders, bulldozers, excavators, cranes, etc.) [2].

Tram is a road vehicle assigned to carry passengers, which is connected with an electric wire or reproduced in movement with a diesel engine and moves on tracks. Trolleybus is a road vehicle assigned to carry passengers, which is connected with an electric wire and is not moving on the tracks [4]. All of above mentioned types of vehicles belong to the public electric transport, the movement of which is committed due to the provisions of the traffic rules.

Motorcycle is a two-wheeled motor vehicle with or without side trailer powered by 50 cm³ engine or even more.

Mopeds, motorized tricycles and other motor vehicles are defined as motorcycles with a maximum authorized mass not exceeding 400 kg [1].

Other motor vehicles are off-roads, snowmobiles, amphibian motorbikes, etc. [2].

We conclude that this list of specific types of vehicles (cars, buses, trolleybuses, trams, motorcycles, etc.) is not exhaustive.

The precise characteristics of the vehicle is essential for defining the subject and object of crime under the provisions of the Article #286 of the Criminal Code of Ukraine, the delimitation of traffic rules violation and exploitation of vehicles by persons who drive vehicles, correspondent qualifications of committed crime and assigned punishment.

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RECONSIDERATION OF NOTIONS ABOUT LIFE IMPRISONMENT AND CAPITAL PUNISHMENT IN THE HISTORY OF UKRAINE

Domestic criminal-legal science upon legislative recognition and definition of one or another type of punishment cannot ignore its own experience of legislation. Namely for that, the purpose of this work is to be defined as development of periodization for life imprisonment as a type of punishment which had passed a certain stage of its development.

History of domestic legislative regulation for punishment issues begins from *Ruska Pravda* (The Russian Justice) – a legislation monument of Ancient Kievan Rus' in which a close relationship with folk customs and traditions was quite distinctive. It was expressed in the possibility of blood vengeance or implementation of so called *lex talionis* which was related to existence of a quite powerful blood relation of families. In times of

great Kievan princes Oleg and Igor, blood vengeance was in no way restricted but instead sometimes even promoted. In some time a field of crimes for which blood vengeance could be applied was narrowed. Limitation of blood vengeance resulted in its restriction by legislative means in XI century. Therefore, blood vengeance may be considered a prototype of capital punishment in times of formation and development of Kievan Rus'.

Further expansion of capital punishment in Rus' was favored by Tartar and Mongolian conquerors whose habits and written laws often considered this type of punishment.

Statutable return of capital punishment to our territory occurred at the end of XIV century. It was later itemized in Soborne Ulozhennya from 1649 which foreseen capital punishment for a great deal of crimes and as well contained provisions about imprisonment. In our opinion, prison confinement may be regarded as a first prototype of life imprisonment.

In such a manner, capital punishment was applied in XVII century and first half of XVIII century, which was explained by borrowing separate criminal legislation provisions from Lithuanian statute and Western European military statutes as well as by criminalization of many crimes and immediate expansion of capital punishment application.

A significant event in the history of applying capital punishment was a moratorium for execution of capital punishment sentences, declared by Empress Elizabeth of Russia in 1744. Despite the fact that capital punishment moratorium was disregarded in the following years it had a quite positive impact on development of domestic legislation.

In such a manner this was a first attempt to cancel the capital punishment and alter it with a life imprisonment, role of which was played by imprisonment at hard labor at penal servitude. This type of penal servitude could be terminated upon death or unfitness for works due to age or permanent injury.

Code of criminal laws 1832 was the first document which provided clear limits of capital punishment application: it could only be applied in case of most severe offenses against the state, was permitted for quarantine crimes, specified in Quarantine Statute

(1832), as well as for military crimes, committed during military campaigns. Besides that, at the same time permanent penal servitude and exile became widely used.

Provisions about criminal punishments and correction (1845) as well as Criminal provisions from 1903 did not foresee a capital punishment for murder, except infringement on life of the emperor or members of his family. Since 1893 field of application for capital punishment was expanded again.

In such a manner criminal legislation at the end of XIX century had foreseen life imprisonment only in a way of permanent penal servitude.

At the beginning of XX century Russia began attempts to cancel capital punishments by means of adopting decisions from First and Second State Duma, but in both cases – law projects were not approved by State Council of Russia and did not receive the status of laws. Since than application and revocation of capital punishment were altered almost each three months.

First Criminal code of Ukrainian Soviet Socialist Republic was approved in 1922. It did not contain a number of punishments caused by civil war circumstances in judicial and punitive politics of Soviet government (outlawing, declaring a person as an enemy of the revolution or the people, declaration of boycott). Capital punishment was not included to the general list of punishment types, but according to special decree was included to separate section with specification «temporary application as an exceptional punitive measure».

Another attempt of canceling the capital punishment was made on 26th of May 1947. By decree of Presidium of High Council of Ukrainian Soviet Socialist Republic «About cancelling capital punishment», according to which, full restriction of capital punishment was in effect during the times of peace, which was foreseen under laws valid in USSR.

Concerning the criminal legislation of Ukrainian Soviet Socialist Republic adopted in 1960, it foreseen an exclusive and strict list of punishments, categorized in order from severe to least severe. Among punishments but outside their system, criminal legislation foreseen capital punishment which in the form of

exclusive measure and temporarily with a trend to its complete restriction, was applied to persons found guilty in committing most severe crimes.

After declaring the independence of Ukraine a field of application for capital punishment was significantly narrowed in comparison to CC of Ukrainian Soviet Socialist Republic. CC of Ukraine from 1960 (as of 1st of February 1993), foreseen the capital punishment for commitment of 22 crimes. And after adoption of active Criminal code of Ukraine in 2001, criminal legislation of Ukraine had completely eliminated capital punishment as a punitive measure and adopted life imprisonment instead.

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THE CONCEPT OF «UNDUE BENEFIT» IN ART. 160 OF THE CRIMINAL CODE

This paper studies the concept and characteristics of the undue benefit as a matter of bribing voters or referendum participants. Definitions of possible signs of undue benefit are given. The notion and signs of the undue benefit which is offered, promised or given party or voter referendum for the commit or not commit actions for the implementation the electoral law are detailed. In addition, to the context of the signs of undue benefit is understanding lexical-grammatical meanings that correlated with criminal law notions.

In particular, the footnote to Art. 160 of the Criminal Code defines that undue benefit is, funds or other assets, advantages, benefits, services, or intangible assets, which offer, promise, give or receive no legitimate reason.

It was found that the funds as the undue benefit at bribing voters for referendum participants, it should be understood funds in national and foreign currency. At the same time, the property, as a sign of the

undue benefit, – is the thing, the sum of things or proprietary rights and obligations. In this case, it is defined as the object of the material world, which may occur with respect to civil rights and obligations.

It is also the subject of undue benefit in the context of bribery of voters or referendum participants can act benefits, services, and intangible assets. It is noted that the benefits should be regarded as a privilege of certain property or non-property that are offered, promised or given to the voter (participant of referendum), and better determine its position relative to the others. In its turn, the benefits of a full or partial release of a person (a voter or referendum participant) to perform certain duties. The attention that despite the similarity of the benefits and advantages they must be clearly delimited in the context of illegal gains.

We prove that the services in terms of undue benefit are understood as the commit of acts whose benefit. In this regard, the benefit from the services provided (the acts committed) can be addressed as a voter or a participant of referendum, and another person.

As for intangible assets, as a matter of undue benefits, these assets represent the ownership of intellectual property, including industrial property, as well as other similar rights recognized by the subject of property rights (intellectual property), the right to use property and property rights taxpayer in the manner prescribed by law, including those acquired in the manner prescribed by law the right to use natural resources, property and property rights.

Mainly for all types of illegal benefits, especially for the provision of services, benefits and advantages are the fact that these benefits are transferred to voters or referendum participants: 1) without any legitimate reason; 2) free of charge or at a price lower than the market price reduction is not legal and public.

The conclusions of the most common sign of undue benefit in the bribery of voters or referendum participants are money in the national currency and assets in the form of food parcels (food basket), household chemicals and small household items. Instead of services, advantages, benefits and intangible assets, while theoretically may be the subject of undue benefit in the bribery of voters or referendum participants, but, in reality, are rare.

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**TRANSPORT VEHICLE: OBJECT, INSTRUMENTS OR
FACILITIES OF COMMISSION OF CRIME, ENVISAGED
ARTICLE 286 CRIMINAL CODE OF UKRAINE**

Due to the rapid increase in the use of transport vehicles by citizens, with the introduction of new kinds to the unsuitability of a modern transport infrastructure to multiple transport flows, and hence the increase in the number of accidents, the questions related to violation of road safety rules all more often attracts the attention of scientists.

Despite the fact that the careless crimes in the field of traffic and operation of vehicles the subject of many monographs, dissertations, articles, are sanctified to and many scientists engaged in development of separate questions, in particular, M. Bajanov, J. Baulin, V. Borisov, Y. Brainin, P. Vorobey, M. Veitsman, I. Gauhman, G. Grinchenko, V. Glushkov, V. Grischuk, O. Djuja, O. Kistyakivski, O. Kostenko, G. Kriger, V. Kudryavtsev, V. Kvashis, V. Kislyakov, V/ Lukyanov, P Matishevskiy, V. Musluyuy, P. Mikhailenko, A. Mysuca, V. Navrotskiy, A. Naymov, M. Panov, A. Piontkovskiy, V. Stashis, M. Tagantsev, M. Havronyuk etc., however some of them are still quite debatable and unresolved.

To determine the objective evidence of the offense under article 286 of Criminal Code «Violation of the rules of road safety or exploitation of transport rules is necessary persons who are driving a vehicle» you should determine what is in actual fact a vehicle – by an object, instruments or means of committing a crime?

To this end, it is necessary to refer to the main provisions of the theory of criminal law and to analyze the different scientific views concerning the definition of the concepts «subject of a crime», «instruments of crime» and «the means of committing a crime».

In particular, O. Denisovanotes in his dissertation research that: the subject of crime always specifies on those public relations that is protected by the legislation on criminal liability, whereas the

instruments and tools facilitate a misfeasance publicly of dangerous act and with their help a crime; instruments play an «active» role in the offense and the offender of a crime is always used in order to achieve a certain goal, while the subject is «passive» in the process – to him the act of criminal is sent; properties of the object, as a rule, are used more or less in the remote future, and properties of the instruments are always used by a criminal directly at the commission of crime, at the same time facilities of commission of crime can be used on any stage of commission of crime.

At differentiation of instruments and facilities of V. Gurovanotes the following: instruments of committing a crime are objects directly defined in the penal law and substantially increase public danger of act as a whole, the use of which directly inflicts or creates possibility of harm to the object(subject) of the crime. Means of committing crime, – the author notes, – this phenomena is directly defined in the criminal law significantly increase the public danger of act substantially, and that is used to facilitate the commission of a crime.

According to M. Panov, means of committing crimes are divided into weapons and other means of committing the crime. Instruments are objects, using that a person commits a physical (usually destructive) effect on material objects (firearms and bladed weapon, tools, vehicles, devices, technical equipment etc.). To other means of committing a crime (money in the narrow sense of the word) can be taken, in particular, forged documents, uniforms.

In his thesis research, E. Laschuk supporting the position of E. Frolova names instruments and means «active» material values by using them as criminals. Crime instruments are used by the guilty for direct influence on a victim of the crime and (or) for the purpose of a crime, and the funds used only for the facilitation of commission of crime. Unlike instruments and means, suggests to name «passive» material values since it is on the subject of crime, and by direct influence on (or without such influence) commits the assault – quite often by means of instruments and means of committing the crime.

Taking into account the above, it is possible to draw the following conclusion: in violation of the rules of road safety of

exploitations transport persons that manage transport vehicles, a mechanical transport vehicle should recognize the instrument of the crime because using it, a person commits a physical (usually destructive) effect on the object of criminal law protection.

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THE PROBLEMATICAL QUESTIONS OF CORRUPTION CRIMES

The legislative bases of state anti-corruption policy of Ukraine are investigated in this article. The disparities and non-agreements of the provisions of some standards are analysed here, in particular the provision of Criminal convention about combating against corruption (ETS 173) from the 27th of January, 1999, according to the Law of Ukraine «About the prevention of the corruption» from the 14th of October, 2014 # 1700 – VII and the issue XVII of Special part of the Criminal Code of Ukraine «Crimes in the sphere of official and vocational activities, that is connected with provision of public services».

Being analysed the list of the corruption crimes, that was mentioned in the remark of the 45 article of the Criminal Code of Ukraine, foreseen by articles 191 «Conversion, misapplication of property or its acquisition by means of official duties abusing», 262 «Stealing, conversion, exaction of firearms, ammunition, explosive substances and radioactive materials or their acquisition by means of fraud or official duties abusing», 308 «Stealing, conversion, exaction of narcotics, psychotropic substances or their analogues or else their acquisition by means of fraud or official duties abusing», 312 «Stealing, conversion, exaction of precursors or their acquisition by means of fraud or official duties abusing», 313 «Stealing, conversion, exaction of the equipment that is intended for making narcotics, psychotropic substances or their analogues or their acquisition by means of fraud or official duties abusing and other

illegal acts with such equipment», 320 «The fixed rules infringement of narcotics, psychotropic substances or their analogues or precursors circulation», 357 «Stealing, conversion, exaction of the documents, stamps, seals, their acquisition by means of fraud or official duties abusing or their damage», 410 «Stealing, conversion, exaction of firearms, ammunition, explosive or other fighting substances, means of transportation, military and special equipment or other military stores by a serviceman and also their acquisition by means of fraud or official duties abusing», in case if they were committed by means of official duties abusing, and also the actions that were foreseen by the articles 210 «Equivocal using of the budgetary funds, making the budget spending or extending credits from the budget without prescribed budget assignments or with their exceeding», 354 «The bribe of the company, enterprise or organization employee», 364 «Authority and official duties abusing», 364-1 «Abusing of the juridical person's authority of private law by the official independently of organizational legal form», 365-2 «Abusing of the authorities of the persons who provide public services», 368 – 369-2 of the Criminal Code of Ukraine.

Proving that in spite of positive features and importance of fixing corruption crimes in the Criminal Code of Ukraine there are still problematical questions of their classification as for the analysis of corruption and corruption delinquency concept. Turning attention to the absence of the indication at the person as the general individual of the corruption delinquency in the list of the individuals of corruption delinquency, that was foreseen in the Law of Ukraine «About the prevention of the corruption» from the 14th of October, 2014, and this individual, according to the corruption conception, can suggest and guarantee undue benefit. At the same time the crimes, that hold the general individual as a legislator, have been referred to the corruption crimes incorrectly (CCU art.354 p.1, CCU art. 368-3 p. 1, CCU art. 368-4 p. 1, CCU art. 369, CCU 369-1 p. 1).

Researchers' viewpoints are analysed critically, if they say that the lucrative impulse is obligatory presence in the overwhelming majority of the corruption crimes, in particular, foreseen in the articles 191, 354, 357, 364, 364-1, 365-2, 368, 368-2, 368-3, 368-4, 369-2 p. 2 and p. 3 of the Criminal Code of Ukraine. Simultaneously

some constituent elements of crimes, such as: art. 210, art.320, art. 357 p. 1 of the Criminal Code of Ukraine may not have got the purpose of getting undue benefit or the lucrative impulse.

Besides mentioned disagreements of anti-corruption legislation attention paying to the legislative gaps, in particular, the null Law of Ukraine «About the prevention basis and counteractions of the corruption»[9] was declared in the remark to the art. 369-2 of CCU instead of necessary valid «About the prevention of the corruption»from the 14th of October, 2014. The absence of the reference to the Law of Ukraine «About the prevention of the corruption»from the 14thof October, 2014, doesn't allow to impose the list of people as for the legislative level, authorized to fulfill the functions of the state. The actions classification of the individual of crime, mentioned in the art.369-2 of CCU, is impossible without it. In this case for people who committed a crime, foreseen in the art. 369-2 of CCU till the 14th of October, should use retroactive force in the time of law, that rescind the criminality of the action, extenuate criminal amenability or in other way improve the status of the person, foreseen in the art. 5 of Criminal Code of Ukraine.

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JUDGE (JUDGES) REGULATION OF A CLEARLY UNJUST VERDICT, DECISION, DECISIONS AND RULINGS: MODERN PROBLEMS OF INTERPRITATION

From the time of independence of Ukraine there are serious changes in the criminal law policy regarding appropriate security protection of domestic justice. That is why criminal law combating crimes committed by specific actors in the justice sector, is an important task for the development of Ukraine as a democratic and legal state. After the damage caused by such acts, it is not only in violation of the legitimate rights and interests of people, but also in their further

discouragement to the activities of state bodies, first of all – court, undermining the prestige and authority of these structures etc.

Given the above, there is an urgent which need to be rethought the issues in the present conditions, which are related to ensuring the protection of the relationship to ensure the realization of the constitutional principles of activity of bodies of preliminary investigation, prosecution and trial. One of the pressing problems is to find effective ways of countering such crime as the imposition of a judge (judges) of a clearly unjust verdict, decision, ruling or order.

