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Oleksandr YUNIN©
Dr. of Law, Professor,
Honored Worker of Science
and Technology of Ukraine
*(Dnipropetrovsk State University
of Internal Affairs,
Dnipro, Ukraine)*

SPECIFICS OF POLICE PARTICIPATION IN THE OPERATION OF THE PERMIT SYSTEM DURING MARTIAL LAW

Олександр Юнін. ОСОБЛИВОСТІ УЧАСТІ ПОЛІЦІЇ В ФУНКЦІОНУВАННІ ДОЗВІЛЬНОЇ СИСТЕМИ В ПЕРІОД ВОЄННОГО СТАНУ. У дослідженні висвітлено підходи науковців та нормативне визначення поняття дозвільної системи, її основних елементів у контексті участі в її функціонуванні Національної поліції України. Вказується, що дозвільну систему можна розглядати в широкому та вузькому розумінні. Також дозвільна система – це певна дозвільна процедура, яка регламентує дії різних учасників суспільних відносин; це специфічна діяльність органів державної влади щодо здійснення контролю за дотриманням спеціальних правил дозвільної системи; дозвільна система є засобом забезпечення реалізації фізичними та юридичними особами конкретних прав на об'єкти, що перебувають у обмеженому користуванні. У статті також наголошується, що адміністративні послуги Національної поліції України у сфері дозвільної діяльності є складовою надання поліцейських послуг, які включають контроль за дотриманням фізичними та юридичними особами правил, передбачених дозвільною системою (зберігання зброї тощо).

Наголошується, що під час воєнного стану повноваження поліції видавати дозволи на придбання, зберігання та носіння мисливської зброї набули актуальності та важливості для відсічі збройної агресії росіян, а іншим важливим напрямком діяльності поліції став облік вогнепальної зброї, особливо на деокупованих територіях. У статті наголошується, що в умовах воєнного стану з метою відсічі збройної агресії російських окупантів лібералізовано порядок отримання громадянами дозволу на придбання, зберігання та носіння мисливської нарізної, гладкоствольної зброї та патронів. При цьому головною особливістю є те, що така лібералізація, яка полягає у скороченні переліку документів, необхідних для отримання дозволу, припиняється після закінчення воєнного стану, оскільки до уповноважених органів все одно потрібно буде подавати весь необхідний пакет документів для отримання дозволу.

Ключові слова: *вогнепальна зброя, дозвіл, контроль, деокупована територія, підрозділи міліції.*

Relevance of the study. The licensing system in Ukraine performs an extremely important controlling role of the state over objects that are potentially dangerous for the state and society, for the environment. It is especially important to control such objects in a state of war, because such a state means that the state and society are under stress due to war and all the calamities that it brings. The National Police of Ukraine, in accordance with the tasks assigned to it and the powers granted, carries out control over the circulation of firearms or cold

ORCID iD: https://orcid.org/0000-0003-4846-2573
junin@ukr.net

weapons, control over compliance with all the necessary rules at the facilities of the permit system, etc., thereby, in the conditions of martial law, it supports the observance of law and order in the field of operation of the permit system. We believe that all the activities of the police, not only regarding the functioning of the permit system, in times of martial law acquire great importance, therefore we consider the selected issue to be relevant.

Recent publications review. Researchers K. Bakhchev, O. Bezpalova, I. Volokitenko, N. Daraganova, D. Denisyuk, S. Myronyuk, A. Fomenko deal with the specifics of the participation of the National Police of Ukraine in ensuring the functioning of the permit system under martial law. and other.

The research paper's objective is to highlight the peculiarities of the powers of the National Police of Ukraine in the issue of the functioning of the permit system in the conditions of martial law, changes in the relevant regulatory provisions regarding the functioning of the permit system.

Discussion. The question of the definition and content of the permit system is actively considered in the scientific legal literature, as well as the permit system as it is termed in normative legal acts. Among researchers, there is no single point of view on the definition of the concept of the permission system, the latter concept includes a fairly wide range of regulated legal acts of social relations.

When considering the meaning of the concept of the permission system, more researchers use the approach of a broad and higher understanding of the term. F. Finochko, for example, points out that the permit system is a regulated right to the order of manufacture, accounting, use of specially defined objects, materials and substances, opening and functioning of enterprises, workshops and laboratories with the protection of the interests of the state and the safety of citizens (this term almost coincides with the normative definition of the permit system in the Regulation on the permit system, which will be discussed later, although the author did not indicate such an important requirement as the transportation of certain materials, etc., which also requires a special order of legal regulation). At the same time, the researcher points to the requirement to consider the permit system in two aspects. In a broad sense, this is a special procedure for the execution of additional subjects of actions, for which a special permit must be obtained (the right to issue such a permit is vested in other bodies of executive power, among which is also the National Police of Ukraine, which not only supervise compliance with the rules of the permit system, but and itself provides services in the field of obtaining permits). Instead, in a higher sense, the researcher proposes the permission system to extend the participants to the objects that are listed in the provision of the permission system. [3, pp. 47-48; 5, pp. 504-505].

O. Kharitonov, on the other hand, believes that the permit system consists of basic and additional elements that allow it to be considered in a broad sense as a set of legal relations that arise with the aim of ensuring public safety between executive authorities, local self-government bodies, authorized to issue permits, on the one hand (the author refers to this party as permitters), as well as between natural or legal persons (participants), which arise in connection with the possibility of the applicants taking actions aimed at acquiring in a special order certain rights or powers by the applicant, regarding the use of such substances, materials, objects, or engaging in activities that may be dangerous to human life and health or pose a threat to the interests of the state, in the event of the emergence of such legal relations, in the future, control or supervision will be carried out by the permit holder in compliance with the established rules, and in the event of violation of such rules, the guilty will be held accountable. Note that it would be more appropriate to use the term not the acquisition of rights, but their acquisition, since individuals and legal entities receive certain services from the state, rather than purchase them. In a narrow sense, the author notes that in the presence of all the elements listed above, the permit system applies only to a limited range of things, substances, objects of the material world that represent a potential danger [3, p. 48; 17, p. 17].

V. Tkachenko in a broad sense calls the permit system. Regulated by the norms of administrative law, the procedure for obtaining permits by legal entities or natural persons in the bodies of executive power or specially authorized executive bodies of local councils for the implementation of the specified type of economic activity, as well as other actions (types of activities) that require legal or natural persons to obtain permits for their implementation within a specified period, provided that they comply with certain rules. Instead, in a narrow sense, the researcher considers the permit system to be the administrative-procedural activity of internal affairs bodies regulated by administrative and legal norms (the author's work is dated back to

2007, but it is more appropriate to use the term National Police of Ukraine at the moment), as well as other specially authorized bodies for issuing physical or to legal entities, permits to carry out relevant activities or actions in the sphere of circulation of specially defined objects, materials and substances, opening, functioning, suspension and termination of the activities of individual enterprises, workshops and laboratories; supervision of their activities, as well as the application of administrative coercion measures in case of violations of the rules that a natural or legal person undertakes to follow after obtaining a permit [8, p. 29, 37; 16, pp. 250-251]. By the way, regarding the implementation of the permit system by the National Police of Ukraine, A. Fomenko writes that this happens by providing administrative services to individuals and legal entities based on their application.

At the same time, A. Fomenko calls the administrative services of the National Police of Ukraine in the field of the permit system a formally defined, legal, paid public service activity of the structural divisions of the National Police of Ukraine regarding the issuance of permits to individuals or legal entities for the implementation of relevant activities (actions) in the field of circulation of specially defined objects , materials and substances, as well as the opening and functioning of objects of the permit system [16, p. 252]. It should be added that the administrative services of the National Police of Ukraine in the field of permit activity are a component of the provision of police services, which also include control (supervision) of compliance by individuals and legal entities with the rules stipulated by the permit system (storage of weapons, etc.).

It should be noted that in the matter of the content of the concept of the permit system, D. Denysyuk made a valid observation that the activities of individuals and legal entities are related to objects that may pose a potential danger to public safety, life and health of citizens [4, p. 139]. V. Humeniuk also emphasizes that the permit system is related to objects of management, production, acquisition, sale, storage, transportation, use and destruction of objects and substances, the illegal use of which can cause significant damage to the interests of society and the state and directly to life and health of citizens [2, p. 29]. In the conditions of martial law, the control and supervision of such objects is particularly important and relevant, especially in matters of compliance with the rules of the permit system for firearms, explosives, etc. We agree with the opinion of O. Sosnovyk that the permit system should be considered in three aspects. First, it is a certain permissive procedure that regulates the legal actions of various subjects. Secondly, this system can be considered as a specific activity of authorized state authorities to supervise and control compliance with special rules regarding the objects of the permit system. Thirdly, the permit system can be considered as a means of ensuring the realization of rights by individuals and legal entities regarding objects (objects, materials, etc.) that are in limited use [15, p. 392].

At the legislative level, in the Law of Ukraine "On the permit system in the sphere of economic activity" of 2005, Art. 1 defines the concept of the permit system in the field of economic activity: "a set of relationships regulated by legislation that arise between permit authorities, administrators and business entities in connection with the issuance of permit documents, reissuance, cancellation of permit documents" [11]. At the sub-legal level, in the Regulation "On the Permit System" of 1992, such a system is understood as: a special procedure for the manufacture, acquisition, storage, transportation, accounting and use of specially defined objects, materials and substances, as well as the opening and operation of individual enterprises, workshops and laboratories in order to protect the interests of the state and the safety of citizens [10]. The Regulation also defines the list of objects, materials and substances, enterprises, workshops and laboratories to which the permit system applies, including firearms, melee weapons, pneumatic weapons, explosive materials and substances, potent poisonous substances, pathogens of infectious diseases, toxins, storage facilities, warehouses and bases where they are stored, shooting ranges and shooting ranges, hunting and sports stands, as well as enterprises and workshops for the manufacture and repair of firearms and cold weapons, pyrotechnic workshops, points of study of the material part of weapons, special tools, rules for handling them and their use, stores selling weapons and military supplies for them, organizations engaged in the sale of highly effective poisonous substances, and laboratories that conduct analyzes of these means and substances, work with pathogens of infectious diseases and toxins) [10].

K. Bakhchev, in his research on the peculiarities of the activities of the units of the police permit system, emphasizes the importance of issuing permits by the police for hunting weapons, etc., during a state of war. Police officers of the permit system also carry out

measures to prevent offenses in the field of arms trafficking. Another important area of activity of the units of the permit system of the National Police of Ukraine, the author singles out the accounting of firearms, which was particularly positively affected by the introduction in 2022 of the "Unified Register of Weapons" of the information system of the Ministry of Internal Affairs [1]. The main tasks of controlling the circulation of firearms are assigned in the police to units or sectors of the permit system in the police structure of preventive activities. And coordination takes place through the heads of departments (departments) of preventive police activities. Back in 1998, the Instruction "On the procedure for the manufacture, acquisition, storage, accounting, transportation and use of firearms, pneumatic, cold and cooled weapons, devices of domestic production for firing cartridges, equipped with rubber or metal projectiles with similar properties of non-lethal action, was approved. and cartridges for them, as well as ammunition for weapons, main parts of weapons and explosive materials", which determined the conditions and procedure for issuing and canceling permits for the acquisition, storage, registration, protection, carrying, transportation and use of weapons, devices of domestic production for firing cartridges, equipped with non-lethal rubber or metal projectiles similar in their properties, and cartridges for them, ammunition, other objects, materials and substances, for the storage and use of which special rules and procedures are established and which are covered by the permit system, rules for handling them and their application [9, p. 32; 6] and the participation in this of units of the National Police of Ukraine and its officials.

Among the peculiarities of the permit activity of the National Police of Ukraine during the state of war, it is worth highlighting that after the full-scale aggression of Russia, Ukrainian legislation was liberalized in the matter of simplifying the procedure for citizens to obtain a permit to purchase, store, and carry hunting weapons and cartridges for them. Of course, this step is due to an objective reason in the form of the need to oppose the armed aggression of the russians against the citizens of Ukraine in the status of not only a serviceman of the Armed Forces or in the ranks of other subjects of the security and defense sector, but as a partisan movement of civilians using hunting weapons, many volunteers in the initial stages of a full-scale aggression with hunting weapons were sought by subversive groups of russians deep in the territory controlled by Ukraine.

The regulatory regulation of such liberalization was enshrined in the order of the Ministry of Internal Affairs "On the peculiarities of issuing permits to citizens of Ukraine to purchase, store and carry hunting weapons and cartridges for them during martial law" on March 1, 2022, that is, a few days after the start of a full-scale war. The norms of the order regarding the participation of the National Police in the permit system related only to the issuance of permits to citizens for hunting weapons, and they also apply only during a special period of martial law in Ukraine [13]. At the same time, the order of the Ministry of Internal Affairs "On extending the validity period of permits in the field of circulation of weapons, devices and explosive materials during martial law in Ukraine" on March 18, 2022, was extended for a period of up to 10 days after the termination or cancellation of martial law of already received permits issued in accordance with the Instruction mentioned in the study. Such extension of the validity period of permits will be carried out by authorized units of the National Police of Ukraine at the request of citizens of Ukraine, authorized representatives of legal entities in accordance with the requirements of the Instruction [14].

According to the order of the Ministry of Internal Affairs dated 01.03.2022, the issuance by authorized units of the National Police of Ukraine to citizens of a permit for the purchase, storage and carrying of hunting firearms, smoothbore weapons and cartridges for them began to be carried out upon a written application at the place of residence or stay of the applicant for the issuance of a permit, subject to the presence of a document, ID, and it was necessary to add copies of the pages of the passport of a citizen of Ukraine to the application and, if available, a copy of a military ticket, a copy of a certificate of a member of a public organization for the protection of public order, or a copy of a weapon permit. The permit was granted for the period of martial law, after which the persons had to provide a complete package of documents specified in the 1998 Instructions. During the period of martial law, the following list of circumstances is given that make it impossible to issue permits: being brought to administrative responsibility two or more times during the year according to Art. Art. 173, 174, 190, 191, 193, 194, 195 of the Code of Administrative Offenses, i.e. for systematic violation of the rules stipulated by the Instruction; bringing to administrative responsibility within a year for ch. 2, 3 Art. 130, Art. Art. 44, 1732 KUpAP; availability of information about notification to such a person of suspicion; having an outstanding or unexpunged criminal record for a serious or

particularly serious crime; within a year from the date of entry into force of the court decision on confiscation or paid removal of weapons [13; 1, p. 30].

At the same time, there were also important wartime legislative changes in the issue of police control over circulation and use. In accordance with the law of Ukraine "On ensuring the participation of civilians in the defense of Ukraine", during the period of martial law, civilians were given the opportunity to participate in repelling and deterring the armed aggression of the russian federation, including obtaining firearms and ammunition for them in accordance with the procedure and requirements established Ministry of Internal Affairs of Ukraine. But civilians had to surrender the received weapons within 10 days of the end of martial law [12]. The use of weapons by civilians during the period of martial law is determined in the Procedure for the use of firearms by civilians during participation in repelling and deterring armed aggression of the russian federation and/or other states against Ukraine during the period of martial law, approved March 15, 2022 [7]. But such an application rather refers to the immediate theater of hostilities or the situation when, in the initial stages of the war, firearms were issued to civilians in large cities in the critical need to hold the city from the russian invaders.

Conclusions. During the conducted research, we came to a number of conclusions:

– The participation of the National Police of Ukraine in the permit system can be conditionally divided into three elements, namely: the provision of administrative services (public service activities of police units) in relation to obtaining permits by individuals and legal entities for carrying out relevant activities (actions) in the sphere of circulation of specially defined items, materials and substances, as well as opening and functioning of objects of the permit system; implementation by authorized units of the National Police of Ukraine of control and supervision of compliance by entities that have received permits to carry out the specified activity with the legislation on the functioning of the permit system; prevention of offenses and bringing to administrative responsibility for violations of the legislation on the functioning of the permit system.

– In the conditions of martial law, in order to repel the armed aggression of the russian occupiers, the procedure for obtaining a permit for citizens to purchase, store and carry hunting rifled, smooth-bore weapons and their cartridges was liberalized. But the main feature is that such liberalization, which consists in reducing the documents required for obtaining a permit, stops after the end of martial law, since it will still be necessary to submit the entire necessary package of documents to the authorized bodies in order to obtain a permit. Also, under the conditions of martial law, there was an extension of the validity period of permits in the field of circulation of weapons, devices and explosive materials during martial law in Ukraine (for a period of up to 10 days after the termination or cancellation of martial law in Ukraine). In wartime conditions, the control and supervision of compliance by physical and legal entities with the rules stipulated by the permit system (weapons storage, etc.), restoration of weapons records in de-occupied territories, inspection of permit system facilities, etc., became particularly important tasks of the police.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The research highlights the approaches of researchers and the normative definition of the concept of the permit system, its main elements in the context of participation in its functioning by the National Police of Ukraine. It is indicated that the permit system can be considered in a broad and narrow sense. Also, the permit system is a certain permit procedure that regulates the actions of various participants in social relations; this is a specific activity of state authorities regarding the implementation of control over compliance with special rules on the permit system; the permit system is a means of ensuring the realization by individuals and legal entities of specific rights to objects that are in limited use. The article also emphasizes that the administrative services of the National Police of Ukraine in the field of permit activity are a component of the provision of police services, which include control over compliance by individuals and legal entities with the rules provided for by the permit system (weapons storage, etc.).

It is emphasized that during the state of war, the authority of the police to issue permits for the purchase, storage and carrying of hunting weapons became relevant and important for repelling the armed aggression of the russians, and another important area of police activity was the accounting of firearms, especially in the de-occupied territories. The article emphasizes that in the conditions of martial law, in order to repel the armed aggression of the russian occupiers, the procedure for obtaining a permit for citizens to purchase, store and carry hunting rifled, smooth-bore weapons and cartridges was liberalized. At the same time, the main feature is that such liberalization, which consists in reducing the documents required for obtaining a permit, stops after the end of martial law, since it will still be necessary to submit the entire necessary package of documents to the authorized bodies in order to obtain a permit.

Keywords: *firearms, permit, control, de-occupied territory, police units.*

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Larysa NALYVAIKO©
Dr. of Law, Professor,
Honored Lawyer of Ukraine
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

RIGHTS AND FREEDOMS OF THE MAN AND THE CITIZEN ON TEMPORARY OCCUPIED TERRITORIES: MAJOR VIOLATIONS AND PROTECTION MECHANISMS

Лариса Наливайко. ПРАВА І СВОБОДИ ЛЮДИНИ ТА ГРОМАДЯНИНА НА ТИМЧАСОВО ОКУПОВАНИХ ТЕРИТОРІЯХ: ОСНОВНІ ПОРУШЕННЯ ТА МЕХАНІЗМИ ЗАХИСТУ. Статтю присвячено визначенню основних порушень у сфері прав і свобод людини і громадянина на тимчасово окупованих територіях та визначенню механізмів їх захисту. Досліджено та систематизовано чинне законодавства України з питань визначення правового статусу особи на тимчасово окупованих територіях України. Обґрунтовано масове порушення прав і свобод людини та громадянина на тимчасово окупованих територіях.

Визначено, що найбільшого порушення зазнали особисті, економічні, соціальні та культурні права громадян. Проведено детальний аналіз порушень цих прав на тимчасово окупованих територіях. Наголошено, що перелік прав і свобод людини та громадянина, що систематично обмежуються чи порушуються, може бути розширений через збройну агресію рф. Досліджено інструменти захисту прав людини на тимчасово окупованих територіях. Визначено місце і роль міжнародного співробітництва у захисті прав і свобод людини і громадина на тимчасово окупованих територіях. Акцентовано увагу на необхідності застосування комплексного підходу у механізмі захисту прав людини на тимчасово окупованих територіях для досягнення найбільш дієвих результатів.

Ключові слова: *воєнний стан, збройна агресія, тимчасово окуповані території, права та свободи людини і громадянина.*

Relevance of the study. The problem of human rights protection is an integral aspect of the functioning of society and the state, which remains relevant at all stages of their existence. During this historical period, various tools were created and implemented to protect the rights and freedoms of a person and a citizen and to overcome their violations. However, as a result of the armed aggression of the russian federation, which began in 2014, and the full-scale military invasion on February 24, 2022, part of the territory of Ukraine came under temporary occupation. To solve national security issues in the conditions of martial law and ongoing armed aggression, the state must systematically and effectively respond to all possible violations of the rights and freedoms of people and citizens living in temporarily occupied territories.

For the effective protection of human rights in the temporarily occupied territories of Ukraine, the legislator introduced into the national legislation a number of legal acts that have a direct impact on the protection of the rights and freedoms of people living in these territories. However, the temporarily occupied territories are not under the control of Ukraine, so the mechanism of implementation of regulatory provisions in this area is complicated.

Recent publications review. Various aspects of the protection of human and citizen rights and freedoms were studied by: V. Bukach, S. Hrytskevich, V. Demydenko, N. Zadorozhnya, N. Kaminska, A. Kolodiy, L. Nalyvaiko, O. Petryshyn, V. Lutkovska, O. Martselyak, A. Oliynyk, B. Parakhovskyi, V. Seryogin, V. Tatsii, G. Yavorska and others.

ORCID iD: https://orcid.org/0000-0002-7696-4223
larysa-nalyvaiko@ukr.net

Individual issues of human rights in the temporarily occupied territories were studied by: L. Varunts, A. Voytsikhovskyi, N. Kaminska, K. Katerynchuk, K. Koval, O. Koryagina, I. Krytsak, O. Radchenko, O. Reznikova, O. Ilyashko, A. Palyukh, O. Slavna, N. Shaptala, V. Franchuk and others.

The article's objective is a theoretical and legal description of the main violations and mechanisms for the protection of human and citizen rights and freedoms in the temporarily occupied territories during martial law and in the post-war period.

Discussion. Within the framework of the study, it is important to determine the spatial limits of the temporary occupation of the territories of the national jurisdiction of Ukraine. According to the current legislation, the temporarily occupied territories include the following: land territory within the boundaries of the Autonomous Republic of Crimea and the city of Sevastopol, separate districts, cities, towns and villages of Donetsk, Zhytomyr, Zaporizhzhya, Kyiv, Luhansk, Mykolaiv, Sumy, Kharkiv, Kherson, Chernihiv regions, internal waters and internal sea waters of adjacent territories, the territorial sea of Ukraine around the Crimean Peninsula, the subsoil under these territories and the air space above them, as well as other land territories, internal sea waters and the territorial sea of Ukraine [12, 13].

The Law of Ukraine "On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine" defines that the territory of Ukraine, which is currently under the temporary occupation of the russian federation, is an inseparable part of the territory of Ukraine [12]. According to the provisions of the Law, the temporarily occupied territory belongs to a category with a special legal status, which determines a specific legal regime for this space, which provides for a special procedure for ensuring the rights and freedoms of a person and a citizen in this territory.

The Constitution and laws of Ukraine, as well as international treaties ratified by the Verkhovna Rada of Ukraine, apply to the temporarily occupied territories. Thus, the laws of Ukraine "On the state border of Ukraine", "On the Armed Forces of Ukraine", "On citizenship of Ukraine", "On the legal status of foreigners and persons without citizenship", "On ensuring the rights and freedoms of citizens and the legal regime in the temporarily occupied territory of Ukraine", "On national security of Ukraine", "On compensation for damage and destruction of certain categories of immovable property as a result of hostilities, acts of terrorism, sabotage, caused by the armed aggression of the russian federation against Ukraine", "On the main principles of state policy in the sphere of the establishment of Ukrainian national and civil identity", etc.

In addition, human rights in the temporarily occupied territory are protected by the norms of international law contained in the Universal Declaration of Human Rights; International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; Conventions against torture and other cruel, inhuman or discriminatory treatment or punishment; Convention on the elimination of all forms of discrimination against women; Conventions on the rights of people with disabilities; Conventions on the rights of the child; Resolutions of the UN General Assembly "Situation of human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine)", etc. [7, p. 15]. Despite this, ensuring the rights and freedoms of a person and a citizen, enshrined in legislation, becomes impossible due to the fact that citizens are under the occupation of a terrorist country that sets its own norms.

In the context of the temporary occupation of the territory, the problem of ensuring the rights and freedoms of the population of this region is extremely important. The list of rights and freedoms of a citizen enshrined in the Constitution of Ukraine is widely recognized and defines the strategic tasks of the state aimed at the effective implementation of these rights and the creation of effective mechanisms for their protection. Human rights and freedoms, including those existing in temporarily occupied territories, are an indispensable component of the constitutional rights and freedoms of a citizen [1, p. 57; 8]. Given the significant and systematic violations of the norms of national legislation and international treaties in this area by the russian federation, the main task of our state is to develop an effective toolkit to protect the rights and freedoms of people and citizens under temporary occupation.

In order to develop mechanisms for the protection of rights and freedoms that meet the requirements of the time, it is necessary to investigate the rights and freedoms that continue to be systematically violated in these territories.

The studies conducted by national and international human rights organizations, determined that the personal, economic, social and cultural rights of citizens were the most violated [2, 5, 6, 16]. For the objectivity of the research, we emphasize that today the territories

of Ukraine temporarily occupied by the russian federation remain restricted for access by national and international institutions and organizations that investigate the situation with human rights, therefore the data given in the reporting documents of these institutions may not contain all the violations experienced by the residents these territories.

Among *the personal rights and freedoms of a person and a citizen*, the most violated are the right to life, freedom and personal integrity, freedom of movement and free choice of place of residence, etc. [18]. In particular, in the temporarily occupied territories, civilians are killed by the Armed Forces of the russian federation through extrajudicial executions, attacks on individuals; enforced disappearances and arbitrary detentions of civilians; imprisonment; sexual violence; the transfer of civilians, including children and adults from social care facilities, adults from pretrial detention centers and penitentiary institutions, and unaccompanied children, from the occupied parts of Donetsk, Kharkiv, Kherson, Kyiv, Odesa, and Zaporizhia regions to the russian federation, etc. [5]. Thus, Art. 27, 29, 33 of the Constitution of Ukraine, as well as Art. 3, 9, 13 of the Universal Declaration of Human Rights, Art. 6, 7, 9 of the International Covenant on Civil and Political Rights, Art. 8, 16 of the Convention on the Legal Status of Migrant Workers and Members of Their Families of the Commonwealth of Independent States, etc.

The economic rights and freedoms of a person and a citizen, which continue to be systematically violated in the temporarily occupied territories, include: the right to entrepreneurial activity, the right to work, and the right to property [10]. Some violations of economic rights include illegal privatization; destruction and damage to property; forced redistribution of property; violation of intellectual property rights; restriction of access to own property; forced labor; discrimination in the workplace; unfair working conditions; restriction of professional freedom; forced resettlement and transfer of workers; forced seizure of enterprises and objects of business activity; illegal confiscation of property, including equipment and assets of enterprises; limiting access to resources and markets, corruption, etc. [17].

The problem of human rights protection is an integral aspect of the functioning of society and the state, which remains relevant at all stages of their existence. During this historical period, various tools were created and implemented to protect the rights and freedoms of a person and a citizen and to overcome their violations. However, as a result of the armed aggression of the russian federation, which began in 2014, and the full-scale military invasion on February 24, 2022, part of the territory of Ukraine came under temporary occupation. To solve national security issues in the conditions of martial law and ongoing armed aggression, the state must systematically and effectively respond to all possible violations of the rights and freedoms of people and citizens living in temporarily occupied territories. Thus, there is a violation of Art. 42, 43 of the Constitution of Ukraine, as well as Art. 17 of the Universal Declaration of Human Rights, Art. 6 of the International Covenant on Economic, Social and Cultural Rights, Art. 1 of Protocol No. 1 of the European Convention on the Protection of Human Rights and Fundamental Freedoms, etc.