The features of criminal liability for the imposition of a judge (judges) of a clearly unjust verdict, decision, ruling or order were investigated by such scientists in their scientific works, such as: P.P. Andrushko, M.I. Bazhanov, P.S. Berzin, V.I. Borisov, O.V. Kaplin, A.A. Kvasha, O. Kostenko, V.A. Kazak, V.V. Kuznetsov, P.S. Matyshevskaya, M.I. Miller, V.V. Mulchenko, V.A. Nawrotskiy, A.S. Nowak, A. Savchenko, V.Y. Tatsiy, V.P. Tihy, I.A. Titko, VI Tyutyugin, EV Fesenko, P.L. Fris, M.I. Havronyuk, A.V. Schasny, N.M. Yarmish and others.

However, current controversial issues of criminal responsibility for the adoption of a judge (judges) knowingly unfair sentence, judgment, order or decree led to a draft resolution of the Plenum of the Supreme Court of Ukraine for Civil and criminal deals «The judicial practice in cases of adoption of a judge (judges) knowingly unfair sentence, judgment, order or decree «

In general, it should be recognized sufficiently a high level of resolution prepared by the project of PSCU. However, in our opinion, certain provisions of the draft resolution is controversial or not quite accurate.

First of all, let's consider such a sign of the subject as the subject of crime offenses. In our opinion, the subject of crime offences is an unjust judicial act (judgment, decision, order or decree) because judgment, decision, order or ruling is the subject of public relations.

Another issue is the establishment of appropriate signs of subjective side of the offense. The provisions which is set in the draft of resolution of PSCU («unawareness of unjust judgment, which was made by judges or a judge of the composition of the board,

eliminates the possibility of bringing him to the 375 Art. of the Criminal Code even of the absence of the views of judge») is rather debatable. If the judge does not express a dissenting opinion, it is logical that he agrees with the court of collegial decision. The other explanation of the judge, is that he was not aware of an unjust judgment which may indicate his wish to shirk responsibility. If we admit this possibility to avoid criminal liability, any judge will use it to their advantage.

Also specified draft resolution of PSCU again drew our attention to one of the legal problems of today – the harmonization of the conceptual apparatus of the Criminal procedure Code of Ukraine (CpCU) and the Criminal Code of Ukraine. It's especially true in using new terms such as «criminal,» «criminal offense» and others. So in the future it is important to formulate a regulatory definition of concepts and identify the types of criminal offenses. Unfortunately, current law enforcement officers and judges have been widely used new terminology without waiting for the changes of the Criminal Code: «Qualification of criminal offense», «a person has committed a criminal offense», «criminal offenses in which proceedings are closed,» «a person whom is convicted of a criminal offense.»

The foregoing allows us to offer some ways of improving the application of 375 Art. of the Criminal Code of Ukraine.

1. In the 2 item of the PSCU the subject of a crime should be defined as precisely unjust judicial act (judgment, decision, ruling or decree).

2. Presented the new edition of the provisions, which are referred to in 4th item of the PSCU («unawareness of unjust judgment, which is made by judges, doesn't exclude the possibility of bringing him to the 375 Art. of the Criminal Code for criminal liability even in the absence of the views of the judge»).

3. The grounded position, which is indicated in 3rd item of PSCU Regulation («for the establishment of the sings of the offense in persons act under the 375 Art. of the Criminal Code, does not require that the judgment of suspected or accused person has been revoked or modified by the court of higher level»).

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CONCERNING MATTER OF OBJECT OF CRIME AGAINST THE ENVIRONMENT (COMPARATIVE ANALYSIS OF UKRAINIAN AND RUSSIAN LEGISLATION)

There is appropriating of land top soil (surface layer) by stripping of it became the one of the forms of negative development in the field of natural resource management.

As regard existing measures of regulatory reaction to the illegal stripping of land top soil (surface layer), we believe that according to the effective Criminal Code of Russian Federation there is one direction can not be estimated because no relevant norm exists.

In a certain way the protection of public relations is provided in considered cases by the norm of art. 8.6. «Land damage» of Administrative Violations Code of Russian Federation according to which the responsibility for unauthorized stripping or displacement of rich soil layer is provided. The Ukrainian legislator appeared as more far-sighted with respect to the protection of public relations in the field of land-use and has provided the criminal responsibility.

The validity of criminal law system construction depends directly on the clear definition of scope of public relations.

By expressing our opinion concerning the general object of considered crimes we believe that it is necessary to mention the following.

The direct objects which are put under protection of Ukrainian Criminal Law include public relations regarding the providing of protection of land, its components, continental shelf, river waters etc. These similar objects are put under protection also in the Criminal Code of Russian Federation, for example, in the Chapter 26 of Criminal Code of Russian Federation «Environmental crimes».

So, the Russian legislator has put under protection of criminal law the same objects of natural origin as the Ukrainian one. But the Ukrainian legislator has chosen the way of detailing.

Finally, the public relations regarding the protection of constitutional rights of citizens to the safe environment as well as regarding the protection, use, conservation and restoration of natural resources, providing of environmental security, caution and elimination of negative influence of business or similar human activity on the natural environment, preservation of wild life gene diversity, lands, capes and other natural habitats, unique territories as well as natural objects related to the historical and cultural heritage shall appear as an object of crime against the environment.

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AGE PECULIARITIES OF CRIMINAL LIABILITY OF MINOR: INTERNATIONAL ASPECT

In accordance with p. 1 item 2 Criminal Code of Ukraine the unique and sufficient foundation of criminal liability is the fact that a person publicly committed a dangerous act which contains a corpus, foreseen by the Criminal code of Ukraine delict. In the doctrine of criminal right confessedly dividing of corpus delicti is by four elements: object, objective side, subject, subjective side. Absence of one of these elements or one of obligatory signs of these elements possibility of attracting of person to criminal responsibility. Sure, all of elements of corpus delicti are even in the general determination [1, a. 3]. But,

appears us, that however much it follows to acknowledge the basic element of corpus delict subject.

The new going near the study of this question require the separate scientific analysis of influence of mental and physical and other features minor on possibility to be acknowledged the subject of criminal responsibility [1, a. 3].

And as the minor are the special offender of such liability, there is a number of features , inherent procedure of attracting of them to criminal responsibility.

Originality of minor as the special offender of criminal liability, foremost , consists in that chronologic age, which stipulates psychical and physiology development of personality , acquisition, by it certain knowledges, skills and abilities, that enables to realize the public unconcern of the actions and manage them.

In accordance with international Convention about rights for a child from 20.11.1989, which was ratified Decision of Verkhovna Rada of Ukraine from 27.02.1991 № 789-XII, a «child is every human creature to achievement of 18-years-old age» [2, a. 42]. However, in Ukraine gradation of age of child is legislatively set in such age categories: the very young is consider a child to achievement by it fourteen years , minor – in age from fourteen to eighteen years.

In our view position of legislator, which set the special age from which criminal responsibility comes from 14 years, is grounded enough, as the minor in age 11–13 are unable to forecast public character of the acts exactly after the level of the psychical and physiology development.

It follows to consent, that a criminal legislation which regulates the features of criminal liability of minor needs subsequent perfection and revision. Setting these features a legislator went out from that the norms of penal law must be instrumental in the account of age, socially psychological, психофізичних and other features of development of minor which committed a crime. Complications in achievement of these aims predefined by the age socially psychological lines of minor. In a most degree during perfection of

norms of criminal right it must be taken into account such descriptions: immaturity of thought; shortage of sufficient social experience; instability of psyche; emotionalism; enhanceable suggestibility and suggestibility; propensity is to fantasies.

Taking all this into account, it follows notices, that for the normal functioning of the system of justice in matters about bringing in to criminal liability of minor, it must include for itself: account of age minor; legal guarantees of defence of rights and legal interests of minor; plenitude of individual socially psychological research of personality minor; choice of individual measure of influence and his implementation. Thus, with the purpose of implementation of principle of individualization of criminal punishment and taking into account the age of minor bringing in of them to criminal liability needs the detailed legislative fixing.

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THE SOME QUESTIONS OF DEFINITION OF INSIGNIFICANCE OF THE ACT OF THE CRIMINAL LAW

The problematic issues must be focused on the new Criminal Procedure Code of Ukraine (CPC) and practical reform aspects of criminal legislation in the context of the implementation of criminal offenses.

In advance, we will view the substantive definition of a criminal act as the central issue in the concept of insignificance. Firstly, there are problems concerning the content of criteria of the insignificance of the act. Pursuant to P. 2, Art. 11 of the Criminal Code of Ukraine (CC) the legislative criteria of insignificance are identified as: 1) the insignificant act has formally all the objective and subjective characteristics of crime provided for in the Criminal Code; 2) it is not of public danger due to its insignificance; 3) from the subjective side the insignificant act should not be aimed at causing any personal injury [1, p. 38-39].

There are different attempts by legal scholars to define other criteria (or concretization of existing) of the insignificance of the act. According to the opinion of T. Ye. Sevastianova prevalent among legal scholars criteria of the insignificance of the act is lacked or reduced to objective and subjective factors that characterize the insignificant act [2, p. 43]. These scientific positions, as well as analysis of the materials of court and investigative practice, indicate

the existence of current problems of legal understanding and enforcing the law category of «insignificance of the act».

Let us consider problems for determining certain characteristics of the insignificance of the act. Particularly, the legislator does not define the concept of «substantial harm», so judicial and investigative bodies have to interpret this feature on their own. We consider ambiguous the principles of investigators and courts in subjective determination of substantial harm without taking into account the limits of criminal consequences prescribed by the law. For example, during a court procedure there is basis for exemption from criminal liability on the basis of P. 2, Art. 11 of the Criminal Code within thefts of another's property in an amount that exceeds 0.2 non-taxable minimum incomes of citizens. Law courts take into account the following circumstances which they believe indicate the insignificance of the act: insignificant amount of actual damage, compensation for losses, (absence of claims from the victim), an incomplete criminal activity (a guilty person was unable to dispose of stolen property), individual characteristics of a person (commission of a crime for the first time, a predicament material status, a positive characteristic, an employment of guilty person, an admission of guilt, penitence, retention relatives, etc).

In our opinion, there is a substitution of such concepts as «insignificance» and «extenuating circumstances». We agree with T.Ye. Sevastianova that reference to the circumstances is characterizing the offender did not describe in determining insignificant act is unacceptable [2, p. 147]. Undoubtedly, the concept of «insignificance act» a value, but the presence of clear legislative boundaries to criminal consequences, consider questionable position of investigators and courts ignore them and take a rather subjective decision. In the theory of criminal law are different promising solutions to this problem. One of the options – a rejection of the deadline, the other – the preservation of the mentioned concept, but use it only on formal offenses, which act through insignificance is not socially dangerous [3, p. 63]. S.I. Kovalov «in order to increase the probability of the truth of

enforcement in the context of recognition of some insignificant actions» proposes to distinguish acts that can not be recognized insignificant [4, p. 273]. We believe these proposals debatable. Option refusal of such a thing, given the state of the criminal law and the current trends of its application, is, in our view, be premature. In support of this position and demonstrates paragraphs 2 and 3. 11 «The notion of a criminal offense and its species» last draft Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine on the introduction of criminal offenses» (reg. Number 2897 of May 19, 2015). Also do not agree with the usage of concept only for formal offenses, since some material offenses do not involve concretized effects (eg, Art. 236, 249, 252, 271, 356 of the Criminal Code, etc.) and have clear guidelines separation of specified regulatory harm it significant. In this context, the position of S.I. Kovalov needs support about not referring to minor offenses that are «characterized by proprietary or physical damage, and its materiality determined directly in the law through reference to a number of non-taxable minimum incomes, the severity of injuries» [4, p. 273]. Therefore, we consider promising to improve Art. 11 of Criminal Code of Ukraine through the addition of a new paragraph 3 as follows: «minor acts not set when the offense sufficient and designated persons and property consequences for that part».

Another problem is, in our opinion, the uncertainty of regulation of «significant damage», as that term is used in some criminal law of the Criminal Code, leading to conflicts between standards. For example, if the illegal use of special technical means secret information is not caused significant damage, the perpetrator action should qualify for ch. 1, Art. 359 of the Criminal Code, if there was a threat of substantial harm – on ch. 2, Art. 15 and p. 3 of Art. 359 of the Criminal Code, and if substantial harm inflicted – on ch. 3. 359 of the Criminal Code. Therefore, the actions envisaged ch. 1, Art. 359 of the Criminal Code may be recognized as insignificant because according to ch. 2. Art. 11 of the Criminal Code is not a crime act or omission which, although formally contain elements of any offense under this Code, but due to insignificance do not

constitute a public danger, is not caused and could cause significant damage to natural or legal persons, society or the state. The easiest solution to this problem is to replace the corresponding terms in the disposition norms of the Criminal Code to another: for example, the notion of «significant damage». In this context, the authors support the proposal of the bill (Reg. № 2897 of May 19, 2015) on the use of the term «substantial damage» to characterize the criminal offenses (Part 2 of Art. 11.1), and the term «significant damage» to characteristics of crimes (Part 2 of Art. 11.2).

Procedural problem is the lack of grounds for terminating criminal proceedings – insignificance act (art. 284 CCP). The question arises, and what guided investigators and courts at the close of proceedings. Analysis of the investigative and judicial practices revealed the following: close the investigation proceedings in the absence of corpus criminal offense (para. 2 ch. 1, Art. 284 CCP); Court – in connection with the release of a person from criminal responsibility (para. 1 ch. 2, Art. 284 CCP). This practice, in our opinion, does not meet the theory of criminal law and the norms of the Criminal Code. First, find out the validity of the investigator. In determining insignificance act, in fact, we are, though formally the crime. The absence, in the opinion of the investigator, significant harm (or its threat) for such act is understandable, but there is a real prejudice (or threat of job), which is defined regulatory theft – not deny the existence of adequate crime. Secondly, insignificance explores whether the type of act excluding criminal responsibility. Litigation has a negative answer to this question: Plenum of the Supreme Court of Ukraine in para. 2 of its resolution «On the practice of courts of Ukraine legislation on the exemption from criminal responsibility» of 23 December 2005 r. Number 12 did not determine this kind of exemption from criminal liability. In the theory of criminal law is generally similar position. A well-known expert on the issue said Yu. Baulina also relates to insignificance types of exemption from criminal liability [1, p. 174]. The foregoing indicates a discrepancy legislation court decisions to close the proceedings in connection with the release of a person from criminal

responsibility due to insignificance act. Therefore, it is necessary to fix a new condition to close the proceedings in n. 9 in ch. 1, Art. 284 CCP «is set insignificance act».

Above-indicated is allowed an offer in certain directions of improvement of regulatory problems of understanding and application of the concept insignificance acts: 1) to Art. 11 new CC p. 3 as follows: «minor acts not set when the offense sufficient and designated persons and property consequences for the composition»; 2) replacement of the term «substantial damage» in the disposition norms of the Criminal Code to another – «significant damage»; 3) add ch. 1, Art. CPC 284, paragraph 9 to read: «set insignificance act».

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SOME ASPECTS OF CRIMINAL LIABILITY FOR VIOLATIONS OF BUDGET LEGISLATION

Criminal liability for violation of budget legislation under Art. 210 and 211 of the Criminal Code of Ukraine (hereinafter – CC) of the Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine in connection with the adoption of the Budget Code of Ukraine» dated 8 July 2010 r. №2457-VI.

Article 210 of the Criminal Code provides for liability for misuse of budgetary funds expenditure budget or loans from the budget without a set budget allocations or their excess. Part 1 of Art. 210 of the Criminal Code contains features two separate offenses. The first warehouse – misuse of budget officer. Evidence of this crime coincide with signs of a similar budget offense under Art. 119 of the Code. This budget spending for purposes that do not comply, budget appropriations set by the State Budget of Ukraine (the decision on the local budget); areas of budget funds specified in the budget program passport (in case of program-target method in the budgetary process) or in the course of budget funds; Budgetary appropriations (painting budget, budget, budget funds use plan). Second offense under Part. 1, Art. 210 of the Criminal Code – a spending budget or loans from the budget without a set budget allocations or exceeding them against the Budget Code of Ukraine. Evidence of the offense coincide with signs of a similar budget offense under paragraph. 29 h. 1 tbsp. 116 of the Budget Code.

The subjective aspect of the crimes characterized by direct intention, that guilty person understands the nature of his actions (that they are violating the budget law) and wants to act in this way.

The subject of both offenses is any official, authorized to manage budget funds.

Article 211 of the Criminal Code provides for liability for the publication of regulations that reduce revenues or increase budget spending budget against the law. Publication of an official of regulations that reduce revenues or increase budget spending budget contrary to the law, if these actions were the budget in large amounts. The same actions were the subject of budget funds in a large scale or repeated. This corresponds offense in violation of budget legislation laid claim. 37 h. 1 tbsp. 116 of the Budget Code. However, if an offense is a budget entity – participant of the budget process, the offender can only officer of the executive authorities and their departments, with the power to approve their orders regulations, the implementation of which reduces budget receipts or increases budget expenditures.

From the publication of regulations that reduce budget revenues or increase expenses against the budget law as an administrative offense, this offense different sized funds are not received in the budget or were additionally spent. A large amount of money (the amount of one thousand or more times the non-taxable minimum incomes) establishes the offense under Part. 1, Art. 211 of the Criminal Code. A particularly large amount of money (the amount of three thousand or more times the non-taxable minimum incomes) establishes the crime provided ch. 2, Art. 211 of the Criminal Code. If these actions are not budgetary funds in large amounts committed constitute an administrative offense under Part. 5, Art. CAO 164-12.