Among *the social rights and freedoms of a person and a citizen*, the most violated were: the right to social protection, a sufficient standard of living for oneself and one's family, health care, medical assistance and medical insurance [18]. Thus, the violation of these rights is manifested in the following: denial of access to social services; changes in the social security system, which leads to a reduction or denial of payments of social benefits, pensions or other types of social assistance; discrimination in the provision of social services on the basis of political beliefs, ethnic origin, etc.; limitation of social guarantees for vulnerable population groups; introduction of non-transparent tax burdens and regulations; restriction of access to medical institutions, due to blockade or other restrictive measures; termination of the supply of necessary medical drugs and equipment due to transport or financial restrictions; delays in providing emergency medical care, etc. [9; 15]. Thus, Art. 46-49 of the Constitution of Ukraine, as well as Art. 22, 25 of the Universal Declaration of Human Rights, Art. 6-12 of the International Covenant on Economic, Social and Cultural Rights, Art. 24, 27 of the Convention on the Rights of the Child, Art. 25, 26 of the International Convention on the Rights of Persons with Disabilities, etc.

The cultural rights and freedoms of a person and a citizen violated in the temporarily occupied territories include the right to education, freedom of cultural, scientific and creative activity [5]. Violations in this area occur by limiting physical access to educational institutions for the local population; politicization of the educational process; decrease in financing and support of educational institutions; limitation of higher education opportunities due to the introduction of

administrative barriers; prohibitions or restrictions on the expression of one's own cultural identity or creative expression; persecution and detention of representatives of the cultural and scientific elite because of their creative or scientific activities; removal or destruction of objects of cultural heritage, museums, architectural monuments; forced introduction of another language in cultural, scientific and creative spheres; bans or restrictions on holding cultural events, exhibitions, conferences, etc. [14]. Thus, Art. 53, 54 of the Constitution of Ukraine, as well as Art. 27 of the Universal Declaration of Human Rights, Art. 15 of the International Covenant on Economic, Social and Cultural Rights, Art. 16 of the Additional Protocol to the Geneva Conventions on the Protection of Victims of Uncontrolled Territories, etc. Since the above groups of rights and freedoms are fundamental and indisputable, their violation requires careful study and response of the international community.

Due to the ongoing military operations in Ukraine, the list of human and citizen rights and freedoms that are systematically restricted or violated by the russian federation may be expanded. One of the latest measures aimed at ensuring the protection of human rights in the temporarily occupied territories is the use of electronic messages through the Diya application. This electronic service can be an effective tool for providing assistance to internally displaced persons affected by conflict and property damage. Within this service, it is possible to submit an application and receive compensation for documented damages. This service is addressed to persons living in the temporarily occupied territories of Ukraine, giving them the opportunity to restore their property and improve their living conditions. It is important to note that the compensation mechanism becomes effective only after the deoccupation of the specified territories. This shows the importance of resolving the conflict and restoring control over the occupied regions for the full restoration of the rights and guarantees of Ukrainian citizens in these territories.

In addition, persons currently living in the temporarily occupied territories have the right to access free legal aid. Residents of these territories have the opportunity to take advantage of free secondary legal assistance by submitting applications for representation in court and drafting legal documents in cases related to the protection of violated, unrecognized or contested rights and freedoms in connection with the armed aggression of the russian federation [3].

Other areas of ensuring the rights of the population in the temporarily occupied territories are the protection of basic rights and freedoms, the creation of an effective mechanism for reunification with the families of children displaced from Ukraine to Belarus and the russian federation, taking measures to ensure the release of illegally detained persons, providing assistance in the restoration of violated rights person and citizen, provision of legal and humanitarian aid [11, p. 24]. In order to protect the rights of individuals in these territories, general measures may include active interaction between public authorities and institutions of civil society, which contributes to the creation of effective control mechanisms aimed at solving specific problems in the protection of rights and freedoms. In addition, an important component of ensuring human rights in temporarily occupied territories is guaranteeing access to humanitarian aid, medical rehabilitation and educational opportunities for internally displaced persons [4, p. 64]. Additionally, international cooperation and exchange of experience with states facing similar challenges can be an effective tool. Such an integrated approach can become the basis for creating a sustainable mechanism for the protection of human and citizen rights and freedoms in the temporarily occupied territories.

Conclusions. Based on the conducted research, we can draw the following conclusions. Today, the fundamental human and citizen rights are being systematically violated in the temporarily occupied territories. Thus, the personal rights and freedoms of a person and a citizen have been violated, in particular, the right to life, freedom and personal integrity, freedom of movement and free choice of place of residence; economic rights and freedoms of a person and a citizen, among which the most violated are the right to entrepreneurial activity, the right to work and the right to property; social rights and freedoms of a person and a citizen, in particular, the right to social protection, a sufficient standard of living for oneself and one's family, health care, medical assistance and medical insurance; cultural rights and freedoms of a person and a citizen, including the right to education, freedom of cultural, scientific and creative activities, etc.

In order to protect the rights of the population in the temporarily occupied territories, various measures are being considered. Among them, it is worth highlighting taking measures to release illegally detained persons, providing free legal aid; interaction between public authorities and institutions of civil society; guaranteeing access to humanitarian aid, medical rehabilitation

and educational opportunities for internally displaced persons. In addition, international cooperation and the creation of an international coalition for active support of the de-occupation process can be an effective tool. These strategic measures can contribute to both the protection of citizens' rights and the diplomatic isolation of the aggressor country in the future.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

This article focuses on the identification of primary infringements within the domain of human rights and freedoms in temporarily occupied territories, as well as the delineation of protective mechanisms. The study systematically examines the existing legislation in Ukraine concerning the determination of the legal status of individuals residing in these territories. Extensive evidence is provided to substantiate mass violations of human and citizen rights and freedoms in temporarily occupied areas, with a particular emphasis on the considerable transgressions against personal, economic, social, and cultural rights. A meticulous analysis of these rights' violations within these territories is conducted. Notably, the article underscores that the list of systematically restricted or violated rights and freedoms may be expanded due to the armed aggression of the russian federation. Furthermore, the study delves into the instruments available for safeguarding human rights in temporarily occupied territories.

It has been determined that, with the aim of addressing national security issues amid a state of war and persistent armed aggression, the state is obliged to systematically and efficiently respond to all potential infringements upon the rights and freedoms of individuals residing in temporarily occupied territories. A conclusion has been drawn that, for the effective safeguarding of human rights in the temporarily occupied territories of Ukraine, the legislator has incorporated a series of normative legal acts into the national legislative framework, exerting a direct influence on the protection of the rights and freedoms of individuals situated in these territories.

Nevertheless, the temporally occupied territories remain beyond Ukraine's jurisdiction, rendering the implementation mechanism of normative provisions in this sphere intricate. It is posited that, in light of the substantial and systematic violations of national legislative norms and international treaties in this domain by the russian federation, Ukraine's primary task lies in the development of an efficacious toolkit for the protection of the rights and freedoms of individuals within the context of temporary occupation. Additionally, it determines the position and role of international cooperation in the protection of rights and freedoms for individuals and citizens in such territories. The article concludes by highlighting the imperative need for a comprehensive approach in the mechanism designed for protecting human rights in temporarily occupied territories to attain the most effective outcomes.

Keywords: *state of war, armed aggression, temporarily occupied territories, human rights and freedoms.*

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Olena MARCHENKO©
D.Sc. (Philosophy),
Associate professor
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

THE INFLUENCE OF TNCs ON THE STATE SOVEREIGNTY OF DEVELOPING COUNTRIES

Олена Марченко. ВПЛИВ ТНК НА ДЕРЖАВНИЙ СУВЕРЕНІТЕТ КРАЇН, ЩО РОЗВИВАЮТЬСЯ. У статті здійснено комплексний аналіз ролі сучасних транснаціональних компаній (ТНК) у формуванні соціально-економічної та геополітичної реальності інформаційного суспільства. Здатність ТНК швидко конвертувати значні матеріально-фінансові, правові, організаційні ресурси у політичний вплив задля отримання надприбутків актуалізує необхідність дослідження ступеню їх впливовості на традиційні інститути державної влади. З одного боку, мова йде про аналіз феномену ТНК в категоріальній площині влади, легітимності й суверенітету, з урахуванням системної взаємодії корпорацій з іншими акторами і суспільством в цілому. З іншого боку, попри усі економічні і соціальні перспективи розвитку, які відкриваються для держави,

ORCID ID: https://orcid.org/0000-0002-2069-9942
Lina728@ukr.net

завдяки входженню ТНК у національний економічний і правовий простір, постає питання про небезпеку, яку вони можуть становити для державного суверенітету приймаючих країн. У сфері інтересів сучасних великих корпорацій опиняються держави і цілі групи держав, на території яких розташовані сировинні бази, виробництва, транспортні вузли та ринки збуту, необхідні для функціонування і розвитку ТНК. Відповідно вони проявляють природне прагнення до максимально можливого контролю за соціально-політичними й економічними процесами у цих країнах.

Таким чином, визначення ступеню загрози ТНК для державного суверенітету країн, що розвиваються, а також умов збереження державної правоздатності під впливом ТНК на політичну та соціально-економічну ситуацію в країні є актуальним напрямом дослідження міждисциплінарного характеру, в якому доцільним буде поєднання методологічного інструментарію теорії та історії держави і права, економіки, політології тощо. З огляду на визначені дослідницькі пріоритети, метою статті є аналіз наслідків діяльності ТНК для національного суверенітету країн, що розвиваються, а також пошук і обґрунтування необхідних умов для його збереження.

Ключові слова: *ТНК, державний суверенітет, глобалізація, країни, що розвиваються.*

Relevance of the study. The modern world economy constitutes a complex structure of interaction of various actors among which the primary role is played by multinational corporations (MNC) whose interests are being directly or indirectly lobbied by the governments of a number countries. The scope of political interests of modern large corporations includes countries and entire groups of countries whose territories incorporate sources of raw materials, manufacturing facilities, transport hubs and markets necessary for operations and development of MNCs. Correspondingly, they demonstrate a natural striving for maximum possible control over socio-political and economic processes within these countries. Consequently, two significant problems arise in the theoretical and methodological aspect: 1) interference in the internal affairs of the state by a foreign actor (the problem of violation of state sovereignty); 2) the creation on the territory of individual countries of artificially created centers of social tension and confrontation in favor of TNCs.

In the last decades there has occurred an unprecedented growth in the number of MNCs and their branches all across the globe. For instance, since the end of the 20th century up until mid-2010s the number of MNCs grew from 11 000 to over 80 000 while the number of branches and representative offices increased from 100 000 to 810 000. A notable fact consists in that 4/5 of all commercial operations in the world are accounted for by the industrial sector of multinational corporations. According to the statistics by the World Bank, the total count of MNCs in the world is nearing a 100 thousand mark. In the view of the World Bank's experts, in 2024 the number of MNCs may already constitute 160 thousand [10].

The strengthening of the role of transnational companies in the sphere of economy and politics actualizes the question of the degree of their influence on the traditional balance of forces of subjects of interstate interaction. On the one hand, TNCs are the engines of global economic and social development (TNCs are interested in increasing the incomes of all strata of the population, which will later provide demand for their products), and on the other hand, they are actually exploiters of the natural and labor resources of countries that, for various reasons willing to sacrifice humanitarian and environmental values for profit. The most pressing issue is the legitimacy of the transformation of TNCs into subjects of world-class economic regulation, as well as the question of what consequences this will lead to at the national level, that is, in the states, the vast majority of which are developing.

It is important to investigate to what extent the activities of specific TNCs contribute to or, on the contrary, hinder the establishment and strengthening of the state sovereignty of developing countries, as well as the realization of their interests in the economic, political and humanitarian spheres.

Recent publications review. A conceptual framework for the presented study is represented by the actor-centered approach (transnationalism) substantiated in the works by R.Keohane & J. Nye [8], J.Rosenau [14], T. Risse [13]. The author as well relied upon the concept of the structural power of business developed by C. Offe & V.Ronge [11], F. Block. They advocated the viewpoint that the state power is being directly influenced by the functioning of business entities: «the occupant of a power position is in fact powerless unless the volume of accumulation process allows that individual to derive the material resources (through taxation) necessary to promote any political ends» [11, p.250]. Toffler, 20th century classic futurologist, in his work «The Third Wave» pointed out that the world of MNCs, which forces national states out of the system of international relations, requires new political

framework, new approacheds and concepts with regard to state-building in order it would capable of competition in the conditions of mass «interference» of MNCs into the sphere of world politics [18].

Within a scientific discourse related to the problem of MNCs the authors of the presented paper have not revealed categorical standpoints with regard to merely positive or negative impact of large corporation on the sovereignty of the country which become the object of their «soft» conquest. As a general rule different correlations of positive and negative impacts are being referenced: preferences which the state obtains with the expansion of MNCs and, conversely, the disruption of foundations of the state legal capacity. Advantages of the positive impact are being considered in the works by T. Cohn & A. Hira [3], D. Fuchs & B. Lennartz [5].

Among the positive aspects of the functioning of MNCs the said authors list the reduction of unemployment, accelerated economic development, increased tax proceeds into the state budget, implementation of technological innovations. What is furthermore mentioned is the economies of scale in managing human resources, possibility of transnational marketing, employment of multinational staff resources, international management practices, availability of patented designs.

Dangers that MNCs pose to the state sovereignty of economically unstable countries are corroborated by F. Teichmann & B. Sergi [17]; E. Orts [12]; S. Williams [21]; G. Ballor & B. Aydin [1]; E. Shever [15]; C. May [9]. Among arguments against the activities of multinational corporations the researchers cite their oligopolistic propensity that may considerably weaken the market potential of the country; MNCs' practices of tax evasion by means of transfer pricing; deployment of production facilities that cause environmental pollution. MNCs directly affect the host party's choice of its production specialization, threaten the national economic security of the country by establishing control over its foreign trade, while the free movement of transnational capital may undermine the stability of national currencies.

According to Scott Turner, «the relationship between states and corporations is as cooperative as it is adversarial. Transnational corporations undermine sovereignty not only by escaping state jurisdictions, but by constricting the range of policy alternatives available to states» [20].

Recently, a third viewpoint has gained wide circulation among the specialists, according to which the role of MNCs is going to be leveled down due to objective reasons. Certain researchers (P.Ghauri, R.Strange, F.L.Cooke [6], G.Ietto-Gillies [7]) have since recently been speculating the decimation of the model of globalization where the international flows of goods and capital were realized within the framework of activities of MNCs with the inherent dominant role of highly developed countries.

The article's objective is to determine the degree of threat that MNCs pose to sovereignty of developing countries as well as conditions required to preserve state legal capacity under the influence of MNCs upon political and socio-economic situation in the country.

Discussion. A multinational corporation constitutes a business entity that, despite its particular country affiliation and legal form of organization, has branches in several other countries, conducts management activities there in accordance with the determined corporate strategy through one or several of its centers of decision-making. The structure of an MNC is represented by the head office or a cluster of head offices which directly influence branches or divisions located in other countries and coordinate their operations. A characteristic trait of all MNCs is the presence of their branches in other countries as well as broad geographical spread of their business activities. MNCs are able to operate in a variety of legal forms of organization, may be state- or privately-owned or have a mixed ownership; conduct their commercial activities in any area of business. However, as experts emphasize, the most widespread form of operations for MNCs is a joint-stock company. Presently, over 70% of funds pertaining to foreign investment are controlled by 500 largest MNCs. Among their spheres of activity are pharmaceutical industry (95%), chemical industry (80%), electronics (78%), mechanical engineering (76%), etc. Approximately 60% of MNCs are engaged in manufacturing, 3% – in agricultural sector and 37% operate in the service sector [10].

Thanks to the ability to accumulate large volumes of financial resources, attract highly qualified specialists and maintain a network of branches and representative offices in many countries around the world, TNCs can influence political, economic and social processes. This

influence is exercised at the local (cities and individual local communities), national and global levels. Large corporations represented by owners and top management enter into interaction (of any direction and modality) not only with other TNCs and states, but also with international organizations, human rights structures, legal and illegal armed groups, etc. Thus, TNCs should no longer be viewed simply as participants in purely economic markets, but as political actors who implement their own strategies in different institutional contexts.

At the present stage, the most common concepts of power can be applied to the analysis of the political activities of TNCs. The political potential of business is not limited to influencing government institutions or interacting with supranational organizations to establish the «rules of the game» in a particular area (for example, environmental), but also includes the formation of ideas about the public good and the introduction of various models of social development.

Corporations act not only as political actors who have the resources to lobby for their interests, but also as creators and disseminators of ideas and meanings through various media conglomerates and digital products.

The issues of the legitimacy of state power are inextricably linked with the problems of TNCs. In the case of TNC activities, the concept of legitimacy can be applied in two senses.

First, corporations can contribute to reducing the legitimacy of state power and generally pose a threat to the principle of sovereignty. In particular, this may manifest itself in the participation of TNCs in the formation of supranational rules for investment and currency movement, as well as in attempts to limit the freedom of action of the state in the economic sphere to protect their own business interests. The range of solutions for governments due to the significant role of TNCs in the economic sphere can indeed be significantly limited due to the desire of the state to retain large companies. The state provides corporations with more favorable conditions for doing business, which can harm national production.

Secondly, the concept of legitimacy covers a range of issues related to the attitude of citizens towards the work and products of corporations and their activities in general. Individuals' support for large TNCs and the use of their products and services in everyday private life can lead to certain identity conflicts [4]. On the one hand, the individual feels like a citizen of the country in which he was born and/or lives, on the other hand, he feels like a consumer, user, buyer of a product created by a corporation. This applies primarily to modern TNCs from the IT sector that implement a platform business model, since its implementation assumes the active participation of the user as the creator of the product or its consumer. The threat is the predominance of user identity over civilian identity. Individuals' "affinity" with digital products is a potential source of their alliance with TNCs to resist government regulation: «...as long as platform users see themselves as consumers rather than citizens, these companies have a strong ally in public opinion, which places greater value on convenience and innovation potential of platforms than trusts the strong regulatory hand of the government. However, platforms' deep involvement in the modern economy means that their algorithms can change the outcome of a state's elections, and their privacy policies can allow them to learn much more about citizens than governments can» [4, p.290-291].

A significant risk in this situation is that the trust of individuals (as consumers) in digital corporations reduces their trust (as citizens) in the government in the business-government dichotomy. Depending on the speed of reaction to challenges, both actors can appeal to one of the identities in order to attract individuals to their side to create a coalition and support a legislative initiative or political decision.

These circumstances force us to pay attention to the problem of sovereignty in the context of the activities of TNCs. It also has a dual character. On the one hand, corporations can act as violators of the sovereignty of the state, reducing the possibility of control on its part over the movement of investments, goods, currency, or, for example, violating human rights and polluting the environment on its territory.

The weakening of state sovereignty in relation to TNCs is manifested in their «escaping» from the jurisdiction of the government and the narrowing of alternatives available to the state when choosing possible decisions in the economic sphere. Accordingly, the autonomy of the government in the implementation of economic policy is violated due to the need to take into account the interests of such large actors as TNCs.

Violation of autonomy occurs in the case of both conflict and cooperation relations between the state and business [20]. In the first option, the government is limited by the possibility of a corporation leaving the country (and, as a consequence, a reduction in jobs,

products, etc.), and in the second, by the need to establish and maintain a legislative and political framework that facilitates the arrival and consolidation of TNCs in the territory of the state.

Special attention should be paid to corporations operating in the military-industrial sector of the global economy, which involves maintaining demand for military equipment, weapons and ammunition produced by these companies.

The «divide and conquer» principle remains highly relevant for such MNCs: if one may succeed in dividing a country into territorial units separated on religious or ethnic grounds, it would become far simpler to manipulate them. To exemplify, it is possible to cite India and Pakistan which, from the mid-20th century, are not capable of finding a solution to the territorial dispute over Jammu and Kashmir. Similar situation occurred during the separation into sovereign states of French Equatorial Africa, later on – the Socialist Federal Republic of Yugoslavia, secession of Kosovo from Serbia. Any kind of warfare for military-industrial MNCs represents not only a real profit but also advertisement for new types of armaments, testing of the state-of-the-art weapon samples. It is therefore that with the outbreak of regional armed conflicts the stocks of MNCs, whose arms and equipment are involved therein, see a sharp rise in price.

At the same time, however heightened the interest of MNCs in destabilizing the political and socio-economic situation in the region is, to artificially induce a conflict (or to conduce to its fueling) may be possible only under specific conditions, among those – the presence of profound contradictions within the targeted society.

An example of a developing country, where the promotion of interests of MNCs through an internal conflict, is the Democratic Republic of the Congo. It is one of the most resource-rich countries of the Central Africa. Its territory boasts considerable deposits of copper, cobalt, cadmium, bauxites, iron ore, diamonds, gold, silver, oil, zinc, manganese, tin, uranium (with over half of world's discovered reserves). Apart from this, DR Congo possesses 80% of an entire global reserve of a valuable ore columbite–tantalite (coltan) which proves to be highly essential for the digital development of economy. The struggle for control over these resources has turned the country in the battleground: from 1996 to 2002 the First and the Second Congo War had been raging, in the course of which over a dozen of armed groups backed by nine countries (among them the key role belonging to USA, France and China) have been eradicating each other and the civilian population. During this period approximately 5,4 million people have perished. Even today the echo of these conflicts rolls over the country during the armed skirmishes regularly occurring between armed groups present in the country and acts of violence against the civilian population.

In November 2004 several Belgian non-governmental organizations filed a complaint against Cogecom and three other Belgian companies accusing them of illegal exploitation of subsoil resources in DR Congo and trade in coltan [19].The claim stated that coltan was being imported into Belgium from the DRC through Rwanda and Cogecom directly participated in funding the RCD-Goma rebel movement which secured the patronage for such supplies. The country also has an army of 20 000 mercenaries operating under the guidance of the pastor of the Rwandan Seventh-day Adventist Church covertly funded by the American-based Adastra Minerals. In 2018, having obtained armaments from Rwanda, this armed group drove away the Angolan Armed Forces, which protected Chinese interests, as well as government troops of the DRC. The reason for the conflict – a $ 9 billion contract with China for development of coltan deposits.

The scheme of extracting coltan is inextricably linked with the supply of arms into the country. For a decade the UN has been attempting to impose an embargo on arms supplies to the region however it still remains without result. At the same time, living standards within the country are extremely low. Extraction of coltan and other valuable ores is in fact conducted by manual labor, with miners being exposed to radiation during the works. As a consequence, almost a half of newborns in Congolese families are dead-born. 70% of country's population are members of legal or illegal armed groups, other are working in extraction of coltan and other precious minerals for $ 1-2 per day. Over 8 million people in the country are starving. The life of people is worth nothing: every day at least one person dies here due to police abuse and two more at the hands of militants. One of the highest violent death rates was recorded in March-May 2018 – 251 people perished, with 62 of them – children. Every year refugee flows into neighboring countries are increasing with another approximately 4 million people being internal migrants. According to the expert data, in 2030 the DRC will occupy the first position

in the world by the poverty rate of the population while remaining one of the most resource-rich countries in the world [19].

According to Ukrainian researchers A.Sydorov, N.Fisunenko, and T.Alyoshina, the effective leverages for counteracting disruptive behavior of MNCs, as well as for leveling down the advantages they posses in contrast to government structures, are as follows:

1. *Presence of mature political elites and / or a strong leader of the nation in the country.* The main requirement – their readiness and ability to secure national interests.

2. *Creating national MNCs – one of the key steps towards national economic security.* The experience of other actively developing countries – China, Mexico, India, Indonesia and others – affirms: national capital will be able to sustain competition with MNCs only under the condition of its self-structuring into powerful financial and industrial associations, similar to their international counterparts, and being capable of conducting active foreign economic policy.

3. *Effective legal framework.* The primary goal of regulating the activities of MNCS at the national level is to subordinate the activities of its branches and subsidiaries to the national legislation of the host country. The main tool of such regulation is the investment legislation of the country aimed at determining the legal status of the foreign investor: private individual or business entity. The more detailed such definition is, the more effective the impact of MNCs on the national economy will be. There exists an urgent necessity for adopting at the international level of such regulatory documents that would address the entire scope of activity of MNCs irrespective of the number of countries that host these MNCs [16].

There exists an urgent necessity for adopting at the international level of such regulatory documents that would address the entire scope of activity of MNCs irrespective of the number of countries that host these MNCs. It is imperative to establish stringent and clear extent of liability of an MNCs as an integral international entity for any violations of national legislations. Effectiveness of such a regulatory document would depend on its legal form: it must be legally binding or combine binding norms and recommendations.

Conclusions. Thus, TNCs have significant political power and strive to further increase it. Due to their position in the political-economic sphere and resources (financial, managerial, intellectual), TNCs have the potential to exercise structural, instrumental, institutional and discursive types of power. At the same time, their active participation in the daily lives of citizens can contribute to the conflict between civic and user identities, and this negatively affects trust in government institutions and calls into question their legitimacy. It is important to note that TNCs operating in the military-industrial sector of the world economy are interested in inciting armed conflicts in developing countries rich in natural resources. An example of this is the situation in DR Congo and other «hot spots» of the world.

In the modern world, relations between the state and TNCs are changing towards greater independence of corporations, even to the point of their "taking over" a number of public functions, especially in developing countries. Although the state still has the resources and capacity to limit the actions of corporations and maintain its position as the main political entity, the activities of modern TNCs can lead to change and revision of the main categories of politics and the state, including the concepts of power, legitimacy and state sovereignty.

Further research into this issue in three directions is promising. Firstly, it is advisable to consider the influence of TNCs on state sovereignty using the example of developed countries. Secondly, it is necessary to study in more detail the resources and capabilities of military-industrial TNCs to influence the socio-political situation in developing and underdeveloped countries. Thirdly, it is necessary to assess the role of TNCs in the context of increasing geopolitical competition, growing global threats, such as pandemics and armed conflicts, as well as the development of artificial intelligence technologies. These trends are already causing debate in the scientific community and require further in-depth study.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article provides a comprehensive analysis of the role of modern transnational companies (TNCs) in the formation of the socio-economic and geopolitical reality of the information society. The ability of TNCs to quickly convert significant material, financial, legal, and organizational resources into political influence in order to obtain excess profits actualizes the need to study the degree of their influence on traditional institutions of state power. On the one hand, we are talking about the analysis of the TNC phenomenon in the categorical plane of power, legitimacy and sovereignty, taking into account the systemic interaction of corporations with other actors and society as a whole. On the other hand, despite all the economic and social prospects for development that open up for the state, thanks to the entry of TNCs into the national economic and legal space, the question arises about the danger they can pose to the state sovereignty of the host countries.

Thus, determining the degree of the threat of TNCs to the state sovereignty of developing countries, as well as the conditions for preserving state legal capacity under the influence of TNCs on the political and socio-economic situation in the country, is an urgent direction of research of an interdisciplinary nature, in which it will be appropriate to combine the methodological tools of theory and history state and law, economics, political science, etc. Given the identified research priorities, the purpose of the article is to analyze the consequences of the activities of TNCs for the national sovereignty of developing countries, as well as to find and justify the necessary conditions for its preservation.