Note that criminal responsibility for acts committed in intergovernmental relations, that is in the process of drafting, review, approval, execution of budgets, reporting on their implementation and monitor compliance with budget legislation is not limited to art. 210 and 211 of the Criminal Code. Acts of officials guilty of violating the budget legislation, under certain circumstances, may contain elements of the crimes in performance.

For example, the Public (local) loans, provision of public (local) guarantees in violation of the Code if it is committed by an official intentionally, with selfish motives or other personal interests

or interests of third parties, caused significant damage to legally protected rights, freedoms and interests of individual citizens or the state or public interests or the interests of legal entities punished for abuse of power or position (p. 364).

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LEGISLATIVE INNOVATIONS IN CRIMINAL LEGAL PROTECTION OF HOUSING AND COMMUNAL SERVICES SECTOR

Beyond any doubt that the proper and effective protection of objects of housing and communal services from illegal activities is rather acute for Ukraine, thereby the structure of crime is characterized by a high level of infringement of property. That is why special attention in the establishment of effective legal protection of objects of housing and communal services is paid to the Criminal Law. Accordingly, 13 January 2011 the Criminal Code of Ukraine (the CCU) was supplemented by Article 270-1 designed to regulate responsibility for deliberate destruction or damage to housing and communal services objects. The accepted norm is, definitely, poses both theoretical and practical interest.

It is also important to note that it is of peculiar importance nowadays criminal legal protection of relations arising in the sphere of housing and communal services. After all, housing and utilities sector is among the important social sectors and called to ensure decent conditions of human life, creation of normal, healthy, safe conditions for human activities. However, in recent years, cases of premeditated destruction of housing and communal services object, which has become the root cause of our study.

The analysis of corpus delicti provided for in the dispositions of Article 270-1 of the CCU showed that the process of regulation by the criminal legislation of liability for deliberate destruction or damage of objects of housing and communal services has flaws, and

requires further research, elaboration and introduction of scientifically justified amendments to the CCU.

The author have suggested a number of legal novelties:

- to remove the norm on criminal responsibility for intentional destruction or damage of housing and communal services objects from section IX «Crimes against public security» of the special part of the CCU, which is now provided by Article 270-1, and to include it to Section VI «Crimes against property» of the Special Part of the CCU, envisaging responsibility for such actions in new Article 194-2 of the CCU;

- to enlarge a list of crimes enshrined in Article 22, part 2 of the CCU, at the account of reference to Paragraphs 3 and 4 of the proposed by the author Article 194-2 of the CCU;

- to extend qualifying signs of the considered corpus delicti (Article 194-2 of the CCU) with a reference of the crime to be committed on preliminary arrangement by group of persons, and the need to consider as a repetition not just the preliminary deliberate destruction or damage to objects of housing and communal services, but also the crimes, the corpus delicti of which are provided by in the dispositions of Articles 194, 194-1, 347, 347-1, 352, 378, 399, 411 of the CCU;

- initiated a new model of legislative construction of Article 194-2 of the CCU and suggested to abandon the derived consequences of deliberate destruction or damage to object of housing and communal services, if it resulted or could have resulted in impossibility to use, disruption of normal functioning of objects of housing and communal services.

The lack of proper consideration of disputes on criminal responsibility for intentional destruction or damage to objects of housing and communal services in the doctrine of criminal law requires further improvement of criminal legal framework by making specific, evidence-based proposals.

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**SPECIFIC FEATURES OF THE CRIMINAL LEGAL
DESCRIPTION OF FAILURE TO PROVIDE ASSISTANCE
TO A PERSON WHO IS IN A LIFE-THREATENING
CONDITION**

One of the most difficult in criminal legal sense is the norm on liability for failure to provide assistance to a person who is in a life-threatening condition. We know that the social danger of this crime is in unrealistic prevent of dangerous consequences.

The author holds the position that the object of this crime targets on social relations, which is protected by the Criminal Code of Ukraine and which infringes crime. It was proved that the generic object of failure to provide assistance to a person who is in a life-threatening condition are social relations protecting human life and health. During the study of the direct object of the crime under Article 136 of the Criminal Code of Ukraine, it was underlined that such an object is recognized not only the lives of individuals, but also their health, while relying on the content and nature of socially dangerous consequences provided for in Paragraph 1, Article 136 of the Criminal Code of Ukraine.

It was scientifically proved that the disposition of this norm should specify the dangerous not only for life but also the health conditions (this is indicated by 82 % of respondents). The victims of this crime is infant, child and any other person in respect of which the perpetrator was not imposed a special duty of care or assistance.

Objective side of failure to provide assistance is characterized by four features: a) illegal act (failure to provide care or failing to report life-threatening condition of a person); b) socially dangerous consequences (serious bodily injury or death of a person); c) the causal link; d) the crime ambience. This objective side is characterized by inaction-non-intervention, but this omission should

not be reduced to the absolute passivity signs of behavior of a person.

The essential moment is to replace the name of Article 136 of the Criminal Code of Ukraine and the amendments to Paragraph 1, Article 136 of the Criminal Code of Ukraine, which will help completely and accurately to install the illegal acts which constitute the objective side of the crime.

Failure to provide assistance or failure to report life-threatening condition is a requisition of development of dangerous condition. Consequently the act of the perpetrator must be included in a causal connection, but not as a cause but as a condition that contributes to the onset of socially dangerous consequences.

It is important to amend the dispositions of Paragraphs 1 and 3 of Article 136 of the Criminal Code of Ukraine, which, on the one hand, will make it possible to abandon the law on the direct causal link, and the other – to recognize a criminal offense the failure to provide assistance only in the event of serious bodily injury or death of a person.

The ambience of failure to provide assistance is characterized by two components: 1) dangerous to life or health condition of the victim; 2) the ability of the subject to help or to report dangerous to life or health condition.

The subject of failure to provide assistance is the general subject of crime – physical sane person who at the time of the crime under 16 years of age.

The aggravating circumstance of failure to provide assistance is committing an act against a minor or a child. In connection with the incorrect legal structures in Paragraph 2 of Article 136 of the Criminal Code of Ukraine we propose to replace the word «minor» with the word «child» (this is supported by 76 % of respondents).

Especially aggravating circumstance of failure to provide is death of the person in which we understand the onset of biological death, that is the beginning of an irreversible disintegration of cells of higher human nervous system.

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MULTIMEDIA IN THE EDUCATIONAL PROCESS OF HIGHER EDUCATION

The possibility of multimedia presentations and practical experience at lecturing in courses criminal disciplines - is part of the lecturer today. People perceive information by 25 % when they listen to it, and by 75 % when they see it. No need to prove the unproductive lecture when the teacher only dictates the information. Modern student's youth is a generation with "mosaic" thinking because in the age of high technology they have absorbed information since childhood from images that crowded the modern means of mass communication and the media to. At the present time the main source of the new picture of the world is the Internet, where youth is consumer information usually in visual format.

Particular attention is paid to adherence to particular principles as the basis for which is to be built the educational process with the use of multimedia presentations. For the same period of time, the vision helps to remember 55% more information than remember it after hearing. Ideally, each teacher should combine dictation in lectures with using multimedia. Conducting classes with accompanying multimedia presentations could be considered an effective way and a good solution to the problem of studying disciplines by students in the educational process of higher education. Category "Multimedia" in this context is the interaction of visual and audio effects that is running interactive software using the latest hardware and software, which combine text, sound, graphics, pictures, videos in one digital representation. It should be noted that in the modern theory and methodology of higher education there are many works devoted to this subject. Development of intellectual

potential of students when working with multimedia presentation involves the formation of different styles of thinking. Also multimedia presentation contributes to the implementation of control activities of students. There are universal approaches and requirements for the creation and use of multimedia presentations. Any successful performance by 60-70 % depending on what the audience sees on 20-30 % - of how it said, and only 10-20 % of what it says.

Summarize. Multimedia presentations in the educational process of higher education is not a tribute to fashion or innovation for its own sake. The widespread use of the medium of instruction due to the nature of the modern information environment and the interaction with students, in the changed conditions of the organization of higher education. observance of universal requirements to implementation and use of multimedia presentations and learning tools in the practice of high school will significantly optimize the training of future students , to make it adequate to the tasks facing the modern system of higher education .

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THE USE OF THE REVIEW METHOD WHEN TEACHING CRIMINAL LAW

As many lecturers point out, review is critical to student learning. Given the amount of material to be covered and the challenging skills to teach and have students practice, review can easily be seen as too time-consuming for class, relegated to each student's own, independent, unguided efforts. Such an attitude is a mistake, considers Andrew E. Taslitz, Professor of Law Howard University School of Law. He provides several arguments. First, each class session tends to focus on one doctrine or skill. These isolated matters make little sense disconnected from the bigger

picture. Review allows students to see the forest for the trees. They can come to understand the broader analytical structure to which each doctrinal brick contributes. They can also see how different aspects of the law interrelate. For example, studying early in the course how to identify a «result» element in a statute means little absent later, fuller discussion of causation. Results require proof of causation, whereas attendant circumstances, mental states, and voluntary acts do not. Yet students cannot fully understand many other aspects of the course without early on identifying results elements. Thus, the MPC defines mental states as to results differently than those relating to acts or attendant circumstances. Result identification must thus be taught before students are ready for the more complex discussion of causation [1].

The author highlights that students first learn how the prosecution must prove its case in chief. But they will not truly understand the moral structure of the criminal law until they also study affirmative defences – those that result in an acquittal even though the state has proven every element of the crime beyond a reasonable doubt. Yet by the time teachers cover affirmative defences, students might have forgotten details about proving the case-in-chief. They will not really appreciate the connection between the case-in-chief and affirmative defences without reviewing both in a single context.

Review aids memory, as the author thinks. Students do not retain all they have learned from a single exposure. Review also occurs at a time when students are better able to see interconnections. As just noted, highlighting interrelationships itself improves memory.

As review covers multiple topics at once, it necessarily requires using more complex fact patterns. The added complexities stretch students' analytical skills beyond their previous comfort zone.

The author dwells on the fact that review can be done in many ways. It can be helpful to schedule one class mid-semester to use a complex problem solely for review. This reminds students of the essential building blocks studied before moving on to constructing the higher floors of the course's analytical architecture. Review at this stage also allows students early on to identify gaps in their

understanding at a point where there is plenty of time to fill them. However, the author thinks that doing such a full-class review more than once per semester starts to create conflict with coverage concerns[1].

He also mentions that a series of briefer reviews can occur throughout the course by building some earlier issues into problems focusing on new material. Thus, a rape problem might include an unusual statute silent on mental state but giving students the legislative debates and other background needed to explore what mental state the legislature intended. That same problem can also ask students what the mental state should be under common law mistake-of-fact principles. Additionally, the problem might ask them what the mental state should be under the MPC mental state default provisions. A problem on distinguishing between first-degree and second-degree murder might likewise incorporate duty-to-act issues from the course's first few weeks.

According to Mr.Taslitz,assigning one long or two short practice midterms can further promote review. Review can be enhanced further by handing out sample answers, perhaps combined with optional review sessions[1].

The author offers to use multiple-choice questions for review as well. One class on a new topic might require briefly reviewing two or three multiple-choice questions covering a topic from the immediately preceding class or from several classes earlier. This review can be done occasionally. Alternatively, multiple-choice and essay or brief answer questions can be posted online – alongwith the answers and explanations – toencourage students' review on their own.

Therefore, the key point of the author is review and repetition must be woven into a course repeatedly throughout the semester and need not necessarily be a time sink.

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METHODS OF TRANSLATION OF JURIDICAL TERMS

Juridical text is familiar either to scientific text or to the text of instruction, as it has perceptive and prescriptive character. Such character have first of all normative legal acts. They regulate the relations between people on the territory of one state. The text of normative legal act is usually set by professional jurist, who takes into account the peculiarity of society, its legal system. Laws in general have a uniform style. So, cognitive information is carried out first of all by legal terms. They have all features of terms – they are monosemantic, they are deprived of any emotion and they are independent from the context. Legal terms can be also compared with written neutral literary norm of language and resemble to office language.

If a translator translates juridical terms he faces many problems, as they can have different meanings in different states or even some legal terms cannot have their equivalent in target language. This is the most difficult aspect in translation of not only juridical documents but also any other scientific text. So, the translator has to get acquainted at least with legal systems of both countries in order to understand the terms that don't have equivalents in target language. And then it is possible to translate them. There are few general rules under which juridical terms that don't have equivalents in target language can be translated.

A German scientist de Groot proposed three ways of translation of legal terms, which do not have an equivalent in target language. These ways are recognized as the most acceptable in translation of juridical non-equivalent terms:

1) Loanword, the translator should be very careful in such case as loanword can be borrowed only from widespread languages such as, for example, English. But in any case loanword should be explained; 2) Descriptive equivalent is the best way of avoiding of

term translation. Disadvantage of such method is that such descriptions can be very long and difficult; 3) Neologism is the word or word combination that is often applied to new concepts, to synthesize pre-existing concepts, or to make older terminology sound more contemporary in particular legal system. Here can be used transliteration. But the translator should be very careful as such neologisms should be understood by jurists. Hence when the translator decides for neologism he should apply description.

Anyway the translation of juridical terms requires deep knowledge of terminology and law, and very often of historical backgrounds of particular legal system. There are also cases when juridical term can be interpreted in different ways that of course influences the quality of translation. In such situation the term can be specified by diligent analysis of the context.

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AS TO THE QUESTION OF THE ENGLISH LANGUAGE USAGE IN THE PROCESS OF TEACHING CRIMINAL LAW AND CRIMINAL PROCEEDING DISCIPLINES

Nowadays we stand before quite actual and complex tasks of modernization of methodologies in the sphere of teaching profile disciplines in the higher specialized educational establishments. Predictions of futurologists as to the competitiveness of the future specialists define some general trends which are considered to be actual as to all professions so to the specialists of the legal sphere. The main among them are:

1. High theoretical level.
2. Formation of skills and abilities of individual work on definite problem.
3. Possibility to work with great volumes of information.
4. Possibility to work under pressure and stress and ability to work in the conditions of strict and quick deadlines.

5. Readiness to work on the edge of different professions.

6. Readiness for several requalifications and achieving of different professions during the whole life.

It is difficult to underestimate the value of the English language in the process of the undergraduate student of the higher legal educational establishment's preparation. The need of communication with the external world is becoming more and more necessary in the contemporary conditions. Constant presence of the world legal institutions in the political and social life of Ukraine, necessity of professional presence of the native law and law enforcement organizations in their activity, the need for paperwork and competent representation of Ukraine in international courts, personal professional communication – all this leads to a tendency to address issues related to the synthesis of a discipline «Foreign language of professional direction» with the block of professional disciplines. So, several ways of a foreign language's usage in teaching subjects of criminal law and criminal proceeding disciplines, depending on the stage of the training sessions can be defined:

Of course, a schematic representation does not exhaust all possible ways of the foreign language usage in the training sessions on abovementioned levels. So, a great potential in this area of research is lying in the investigation of teachers, specialists and classrooms readiness for the lectures and seminars (in international law, for example) conducted in English. The possibility of online lectures, binary seminars and others is quite interesting. As abovementioned topic has the enough potential for further development, the study of the subjects of learning readiness for the introduction of English in teaching of the profile subjects is one of the main spheres for further development.

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INTERDISCIPLINARY APPROACH INTEACHING ENGLISH AND CRIMINAL LAW

Interdisciplinary teaching is a method, or set of methods, used to teach a unit across different curricular disciplines. Interdisciplinary analysis examines an issue from multiple perspectives, leading to a systematic effort to integrate the alternative perspectives into a unified or coherent framework of analysis.

Interdisciplinary instruction entails the use and integration of methods and analytical frameworks from more than one academic discipline to examine a theme, issue, question or topic. Interdisciplinary education makes use of disciplinary approaches to examine topics, but pushes beyond by: taking insights from a variety of relevant disciplines, synthesizing their contribution to understanding, and then integrating these ideas into a more complete, and hopefully coherent, framework of analysis.

There are many different types, or levels, of interdisciplinary teaching. On one end, schools might employ an interdisciplinary team approach, in which teachers of different content areas assigned to one group of students who are encouraged to correlate some of their teaching. The most common method of implementing integrated, interdisciplinary instruction is the thematic unit, in which a common theme is studied in more than one content area.

Why should we teach English and Criminal Law with an Interdisciplinary Approach?

1. Interdisciplinary teaching increases student learning.

Engaging students and helping them to develop knowledge, insights, problem solving skills, self-confidence, self-efficacy, and a passion for learning are common goals that educators bring to the classroom, and interdisciplinary instruction and exploration promotes realization of these objectives. Interdisciplinary instruction fosters advances in cognitive ability

Among educational benefits of interdisciplinary learning are the abilities: to recognize bias; think critically; tolerate ambiguity; acknowledge and appreciate ethical concerns.