***Keywords**: TNC, state sovereignty, globalization, developing countries.*

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Denys CHYZHOV ©
Ph.D. (Law), Associate Professor
(National Academy of Internal Affairs, Kyiv, Ukraine;
Institute of State Building and Local Self-Government
of the National Academy of Legal Sciences of Ukraine,
Kharkiv, Ukraine)

THE NATURE OF DECISIONS OF THE EUROPEAN COURT OF HUMAN RIGHTS AND THEIR SIGNIFICANCE AS SOURCES OF LAW

Денис Чижов. ПРИРОДА РІШЕНЬ ЄВРОПЕЙСЬКОГО СУДУ З ПРАВ ЛЮДИНИ ТА ЇХ ЗНАЧЕННЯ ЯК ДЖЕРЕЛА ПРАВА. Стаття присвячена дослідженню природи рішень Європейського суду з прав людини та їх значенню як джерела права в контексті України. Практика Європейського Суду з прав людини встановлює нові норми та правила, які можуть відрізнятися від національних цивільних регуляцій і доповнювати їх. Ця практика, як і Конвенція про захист прав людини та основних свобод, розглядається як важливий джерело цивільного права і має обов'язковий характер для національних правових систем. В результаті, вона стає невід'ємною частиною національного цивільного законодавства, або, точніше, її «живим організмом». Діяльність Європейського суду відображає в собі не лише європейський правовий досвід, але також впливає на саму еволюцію законодавства країн-учасниць Конвенції.

Особлива увага приділяється аналізу того, як судова практика Європейського суду уособлюється та використовується в національному законодавстві України і як інші вчені юристи сприймають цей вплив. Юридична специфіка рішень Європейського суду з прав людини привертає увагу багатьох вчених юристів. Все це пов'язано з його унікальною роллю як наднаціонального юрисдикційного органу, маючи виключне право тлумачити та застосовувати Конвенцію про захист прав людини і основоположних свобод, а також з урахуванням особливостей правових систем країн-членів Ради Європи, де право поєднує як континентальний, так і англо-американський типи правових систем.

З урахуванням особливого статусу Європейського суду з прав людини, у вітчизняній юридичній науці існують обговорення щодо взаємодії національного законодавства та прецедентів Суду, з особливим акцентом на визначенні їх юридичної природи. Важливим питанням є можливість розглядати рішення Європейського суду з прав людини як прецеденти і можливість впровадження прецедентного права в Україні.

Ключові слова: *права людини, джерела права, правозастосування, юридична природа, Європейський суд з прав людини, національний правопорядок.*

Relevance of the study. Respect for and effective enforcement of human rights and freedoms are integral elements of a rule-of-law and democratic state. The issue of the legal nature of the judgments of the European Court of Human Rights (hereinafter – the Court, ECHR) has been and remains one of the most controversial in legal science. Neither the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols nor the Rules of Court provide a clear answer to the question of the nature of the judgments issued by the Court.

Recent publications review. The issue of the role of ECHR judgments has been studied by such scholars as: T. Slinko, K. Ismaylov, O. Klymovych, S. Shevchuk, V. Paliuk, P. Rabinovych, Y. Zaitsev, M. Kozyubra, N. Blazhkivska.

For instance, the special attention of scholars to the legal nature of the Court's judgments is related to the specific role of the Court as a supranational jurisdictional body with the exclusive right to interpret and apply the Convention for the Protection of Human Rights

ORCID iD: https://orcid.org/0000-0002-4843-0670
denys_chyzhov@ukr.net

and Fundamental Freedoms, as well as to the peculiarities of the legal systems of the Council of Europe member states, whose law combines continental and Anglo-Saxon types of legal systems.

The article's objective is to study the nature of decisions of the European Court of Human rights and their significance as sources of law.

Discussion. In order to understand the essence and nature of the judgments of the European Court of Human Rights, it is necessary to first of all understand the status of this supranational justice body itself. The European Court of Human Rights is an international body that, under the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the Convention), may consider applications submitted by individuals complaining of violations of their rights. The Convention is an international treaty under which most European states have undertaken to respect human rights and fundamental freedoms. These rights are guaranteed both by the Convention itself and by its protocols (Protocols No. 1, 4, 6, 7, 12 and 13), which have been ratified by the states parties to the Convention [1]. It carries out this task by reviewing and resolving specific cases accepted for proceedings on the basis of complaints filed by an individual, non-governmental organisation or group of individuals. The case law created by the Court, specifying human rights and defining their legal nature, is of the utmost importance in the direct application of the Convention's rules and principles. The nature of the judgments of the European Court of Human Rights and their significance as a source of law are not universal in any state. In this context, N. Blazhkivska identified the main factors that should be taken into account when analysing the nature of the judgments of the European Court of Human Rights as a source of law: the legal system of the state, the constitutional approach to the relationship between national and international law and the level of binding nature of the ECHR judgments for public authorities [2, p. 228].

It is worth to agree with the statement above, since a lot depends on the legal system in place within a particular state. The Romano-Germanic legal system defines the role of judicial practice in a completely different way than the Anglo-Saxon one. There are also certain peculiarities of perception of the European Court of Human Rights judgments as a source of law in a Muslim country. At the same time, the constitutions of different states define the place of international law in its relationship with national law in different ways. In some states, the rules of international law become part of the system of legislation or the system of law in the national state, while in others they are included in the legal system and, as a result, function in such states together with other elements that make up this system, along with them.

A distinct factor is also the national legal order, which may define differently the place and role of different bodies of the state, and therefore the binding effect of ECHR judgments on the state as a whole may be differently specified in relation to the legislative, executive or judicial branches. Ukraine belongs to the Romano-Germanic legal family, where the main source of law is a legal act, and judicial practice is not formally recognised as a source of law, but the use of judgments of the European Court of Human Rights as a source of law is becoming increasingly common. Ukraine, by ratifying the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – the ECHR) in 1997, recognised the jurisdiction of the European Court of Human Rights on all matters relating to the interpretation and application of this Convention. As noted by M. Kozyubra, this event marked a fundamentally new historical stage for the national legal system in the development of the European legal space and organisation of internal life according to its inherent standards [3, p. 4]. However, the issue of recognition of ECHR judgments as a source of law in Ukraine has not been unambiguously resolved to this day.

A number of scholars, in particular, Y. Zaitsev [4] and P. Rabinovych [5], characterise the ECHR judgments in the context of the doctrinal vision inherent in the states of the Romano-Germanic legal family, where judicial practice is not recognised as a source of law, i.e., the ECHR judgments should not be perceived as sources of law. The authors substantiate their thesis with the fact that the ECHR does not establish legal grounds for granting the ECHR judgments the status of precedent in the classical sense, in particular, as in English law. On the other hand, S. Shevchuk and V. Paliuk [6, p. 235] hold the opposite view and believe that the ECHR judgments are precedents. Thus, S. Shevchuk noted that the ECHR judgments are normative in nature, are adopted in the process of resolving specific cases and are related to their actual circumstances. Nevertheless, in his opinion, the CCU's practice should be harmonised with the ECHR's practice, since democracy is based on fundamental values, rights

and freedoms, and the ECHR's judgments contain a powerful practical and methodological potential for the correct application of the ECHR. He also expressed the reasonable opinion that the Constitution of Ukraine has virtually duplicated almost all the rights enshrined in the ECHR, but national practice often does not correspond to the interpretation given by the European Court of Human Rights to the provisions of the European Convention. At the same time, the binding nature of European case law for Ukraine stems from the principle of "hierarchy of jurisdiction" – the European Court of Human Rights has the highest jurisdiction in the field of judicial protection of human rights and freedoms, which directly follows from part four of Article 55 of the Basic Law, despite the fact that the activities of the ECHR are complementary, since the main burden of this protection should be borne by national jurisdictional bodies [7, p. 128]. Other views are held by O. Klymovych, who believes that by its nature it is an official interpretation of the ECHR within a particular case, and the source of law in this case will be the result of the interpretation contained in the reasoning part of the court decision [8, p.139].

Contradicting the above, K. Ismailov holds a different opinion and argues that it is the ECHR norms that are the source of law, and the decisions of the European Court of Human Rights can only be called a source of its interpretation [9, p.77].

In order to form one's own point of view among the above pluralism of scholars' views on the nature of the ECHR judgments, one should compare not only doctrinal works, but also current legislation and existing law enforcement practice.

Thus, in accordance with the provisions of part four of Article 55 of the Constitution of Ukraine, the European Court of Human Rights can be considered an international judicial institution to which anyone who has exhausted all legal remedies guaranteed by domestic law in Ukraine can apply for the protection of rights and freedoms.

At the same time, Article 129 of the Constitution of Ukraine (as amended by the Law of 02 June 2016) provides that judges, when rendering decisions, should be guided by the rule of law, and not by the law, as in the previous version. In addition, we note that Article 46 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Article 17 of the Law of Ukraine "On the Execution of Judgments and Application of the Case Law of the European Court of Human Rights" provide for the obligation of Ukrainian courts to apply the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the European Court of Human Rights as a source of law when considering cases. The Constitutional Court of Ukraine is no exception, as it first used the ECHR case law in its decision-making in a case on the death penalty back in 1999. Since then, when formulating its legal positions, the Constitutional Court of Ukraine has increasingly referred both directly to the ECHR and to the ECHR judgments as a source of law in search of additional justification. A reasonable opinion on this issue was expressed by T. Slinko that in many cases, the decisions of the Constitutional Court of Ukraine in matters of interpretation and developed legal positions guide the legislator, courts, and citizens in relation to the application of the ECHR and the ECHR case law in improving national legislation, resolving specific cases, and defending their rights [10, p. 597]. The Constitutional Court of Ukraine constantly uses the ECHR judgments to formulate its own legal positions, after which they actually become a substantive element of the reasoning part of its judgments. Given the above, it can be concluded that the ECHR judgments are a source of law in Ukraine and directly of the constitutional law of Ukraine.

The nature of the Court's judgments is assessed ambiguously: on the one hand, they are precedents, on the other – acts of interpretation, and they can also be considered as law enforcement acts. In our opinion, it is incorrect to classify these judgments as acts of interpretation, despite the fact that virtually every judgment of the Court contains an interpretation of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols. Indeed, it can be said that the Court provides a normative (delegated) interpretation of the Convention norms, but since it is given within the framework of a particular case and is not the purpose of the judgment, it should still be considered a precedent. By applying and interpreting the Convention in a particular case, in particular circumstances and in a specific individual (or inter-state) application, the Court creates certain normative guidelines in the form of its legal positions (legal provisions, legal standards). They are the ratio decidendi, i.e. the essence of the judgment, which serve as a guide for further law enforcement and which eliminate uncertainty in specific situations.

The majority of domestic scholars, in particular, O. Klymovych, P. Rabinovych,

O. Solovyov, D. Suprun, L. Tymchenko, and S. Fedyk, consider the Court's judgments as a legal act with a dual legal nature: law enforcement and law interpretation. Some of them place greater emphasis on the characterisation of such judgments as acts of law interpretation, while others focus on their law enforcement nature.

From the point of view of the general theory of law, the Court's judgments are indeed law enforcement acts, but they also combine certain properties of law interpretation acts. This is due to the fact that in the course of law enforcement activities, the relevant provisions of the Convention are explained in terms of their application to a particular life situation. When an act of application is given a written legal form, it often formalises the rules for understanding the content of the relevant provision of the Convention, i.e. those rules of interpretation of the Court which give legal force to the act of application of this provision. At the same time, it can hardly be argued that any aspect of the dual status of the Court's judgments is dominant, since Article 32 of the Convention establishes the extension of the Court's jurisdiction to all matters of interpretation and application of the Convention. However, in practice, the Court's powers to interpret the Convention are gaining more weight in terms of its legal positions and the process of "development of the Convention".

The Court's judgments have all the features of law enforcement acts. Firstly, the Court is a competent authorised body (Article 32 of the Convention). Secondly, the judgments are of a public authority nature, they are enforced by an intergovernmental institution – the Council of Europe, which, through a specially authorised body (the Committee of Ministers), monitors their implementation by the respondent state in the case and has the right to impose legal and political sanctions on the latter for failure to comply with such acts. Thirdly, the Court's judgments as law enforcement acts contain an individual, formally binding rule of conduct, which consists in recognising the presence or absence of a violation of the Convention and, depending on the consequences of the violation, in awarding just satisfaction. Fourthly, the binding effect of the Court's judgments is always intended to be directed at personified subjects – the applicant and the respondent state. Although, as an option, by resorting to measures of a general nature, the state may take appropriate measures to avoid similar violations against other subjects in the future. Fifthly, the Court's judgments regulate only specific cases of public life, so their legal effect is exhausted by the fact of implementation of an individual order. In other words, the Court's judgment in a particular case cannot be applied to another, even similar case "automatically", without proper justification of the Court's position in the new judgment, although it may refer to its previous judgments when making subsequent judgments in similar cases. Sixth, the Court's judgments are inherently direct. Seventh, they have a written legal form of expression and consist of three main parts: "Procedure", "Facts" and "Questions of Law". Eighthly, these judgments are a prerequisite for the proper implementation of the violated rights and freedoms provided for by the Convention [11, pp. 173-179].