2. Interdisciplinary Teaching Helps Students Uncover Preconceptions or Recognize Bias

Interdisciplinary instruction allows us to understand our preconceptions of «what is» and the framework by which we arrived at «what is.» It also fits with recent advances in learning science about how to foster learning when students bring powerful pre-existing ideas with them to the learning process. Interdisciplinary forms of instruction, help students overcome a tendency to maintain preconceived notions. This is accomplished by recognizing the source of the preexisting understandings they arrive with, and by introducing students to subject matter from a variety of perspectives that challenge their existing notions. Interdisciplinary instruction accomplishes this goal in two ways. First, by helping students identifying insights from a range of disciplines that contribute to an understanding of the issue under consideration. Second, by helping students develop the ability to integrate concepts and ideas from these disciplines into a broader conceptual framework of analysis.

3. Interdisciplinary Teaching Helps Advance Critical Thinking and Cognitive Development

Interdisciplinary instruction helps students develop their cognitive abilities – brain-based skills and mental processes that are needed to carry out tasks. Interdisciplinary learning helps students acquire perspective-taking techniques – the capacity to understand multiple viewpoints on a given topic; develop structural knowledge – both declarative knowledge (factual information) and procedural knowledge (process-based information); integrate conflicting insights from alternative disciplines.

4. Interdisciplinary Teaching Helps Students Tolerate or Embrace Ambiguity

Interdisciplinary instruction advances the notion that ambiguity results from alternative perspectives on issues that are advanced by different disciplines rather than a shortcoming of a particular discipline. Thus, students acquire a better understanding of

the complexity of problems of interest and the associated challenges of solving them.

5. Interdisciplinary Teaching Promotes Significant Learning

Significant Learning takes place when meaningful and lasting classroom experiences occur. When teachers impart students with a range of skills, and insights about the educational process that students will see as meaningful and salient to them they promote student engagement in the learning process and greater learning occurs. Interdisciplinary instruction fosters the acquisition of foundational knowledge, promotes integration of ideas from multiple disciplines and provides insight on how to apply knowledge all of which advance a students understanding of how to learn. Moreover, students are encouraged to account for the contribution of disciplines that highlight the roles of caring and social interaction when analyzing problems. Thus, the very structure of interdisciplinary learning is consistent with the core features of significant learning, so students are expected to find interdisciplinary education engaging and thus an effective way to advance their understanding of topics under investigation.

There are 6 elements of the educational process that lead to significant learning and each of these is a common feature of interdisciplinary forms of instruction.

- Foundational Knowledge – acquiring information and understanding ideas
- Application – acquiring an understanding of how and when to use skills
- Integration – the capacity to connect ideas
- Human Dimension – recognition of the social and personal implications of issues
- Caring – acknowledgment of the role of feelings, interests, and values
- Learning How-to-Learn – obtaining insights into the process of learning

6. Interdisciplinary Teaching Promotes Understanding when Students Learn in Heterogeneous Ways

Interdisciplinary instruction opens academic conversations to ideas from a range of disciplines so all students should be able to

relate and contribute to the dialogue. Thus, the likelihood of connecting with the full array of the students in the classroom is enhanced by interdisciplinary learning.

7. Interdisciplinary Teaching Helps Students Appreciate Ethical Dimensions of Concerns

Ethical considerations entail moral concerns which means accounting for perceptions of right vs. wrong, good vs. bad, and the provision of justice. Many disciplines steer clear of such subjective phenomena and confine their analysis to more objective factors in an effort to be scientific.

Interdisciplinary instruction promotes the integration of ideas from relevant disciplines – including moral philosophy when exploring an issue so ethical considerations are often part of an interdisciplinary examination of an issue. This is useful since or perspectives on a question, and policy considerations are likely to include discussion and valuation of ethical factors.

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PLACE OF THE CRIMINALISTICS IN THE SYSTEM OF SCIENCES

Criminalistics is one subdivision of forensic sciences. The terms criminalistics and forensic sciences are often confused and used interchangeably. Forensic sciences encompass a variety of scientific disciplines such as medicine, toxicology, anthropology, entomology, engineering, odontology, and of course, criminalistics. It is very difficult to provide an exact definition of criminalistics, or the extent of its application, as it varies from one location or country to another. However, the American Board of Criminalistics defines criminalistics as «that profession and scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the physical and natural sciences to law-sciences matters.» The California Association of Criminalistics provides a slightly different definition: «that professional occupation concerned with the scientific analysis and examination of physical evidence, its interpretation, and its presentation in court.» These definitions are very similar to the ones used for forensic sciences, as both disciplines have as a goal to provide scientific analysis of evidence for the legal system. It is also challenging to define a clear origin of criminalistics. The term comes from the German word *Kriminalistik*, invented by Austrian criminalist Hans Gross (1847–1915). The real recognition of criminalistics as a science by itself can be attributed to Hans Gross who published his book *Handbuch für Untersuchungsrichter als System der Kriminalistik* in 1899.

There is some confusion regarding the status of criminalistics in different legal systems and in different countries – both in Europe and in the world – but there are also problems regarding the terminology used: criminalistics, criminal investigation, forensic sciences, police sciences (English), criminalistique, police scientifique (French), and polizia scientifica (Italian) on one hand,

and kriminalistik (German), and kriminalistika, kryminalistika (Slavic), on the other hand have different meanings in different languages and in different concepts.

In English-speaking countries, «criminalistics» is usually connected with forensic science. It is described as «the branch of forensic science concerned with the recording, scientific examination, and interpretation of the minute details to be found in physical evidence» (Osterburg & Ward, 2000: 30). It is therefore part of forensic science. Sometimes criminalistics is identified as forensic science (Bennett & Hess, 2001: 21), or considered as «a marriage of science, logic and philosophy» regarding physical evidence, or a term embracing «scientific forensic disciplines and crime scene investigation» (Shaler, 2012: 17, 20). The term criminalistics may relate to the work of crime scene technicians at the crime scene or to scientific forensic examination in crime labs (Chisum & Turvey, 2007). Last but not least, criminalistics may also be identified as criminology (or part of criminology) and (academic) criminalists as criminologists (Meško & Tičar, 2008: 288). The same may be said for the meaning of the terms «criminalistique», police technique, police scientifique, polizia scientifica, etc., which are also expressions for forensic science and not synonymous with criminal investigation.

In Germany and Austria, the traditional concept of criminalistics that arose from the handbook of Hans Gross has been followed and additional theoretical parts of criminalistics as a science had been added. Especially in the former German Democratic Republic (DDR), criminalistics has been considered as a science and had been included in university lectures both at the undergraduate and graduate levels. At the Berlin Humboldt University, there had been department of criminalistics with a postgraduate course which, however, was unfortunately canceled in 1994 (Ackermann, 2007). There were several warnings by prominent academics that the situation with criminalistics in Germany was not going well (Ackermann, Koristka, Leonhard, Nisse, & Wirth, 2000). Research and teaching of criminalistics was mostly left to police academies and police vocational schools, and even there the courses are often integrated into general police tactics (Ackermann et al., 2000: 595). Since then, the situation has not improved much, but

there are some Law Faculties that give students lectures on criminalistics (Ackermann, 2007). Still, in Germany, criminalistics is considered as an independent science. (Ackermann, Clages, & Roll, 2011). However, much of the (empirical and theoretical) research in criminalistics has been carried out by the Federal Bureau of Investigation (Bundeskriminalamt) as well as some high vocational police schools (like Deutschen Hochschule der Polizei in Münster).

There are three separate sciences or disciplines which are connected to criminalistics, namely, a) criminal investigation; b) forensic science; and c) investigative or forensic psychology.

Criminalistics, forensic sciences, investigative psychology, criminology, police science often cover the same topic causing them to overlap. Criminalistics usually covers topics such as: interview and interrogation, lie detection, crime scene investigation, crime reconstruction, search of houses and premises, eyewitness identification, undercover investigations, hypothesis building, clues and circumstantial evidence, psychological profiling, geographical profiling, crime classification, case analyses, operative and strategic analyses, etc.

Both in the field of criminalistics as a science or discipline, and in the field of criminal investigation as a practical police activity, what can we expect in the future? Can we predict further development in both areas? We will try to give some suggestions and warnings. As was previously mentioned, the situation in Europe regarding criminalistics as an independent science does not seem very promising. University study programs are rare and often abandoned even in some countries where they used to be available. The Bologna study courses are not in favor of including this science in the law faculty programs, so it is mostly left to rare faculties of criminal justice or to vocational police schools and police academies, which are crucial, as there will undoubtedly be further developments and research in forensic sciences, investigative psychology and criminology.

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THE IMPORTANCE OF THE USAGE OF ENGLISH IN TEACHING CRIMINAL LEGAL DISCIPLINES

The rapid integration of Ukraine into the European Union requires different tangible changes in all spheres, particularly in education and law enforcement systems. Changes in the education system involve effective use of foreign languages in order to prepare well-qualified specialists. All changes that occur in our country are fixed in the relevant laws and documents. According to one of these documents – the law of Ukraine «On higher education»: higher education in Ukraine is based on «the general principles of international integration and integration of higher education in the European area» [1]. As follows, higher education goes to a new level. According to article 4 of the Law of Ukraine «On the national police», «police can be sent to international organizations of foreign states in order to ensure coordination of cooperation, and to participate in international operations in order to maintain security» [2]. So, future specialists of law should be proficient, fully developed and competent in using foreign languages in their sphere.

In a complex crime situation prevailing in the country fighting against crime, the direction of primary importance in legal policy of Ukraine is acquired. Thus, the topicality of studying criminal law subjects is of a great importance. Criminal law specialization has the task to prepare specialists of law enforcement agencies who will be able to provide economic and legal security of the state, organizations, institutions and citizens. A profound study of the disciplines of criminal law presupposes that after obtaining a degree, graduates will have solid knowledge which allows them to tackle any problem in their particular area.

Going back to the question of the use of the English language in criminal law disciplines, to my point of view, we should figure out 3 main things why English is so important for us.

First of all, because of integration and close cooperation with the European Union our future specialists should be able to read foreign literature on their specialty, watch different videos and participate in conferences or discussions. That's why they should be competent in terminology, 'cause jurisprudence is full of different definitions.

Second point is closely connected with our new police. As we can see nowadays we've got a fruitful collaboration with our American, British, German counterparts. They come to us or vice versa and there's an exchange of experience. There's an exchange not only in combat training, tactics, fire training, but also some theory related to criminal law disciplines, where people should understand what they are talking about.

The ultimate point is training of future lawyers and use of English in that particular sphere. For granted that all of them, I mean our bachelor degree students, master degree students, officers are future lawyers or specialists in science of law, but nevertheless, there is a difference between for instance the professional lexicon of a police officer and of an attorney. Foreign citizens, who have some problems and they apply for legal aid, usually want an attorney who'll be able to communicate in so called «correct legal language» which guarantees the absence of inaccurate translation or distortion of information [3].

To sum up, I'd like to say that foreign languages, especially English should be used in learning criminal law disciplines, at least by giving equivalents to different definitions and I expect that we'll continue to cooperate with our colleagues from the chair of criminal law disciplines.

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THE PROVISIONS OF ROBBERY UNDER THE CRIMINAL CODE OF FRANCE

The Criminal Code of France term does not apply robbery, but spending the analogy of a crime, we can state that qualified theft (under French law) and robbery (by Ukrainian legislation) are identical concepts. Theft – a deceptive way removal of another person. This ownership of thing which a person endowed not available. Directly on robbery referred to in Art. Art. 311-2 – 311-11 CC France. Therefore we analyzed the provisions of the Criminal Code of France, robbery – a deceptive way removal of another person using violence against another person, which entail the loss of capacity for a certain period. Robbery (qualified theft) infringes on property relations. Thus, generic object property is robbery. In French criminal law provisions and sees additional direct object – which is expressed in full or partial disability – health and life.

The subject property crime acts, which is alien to the perpetrator. Also in the French criminal law defined a special object – electricity. That robbery recognized deceptive power seizure that caused damage to life and health of the victim, described in the art. 311-2 of the Criminal Code of France.

The victim of the theft recognized a qualified person who has suffered damage offense. The special status of the victim is a person who at the time the crime was pregnant, so the upper limit of sanctions article increases. CC details French term «victim» in the robbery. Looking back, with pregnant women and persons who by virtue of their physical and mental defects can not resist the perpetrator, the most it easier to commit crimes. These victims French legislator attributes and children.

So, we need a more detailed study of foreign law, the domestic schoyu improve and make it more effective.

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QUALIFICATION OF EVASION FROM SERVING THE SENTENCE IN FORM OF SERVICE RESTRICTIONS FOR MILITARY PERSONNEL

The existence of a special criminal law for the responsibility of serving a sentence is not associated with deprivation of liberty, requires to think about the completeness of the contents of such criminal law prohibitions. Art. 389 Criminal Code of Ukraine establishes liability for the evasion from serving the sentence in the form: fine, disqualification to hold certain posts or engage in certain activities of public and correctional work.

The content of the existing forms of punishment, not associated with deprivation of liberty, indicates that legislator approached somewhat limited to installation in Art.389 of the Criminal Code of Ukraine about criminal liability for serving such forms of punishment. First of all we are talking about the penalty of

service restrictions for the military that in its content is similar to the penalty of correctional works. According to the Art. 58 Criminal Code of Ukraine, punishment in the form of official restrictions applied to convicted servicemen, except conscripts, for a term of six months to two years and consists in the deduction of funds in state income, with amount of salaries of the convicted in the amount established by a court verdict within ten to twenty percent. Almost similar to this have content the penalty of correctional works. According to Art. 57 Criminal Code of Ukraine, punishment like correctional labor imposed for a term of six months to two years on the workplace of the convicted and consists in the allocations of funds with the sum of income of the convicted in the amount established by a court verdict within ten to twenty percent.

In spite of this, the legislator has not set in Art. 389 of the Criminal Code of Ukraine, responsibility for evasion from serving the sentence in form of service restrictions for military personnel. However, this does not mean that there is a gap in legislation and complete lack of liability for such acts. The reason is also the meaning of the the penalty of official restrictions for military servants. So, as a rule, avoidance of service restrictions for military servants combined with the avoidance from execution of duties while passing military service, and therefore these acts, depending on the method and the subjective side evasion, qualify under Articles 402, 403, 407-409 of the Criminal Code of Ukraine.

Thus the proposal expressed by LV Chornozub, the establishment in ch. 2, Art. 389 Criminal Code of Ukraine, liability for evasion of the penalty of service restrictions for military serviceman it is reasonable and justifiable, but its necessity is associated only with a limited number of evasions. We are talking about cases where avoidance from serving of this punishment does not apply to avoidance of incurring general obligations or military service.

In this regard, avoidance of particular punishment, to some extent, can relate to avoidance from execution of duties of military service, that in turn can form one of the elements of crimes under Articles 402, 403, 407-409 of the Criminal Code of Ukraine. However, in our opinion, these elements of the crimes will not form

an adjacency with the the offense under Art. 389 Criminal Code of Ukraine, even with the establishing, Art. 389 Criminal Code of Ukraine, responsibility for avoidance from serving military servicemen service restrictions. It is substantiate first, by understanding the adjacency elements of crimes and secondly, the absence of mutually exclusive joint (adjacent) characteristics of these elements of crimes. That is a sign of avoidance of punishment not only for characteristics avoidance of military service. On the contrary, the passage or perform military service may be considered as a generic term covering execution of various military duties, including those arising with the punishment in the form of service restrictions for military personnel.

Under such circumstances, elements of the crimes under Articles 402, 403, 407-409 of the Criminal Code of Ukraine is not contiguous with the the offense under Art. 389 Criminal Code of Ukraine, even if this article will provide the evasion of serving punishment in the form of service restrictions for military personnel. However, regulations that allow for such elements of the crimes may form competition.

With ratio of military duties and on passing, perform military service and military responsibilities to the implementation of punishment in the form of military servicemen service restrictions, it follows that Article. 389 (if you install it liability for evasion of military servicemen service restrictions) and Articles 402, 403, 407-409 of the Criminal Code of Ukraine and form a competition. Thus Article 402, 403, 407-409 of the Criminal Code of Ukraine is one whole, as providing various types of avoidance of duties on a common passing or military service. While the art. 389 of the Criminal Code of Ukraine, which will envisage the responsibility for the evasion of military servicemen service restrictions is part of this, because these obligations apply only to a particular spectrum of responsibilities with the passing or military service.

Absence of Art. 389 Criminal Code of Ukraine guidance on the responsibility for the evasion of military servicemen service restrictions creates a legal gap, as avoidance of this punishment that does not combine with the evasion of general duets with passing or perform military service is not criminal offences, although, in

substance and degree of public danger such acts are most similar to avoidance from serving the punishment in the form of correctional works.

According to this, formulation of proposals to add to ch. 2, Art. 389 of the Criminal Code of Ukraine and Responsibility for avoidance from serving punishment in the form of military servicemen service restrictions are appropriate and justifiable. Thus, it is suggested, ch. 2, Art. 389 of the Criminal Code of Ukraine, after the words «correctional works», add the words «or official restrictions for military servants.» At the same time, the adoption of such changes will cause the competition of norms under Art. 389 (standard, which provides part) and the norms under Articles 402, 403, 407-409 of the Criminal Code of Ukraine (the rules provide the whole). In this connection, qualification of acts under consideration must be carried out according to the rules of qualification in the competition norms, providing part and the whole.

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**THE PROBLEMS OF JUVENILE DELINQUENCY IN THE
DECISIONS OF THE 13TH UNITED NATIONS CONGRESS
ON CRIME PREVENTION AND CRIMINAL JUSTICE»**

The Thirteenth United Nations Congress on Crime Prevention and Criminal Justice was held in Doha, Qatar, from 12th to 19th April 2015. Its main theme was «Integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation».

One of the substantive items of this Congress was concerned with public participation in strengthening crime prevention and criminal justice, including prevention of juvenile delinquency.

It is very important to prevent juvenile delinquency and protect all children who are in contact with the justice system from violence. Deprivation of liberty has very negative consequences for the child's harmonious development and is to be a «measure of last resort and for the shortest appropriate period of time». Children deprived of liberty are exposed to increased risks of abuse, violence, acute social discrimination and denial of their civil, political, economic, social and cultural rights; certain disadvantaged groups are more affected than others; and society is affected at large as deprivation of liberty tends to increase social exclusion, recidivism rates, and public expenditure.

The United Nations declared a lot of norms and standards in the field of juvenile justice, including the Standard Minimum Rules for the Treatment of Prisoners, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the «Beijing Rules»), the Basic Principles for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the United Nations Guidelines for the Prevention of Juvenile Delinquency (the «Riyadh Guidelines»), the United Nations Rules for the Protection of

Juveniles Deprived of their Liberty (the «Havana Rules»), the Guidelines for Action on Children in the Criminal Justice System (the «Vienna Guidelines»), the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the «Bangkok Rules»), the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, as well as the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice.

The Thirteenth United Nations Congress on Crime Prevention and Criminal Justice adopted resolution «Doha Declaration on integrating crime prevention and criminal justice into the wider United Nations agenda to address social and economic challenges and to promote the rule of law at the national and international levels, and public participation».

The participants of Congress emphasized that education for all children and youth, including the eradication of illiteracy, is fundamental to the prevention of crime and corruption and to the promotion of a culture of lawfulness that supports the rule of law and human rights while respecting cultural identities. In this regard, they also stressed the fundamental role of youth participation in crime prevention efforts. Therefore, it is necessary to:

(a) To create a safe, positive and secure learning environment in schools, supported by the community, including by protecting children from all forms of violence, harassment, bullying, sexual abuse and drug abuse, in accordance with domestic laws;

(b) To integrate crime prevention, criminal justice and other rule-of-law aspects into our domestic educational systems;

(c) To integrate crime prevention and criminal justice strategies into all relevant social and economic policies and programs, in particular those affecting youth, with a special emphasis on programs focused on increasing educational and employment opportunities for youth and young adults;

(d) To provide access to education for all, including technical and professional skills, as well as to promote lifelong learning skills for all.

To prevent juvenile delinquency the member States of the Congress declared the main items:

- to integrate child and youth-related issues into criminal justice reform efforts, recognizing the importance of protecting children from all forms of violence, exploitation and abuse, consistent with the obligations of parties under relevant international instruments, including the Convention on the Rights of the Child⁴ and its two Optional Protocols, and taking into consideration the relevant provisions of the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice, as well as to develop and apply comprehensive child-sensitive justice policies focused on the best interests of the child, consistent with the principle that the deprivation of liberty of children should be used only as a measure of last resort and for the shortest appropriate period of time, so as to protect children who are in contact with the criminal justice system, as well as children who are in any other situation requiring legal proceedings, particularly in relation to their treatment and social reintegration;

- to implement and enhance policies for prison inmates that focus on education, work, medical care, rehabilitation, social reintegration and the prevention of recidivism, and to consider the development and strengthening of policies to support the families of inmates, as well as to promote and encourage the use of alternatives to imprisonment, where appropriate, and to review or reform our restorative justice and other processes in support of successful reintegration;

- to strengthen the development and use of tools and methods aimed at increasing the availability and quality of statistical information and analytical studies on crime and criminal justice at the international level, in order to better measure and evaluate the impact of responses to crime and to enhance the effectiveness of crime prevention and criminal justice programs at the national, regional and international levels.

For implementation declared principles it is important to establish a juvenile justice system, which takes into account the child's age, alternatives to imprisonment, release from punishment, provides a restorative and educational approach for effective social rehabilitation and reintegration, preventing the recurrence of the behavior and to establish alternatives to judicial proceedings.

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IMPROVEMENT OF ARTICLE 160 OF CRIMINAL CODE OF UKRAINE AS A WAY TO UNIFY THE CONCEPT OF «UNDUE ADVANTAGE»

The level and extent of corruption in Ukraine, the effectiveness of combating corruption processes largely depend on the integrity of elected officials, democratic political system in general and the election process in particular. The election process in Ukraine is an integral part of social and political life of society. In turn, legislative provision of voting rights realisation is impossible without adequate means of legal protection. One of such means is criminal liability for the offer, promise or provision of undue advantage for the voter or participant of the referendum by doing or not doing any actions related to the immediate realisation of his/her own suffrage or the right to participate in the referendum provided for in the disposition of Art. 160 «Bribing a voter, participant of the referendum» of the Criminal Code of Ukraine (hereinafter – the Criminal Code of Ukraine). Thus, the key concept, which defines the limits of criminal protection not only in Art. 160 of the Criminal Code of Ukraine but all anti-corruption legislation is «undue advantage».

Legislative understanding of this concept is presented in Articles 160, 354 «Bribing an employee of an enterprise, institution or organization», 364-1 «Abuse of authority by an official of legal entity of private law, regardless of the legal form» (the definition

applies to articles 364, 364-1, 365-2, 368, 368-3, 368-4, 369, 369-2 and 370) of the Criminal Code of Ukraine. The definitions are identical in essence (without the drawbacks of the legislative technique), except the first one, where monetary threshold is set (three per cent of the minimum wage), exceeding which criminal liability for receiving undue advantage is applied.

Thus, money or other property, advantages, benefits, services or intangible assets whose value exceeds three percent of the minimum wage that are offered, promised, given or received without legal justification should be understood like undue advantage in Art. 160 of the Criminal Code of Ukraine.

In our opinion, setting a minimum size of undue advantage is unacceptable because:

- Firstly, with setting a minimum size to obtain undue advantage, it automatically becomes a tangible, which is a direct violation of international regulations concerning the criminalization of any form of undue advantage, including tangible and intangible benefits, regardless of whether it has the market price, which may be determined or not;

- Secondly, there is a possibility of bribing voters or participants of the referendum during the election campaign by providing them with undue advantage in the form of benefits, privileges, services and intangible assets, whose value is practically impossible to determine under the general rule.

Therefore, taking into account the direct object of the offense under Art. 160 of the Criminal Code of Ukraine, we believe that the definition of undue advantage, which is provided in a footnote of the Article, should be read as follows:

«Any cash or other property, advantages, benefits, services, intangibles, and any other benefits of intangible or non-monetary nature that are promised, offered, given or received without legitimate reason should be understood as undue advantage in this article».

Also, Ch. 1 and Ch. 2 of Art. 160 of the Criminal Code of Ukraine after the words «undue advantage» should be supplemented with the following content: «(except for products containing visual depictions, names, symbols, flags of political parties whose value does not exceed the size specified in legislation)».

Thus, there is an opportunity to standardize the definition of undue advantage for the whole Criminal Code of Ukraine (without the drawbacks of the legislative technique).

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FEATURES OF LEGAL LIABILITY FOR VIOLATION OF LEGISLATION ON THE USE OF MINERAL RESOURCES

When violating basic requirements for the use and protection of mineral resources special measures of legal liability are provided for. In accordance with Articles 26, 27 of the Code of Ukraine on mineral resources, individuals who violate these requirements may be denied the right to use mineral resources.

Violation of legislation on mineral resources entails disciplinary, administrative, civil and criminal liability under the laws of Ukraine.

Art. 65 of the Code of Ukraine on mineral resources provides a list of the most typical offenses, committing them perpetrators are brought to justice. Those, who are guilty of committing the following offences, are liable for violation of legislation on mineral resources: unauthorized use of mineral resources; violation of rules, regulations and requirements for conducting the work on geological study of mineral resources; selective development of rich deposits of sites that results in excessive loss of minerals; excessive losses and deterioration in quality of minerals during their extraction; damage of mineral deposits, which exclude wholly or substantially limit the possibility of their further exploitation; violation of the order of site development in areas of mineral resources bedding; non-compliance with the rules of protection of mineral resources and requirements for the safety of people, property and the environment from the harmful effect of works related to mineral resources use; destruction or damage of geological sites of special scientific and cultural value, controlled-access wells.

Civil liability is provided for in Article 67 of the Code of Ukraine on mineral resources, Article 69 of the Law of Ukraine «On Environmental Protection», enterprises, institutions, organizations and citizens must recoup for damages caused by violation of the law on mineral resources by them.

Criminal liability provided for such acts that cause public danger and violate the law on the use and protection of mineral resources is applied far less frequently compared to other types of liability, because a narrower range of criminal offenses in this area is set in criminal law.

Administrative liability for violation of legislation on mineral resources is provided for the following: unauthorized site development in areas of mineral resources bedding, non-compliance with the rules of protection of mineral resources and requirements for environmental protection, etc. are punishable by a fine of four to six non-taxable minimum incomes for citizens and for officials – from ten to fourteen non-taxable minimum incomes.

Given the current state of mineral resources protection, we can conclude that none of the abovementioned types of liability is applied fully and adequately in practice, which eventually leads to arbitrariness and lawlessness in the sphere of mining of national importance, which will further lead to mineral resources destruction.

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THE ISSUE OF UNDERSTANDING THE CONTENT OF THE SUBJECT OF CRIME IN 370 ARTICLE OF CRIMINAL CODE OF UKRAINE «PROVOCATION OF BRIBERY»

The article 370 of the Criminal Code of Ukraine «a Provocation of bribery» provides for liability for provocation of bribery, that are actions of an official person (actions of the officials of law enforcement agencies) with the inciting person to offer,

promise or giving undue advantage or accepting the offer, promise or receipt of such a benefit, then to expose the one who offered, promised, gave the unlawful advantage or accepted the offer, promise or received such benefits.

The subject of this crime is official. The concept of «official» is disclosed in article 18 of the Criminal Code of Ukraine and in the note to article 364 of the Criminal Code of Ukraine. So, in the note to article 364 of the Criminal Code of Ukraine official person is determined as the persons who permanently, temporarily or by special authority perform functions of representatives of authorities or local self-government and permanently or temporarily have their places in the bodies of state power, bodies of local self-government, at state or communal enterprises, institutions or organisations, places connected with performance of organisational-administrative or administrative-economic functions, or perform such functions by special authority, which is given to the person by the authority of state power, local self-government body, the Central body of state administration with special status, the competent authority or authorised person of the enterprise, institution, organisation, court or by law. The given understanding of the concept of «official» applies to the dispositions of articles 364, 368, 368², 369 of Criminal Code of Ukraine.

As you can see, the above list does not contain the 370 article of the Criminal Code of Ukraine. Apparently that to understand the meaning of the subject of the crime under the article 370 of the Criminal Code of Ukraine we need to apply to the disposition of part 3 of article 18 of the Criminal Code of Ukraine. According to the 3d part of article 18 of the Criminal Code of Ukraine, officials are persons who permanently, temporarily or by special authority perform functions of representatives of government or local authorities, and also permanently or temporarily occupy places in organs of state power, bodies of local self-government, at enterprises, institutions or organisations, places connected with performance organisational-administrative or administrative-economic functions, or perform such functions by special authority, which is given to the person by the authority of state power, local self-government body,

the Central body of state administration with special status, the competent authority or authorised person of the enterprise, institution, organisation, court or by law.

Comparing definition of what constitutes «officials» in the view of article 18 and article 364 of the Criminal Code of Ukraine it is necessary to ascertain the difference in the list of persons who are recognised as the subjects of the relevant acts. Thus, in contrast to article 18 of the Criminal Code of Ukraine, in the article 364 of the Criminal Code the legislator refers to officials people who permanently, temporarily hold positions in the organisations associated with the implementation of administrative or organisational-administrative functions. But in article 18 of the Criminal Code of Ukraine, this category of officials is not defined. According to the Civil Code of Ukraine the concept «organisation» has a fairly broad meaning. In particular, organisations can be: enterprises, companies, legal entities under private and public law. That is, the list of officials presented in the note to article 364 of the Criminal Code is wider than the list in article 18 of the Criminal Code of Ukraine.

Based on the objective side of the crime content in the article 370 of the Criminal Code of Ukraine it should be mentioned that of course the provocation of bribery can be committed also by the officials defined in the note to article 364 of the Criminal Code of Ukraine. In particular those who permanently, temporarily hold positions in the organisations associated with the implementation of administrative or organisational-administrative functions. That is why we consider that the subject provocation of bribery needs unification, in particular within section XVII «Crimes in the Sphere of Service and Professional Activities Related to the Providing of Public Services» of the Criminal Code of Ukraine. Specifically, it requires the coordination of the contents of the provocation of bribery subject with other articles of section XVII of the Criminal Code of Ukraine where the subject of crime is a service person.

THE LIABILITY OF LEGAL ENTITIES

Due to the fact, that in April 2013 the Law of Ukraine «On amendments to some legislative acts of Ukraine to implement the Action Plan as to liberalization visa regime for Ukraine by the EU concerning the liability of legal entities,» was adopted, the General part of the Criminal Code of Ukraine was supplemented chapter XIV-1 «Penal and law measures for legal entities».

Under the law, criminal liability extends to institutions, enterprises or organizations. Under that action is not subject to state authorities, authorities of the Autonomous Republic of Crimea, local governments, organizations established by them in the prescribed manner, fully funded under state or local budgets, funds of the State Social Insurance, Fund Deposit Guarantee and international organizations. [1]

It is known, that corporate liability in some countries, such as England, USA, Canada, Australia, Scotland, Ireland, India, etc., has been for several decades, but for implementation in Ukraine of the concept of criminal liability of legal persons requires a comprehensive change huge number of normative and legal acts and feeling for law and order and of the society in common.

The researchers determined this problem: the law is nothing more than attempt resuscitation the idea of criminal liability of legal persons, is not supported by the legal science of Ukraine and by representatives' corps at one time. Assumption of the project will significantly increase the possibility of unjust use stringent legal sanctions to legal persons, create threats of the arbitrary limitation statute activity of legal entities by the seizure of their property, open new opportunities for corruption, impact negative economic activity. Given this, although some level of possible negative consequences of enactment and decreased as a result of restriction of offenses in respect, of which it is possible to use a legal entity «penal and law measures « and narrowing the «reason» for the responsibility, but in

general is suggests that law is socially harmful, that determines its overall negative assessment.

Analyzing the position of scientists who are inclined to introduce penal liability of legal persons and researchers reject that idea, to find answers to this question should be based on a number of theoretical propositions. As we know, the legal entity is not fiction. The argument of its real existence is found in civil law. Determination by means of existence of the legal entity led to a significant number of rules governing its operation. The civil rights rules provided a legal person of the rights and the possibility of realizing these rights through legal relation and have established liability for violation of this law. The functioning of the legal entity in legal environment has shown that legal person, as an individual, can also make mistakes, and commit an offense and the same crimes. As far as the penal law does not include specific socially dangerous act to the category of crimes to operate under the subject who committed the act, but includes the consequences (damage) to which the act has led or could lead. That is the nature of the act and the degree of public danger is distinguished a criminal responsibility from civil liability or administrative.

The most urgent problems that have arisen in the process of reforming the penal legislation of Ukraine should include the issue of the spread of criminal liability for legal persons. This problem has not found a clear reflection of the modern criminal law of Ukraine, and in the scientific literature there are conflicting positions.

Kuzmych Olena, Magistrate listener
of the NAIA

TERRORISM IN UKRAINE ASSOCIALLY DANGEROUS ACTIVITY: THE WAYS OF STABILIZING

Since 90-ies of the XXc. international terrorism has been the main threat to the international security, and obviously it still is. Almost every day some new information about acts of terrorism appears.

According to the Ukrainian law terrorism is socially dangerous activity, it is a conscious purposeful commitment of violence by means of taking hostages, arsons, murders, tortures, intimidation (terrorizing) of the community and authorities, any other infringements on innocent people's lives or health, or threats of crime commitments for achieving criminal aims. People disagreeing with state system are more likely to become terrorists, though in the East most terrorist groups appear because of religious disagreements, so terrorists are people with strong even fanatic beliefs in something.

It seemed to us that this problem didn't concern Ukraine and Ukrainians as in the past, cases of acts of terrorism were really rare here. But now everything changed, now Ukraine seems to have the most worrying and at the same time the most important period of its New History. After successful overthrow of anti-national anti-state regime of the ex-government and temporary loss of the Crimea, the situation got worse with expansion of the activity of separatist movement in the eastern and southern regions of the country.

To my mind, terrorist activity increased due to many different factors including deep economic crisis, confrontations between different political forces, emergence of separatist movements and their more and more intense activity, nation's poverty, processes of social differentiation, development of criminal elements in entrepreneurial and governmental bodies, corruptibility of the state system, increase in the arms sales on the black market, devaluation of moral and spiritual values.