The peculiarity of the Court's legal interpretation activity is that its results are contained in the external legal form of a law enforcement act – its decision. However, such a law enforcement act also has all the features of an interpretive legal act. Firstly, in accordance with Article 32 of the Convention, such a judgment is a legal act of a competent entity – the Court. Secondly, the interpretation of the Convention contained in the Court's judgment is formally binding on all subjects, since only the Court has the authority to carry out its official interpretation. Thirdly, the judgment contains rules for understanding the content of the Convention's provisions, which are rather abstract and are made concrete through the Court's interpretation. Fourthly, the Court's judgment has a written legal form of expression. Fifthly, such decisions have legal force, determined by the status of the subject of interpretation – the Court. Sixthly, the rule of understanding the content of the Convention provision contained in such a judgment does not go beyond it – at least declaratively (the Court's legal positions state that it cannot, using evolutionary interpretation, derive from such a provision "a right that was not included in the text before") [12]. Usually, the Court uses general wording and notes that a right, which is not literally written in the text of the Convention, follows from a certain rule in the light of the objectives of the Convention or explains the features of a certain concept contained in the Convention. In other words, on the one hand, the Court "develops" the provisions of the Convention, and on the other hand, it acknowledges that it does not go beyond the content of these provisions, although such limits are quite broad. Seventhly, the Court's judgments do not in themselves create new, amend or repeal existing rules of law. Eighth, the rules for understanding the content of such rules are valid only for the duration of

the Convention. Ninthly, the Court's judgments have no independent significance and are valid only in unity with its provisions [5, p. 141].

If we look at the Court's judgments not only from the point of view of the possibility of using them as sources of law in domestic law enforcement practice, but as an objective legal reality, we will see that such judgments in many countries receive the same understanding and perception as precedent. It is clear that we are talking about the countries of the Anglo-Saxon legal family, but in France and Germany, both have recently seen more and more cases of using the Court's judgments as a precedent in the practice of local courts. In their judgments, the courts do not explain their legal position, referring to the existing precedent established by the Court's judgment as an a priori generally accepted legal fact.

It should also be added that the precedent-setting nature of the Court's case law is also reflected in the fact that in resolving cases, the Court tends to generally follow the approaches it has taken in the past, unless it deems it necessary to change them. At the same time, the Court has repeatedly emphasized that it is not bound by its previous decisions and, indeed, changes its legal positions from time to time. This is justified, because although the possibility of changing case law does not contribute to legal certainty, it should be borne in mind that there is a dialectical contradiction between legal certainty and the development of law [13]. In general, it can be stated unequivocally that the Court is not bound by its own decisions.

The peculiarity of the functions of the Court's judgments is due to their multidimensional nature. Therefore, they combine some functions of law (since they contain normative provisions), functions of judicial acts (essentially law enforcement), and functions of interpretative acts. The functions of the Court's judgments should be considered to be the areas of legal influence of the legal acts adopted by the Court containing normative provisions on the legal system of the States Parties to the Convention, which reflect the role of the Court as an international justice body. Among the main functions of the Court's judgments are the following: interpretation of the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto; formation of experience in the application of the Convention and the Protocols thereto, which is implemented directly in the process of consideration and resolution of cases on the merits; improvement of legislation and law enforcement practice; improvement of justice, which may be expressed in the form of changes in judicial practice, creation of opportunities for review of the case in case the Court finds violations of the Convention, in the formation of general approaches to national law enforcement practice and makes it possible to identify problems, contradictions and new trends in the development of legislation and law enforcement practice; influence on legal consciousness: the Court's judgments affect the perception of people (not only participants in the process, but also citizens of the Council of Europe member states in general) about law in general, human rights and their protection; interaction with the science of law and development of legal doctrine, which means that the Court develops new legal ideas in the course of its activities that allow a new look at a particular legal issue.

Thus, it can be reasonably argued that the legal nature of the Court's judgments is embodied in their functional load, and therefore it seems quite logical that they should be used in domestic law enforcement practice, including in court proceedings. However, such application should be based on clearly established procedures. For example, paragraph one of the Law of Ukraine "On Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the First Protocol and Protocols No. 2, 4, 7 and 11 to the Convention" of 17 July 1997 states that "Ukraine fully recognizes on its territory the effect of Article 46 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 on the recognition of the jurisdiction of the European Court of Human Rights in all matters relating to the interpretation and application of the Convention without the conclusion of a special agreement" [14]. However, this provision does not allow law enforcement agencies to use the Court's judgments as sources of law when implementing the measures set out in Article 13 of the Law of Ukraine "On the Execution of Judgments and Application of the Practice of the European Court of Human Rights", in particular, regarding changes to administrative and law enforcement practice on issues not regulated by the Convention, but whose imperfection or contradiction is directly indicated by the Court in its judgment.

At the same time, I would like to emphasize that the absence of general binding effect of the legal positions contained in the Court's judgments on national judicial systems, including the courts of the states against which such judgments were delivered, does not mean that such judgments themselves are not binding on these states.

European experts' assessment of the legal nature of the judgments of the European Court of Human Rights is also controversial. In its rulings and judgements, the Court has repeatedly emphasized that: "the Convention is not a static legal act, it is open to interpretation in the light of the present"; "the object and purpose of the Convention as a legal act ensuring the protection of human rights requires that its provisions be interpreted, i.e., their understanding in the legal consciousness of society evolves, and applied in such a way as to make its guarantees effective and real". This approach is known in the scientific community as "evolutionary interpretation". The evolutionary interpretation of the Convention by the Court's judges should be based not only on the "development of society", it cannot be subjective and arbitrary, nor can it be an abuse of law. In interpreting the European Convention on Human Rights, the Court cannot ignore other forms of international law. The Convention, firstly, is only one of numerous international treaties, and secondly, in addition to international treaties, there are other forms of international law, including generally recognized principles of international law and international customs, which, in our opinion, should be applied by judges in the process of systematic interpretation of the European Convention on Human Rights as one of the international treaties.

Conclusions. To summarize, we can say that the Court's judgments are, so to speak, of a mixed legal nature. On the one hand, they combine the features of law enforcement and interpretive legal acts, and on the other hand, they are the result of law enforcement specification. In any case, they are not the result of lawmaking. In terms of their law-regulatory function, these decisions are a cross between classical Anglo-Saxon precedent and continental law enforcement practice as a stable and consistent position of courts on certain law enforcement issues. These judgments contain legal positions that do not have the nature of legal norms, but are relatively binding for the European Court of Human Rights itself and become important for law-making of the participating states as a result of specification of the Convention. This gives rise to the term "law-concretizing precedents" to describe such decisions of the Court.

The Court's case-law contributes to a clear interpretation of the provisions of the Convention and its Protocols and serves as a source of dynamic and ongoing interpretation. This is achieved through the Court's consistent and sustained jurisprudence, which is in line with the inherently recognized case law or precedents of the Romano-Germanic legal system.

Thus, the legal nature of the Court's judgments can be defined, taking into account their role in legal regulation, as follows: these judgments can be considered as law-concretizing precedents, i.e. law-enforcement acts that interpret the provisions of the Convention through the legal provisions included in them. This is of a precedential nature for the Court itself and at the same time is of great importance for the formation of the legal systems of the States Parties to the Convention.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article is devoted to the study of the nature of judgments of the European Court of Human Rights and their significance as a source of law in the context of Ukraine. The case law of the European Court of Human Rights establishes new rules and regulations that may differ from and supplement national civil regulations. This case law, as well as the Convention for the Protection of Human Rights

and Fundamental Freedoms, is considered an important source of civil law and is binding on national legal systems. As a result, it becomes an integral part of national civil law, or, more precisely, its "living organism". The activities of the European Court reflect not only the European legal experience, but also influence the very evolution of the legislation of the countries party to the Convention.

Particular attention is paid to the analysis of how the case law of the European Court is embodied and used in the national legislation of Ukraine and how other legal scholars perceive this influence. The legal specificity of the judgments of the European Court of Human Rights attracts the attention of many legal scholars. All this is due to its unique role as a supranational jurisdictional body with the exclusive right to interpret and apply the Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the specifics of the legal systems of the Council of Europe member states, where the law combines both continental and Anglo-American types of legal systems.

Taking into account the special status of the European Court of Human Rights, there are discussions in the national legal science on the interaction between national legislation and the Court's precedents, with a special emphasis on determining their legal nature. An important issue is the possibility of considering the judgments of the European Court of Human Rights as precedents and the possibility of implementing case law in Ukraine.

Keywords: *human rights, sources of law, law enforcement, legal nature, European Court of Human Rights, national legal order.*

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Olena OSTAPENKO©
Ph.D. (Law), Associate Professor
(Simon Kuznets Kharkiv National University of Economics, Kharkiv, Ukraine)

COMPARATIVE CHARACTERISTIC OF THE STATUS OF A REFUGEE AND A PERSON WHO HAS OBTAINED TEMPORARY PROTECTION IN THE CONTEXT OF ARMED AGGRESSION BY THE RUSSIAN FEDERATION (EUROPEAN EXPERIENCE)

Олена Остапенко. ПОРІВНЯЛЬНА ХАРАКТЕРИСТИКА СТАТУСУ БІЖЕНЦЯ ТА ОСОБИ, ЩО ОТРИМАЛА ТИМЧАСОВИЙ ЗАХИСТ В УМОВАХ ЗБРОЙНОЇ АГРЕСІЇ З БОКУ РОСІЙСЬКОЇ ФЕДЕРАЦІЇ (ЄВРОПЕЙСЬКИЙ ДОСВІД). У статті досліджуються питання співвідношення правового статусу біженця та особи, яка набуває тимчасовий захист, їх особливості шляхом порівняння інститутів притулку та тимчасового захисту. Як критерії порівняння, обрано правову основу, суб'єктний склад, підстави набуття відповідного статусу, обсяг прав та обов'язків.

Правове регулювання тимчасового захисту здійснюється Директивою 2001/55/ЄС про мінімальні стандарти для надання тимчасового захисту у разі масового напливу переміщених осіб та про заходи, що сприяють збалансованості зусиль між державами-членами щодо прийому таких осіб та відповідальності за наслідки такого прийому та Імплементаційне рішення Ради Європи 2022/382 від 4 березня 2022 року. Іншими джерелами регулюється статус біженців та інститут притулку. Це Декларація про територіальний притулок, ухвалено резолюцією 2312 (XXII) Генеральної Асамблеї ООН від 14 грудня 1967 року, Конвенція про статус біженців від 28 липня 1951 року, Протокол щодо статусу біженців від 31 січня 1967 року та Конвенція, що визначає державу, яка відповідає за розгляд заяв про надання притулку, що подані в одній з держав-членів Європейських Співтовариств (Дублінська конвенція) від 15 червня 1990 року.

Встановлено, що для набуття статусу біженця особа повинна відповідати наступним ознакам: мати обґрунтовані побоювання стати жертвою переслідувань за ознакою расової належності, релігії, громадянства, належності до певної соціальної групи чи політичних поглядів;

ORCID iD: https://orcid.org/0000-0001-5795-4276
ostapenkold77@gmail.com

знаходитися за межами країни своєї національної належності; і бути не в змозі користуватися захистом цієї країни або не бажати користуватися таким захистом внаслідок таких побоювань; або, не маючи визначеного громадянства і знаходячись за межами країни свого колишнього місця проживання в результаті подібних подій, не може чи не бажає повернутися до неї внаслідок таких побоювань. Директива 2001/55/ЄС поширюється на такі категорії осіб, переміщених з України 24 лютого 2022 року або після цієї дати внаслідок військового вторгнення російських збройних сил, що розпочалося в цей день: громадян України, які проживали в Україні до 24 лютого 2022 року; осіб без громадянства та громадян третіх країн, крім України, які користувалися міжнародним захистом або еквівалентним національним захистом в Україні до 24 лютого 2022 року; та членів сімей зазначених осіб.

З'ясовано, що механізм тимчасового захисту передбачає застосування державами-членами мінімальних стандартів тимчасового захисту до переміщених осіб, що регламентують прийому та проживання осіб, які користуються тимчасовим захистом, і складатися з двох компонентів: фінансового і щодо фактичного прийому осіб у державах-членах, і кожна держава-член самостійно визначає і деталізує умови прийому осіб та їх фінансового забезпечення (підтримки). Статус біженця надається у довготривалій адміністративній процедурі, передбачає наявність певних обмежень (вилучення паспорта, неможливість працевлаштування тощо), але за наявністю такого статусу особа набуває правосуб'єктність, аналогічну до громадянина.

У ході дослідження зроблено висновок, що правовий статус біженця та особи, яка набуває тимчасовий захист, регламентується різними правовими актами, заснований на реалізації індивідуального або колективного права, набувається (й припиняється) з різних підстав, за різних умов (перша країна в'їзду чи будь-яка) протягом різних строків і шляхом застосування різних адміністративних процедур.

***Ключові слова*:** *тимчасовий захист, Директива 2001/55/ЄС, мінімальні стандарти тимчасового захисту, право притулку, територіальний притулок, статус біженця.*

Relevance of the study. Due to the armed aggression of the russian federation initiated on February 24, 2022, from the territory of Ukraine beyond its borders, notably into the European Union (EU) countries, a vast number of Ukrainian citizens have left. According to Eurostat data, their number reached 4.2 million as of September 30. All of them obtained temporary protection in EU countries. Compared to the end of August 2023, the number of beneficiaries of temporary protection from Ukraine in the EU increased by 31,920 (+0.8 %) [1]. However, in certain media, the data is already being distorted, indicating an increase in refugees [2] (or using the term "refugees" in the title and "persons who obtained temporary protection" in the content [3, 4, 5, 6]). Thus, there is a conflation of two different rights – asylum (through which a person may obtain refugee status) and temporary protection (and the acquisition of corresponding status by a person receiving such protection). Additionally, this mixing of concepts may be due to Directive 2001/55/EC on minimum standards for granting temporary protection in the event of a mass influx of displaced persons and measures to promote a balance of efforts between Member States regarding the reception of such persons and responsibility for the consequences of such reception [7, 8], which establishes in its preamble and Article 3(1) that "temporary protection must comply with the international obligations of Member States regarding refugees. In particular, it must not prevent the recognition of refugee status in accordance with the Geneva Convention of July 28, 1951, on the Status of Refugees as amended by the New York Protocol of January 31, 1967, ratified by all Member States". However, under the current conditions, EU countries are not considering granting refugee status to Ukrainians but are only providing them with temporary protection. Thus, based on an analysis of international and national law norms, it is necessary to determine the peculiarities of the legal status of persons granted temporary protection and refugees.