In addition to this, eastern region of the country has always been under the influence of Russian mass media, however with the escalation of the conflict people were taken in the so-called «information isolation». Distortion of the events by Russian mass media during Eurorevolution led to worsening relations between eastern and western regions. Russian propaganda turned into information war, the main aim of which is total disinformation to justify the actions of Russia against Ukraine. Such policy turned most of the population of the east into zombies, thus making them treat Ukrainian forces as enemies and in such a way complicating anti-terror operation.

In my opinion, to stabilize the situation in the east, we need more confident, strict and purposeful actions to be taken by our authorities.

National security, however, depends not only on specialized bodies, but also on every conscious citizen. To stop terrorism from spreading all over the country, every citizen should cooperate with police, to inform it about suspicious hostile persons with some extremist inclinations. Terrorism acts make considerable damage to the international prestige of our country. On the one hand, terrorism is a protest, dissatisfaction with the social organization in the country, on the other hand, this can be international plans of ruled chaos. Such terrorism is a threat to the existence of Ukraine as a state, a threat to its worthy representation and participation on the international arena.

Nowadays, there are a lot of problems in Ukraine, economic, social, criminal, but the most important and topical is a threat of terrorism. We should always remember terrorism concerns us all, everybody can fall a victim of a terrorism act, thus all of us should make efforts, should cooperate with each other and governmental bodies to destroy any terrorist movement in our country.

Starunskyi Yevhenii, Magistrate
listener of the NAIA

CIRCUMSTANCES PRECLUDING CRIMINALITY

According to the Constitution of Ukraine «Everyone has the right to protect his life and health, life and health of others from unlawful encroachments,» because in certain circumstances every right to defend themselves. Outside a protection similar to the crime, but in fact it is not socially dangerous and illegal, and even – socially useful.

Current Criminal Code of Ukraine to circumstances precluding criminality relates to self-defense (art. 36), the imaginary defense (art. 37), the detention of the person committed the crime (art. 38), extreme necessity (art. 39), physical or mental coercion (art. 40), the

execution order or instruction (art. 41), the act carries a risk (art. 42), perform special tasks prevent or uncover criminal activity of an organized group or criminal organization (art. 43) . Often, citizens and officials have to carry out actions that appear on their signs coincide with a particular criminal act (such as murder, destruction of property, abuse of power, etc.), which, however, is not socially dangerous and criminal illegal and conversely, legitimate and recognized typically public benefit (such as taking life one who infringes, in defense of his attack, the use of weapons police officer during the arrest of a dangerous criminal and so on. al.). The research system of circumstances precluding criminality at various times engaged in such Ukrainian and Ukrainian scientists as P. Andrushko, Y. Baulin, L.Vladimirov, L.Husar, M. Durmanov, V. Kozak, V. Stashys, V. Didenko, M. Bazhanova V. Taci, I. Tyszkiewicz, V.Timchenko I. Tkachenko, T. Shavhulidze, M.Yakubovich and others. Characteristic features of the circumstances in question is: what action if such circumstances committed in order to avert the danger of causing serious harm to law enforcement facilities; what a distraction committed, in one case, by causing harm to the person who intentionally commits an offense in another – by causing damage to other values protected by law, to prevent dangerous damage that threatens the other, more important values; that the acts committed by these circumstances have resemblance to the actions and their consequences specified in the rules of criminal law as belonging to certain elements of the crime; that following the circumstances referred recognized legitimate or otherwise – these circumstances precluding criminality.

So under the circumstances precluding criminality, understand the act, whose external features are similar with the offense under criminal law as a crime and that under certain conditions are considered legitimate. In content, the legality of the circumstances precluding criminality can be divided into three types: a) actions for the protection of a person of his personal wealth and his important subjective rights (life, health, freedom, property rights and the inviolability of the home) to protect benefits, rights and freedoms of their family and other rights, public and state property; these actions form the basis of self-defense; b) actions resulting job performance, their professional duties; these actions

are the essence of such circumstances as detaining a person who has committed a crime; physical or mental coercion; execution of an order or orders; justified risk; c) actions to protect against damage by natural forces or the forces that were brought into action by another person or animal from attack; such actions are covered by the notion of «extreme necessity».

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BANDA: CURRENT STRUCTURE AND FUNCTIONS OF PARTICIPANTS

Organized crime – a special socially dangerous phenomenon «tip of the crime.» Often crime – the result of systematic, purposeful activity of a few, and in some cases several tens or even hundreds of people. In such cases there is organized crime. According to statistics the level of organized crime in recent years has declined. But this is largely due to the fact that organized crime is developing, is prepared, secret, complex and invulnerable to law enforcement agencies because their activities are not reflected in official statistics.

More frequent cases where a member of organized criminal groups are employees of state bodies of police, prosecutors, court [1, p. 192]. Therefore, the problems of organized crime is very important. An important element to any criminal group is consistency and structure. What is the structure of the gang? How are some of its units and perform tasks?

This problem is not new. The existence of organized crime belongs to the oldest problems of criminal law, criminology, sociology and other sciences. Research in this area there are about a hundred years. This issue is explored our scientists such as A. Dzhuzha, PV Agapov, B. C. Beybudatov. Many modern Recent issues of criminal law and criminology in light of the criminal justice reform 45 foreign scientists, namely Bykov, O. Shyrobokov, TD Ustinov and others. also examined and analyzed the problem of organized crime and its structure.

The aim of our study is to highlight the structure of modern gang of individual units and parts; functions of its individual members, and the role and value leader.

Banda – a pre-organized on the basis of a common goal with the distribution of roles stable armed group of three or more participants to commit attacks on companies, institutions, organizations or individuals.

Signs of the gang as an organized group includes: group (three or more participants) equipment of, the stability of their union with a single plan of action distribution functions of the group, a special purpose – to attack the enterprises, institutions, organizations, companies, banks, farm stores , warehouses or for individuals, apartments, villas, etc. [2, p. 159].

Consolidation and organization of gangs and their equipment of mobility, nature and methods of committing crimes such as violence, murder, conspiracy, creation of a security for its members, the presence of some of them «turncoats» – employees (former and employees) law enforcement authorities, opposition authorities, judicial and law enforcement systems, elimination of witnesses and other activities – all this makes banditry as a manifestation of organized crime, criminal phenomenon dangerous to society. Gang attacks terrorize their cities, districts, villages, find out the

«relationship» between them using weapons, take I-extortion, robbery, kidnapping for ransom, carry out criminal orders and so on.

One of the most important features is its gang structure. That is its hierarchical structure, dividing by certain groups and subgroups. The structure of the gang as criminals target association for cooperative activities may be presented in the form of several subgroups of participants, differing in the degree of impact on these activities, defining its goals and objectives, as well as the membership of participants, formulation and use of common property assets.

The head of the gang leader – usually the authority may be less kingpin. Leaders engaged only organizational or coordinating activities and never to specific crimes do not go.

The leader – a man who has a strong and powerful character and has ties to the government, the law enforcement agencies, businesses and, of course, in the criminal world.

Deputy leader (other authorities – partners) specialize in areas such as: controlling the racket involved counterintelligence, perform internal security and responsibility for personnel responsible for meeting with other gangs and power stocks. Counselors leaders responsible for economic and banking trend [3].

The second level in an organized criminal group – a team leaders responsible for small mobile groups of 5-10 people. They just like the leaders engaged in organizational work, they are often involved in arrows and go along with his crew for a specific crime.

The third level consists militants («bulls», «soldiers») – the bulk of the gangs, which is designed for power shares. Special single gang unit – is blasters and killers, but recently the leaders used as killers specially selected people from other cities and regions. This practice is justified – less opportunity to be exposed and, therefore, easier to confuse the traces of the crime. Also killers to staff positions in an organized criminal group may be «cleaner». This killer-liquidator for his fighters, who are guilty. Practiced such shares on traitors, team leaders, plotters, and fighters addicts in cases of so-called «downsizing» [3].

The fourth level are individuals who contribute to the gang in solving issues (accomplices, zbuvalnyky, suppliers, corrupt officials

and others.). They make a cameo part (with the approval of the leader or active members) in solving some tactical issues in the planning and implementation of specific crimes.

Individuals who are outside the group, but about cooperating with it – it's accountants, administrators, counselors and bodyguards leader.

Usually skeleton gang up former athletes, sometimes street youth, the so-called «punk.» Often the group includes former criminals who had mostly small time – for theft, fraud, theft of cars. The new wave groups include former and active law enforcement. [3]

Important for the «successful» act gang leader is, he is the head organizer. Usually a person 28-40 years is not working or that is engaged in commercial activities to cover banditry. Most organizers, leaders of gangs – recognized in the underworld «authoritative» leaders. The leaders of the gangs may be former law enforcement officers, even specialized units, athletes, military personnel, and other criminals. For them (compared with other gang members) characterized by: increased levels of intellectual, organizational and volitional qualities, initiative, resourcefulness, ability to subordinate themselves to other people to influence them, cruelty, aggressiveness, determination in the application of violence and so on. Leader of the gang performs organizational, administrative, ideological, informational, strategic, coordination and disciplinary functions. Duration of existence and a gang elusiveness suggest a well-established security, intelligence and the ability of its management [2, p. 162].

So, from the above we can conclude that the current gang – a complex phenomenon, structured and systematic. Organized criminal group has a hierarchy that consists of leader and three units, each of which performs its functions and has a special significance. For long-term existence of gangs important leader. He must have a lot of leadership qualities for the successful management of the gang.

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VICTIM OF CRIMINAL OFFENCE COVERED BY ARTICLE 155 OF THE CRIMINAL CODE OF UKRAINE

Under current conditions Ukraine experiences a number of social, political and legal changes. In the face of overwhelming odds the state has to provide, guard and protect rights, freedoms and interests of the citizens. Article 3 of the Constitution of Ukraine proclaims protection of rights and freedoms of a person as a top-priority task. Especially it concerns minor citizens of Ukraine.

In the International Human Rights Law it has been universally recognised that a child, being physically and mentally immature, needs special protection and care, including legal defence.

Article 10 of the Law of Ukraine «Protection of childhood» from April, 26 , 2001 proclaims that every child is insured the right for freedom, personal security and protection of honour and dignity.

The state insures protection of a child from all forms of physical and psychic violence, offense, cruelty, exploitation, including sexual abuse.

In Part 1 Article 1 the Law of Ukraine «Protection of childhood» that lays down fundamental principles of state policy in relation to protection of childhood, a term «child» is applied to the people under age 18 (full age). At the same time in some articles of the Law (except Articles 24, 33, 34), a term «minor» is used.

The criminal code of Ukraine also conducts defence of the people who haven't reached the state of puberty, viz. Article 155 of CCU «Sexual abuse of an individual that has not reached the state of

puberty» means that physical and moral development of the minors as well as their sexual immunity have been aggressed.

A victim can be of a male or a female gender who has not reached the state of puberty.

Age of puberty is such physical state body that is characterized by the ability to perform completely sexual functions.

Nowadays the state of puberty is established on grounds of forensic psychiatric examination (inspections) in compliance with the bureau of forensic medical examination, signed by Health Ministry from January, 17, 1995 № 6 .

According to these Rules in Ukraine the age of puberty for females at the age of 14-18 is established with early initiation of sex as well as in case of proving bodily injury caused by perforce sexual act.

The age of puberty for males is established at the age of 14-18 years old in cases of sexual offences.

Both males and females under 14 years old are not considered to reach the state of puberty.

Thus, there is an urgent necessity of more thorough crime prevention, the improvement of legislation existing in Ukraine, that is aimed at the protection of sexual inviolability of minors as well as the prevention of these crimes, in particular victim behavior.

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INTERRELATION OF CONCEPTS OF «GUILT» AND «GUILTINESS»

The guilt is the central concept of criminal law, the main, obligatory sign of any corpus delicti. It determines existence of the subjective party of corpus delicti and in considerable by a measure its contents. The absence of guilt excludes the subjective party and by that corpus delicti. The criminal responsibility is impossible without guilt. Also, it is impossible to define consequence of perfect act without guiltiness of the person . Society has to estimate a

behavior of the criminal as dangerous, harmful, illegal, and to recognize him a guilty. Strengthening of legality in activity of the bodies and public officials conducting crime control first of all depends on the correct solution of a question of wine and guilt. First at all, a strengthening of legality in activity of the bodies and public officials, which are conducting crime control, depends on the correct solution of a question of guilt and guiltiness.

The mental relation of the person to perfect action or failure to act, the provided the CC, and its consequences expressed in the form of intention or imprudence (art. 23 of the CC) is a guilt.

The intention can be direct and indirect (art. 24 of the CC):

- the direct intention if the person realized socially dangerous nature of the act (action or failure to act), expected its socially dangerous consequences and wished their approach;

- the indirect intention if the person realized socially dangerous nature of the act (action or failure to act), expected its socially dangerous consequences and though did not wish, but consciously allowed their approach.

Imprudence is divided into criminal presumption and criminal negligence (art. 25 of the CC):

- imprudence is criminal self-confidence if the person expected a possibility of approach of socially dangerous consequences of the act (action or failure to act), but thoughtlessly expected their prevention;

- imprudence is criminal negligence if the person did not expect a possibility of approach of socially dangerous consequences of the act (action or failure to act) though shall and could expect them.

Near concept of fault as sign of the subjective party of actus reus in the criminal and legal theory and law-enforcement practice also the concept of guilt is widely used. At the same time the guiltiness is the socio-political characteristic of the relation of the person who committed a crime to the act and its consequences.

The extensive discussion about a ratio of the concepts «guilt» and «guiltiness» took place in the 50-s of the last century in legal literature. Such position that the concept «guilt» and «guiltiness» should be distinguished turned out the most pertinent. Each of them

reflects separate aspects of a crime and its structure, existence of guilt and guiltiness should be installed separately and to apply at the solution of the questions connected with criminal prosecution.

Guiltiness of the person is connected with its condemnation, with the fact that it is subject to criminal liability for deeds. Therefore expression «the person, who is guilty of the crime execution», means that the behavior of this person is negative from the point of view of both the law, and public opinion, its act is estimated as socially dangerous and that it is necessary to apply criminal sanction to such person. And, on the contrary, formal existence of guilt for lack of guiltiness admits the basis for release of the person from criminal responsibility.

It should be noted that often the sufficient attention is not provided to differentiation of these concepts. Even the legislator quite often, speaking about «guilt», actually means «guiltiness». For example, according to art. 69 of the CC the improvement of the situation of the person at assignment of punishment for the circumstances that mitigate the punishment, is possible «when the accused recognize his guilt». Obvious that it does not means that the defendant has to recognize commission of a crime by him deliberately or on imprudence, and the fact that he has to agree with an assessment of his act as socially dangerous and deserving condemnation.

Thus, the concepts «guilt» and «guiltiness» characterize the same phenomenon, but from different positions:

- the guilt is legal characteristic, and guiltiness – the socio-political characteristic of committed act;
- the guilt is a qualitative valuation of the internal relation of the person to committed act – it exists in one of the forms (intention or imprudence) provided by the law, or it is absent. Guiltiness is a quantitative assessment of the encroachment – it can be more or less heavy;
- the guilt concerns exclusively internal mental relation of the person to the act and its consequences, and guiltiness is both a self-assessment, and an assessment of behavior of the person from the other members of society, it extends also to an assessment of the personality;

- the guilt is ascertained only on the basis of the features defined in the CC, and guiltiness «is measured» also taking into account factors which are beyond the law, and it is a reflection of public and state interests at some point (for example, the guiltiness of the person who committed the theft grows in the conditions of public disaster);

- the guilt plays a crucial role at the qualification of deeds, and guiltiness – when determining its legal consequence.

Obvious that the installation of guiltiness plays an important role at clarifying the circumstances that exclude villainy of crime during the release of the person from criminal responsibility, at assignment of punishment and release from it and it serving. Such key value as guiltiness of the person is in the field of) of classical jury trial, one of the main functions of which is establishment of whether the person is guilty or not.

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STAGE COMMIT OF A CRIME

The question of qualification of crimes prior criminal activity is quite important, because the right to resolve it affects the objective of sentencing and other criminal consequences. Perpetrators do not always finish a conceived and launched crime inspite of their will. For example, just a weapon bought by a killer to commit a crime and was arrested or made a shot at the victim, missed or only wounded him. In these and similar cases, there is the question of responsibility for criminal acts in certain stages of the crime – a certain period, the stage phase, the stage in the development of something that has quality features.

Stages of the crime has a certain stage of its implementation, which significantly differs in the degree of realization of intent, that is the nature of the actions (or inaction) and the time of its termination.

Due to the fact that crime is only a socially dangerous illegal and culpable act (action or omission) done criminal (Ch.I Article 11), each stage of the crime must be the same in this act. Why do not stage the crime or that state of mind a person of thought, expression of intentions, their formation and detection. This is not an act, which intent is objectified . Only socially dangerous acts may be prohibited by criminal law under penalty, but they can be considered as a stage of the crime.

Stages of the crime are types of purposeful activity, stages of implementation of criminal intent, a particular purpose and can be contained only in crimes committed with direct intent.

The extent to which the intent is reflected in the various acts that characterizes each stage of the objectively existing between them sufficiently clear boundaries. The more intent is realized, the more crime is carried out, the more damage is likely or has guilty. Thus, the extent to which the intent killer who precisely gave weapons to the victim (unfinished attempted murder), much larger than the one who just bought weapons for killing (preparation of a crime).

Stages of the offense differ and end point of the offense. It can be completed guilty, but having done so may not be realized and therefore stop at the previous stages (preparation of a crime or directly).

There are types stages of the crime. Criminal Code recognizes criminal offenses and the offense consists of three stages: 1) preparation of a crime; 2) attempt to commit a crime, together with the preparation of a crime are pending offense; 3) completed crime. Signs of preparation of a crime and attempted crime are stipulated under Art. 14 and Art. 15 and completed crimes – in the disposition of the articles of the Criminal Code. If the crime is completed, it absorbs all the stages of its commission, they do not have independent value and do not affect its qualification.

Stages of the crime have theoretical and practical significance, since their installation allows to distinguish criminal from non-criminal behaviour and identifies features of criminal liability for it, except at the stage of crime relevant to the application of many norms of the Criminal Code of Ukraine, so necessary institution of criminal law.

**CRIMINAL RESPONSIBILITY FOR TRAFFICKING OR
OTHER ILLEGAL AGREEMENT ON RIGHTS (ARTICLE
149 OF THE CRIMINAL CODE OF UKRAINE)**

Actuality confirmed that human freedom is one of the core values of modern civilized society, and ensure the inviolability of individual freedom – one of the main functions of the state.

In the twentieth century, human trafficking included international community in a number of major challenges and threats to national and international security. Today, concern about growth illegal actions on use rights for the purposes of sexual and other exploitation. The problem of human trafficking must first be seen as something threatening national security because its the fact it jeopardizes the achievement of all democratic societies.

In accordance with international law, each country that respects human rights and should ensure their implementation, including the prevention of violence, providing competent investigating acts of violence, punish perpetrators and provide compensation to the person affected.

Ukraine like most European countries protects freedom, honor and dignity of socially dangerous encroachments, particularly related to human trafficking. Human trafficking, in accordance with Article 149 of the Criminal Code of Ukraine – recruitment, transportation, harboring, transfer or receipt of a person committed to the operation, using deceit, blackmail or vulnerable state entity.

Realization of other illegal agreement, the object of which is man – is to achieve and partial implementation of an agreement between two or more persons of violation or restriction of rights and freedoms under the Constitution of Ukraine and laws can not be violated or restricted. The contents of this agreement must include the implementation of such agreements as gifts, granting free use, transfer to repay the debt, and any other arrangements for further exploitation rights (sexual exploitation, use in the pornography business, involvement in criminal activity, involvement in debt bondage, adoption

(adopting) for commercial purposes, use in armed conflicts, exploitation of labor people).

Exploitation rights in Article 149 of the Criminal Code of Ukraine, means all forms of sexual exploitation, use in the pornography business, forced labor or forced services, slavery or practices similar to slavery, servitude, involvement in debt bondage, the removal of organs, conducting experiments on a person without her consent, adoption (adopting) to gain, forced pregnancy, involvement in criminal activities, use in armed conflicts and more.

Among the main causes of spread of human trafficking in Ukraine experts call these: the difficult economic situation of citizens and unemployment, lack of awareness on job opportunities abroad, ignorance of immigration laws, the demand for cheap labor, active work of criminal gangs.

Taking possession of a person can be committed for the purpose of sale and to direct operation. For example, in Ukraine for every person recruited, a person can get from 200 to 500 dollars.

The objective side of crime is expressed in active actions aimed at human exploitation for profit. Positions Part. 1, Art. 149 of the Criminal Code provides for the commission of the offense – trafficking in distinct forms:

1) human trafficking; 2) other illegal agreement, the object of which is man, and 3) recruiting and 4) moving 5) concealment, 6) transfers or 7) receiving person. Of the offense, simply committing criminal acts in at least one of these forms.

An overall crime – a person who has attained 16 years of age. Making an official act and the person on whom the victim was financially or otherwise dependent, is qualified the offense.

The subject of crime is overall – a person who has attained 16 years of age. Making an official act and the person on whom the victim was financially or otherwise dependent, is qualified the offense.

The subjective side of crime is characterized by direct intention, selfish motives. Committing acts in ways movement, harboring, transfer or receipt of rights provides for a special purpose – this person operation. Through offense in the form of sales or any other compensation of transmission, the perpetrator is aware of the content of

the agreement, within which the transfer must take either man, and wants to do these for profit.

Qualified crime provided ch. 2, Art. 149 of the Criminal Code, constitutes an action:

- with regard to minor
- with regard to several persons
- repeatedly
- by previous concert group of persons
- an officer through abuse of office
- person on whom the victim was financially or otherwise dependent
- combined with violence not dangerous to life or health of the victim or his family
- threats of use such violence

Especially qualified for the types of trafficking ch. 3. 149 of the Criminal Code recognizes the commitment of the following:

- as to juvenile
- organized group
- connected with violence dangerous for life or health suffering or him near;
- with the threat of application of such violence
- if such actions have caused grave consequences

So who trades people? In relation to the victim: 65% – strangers; 12% – friends; 2% – other influential people; 2% – business partners; 1% – family members; 18% – others. Sex: 57% – women; 43% – men. By nationality: 60% – ukrainians; 10% – russians; 5% – poland; 2% – lithuanians; 23% – others.

In this respect, it is appropriate to give some statistics, because human trafficking does not recognize the boundaries of state, does not distinguish between rich and poor countries. According to the United Nations, people sold into slavery in 127 countries. In 11 states marked «very high» level of activity of traffickers, among them – Russia, Ukraine, Belarus, Moldova and Lithuania. In 2015, the said criminal activities (trafficking), brought the participants 150 billion Dollars a year. Ukraine ranks first among the countries of Southeast Europe for the number of victims of trafficking. According to the US State Department each year fall into slavery 600-800 thousand. People. According to the

Centre for Human Security, this figure is much larger and is 4 mln. people. According to research by the International Labour Organisation, about 12.3 million. People in the world are engaged in forced labor, including 2.4 million as a result of trade people. Herewith the youngest saved man was 3 years old and the oldest – 73 years.

In this manner, the problem of human trafficking today is important direction of research and needs further development in terms of criminal law application.

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DIMINISHED RESPONSIBILITY IN THE CRIMINAL LAW OF UKRAINE

The studies, conducted by the lawyers and forensic psychiatrists, have shown that a vast amount of people among prosecuted criminals have some form of mental disorder. Therefore, the research of such criminal law category as diminished responsibility is important and quite challenging for scientists nowadays.

Diminished responsibility can be described as a mental state, that does not exclude criminal liability and penalty, in which a person had a limited ability to realize or control their actions (or lack thereof) as their mental functions were diminished or impaired (because of mental abnormality) while committing a criminal offense. This criminal law category is enshrined in article 20 («Diminished responsibility») of the current Criminal Code of Ukraine.

Diminished responsibility is characterized by three criteria: judicial, psychological and medical. The judicial criterion includes the fact of committing socially dangerous, under the criminal law, deed (action or inaction), which reflects signs of a mental disorder of a criminal entity and a distinctly impaired ability to realize and (or) control their actions. The psychological criterion includes (quantitative) impairment of the ability of an entity to realize their actions and (or) control them. The medical criterion includes chronic or temporary non-

psychotic disorders of mental activity (so-called borderline mental disorders and abnormalities), which are demonstrated by mental impairment, affective or volitional disorders, essential feature of which is limiting the ability to realize and (or) manage their actions while maintaining qualitative critical functions of consciousness.

The question of correlation between such terms as «sanity» and «insanity» also requires a thorough research. Diminished responsibility is a kind of sanity, and characterizes ability, impaired by a mental disorder, of an entity to act consciously and control their actions while committing a crime. The main difference between the notions of «insanity», «sanity» and «diminished responsibility» lies in the fact that «sanity» and «diminished responsibility» are the features of criminal entity. Offenders, which are recognized by the court as sane or partially insane, are criminally accountable and are subjects to punishment. In turn, «insanity» of a person, who committed a socially dangerous deed, leads to closure of criminal procedure due to lack of evidence, because the insane person is not liable to be convicted of criminal offense. Insanity is a phenomenon, antonymous to sanity, therefore, I believe, the norm that describes this state should be included in a separate article of The Criminal Code of Ukraine.

Theoretical and practical application of the Article 20 of the Criminal Code of Ukraine brings about major discussion between the analytics and practitioners. Analyzing said article shows that the legal consequences of diminished responsibility can be described by two main provisions: consideration by the court in sentencing and possible application of compulsory medical measures.

As it is shown in practice, even though the evident mental disorder is taken in consideration by the court, there is a major tendency toward mitigating the sentence as a display of individualization of criminal liability. It strikes as odd, because in some cases a psychopathy, voiced by psychiatric examination, needed some additional forensic psychological or complex forensic psychological and psychiatric examination. Indeed, in cases where the mental abnormalities of the accused, according to the court, were associated with crime or affected the degree of public danger of the entity, the court must appoint a forensic psychological or complex psychological and psychiatric examination because mental abnormalities within sanity are

beyond the competence of medical forensic psychiatric examination. The court must reflect the very results of the examination and its findings in the verdict and explain its decision regarding the sentence. The flaw of modern national jurisprudence lies in the absence of a court verdict links to criminal account of mental abnormalities at its individualization of criminal responsibility.

The court is also responsible in addressing the issue of compulsory medical measures toward partially insane persons, and determining the type of medical facility, in which such measure are to be conducted. The implementation of compulsory medical measures is entrusted to psychiatric institutions of the Ministry of Health of Ukraine. They determine the medical facility where the person should be treated. Compulsory medical measures and especially their use toward partially insane persons have a special place in the criminal and criminal procedural law, requiring further research and improvement of current legislation on their application for greater protection of citizens against socially dangerous attacks.

The concept of diminished responsibility covers a wide and multidimensional problem field, which incorporates the elements heterogenous in nature. Therefore, the research of the concept of diminished responsibility, defining its clear criteria and resolving issues relating to criminal liability, penalisation and the use of compulsory treatment regarding partially insane persons, is in need for in-depth study and development.

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DOPING, AS A MATTER OF CRIME PROVIDED BY ARTICLE 323 OF THE CRIMINAL CODE OF UKRAINE

The use of stimulants in sport is currently a huge problem because, it seems, there is no potential to reduce it. Nowadays athletes and people related with athletes all the time are developing

new methods and substances that make its detection extremely difficult when athletes are subject to doping tests.

Dope – substances and the methods applied to increase of work capacity of athletes, are potentially dangerous to their health and are prohibited for use by the Anti-doping Code of the Olympic Movement and competent authorities of the relevant sports organizations.

Anabolic steroids (substances that increase muscle mass and physical strength) are particularly dangerous among doping agents and doping methods which are used in sports.

If previously athletes seeking to achieve results of international level got under the pernicious influence of these substances (their use dates back to 1960), then nowadays the use of anabolic substances is spread in schools, amateur sports sections, clubs of bodybuilding etc.

Abuse of anabolic substances has harmful social consequences. The use of large doses of these substances by men compromises the function of the endocrine and reproductive systems, increases the mammary glands raises blood pressure, causes headache and nasal bleeding, impairment of liver function, allergic reactions and even destroys the immune defense system of the body. Among women it causes virilization – the voice gets lower, breasts reduced in size, male baldness appears, hair grows on the face, hands and feet. Physiological defect of children manifests itself in the fact that they cannot achieve their natural growth. There is also the danger of formation of physical and psychological dependence of the human body as a result of the use of high doses of anabolic steroids.

In addition to anabolic substances, according to the Prohibited List of World Anti-Doping Code, the use of hormones and similar substances, substances with antiestrogenic activity, diuretics and other masking substances are prohibited. The prohibited methods include the following: a) enhancing the oxygen transfer (blood doping, including the use of autologous, homologous or heterologous blood products or blood cells of any origin or artificial enhancing the uptake, transporting and delivering of oxygen); b) chemical and physical manipulations; c) genetic doping.

According to the legislation, the organization and realization of anti-doping control in sports on the territory of Ukraine are carried out in compliance with the requirements of the Anti-Doping Code of the Olympic Movement and are entrusted to the National Anti-Doping Center with the doping control laboratory in its structure, which is created by the Cabinet of Ministers of Ukraine.

Doping damages the sports integrity and it is connected with such types of crime as acceptance of the offer, promise or obtaining the illegal benefit by an official, illegal enrichment, illegal influence on the results of the official sports competitions, legalization money (laundering) proceeds of crime.

Winning in professional sports can be very profitable, for coaches, managers and other officials, increasing the motivation of players to use illegal drugs. The main slogan is «low risk – high profit» and therefore it becomes more and more attractive for organized crime groups worldwide.

Also widespread trading of stimulators has significant consequences for the public health. Often doping products are counterfeited and illegally produced, included to the commodity turnover and distributing.

As they are rarely being tested or approved for public use, their use is dangerous and poses a serious threat for the health of the professional and amateur athletes.

Abuse of doping substances in the elite type of sport reflects increased use of such substances in the amateur sport and health activities among young people too.

As the conclusion, we can point out that doping is harmful substance that negatively affects the human body and causes its disorder. Currently, this problem is very relevant both for professional and amateur athletes. To my mind the legislator should review the legal norms, where doping is the subject of a crime, and to use a more severe punishment for persons who produce, distribute and use doping substances.

CONCEPT AND VALUE CRIME COMPONENTS

In the science of criminal law of Ukraine the doctrine about crime components is one of the central problems, because the science of criminal law as a whole should serve as a theoretical basis for the development and improvement of the criminal law, to study and to generalize the practice of its application, to cultivate a deep respect for the law, and therefore it is no exaggeration to say that general theory of crime provides the theoretical foundation of the proper construction of institutions and norms of criminal law and practice, the theoretical basis of the rule of law in the administration of justice in criminal cases.

Crime components defining perfect socially dangerous act as criminal. From this definition it follows that the recognition of one or another socially dangerous act as a crime is the exclusive right of the legislator, that's the Verkhovna Rada of Ukraine. Here gets its implementation principle: «There is no crime without instructions on that in the criminal law.» On the other hand, the valid legislation contains a comprehensive list of socially dangerous acts, which are currently defined as criminal. So, in order to make any socially dangerous act that occurs in real life, received the status of the crime, it's necessary that acts of this type were identified by the legislator as criminal. Only a socially dangerous act a person can be prosecuted and may be assigned to criminal punishment. Deviation from this requirement can lead in practice to breaches of law and infringement of the rights of citizens.

Only legislator in the norms of law by fixing the relevant objective and subjective criteria to determine which of the committed socially dangerous acts are crimes. Moreover, the legislator is unable to (but in this case there is no need) allocate regulatory and consolidate the totality of characteristics of a particular crime. Any particular crime (murder, theft, hooliganism) have many characteristics. Many of them do not have a direct attitude to solving

the issue of the criminality and punishability of acts. Therefore, the legislator allocate from the totality of the symptoms characterizing a particular crime, the most important, meaningful and most common, which are equally inherent in all crimes of this type. Consequently, the amount of features that characterize specifically the crime, much wider the scope of legally relevant characteristics that defining socially dangerous acts as a certain type of crime. At the same time crime components appear as a broader concept, as it contains a feature not of one particular crime, but all crimes of this type. Therefore, when establishing the elements of a specific crime components, the crime does not need to go through their identification and the identification in deed, the act and comparison with the characteristics (elements) of a species the concept of a crime fixed in the criminal law. Formulating the specific characteristics of the crime components, the legislator always comes from those enshrined in the norms of the General part of the criminal code of the crime that have a general nature and are part of any crime. For example, we always take into account enshrined in Articles 18, 19 and 22 requirements to the subject of the crime (physical sane person who has reached a certain in the law of age). Therefore, when designing a specific criminal law is not necessary each time to specify the requirements for the general characteristics of the subject of the crime. Just as there is no need for each article of the criminal code to reveal the contents of intent and negligence, as the content of these concepts is enshrined in articles 24 and 25 of the criminal code. So, in the norms of the General part contains only those objective and subjective signs of structure which are inherent in all crimes, or many of them. These signs in combination with signs described in the specific rules of the Special part, and form a specific part of the offense. It is important to note the fact that the crime components – is actually the current system of signs and not the fruit of human imagination or fantasy. But if it is an objective reality, then it is possible to know and use in practice. Of course, when we say that all signs of any structure included in particular the criminal law, it is recognized that these signs are not always obvious, for they to a certain extent formalized in the text of the law can be given both directly and through a system of legal concepts and categories. So, in

Article 185 of the Criminal Code in some detail are fixed the elements of the theft as the secret abduction of another's property. It specified object infringement (someone else's property) described the character of action (secret theft), but at the same time nothing is said about the subject of crime, the form of guilt and other features of the offence. All these signs have the general nature and is therefore enshrined in the norms of the General part, to which we need to address. For example, from the content of articles 18, 19 and 22, it follows that the subject of the theft can only sane person that an offense was fourteen years old. Comparative analysis of articles 24 and 185 shows that the theft as an act that is deliberate and aimed at receiving profit, can only be committed with direct intent. Recognizing the location of the 185 in the system of the Special part (Chapter VI «Crimes against property»), it must be concluded that the object of theft are property relations.