Recent publications review. In legal scientific literature, general theoretical issues of migration law and migration regime have been studied in works by M. Balamush, A. Mozol, A. Suprunovsky, N. Parkhomenko, Yu. Okunkovska, V. Polishchuk, V. Teremetsky, etc. The subject of analysis by foreign scientists J. Bastaki, R. Bleck, H. Kozera was forced migration in the context of the legal status of persons who received temporary protection in host countries and issues of repatriation (M. Valenta, Z. Straba). Ukrainian scholars have explored the experience of post-conflict reconstruction in the post-Yugoslav countries (S. Kosarevich), the use of international assistance (B. Danylyshyn), the legal status of refugees (T. Bohdan, S. Brytchenko, V. Ivanova, O. Kopylenko, K. Levandovsky, Yu. Lushpienko, O. Malinovska, O. Sivash, Yu. Todik, O. Fritsky, K. Shymkevych, et al.). Considering certain specificities in the application of Directive 2001/55/EC to Ukrainian citizens who massively migrated to EU countries and obtained temporary protection there, the possibility of an alternative to such protection and international protection (refugee status) is an actual research topic.

The article's objective is to investigate problematic issues related to the correlation of the legal status of persons granted temporary protection and refugees, outlining the characteristics of their legal subjectivity.

Discussion. As a result of the mass departure of Ukrainian citizens from its territory due to open armed aggression by the russian federation against Ukraine, the EU Council activated Directive 2001/55/EC adopted in 2001 on minimum standards for granting temporary protection in the event of a mass influx of displaced persons and measures to promote a balance of efforts between Member States regarding the reception of such persons and responsibility for the consequences of such reception (hereinafter – Directive 2001/55/EC). The adoption of this international act in 2001 was prompted by mass movements of people due to an armed conflict in former Yugoslavia.

Its underlying idea was "to create a space of freedom, security, and justice for those legitimately seeking protection in the European Union due to forced circumstances" [7], which required the development of a joint asylum policy among states. According to the provisions of Directive 2001/55/EC, the Action Plan of the Council and the Commission of December 3, 1998, envisages the accelerated adoption of minimum standards for temporary protection of displaced persons from third countries unable to return to their country of origin and measures promoting a balance of efforts between Member States regarding the reception of displaced persons and responsibility for the consequences of such reception, in accordance with the Amsterdam Treaty [8]. This balance is based on a solidarity mechanism, consisting of two components: financial and the actual reception of persons by Member States. The latter have the right to accept or provide more favourable conditions for persons enjoying temporary protection in the event of a mass influx of displaced persons [8].

Directive 2001/55/EC, considering the exceptional nature of its provisions, establishes the limited duration of protection. Its duration, according to Article 4 of Directive 2001/55/EC, is set for one year. If the protection is not terminated according to the provisions of Article 6(1)(b), it can later be automatically extended for six-month periods, up to a maximum of one year. Subsequent provisions (paragraph 2 of Article 2) of the said act specify that if the reasons for temporary protection continue to exist, the Council may, by a qualified majority upon a proposal by the Commission – also considering any request by a Member State to submit a proposal to the Council – decide to extend this temporary protection by up to one year [7-8].

On March 4, 2022, after a considerable number of Ukrainian citizens moved to European countries, the EU Council's Implementing Decision 2022/382 recognized the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC. As a result, a decision was made to apply the mechanism of temporary protection [9]. The advantages of the introduced regime of temporary protection in the EU for Ukrainians include the speed of its acquisition process and the provision, within such protection, of the right to work and education. In the autumn of 2023, the Directive 2001/55/EC for Ukrainian citizens who obtained temporary protection was extended until March 4, 2025 (summing up to three years). Thus, the fate of individuals who acquired temporary protection in Europe remains unknown. Additionally, the situation is complicated by the armed conflict in the Middle East.

Directive 2001/55/EC defines temporary protection as an exceptional procedure to ensure immediate temporary protection for such persons in the event of a mass or imminent influx of displaced persons from third countries who cannot return to their country of origin. This occurs particularly if there is a risk that the asylum system will be unable to cope with such an influx without negative consequences for its effective functioning, the interests of the persons concerned, and other persons seeking protection. It is activated to provide collective protection to displaced persons and alleviate pressure on the EU's national asylum systems, protecting them from overload and minimizing bureaucratic procedures for the prompt provision of fundamental rights to displaced persons [10, 11].

It is in this context that it is pertinent to examine the difference between the asylum system (refuge) and temporary protection.

Asylum in international law doctrine can be diplomatic or territorial. In the context of our research, we are concerned with territorial asylum. The legal regulation of this institution is established by the Declaration on Territorial Asylum, adopted by resolution 2312 (XXII) of the United Nations General Assembly on December 14, 1967 [12]. It stems from the Universal Declaration of Human Rights, acknowledging the right to seek asylum from persecution in other countries. No person regarding whom there are serious reasons to consider that they have

committed a crime against peace, a war crime, or a crime against humanity shall have the right to seek asylum or enjoy it. The assessment of grounds for granting asylum belongs to the state providing this asylum (Article 1 of the Declaration).

Article 2 establishes that the status of persons granted territorial asylum should, without prejudice to the sovereignty of the state, be a matter of concern for the international community. If any state finds it difficult to grant or continue to grant (extend) asylum, the state individually or jointly or through the UN should, in a spirit of international solidarity, consider appropriate measures to alleviate the burden placed on that state.

No measures such as refusal of permission to cross a border or, if they have already entered the territory where they seek asylum, expulsion or return to any country where such a person may be persecuted, should be applied to any person falling under the Declaration, except on grounds of national security or for the protection of vital interests, such as in cases of mass influx. If any state decides that such an exception is justified, it should consider the possibility of transferring that person to another state – either by providing temporary asylum or by other means (Article 3 of the Declaration).

According to Article 4 of the Declaration, the state providing asylum should not allow persons who have received it to engage in activities contrary to the purposes and principles of the UNO. In addition to the aforementioned 1967 Declaration, the refugee status is also regulated by the Convention Relating to the Status of Refugees dated July 28, 1951, the Protocol Relating to the Status of Refugees dated January 31, 1967, and the Convention Determining the State Responsible for Examining Applications for Asylum Lodged in One of the Member States of the European Communities (the Dublin Convention) dated June 15, 1990. Temporary protection, as previously mentioned, is regulated by Directive 2001/55/EC and the EU Council's Decisions on its activation in connection with the war in Ukraine, No. 2022/382 dated March 04, 2022, and the extension of the period of temporary protection on 19.09.2023.

According to the provisions of national and international law, a refugee is a person who meets the following criteria: 1) has well-founded fears of being persecuted for reasons of race, religion, nationality, membership in a particular social group, or political opinions; 2) is outside their country of nationality; 3) is unable or unwilling to avail themselves of the protection of that country due to such fears; 4) or, having no nationality and being outside their former habitual residence country due to similar events, is unable or unwilling to return there due to such fears. Therefore, an individual's pursuit of asylum and subsequent attainment of refugee status is contingent upon the individual circumstances, primarily linked to political persecution or other reasons making their presence in their country of nationality unsafe. The existence of such circumstances (grounds for granting asylum and refugee status) must be proven by the individual and verified by the competent authorities of the country where the person seeks asylum.

The provisions of Directive 2001/55/EC regarding the granting of temporary protection apply to displaced persons, defined as citizens of third countries or stateless persons who have been compelled to leave their country or region of origin or have been evacuated, particularly in response to appeals from international organizations, and cannot return under safe and stable conditions due to the situation in that country. They fall under the scope of Article 1A of the Geneva Convention or other international or national documents providing international protection, including: (i) individuals who have fled from areas of armed conflict or outbreak of violence; (ii) individuals facing serious risk or who have become victims of systematic or widespread violations of human rights.

According to Article 2 of the EU Council's Implementation Decision 2022/382, it applies to the following categories of individuals displaced from Ukraine on February 24, 2022, or after that date due to the military invasion by russian armed forces that began on that day:

a) Ukrainian citizens who were residing in Ukraine before February 24, 2022;

b) stateless persons and citizens of third countries, excluding Ukraine, who were beneficiaries of international protection or equivalent national protection in Ukraine before February 24, 2022;

c) family members of individuals mentioned in points (a) and (b).

Member States implement either this Decision or equivalent protection under their national legislation for stateless persons and citizens of third countries, excluding Ukraine, who can prove that they legally resided in Ukraine before February 24, 2022, based on a valid permanent residence permit issued according to Ukrainian legislation and who cannot return to

their country or region of origin in safe and sustainable conditions. According to Article 7 of Directive 2001/55/EC, Member States may also apply this Decision to other individuals, including stateless persons and citizens of third countries, excluding Ukraine, who resided in Ukraine on legitimate grounds and cannot return to their country or region of origin in safe and sustainable conditions.

Therefore, in accordance with the preamble and text of the Decision, temporary protection due to the armed aggression of the russian federation is established for Ukrainian citizens; citizens of third countries (excluding Ukraine) who enjoyed refugee status or equivalent protection in Ukraine before February 24, 2022; family members of those individuals whose families were already residing in Ukraine at the time of the mass influx of displaced persons; for stateless persons and citizens of third countries (excluding Ukraine) who can prove that they legally resided in Ukraine before February 24, 2022, based on a valid permanent residence permit issued according to the law and who cannot return to their country or region of origin in safe and sustainable conditions.

It should be noted that concerning the last category of individuals, protection should be provided either through the application of this Decision or another appropriate form of protection according to national legislation, which is determined by each member state. Those seeking protection must have the opportunity to prove their compliance with these criteria by providing relevant documents to the competent authorities in the respective member state. If they cannot provide the necessary documents, member states should redirect them to the appropriate procedure. According to Directive 2001/55/EC, member states can extend temporary protection to all other stateless persons or third-country nationals, excluding Ukraine, who have been residing in Ukraine on legitimate grounds and cannot return to their country or region of origin in safe and sustainable conditions. Among such individuals could be citizens of third countries who were studying or working in Ukraine on a short-term basis at the time of the events that led to the mass influx of displaced persons. These individuals, in any case, must be admitted to the Union for humanitarian reasons, without requiring, among other things, a valid visa or sufficient means of subsistence or valid travel documents to ensure safe passage for returning to their country or region of origin. Member states may also extend temporary protection to additional categories of displaced persons, other than those covered by this Decision, if these individuals are displaced for the same reasons and from the same country or region as specified in this Decision. In such a case, member states must immediately inform the Council and the Commission. In this context, member states should consider extending temporary protection to individuals who fled Ukraine shortly before February 24, 2022, due to increased tension or who found themselves on the territory of the Union (for example, on vacation or for work reasons) just before this date and cannot return to Ukraine due to the armed conflict.

An individual may claim the right to temporary protection on the territory of any EU country (except Denmark) at the applicant's choice (unlike asylum, which is obtained in the first country entered by the individual). If a person meets the criteria specified in Directive 2001/55/EC and left the territory of Ukraine due to military aggression, they have the right to seek temporary protection from any EU country or submit an individual application for refugee status (according to the Dublin Convention of 1990, such status can only be obtained in the first safe country whose border the person crossed). However, EU countries, under current conditions, exclusively provide temporary protection to Ukrainians (globally, the state of war in Ukraine does not directly imply grounds for obtaining refugee status).

The fundamental difference between asylum and temporary protection lies in the fact that refugee status is acquired through an individual's right to international protection, provided after going through the respective administrative procedure. Temporary protection involves the application of a set of exceptional temporary and immediate measures in the case of a mass influx of people from an armed conflict zone, aimed at implementing a mechanism for the collective protection of these individuals, ensuring minimum standards for subsistence.

Another distinction between refugee status and someone granted temporary protection is associated with the period of validity. According to Directive 2001/55/EC, temporary protection is currently extended for up to three years, and its termination is linked to the cessation of hostilities, improvement of the situation, and the creation of safe conditions in Ukraine. Refugee status has no expiration date – the individual is guaranteed the right of indefinite residence in the respective state. It can be revoked immediately upon the appearance of evidence indicating grounds for its review (thus, the cessation of hostilities will not

automatically be a reason for ending refugee status). The validity period of refugee documents varies between countries. In Ukraine, for instance, documents are issued for five years and extended during the refugee's re-registration by the territorial authority of their place of residence [13], while in Poland, a residence permit is granted for three years. If an individual acquires new citizenship or returns to their country of residence, their refugee status is terminated.

It's important to note that the administrative procedure for obtaining refugee status or temporary protection also differs. Firstly, the refugee status acquisition procedure is governed by the national legislation of each individual country and typically lasts for six months or even longer. Additionally, each state independently establishes the system of bodies responsible for deciding on granting refugee status (in Poland, for example, such applications are made through the border service, in the Czech Republic – through the migration service). In each EU country, the application review process has its peculiarities associated with specific constraints (such as confiscation of a person's passport until the application review is completed). The provision of temporary protection involves a non-prolonged procedure; for example, in Spain, the period for a decision on protection is five days from the application submission [14, art. 206]. The process of obtaining such status includes applying for a residence permit and registering the individual, including in social services or tax authorities. In different EU states, matters of temporary protection fall under the jurisdiction of various authorities (for instance, municipal administrations in Poland, police authorities in Italy, Finland, Spain, the state administration for refugees in Germany, migration service in Portugal, Sweden).