Crime components must be distinguished from the crime (for example, theft committed on January 17, 2016, from the village K.) committed in a certain situation, at a certain time and in a certain place, which differs many of the traits from all the other crimes of this type (for example, theft committed for the first time, by deception, was eliminated protection). Therefore, this crime has many inherent individual characteristics from all other thefts. Crime components is a legal concept of crimes of a certain type (of theft, murder, rape, robbery, etc.), which combined the most important, the most common and universal their signs. So, for example, theft committed by different persons are always different to some extent from each other by their features, but the offence of their crimes are identical, the same. According to this, we can conclude that the volume of evidence of a crime components and crime is different. On the one hand, the volume of crime is wider than the amount of signs of structure because the latter contains only the most common, typed, that is common to all crimes of this type, the signs. On the other hand, the offense is wider for each specific crime, because it contains signs not one specific crime, and signs of all crimes of this type. Along with the components of a particular crime in the theory of criminal law distinguished general concept of a crime. The teaching of the general concept crime components is based on the theoretical

generalization of typed features inherent in the totality of the compounds of specific crimes. Therefore, it is not legal, but the theoretical concept. It summarizes the features that characterize the objective and subjective evidence for all components of a crime provided by the criminal legislation. Different is the practical purpose of general and specific crime components. The general concept crime components as a scientific abstraction, is a means of understanding the particular formulations, provides guidelines for their design, allowing to carry out their scientific classification. The concrete crime components includes everything described in the law are signs of certain types of a crimes. Therefore, the establishment of these signs of socially dangerous actions of the person shows that the crime committed by him or her.

The stated allows to draw the following important conclusions:

- 1) crime components is a specific set of objective and subjective signs that define concrete socially dangerous act as criminal;

- 2) only in the criminal law determines the set of signs;

- 3) the list crime components provided for by the law is comprehensive;

- 4) only crime components determined by the nature and scope of responsibility for the crime.

In the science of criminal law the teaching crime components occupies a special place. This is due both to its relevance to address issues of a crime or criminal acts, the proper qualification of the offense and accurate application of the law, and that under the teaching crime components are studied and developed all the basic institutions of criminal law. According to part 1 of article 2 of the criminal code «criminal liability is committed by a person of a socially dangerous act which constitutes a crime under this Code». This norm is defined critical crime components for the legality and validity of criminal charges: only the totality of all lawful signs of structure (and no other circumstances) can be the basis of criminal responsibility. So, the composition of a crime is the only and sufficient ground for criminal liability: the delineation of its characteristics in specific socially dangerous act of a person means

that there is everything necessary for criminal liability. The importance crime components is manifested in the fact that it permits, firstly, a clear distinction between crimes and misdemeanors, that is non-criminal socially dangerous acts; secondly, to distinguish one crime from any other (for example, theft from robbery).

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LIABILITY OF LEGAL ENTITIES IN UKRAINE

Since the Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine on the Action Plan to liberalize the EU visa regime for Ukraine and the liability of legal entities» has come into force the more than two years have passed. Moreover, it makes it possible to draw some conclusions from a practical point on the effectiveness of its enforcement.

According to foreign countries practice it can be provide by three basic approaches to understanding the criminal liability of legal entities:

1. Full recognition of the institute of criminal responsibility of legal entities (France, China, Lithuania and Estonia). At the same time, the principle of criminal liability of legal entities does not eliminate the criminal responsibility of an individual.

2. Complete denial of the institute of criminal liability of legal entities (Bulgaria, Hungary and Belarus).

3. »Quasi-criminal« (administrative or criminal) responsibility of legal entities (Germany, Sweden, Italy, Spain). The main feature of this approach is that the law does not recognize the legal entities of the crime, but in some cases, in particular, provided certain regulations, they can apply a variety of criminal sanctions.

As you can see, Ukraine has chosen the latter way, therefore, the legislator does not use the term «criminal responsibility» for legal entities (next – CRLE). Instead, the term

«measures of criminal law for legal entities» that avoids changes to the subject of criminal responsibility is used in the General Part of the Criminal Code of Ukraine.

The court might apply such criminal responsibility to legal entities as may: fines, confiscation of property, liquidation. In particular, fine and liquidation might be applied only as the main CRLE and confiscation of property – just as the additional ones. While applying CRLE a legal person is entitled to compensate for the losses and damages comprehensively, as well as the amount of improper advantage.

Low efficiency and effectiveness of the implementation of the criminal responsibility of legal entities in Ukraine: causes and solutions. Not enough regulated the recognition of the legal entities as a subject of crime, the expenditure of the list of penalties that might apply to legal entities and the quantity of offenses for which a legal person might be criminally liable to arraign on a criminal charge. The problem of the recognition of the legal entity as the subject of crime is ambiguous, due to its relation with the fundamental principles of criminal law and criminal-legal status of the perpetrator. There is a need (дополнения) to the Criminal Code of Ukraine in order to details the provisions on the tasks of criminal law, the action of the law in time and space referred to legal entities, the question of the stage of the crime commission and the problem of accomplice and others.

Analyzing the advantages and disadvantages of introducing criminal liability for legal entities as CRLE application, we can say that this is a progressive step. Which also is need in future researching and improvement with international experience. In conclusion, the grounds of liability of legal entities yet indicate that it is not a question of strict liability, but rather of a special from of criminal responsibility, adapted to legal entities.

MURDER AS A CRIMINAL ACT IN THE LEGAL BASES OF THE DIFFERENT COUNTRIES

Actuality of this given is that the term murder exists in the criminal codes of many countries. It is appropriate to consider the difference between the punishment for this crime.

Murder is the intentional taking of the life of another person. Killing an individual may not be considered for various reasons, such as self-defense

Not all cases of illegal killing constitute murder. For example, unintentionally caused deaths due to recklessness or negligence are treated in most countries as the lesser crime of involuntary manslaughter or criminally negligent homicide.

Most countries allow conditions that «affect the balance of the mind» to be regarded as mitigating circumstances against murder. For example, in Ukraine a person may be found guilty of «manslaughter on the basis of diminished responsibility».

Homicide, the killing of one human being by another. Homicide is a general term and may refer to a non criminal act as well as the criminal act of murder. All legal systems make important distinctions between different types of homicide, and punishments vary greatly according to the intent of the killer, the dangerousness of his conduct, and the circumstances in which he acted.

American codes classify homicides into two or more separate crimes, each crime carrying its own penalty, which can be varied within limits by the sentencing authority. Penalties for murder may include capital punishment or life imprisonment, whereas the penalty for manslaughter is usually a maximum number of years in confinement.

Japan codes and their derivatives group all unjustified killings under the single crime of homicide but specify different penalties depending on the circumstances of the act. Some countries provide special penalties in unique situations in accordance with special social needs. For example, Japan reserves its harshest penalties for the murder

of one's own lineal descendants, and Italy allows for mitigated punishment if the killer acted from a sudden intense passion to avenge his honour. European codes, like Anglo-American codes, distinguish between intentional and other felony murders on the one hand and reckless, negligent, and provoked murders on the other. In all systems the most important distinction relevant to sentencing is that between conduct that is socially dangerous and conduct that is merely reckless (i.e., between acts of intent and acts of passion).

Indian law requires that an offender know of the danger he might cause and thus rules out reckless acts that are the result of ignorance, but other jurisdictions are less clear on this point. Many U.S. states distinguish between murder of the first and of the second degree, with capital punishment limited to crimes of clear intent.

Whereas in England death resulting from a felony is defined as murder only in the case of a few serious crimes, such as robbery or rape, European codes often punish any killer as a murderer if he has employed a deadly weapon.

Unlike the provisions of most law codes in the Western world, murder under Islamic law is generally treated as a civil infraction – although Muslim jurisprudence does not clearly distinguish between civil and criminal law. Under traditional Islamic law, the family of a murdered Muslim is given the choice of taking retribution (Arabic: *qiṣāṣ*), which allows them or their proxy to take the murderer's life, or accepting *wergild* (Arabic: *diyyah*), or compensation, from the killer or his family. The Islamic tradition extols the latter, and, in the case of an accidental death, financial compensation by the offending party (in addition to an act of contrition) is the sole remedy.

During the 1990s the legal definitions of homicide in the West changed somewhat as a result of new attitudes toward the elderly and the terminally ill. Traditionally, European codes acquitted a person for a «mercy killing,» whereas Anglo-American codes did not, but in the 1990s a widespread «right to die» movement in North America and Europe sought the legalization of certain forms of euthanasia and physician-assisted suicide. In 1997 physician-assisted suicide was legalized in the U.S. state of Oregon, and in 2000 the Netherlands became the first country to enact a national law providing physicians with immunity from prosecution for mercy killings.

PECULIARITIES OF THE HOOLIGANISM QUALIFICATION

One of the necessary and obligatory conditions for normal functioning of any state with public order, as normal society, which is protected, including state institutions, by protecting constitutional rights, freedoms and legitimate interests of citizens, interests companies within the limits of the legal norms, taking into account traditions, customs, moral norms. The most dangerous attack on public order, disturbs the public peace is punishable hooliganism. Public danger of bullying are obvious. Analysis of the statistical data investigative judicial practice shows that the manifestations of bullying are quite common, often become the basis of Commission, as a rule, serious and very serious crimes. Therefore, I believe that this question is relevant and requires further study and research.

Qualifying sign of the crime provided by part 2 of article 296, is committing acts of hooliganism by group of persons. Court statistics 2013-2015, indicates that approximately 14% of those are committed by the hooliganism of the group. The crimes committed by a group of persons, if it was attended by several (two or more) of the performers without prior agreement among themselves or on preliminary arrangement by group of persons, regardless of the role performed. The following qualifying signs of hooliganism, provided part 3 of article 296, are committing vandalism by a person previously convicted for hooliganism, or associated with resistance to representative of authority or member of the public who have carried out duties on protection of a public order or other citizens who stopped the bullying. On the grounds of committing disorderly conduct by a person previously convicted for it, the actions of the guilty is qualified under part 3 of article 296 of the criminal code when it is at the time of the offence had not removed or not extinguished previous conviction for at least one of the parts of said article or under part 2 of part 3 of article 206 of the criminal code 1960 In the case of qualification of actions guilty on this basis can not be

considered circumstances aggravating the offence again and recidivism (n. 1 h. article 67 of the criminal code).

As a resistance to the government representative, member of the public or other citizens who have stop bullying (part 3 of article 296 of the criminal code), it should be understood the active opposition of a person who commits hooliganism (repulsion, the task of beatings, bodily harm), to deprive these persons of ability to perform official or public duty on the protection of public order.

Such resistance is covered by part 3 of article 296 of the criminal code as an aggravating feature under her crime, therefore, does not require additional qualifications in parts 2 and 3 of article 342 of the criminal code.

If the resistance was made after the termination of hooligan actions, the opposition to arrest, he can't be a qualifying as a bullying and the responsibility should come on set of the crimes provided by corresponding parts of articles 296 and 342 of the criminal code.

In the case where the resistance of the authorities or the public occurred during the commission of petty crimes, the offender is subject under the criminal part 2 of part 3 of article 342 of the criminal code and the administrative responsibility according to article 173 of the administrative code. Solving the question of presence in actions of the perpetrator of such qualifying signs of hooliganism, as the use of firearms or cold weapon or other subject, specially adapted or in advance prepared for infliction of bodily injury (part 4 of article 296 of the criminal code), note that this symptom occurs only in cases where the perpetrator with the help of the mentioned items caused or attempted to cause bodily injury or when the use of these items during the commission of hooligan actions has created a real threat to the life or health of citizens. Firearms include any device factory of handicraft production, is designed to engage a live target using a projectile (bullets, shot, etc.) that held in motion by the energy of powder gases, or other special fuels – all types of military and other small military weapons, small-caliber sporting pistols, rifles, gas pistols, rifled hunting weapons and converted weapons (adapted for firing bullets of a different caliber), including sawn-off shotguns of smooth-bore hunting weapons.

The cold weapons are objects that adhere to the standard samples or historically developed its types and also other items that produce

stabbing, stabbing, cutting or shock effect (bayonet, knife, crossbow, nunchucks, brass knuckles, etc.) structurally intended for defeat of live targets with the help of human muscle power or mechanical devices. Specially adapted for bodily injury should recognize the objects which are fitted by a guilty person for this purpose in advance or during the commission of hooligan actions, and pre-prepared items, which, although not subjected to pre-processing but before the start of bullying was guilty adapted for this purpose.

If someone use knives, that do not apply to melee weapons, other items of economic-household purpose, special means (rubber truncheons, gas gun, canister, grenades, and devices of a domestic production shooting of the cartridges equipped with rubber or similar characteristics with throwing shells of nonlethal action), pneumatic weapons, explosive packages, simulation-fireworks that do not contain explosive substances and mixtures and other adapted for bodily injuries instruments of crime during committing hooliganism is the basis for qualification guilty persons actions of under part 4 of article 296 of the criminal code not only in cases when it causes them injury, but when that person using these items poses a real threat to the life or health of citizens.

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SUBJECT OF THE CRIMES AGAINST PROPERTY

Crimes against the property is one of the widespread and dangerous groups of criminal activities, because it move in property law. Property rights protection has special nation wide scale because economic independence of property is political, national and religious basis of liberty. Economic system stability and rise in living standards depend on normal operations of basic systems.

The subject under classification crimes against property has important significance; it consist of another property, which have value and it isn't belong to guilty person (e.g. things – movable and

landed), funds, valuable metals etc.) and right to property and property activities, electric and heating energy.

Property is things of material world, which have specific physical, economical and juridical characters. For example, funds, valuable assets, personal effects, household appliances etc.

These items can remove, assign, consume, damage, destroy which are the physical characteristics of the property (human as a natural person cannot be the subject of crimes against property, and therefore theft or other misappropriation should qualify by the relevant articles of sections 3 or twentieth Special part of the criminal code).

Economic features of the property:

To have exchange and use value

To be separated from the natural environment or be re-created

To be able to meet the needs of the individual and society.

Legal features of property:

To be a stranger to the perpetrator

To belong by right of ownership to another entity the right of ownership

Not apply to the subjects of crimes, responsibility for which is provided in other sections of the criminal code

Stranger property is property that are not owned or legally held guilty.

It should be noted that the cost of someone else's property, as a subject of crimes against property, is the criterion of differentiation of the criminal offense property theft from petty theft of such property.

People have different abundance in our time. In my opinion, it happens because of the resources lack committed crimes against property.

KNIVES AS THE SUBJECT OF ARTICLE 263 OF UKRAINIAN CRIMINAL CODE

This theme actual now cause of social and economic changes in Ukraine. We have escalation of criminal and growing of crime's rate.

Organized crime groups set the main place in the structure of crime. They are well technically equipped, have plenty of weapons.

Criminal's aggression increases. It expresses in the growing of specially dangerous crimes such as gangs, murders, robbery etc..

We have many types of knives from variety of countries in our stores. Unfortunately they have no valid permissions and certificates.

So, requirement in special knowledge doesn't limit the crime's investigation sphere only. The testing is main part also.

Knives can be a subject of crime according to Part 2 Article 263 of Criminal Code of Ukraine.

According to the «Methodology forensic investigation knives and structurally similar to its products» knives considered as objects and devices which constructively designed and suitable for repeated severe (life-threatening at the time causing) and fatal injuries (hereinafter – «hit the target»), which are based on the use of human muscle strength.

Do not refer to knives products for house hold, industrial, sports and other purposes that are similar to knives for its form and / or structurally, but have not then tirese to fessential features of in herent cold weapons, in particular, do not relate to knives sports in ventory, souvenir and faken ature that differ significantly in the irability to hit a targetin comparis on to their fightin gorhunting closest counter parts.

Legisla to run derstands the term knivesas daggers, Finnish knivesas a kindof bladed weapons with piercing-cutting action. Which are characterized by the handle with a bumper that limits theen tryof a knife in to the body and blade with specific form. Adagger – a long, narrow, sharpened on both sides,tapering to the

end, tipped; Finnish knife («Finn») – a short, thick, sharpened on one side and a curved end narrowed at the side.

Brass knuckles – the kind of impact knives. It is a metal plate that is worn on fingers and pressed in a fist, with holes for fingers and lugs, which are the points of impact. Another melee weapon – any items that are specifically designed or adapted for causing bodily harm. There is long-blade weapon (saber, sword), throwing guns (boomerang, spear, sling, bow, crossbow), shocking accessories (nunchaku, mace), chopping items (tomahawk, battle axes).

The question of attribution of certain items to certain weapons is decided on the basis of objective and subjective criteria. For the objective features weapons are items that can cause damage to human life and health, taking into account their shape, weight, durability (particularly the hardness of the material of which the impact parts are made of) design features. Subjectively, they are designed to increase manpower – damage to the body of another person, that should not have other purposes – commercial, household, sport, ritual and soon. The question of recognition of objects as «dual» purpose weapons – for example, a bow that can be sports equipment and hunting weapon and thing intended to cause at least bodily injury, – decided taking into account the purpose of acts committed with such objects.

So we can summarize all of the foregoing and can make a conclusion that a problem of assignment of an object to knives is an improper investigation of all types of knives, which cause illegal importation of it into Ukraine and adequate inspection and certification of such products

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Materials of Round Table

(Kyiv, June 23, 2016)

Підписано до друку __.__.2016. Формат 60х84/16. Папір офсетний.
Обл.-вид. арк. _____. Ум. друк. арк. _____. Вид. № _____.
Тираж прим.