A key point in the status of a refugee or someone who has obtained temporary protection is the scope of their legal subjectivity. According to Directive 2001/55/EC, a person granted temporary protection has the right to information about the content of temporary protection, to reside in the host country and move freely (including within the EU for a 90-day period), employment, access to housing, medical and social assistance, and education. It's worth noting that this scope might be broader based on the national legislation of the host country, considering the country's ability to independently determine the extent of minimum standards. According to the Implementing Decision, "if a Member State has a national scheme that is more favourable than the mechanisms set out in Directive 2001/55/EC, the Member State should be able to continue to apply it since this Directive allows Member States to adopt or maintain more favourable conditions for persons covered by temporary protection. However, if the national scheme is less favourable, the Member State should ensure additional rights provided for in Directive 2001/55/EC" [9].

The scope of rights for individuals applying for refugee status compared to the conditions of temporary protection is limited. For instance, employment is only possible after obtaining refugee status (i.e., after the conclusion of a lengthy administrative procedure for decision-making), limited medical assistance, prohibition from leaving the host country, residence in specialized refugee centres, etc. However, upon acquiring refugee status, an individual almost obtains the same scope of rights as citizens of that country. Therefore, the choice of the status an individual who wishes to obtain may be influenced by the timeframe (urgency) and the extent of corresponding rights, constituting the content of the legal subjectivity of a refugee or someone granted temporary protection. Another significant factor influencing this choice is the individual's future plans: whether to return to Ukraine or integrate into a specific EU country.

Normative acts also establish various grounds for the cessation of refugee status or for individuals who have obtained temporary protection. For instance, the Implementing Decision stipulates that Directive 2001/55/EC properly takes into account the responsibility placed on member states to maintain legality, order, and ensure internal security. It permits member states to exclude a displaced person from temporary protection if there are serious reasons to believe that the person: has committed a crime against peace, a war crime, or a crime against humanity as defined in international instruments drawn up to include provisions on such crimes; has committed a serious non-political crime outside the receiving member state before being admitted to that member state as a person enjoying temporary protection; or has been guilty of acts contrary to the purposes and principles of the United Nations. The directive also allows member states to exclude a displaced person from temporary protection if there are reasonable grounds to consider such a person a danger to the security of the receiving member state or a danger to the community of the receiving member state [9].

Grounds for the cessation of refugee status include an individual acquiring citizenship in

another country (and enjoying the protection of that country), returning to the country the person left or was outside of due to well-founded fear of persecution, or obtaining asylum or a permit for permanent residence in another country.

Conclusion. Summarizing the aforementioned, it's notable that the legal status of a refugee and an individual obtaining temporary protection is regulated by various legal acts. It is based on the realization of individual or collective rights, acquired (and ceased) on different grounds, under different conditions (first country of entry or any), for various periods, and through the application of different administrative procedures.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The article provides a comparative description of the essence, grounds for granting and terminating the status of a refugee and a person receiving temporary protection, as well as the extent of their legal personality. The armed attack of the russian federation on Ukraine at the end of February 2022 led to a mass departure of Ukrainians abroad in search of safety and, accordingly, an influx of Ukrainian migrants to the countries of the world. Most Ukrainians ended up in Europe. In connection with the

massive influx of displaced persons, the Council of the EU activated Directive 2001/55/EC on the provision of minimum standards for the provision of temporary protection and the application of measures that contribute to the balance of efforts between member states regarding the reception of such persons and responsibility for the consequences of such reception. Directive 2001/55/EC provides for the possibility of obtaining both temporary protection and refugee status, which determines the relevance of the study.

***Keywords**: temporary protection, Directive 2001/55/EC, minimum standards of temporary protection, right to asylum, territorial asylum, refugee status.*

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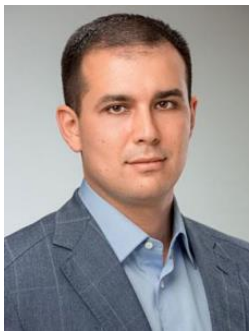

Kamil PRYMAKOV ©
Ph.D. (Law)
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

DIRECTIONS OF IMPROVING THE LEGAL REGULATION OF NATIONAL SECURITY IN UKRAINE UNDER MARTIAL LAW

Каміль Примаков. НАПРЯМИ УДОСКОНАЛЕННЯ ПРАВОВОГО РЕГУЛЮВАННЯ НАЦІОНАЛЬНОЇ БЕЗПЕКИ В УКРАЇНІ В УМОВАХ ВОЄННОГО СТАНУ. У статті проведено дослідження правового регулювання національної безпеки в Україні. Автором проаналізовано поняття національної безпеки та його складові. У статті досліджено систему нормативно-правових актів у сфері забезпечення національної безпеки, визначені основні недоліки законодавства у цій сфері. З'ясовано, що законодавство у сфері забезпечення національної безпеки в Україні не відповідає сучасним викликам та загрозам, пов'язаним із національно безпекою. Аргументовано, що нормативно-правові акти у сфері національної безпеки не належним чином узгоджені між собою та містять ряд недоліків, що негативно впливає на рівень забезпечення національної безпеки.

За результатами проведеного дослідження сформульовано висновки та надано пропозиції щодо удосконалення правового регулювання національної безпеки в умовах військового стану. Запропоновано, для досягнення стану покращення та підвищення ефективності правового забезпечення національної безпеки в Україні необхідно розробити систематизовану, логічно зв'язану та взаємопов'язану нормативну базу в даній сфері, узгодити термінологічні поняття між собою, повноваження суб'єктів забезпечення національної безпеки. Це допоможе вирішити ті важкі виклики, які стоять перед системою національної безпеки та створити правове підґрунтя для її ефективного розвитку.

Обґрунтовано, що головною метою правового регулювання національної безпеки є створення цілісної та комплексної державної політики у сфері національної безпеки, яка має бути розрахована як на сьогоднішній день так і на перспективу. Законодавство у сфері національної безпеки повинно відображати сучасні виклики та загрози і містити чіткі заходи для їх протидії, а також містити ефективні механізми впровадження законодавчих приписів, що діють не тільки для суб'єктів системи безпеки і оборони, але й для всіх суб'єктів суспільних відносин, які можуть бути залучені до виконання завдань, пов'язаних із забезпеченням національної безпеки.

Ключові слова: безпека, національна безпека, державна безпека, безпека в умовах воєнного стану, правове регулювання, удосконалення.

Relevance of the study. The main priorities of Ukraine's national security include the protection of sovereignty, territorial integrity and state borders, ensuring national interests in the political, trade and economic, informational and other spheres, as well as restoring the

© Prymakov K., 2023
ORCID iD: https://orcid.org/0000-0002-2349-8599
k_zpd@dduvs.in.ua

territorial integrity of Ukraine and ensuring victory and peace in our state. In order to achieve these goals, effective interaction and cooperation of all interested subjects of ensuring the national security of the state, both at the national and international levels, as well as strengthening the Ukrainian state by ensuring progressive socio-political and socio-economic development of the country, despite the conditions war In connection with this, the state policy in the field of national security should be aimed at effective protection of national interests in all spheres of life, in particular in the political, economic, informational, social and humanitarian spheres. For this, it is necessary to carry out a comprehensive reform of the state administration system, aimed at ensuring national security, and to create an effective system of security and defense of Ukraine, a security environment in the middle of the state. The multifaceted and complex nature of problems in the field of national security requires in-depth research of all constituent elements, identification of shortcomings and timely adoption of effective measures aimed at improving legal regulation and state management in the field of national security. Solving such complex tasks is closely related to the state of legal regulation of national security, the quality and effectiveness of the relevant legislation. Therefore, the study of problematic issues related to the development and improvement of public relations and legislation in the field of national security is of great importance.

Recent publications review. Modern research conducted by V. Antonov [1], I. Doronin [2], I. Yevtushenko [3], A. Murashko [4], L. Nalyvaiko [5], O. Reznikova [6], I. Rusnak [7], H. Sytnyk [8], Yu. Khatniuk [9], L. Shipilova [10] et al., devoted to various aspects of legal regulation and the mechanism of ensuring national security. At the same time, the issue of a comprehensive approach to the system of legal support of national security remains outside the attention of researchers, and as a result, there are no works outlining the prospects for its development.

The research paper's objective is to analyze the legal regulation of national security, outline the shortcomings in this area and propose ways to improve the legal regulation and development of the national security system.

Discussion. The need to increase the efficiency and improve the legal provision of national security in Ukraine requires, from the beginning, to determine the essence and content of the conceptual and categorical apparatus, namely, such concepts as "security", "national security", "ensuring national security". The theoretical interpretation of the meaning of the concept of "security" in the process of development of scientific opinions constantly underwent changes, which, on the one hand, complicated its essential understanding, but on the other hand, increased its theoretical and methodological importance for understanding the meaning of various types of security, classification and definition of specific threats and dangers

Therefore, the primary task is to define an accurate conceptual apparatus that allows a deeper understanding of the essence of various types of security and the practical meaning of the main threats and dangers facing the country. This will become the basis for the further development of security theory and effective legal measures aimed at ensuring the national security of Ukraine.

If we turn to scientific approaches regarding the essence of the concept of national security, there is no unity of opinion here. The concept of "national security" was studied by specialists in political, military, philosophical, economic, legal and other sciences. National security was studied and is being studied in the context of combating crime and public administration. It is worth citing the conclusions of V. Antonov on this issue, who notes that national security is considered by most scientists as: "a state of protection of the individual, society and the state from internal and external threats; the most important condition under which the vital activity of a person, society and the state is ensured; protection of the vital interests of a person and citizen, society and the state; etc." [1, p. 27; 11, p. 14].

The main problematic points in the application of terminology are certain legislative inconsistencies between such concepts as state security, national security, military security, public security and others, which are mentioned in the Law of Ukraine "On National Security" [12]. Thus, the Law of Ukraine "On the National Security of Ukraine" provides such a definition of the concept of state security as the protection of "state sovereignty, territorial integrity and the democratic constitutional system and other vital national interests from real and potential threats of a non-military nature" (clause 4, part 1 of Article 1). At the same time, the term "state security" in the text of the law is used twice in Art. Art. 18 and 19 in the context of the performance of tasks by the relevant entities. Also in clause 9, part 1 of Art. 1 of the Law of Ukraine "On National Security" defines national security as "the protection of state

sovereignty, territorial integrity, the democratic constitutional order and other national interests of Ukraine from real and potential threats" [12].

Such legislative definitions are not very successful, given the certain blurring of terms, objects of state and national security. At the same time, when it comes to state security, concepts such as "vital national interests" are used here, although what they are is not clearly defined in the law. As for national security, "other interests" are mentioned here, it can be assumed that the degree of their importance will be different, compared to the objects of state security. Although one cannot fail to pay attention to the fact that in Part 3 of Art. 3 of the Law of Ukraine "On National Security", the legislator provides an interpretation of the concept of "fundamental interests" [12]. The aforementioned legislative interpretations of the term "security" and "national security" in combination with historically established terminology and scientific interpretation of various types of security complicate the perception and unequivocal understanding of such a concept as "national security" in combination with other types of security.

The next thing I would like to draw attention to is that the problem of ensuring the national security of Ukraine is becoming more and more urgent and today it is attracting more and more attention not only in our country. This issue has become a global problem of great importance to the world community. Ensuring national security, the mechanism for implementing measures to eliminate potential and existing threats is a topical issue that is widely researched and covered not only in the pages of legal literature.

In connection with this, one cannot fail to pay attention to the circle of social relations that make up national security.

1. State strategic planning in the field of national security. This process is evaluated through the prism of the needs and features of public administration in terms of potential and existing threats and challenges. This includes the issue of the formation of state policy in the field of national security and planning, as well as the limits and mechanisms of control over the implementation of measures.

2. Public relations related to the defense of the state and economic provision of defense measures cover the following aspects: state policy in the field of defense and economic provision of defense measures. This includes the peculiarities of the formation and implementation of state policy in the field of defense, the competence and order of activity of various subjects, the regulation of the activity of subjects that have the introduction of administrative and legal regimes, the state regulation of the economic sphere with the provision of defense needs, etc.

3. Public relations related to information security. This includes: obtaining particularly important information in the interests of the state; intelligence and counter-intelligence activities. information security, which is becoming key in the face of growing threats to cyber security and cyber espionage.

4. Conducting external events (strategic communication events). This aspect includes various instruments of diplomacy and foreign policy, which contribute to the protection of the interests of states, strengthening of international partnership and cooperation.

5. Countering the subversive activities of foreign states and organizations using non-military or "hybrid" methods: This includes preventing and countering measures to influence actions by foreign actors aimed at destabilizing the situation in the country and maintaining national security.

6. Relations related to the legal problems of the temporary occupation of the territory of Ukraine are aimed at ensuring the protection of the rights and interests of Ukrainian citizens in the occupied territories. An important aspect is maintaining ties with citizens in the occupied territory to ensure their rights and assistance in conflict situations. In addition, it is important to work on the processes of deoccupation and integration of these territories back into Ukraine after the restoration of peace.

These social relations can become the basis for improving the terminology, which was discussed above. In addition, the specified list indicates only the main problematic directions of social relations that already exist, and therefore, in further scientific research, this list of directions can be clarified. A deep study of social relations in the field of national security and the legal framework is a task, a basis for the development of both domestic legislation and legal science in general.

The life activity of the state unfolds in various spheres, and in each of them negative factors can arise that threaten national security. National security covers various aspects, such

as political, economic, social, military, informational, environmental, state-management security and others. The totality of these components creates a system of national security that allows the state to effectively respond to challenges and threats in all spheres of its functioning.

In connection with the diversity and multi-levels of national security, an existing systematic approach to its organization, implementation of legal regulation and management is necessary. The system approach is becoming key in modern knowledge and practice of management in various spheres of public life, and mostly it concerns national security. All fields of science and practice need a systematic analysis of reality. The integration of modern social life into the ever-increasing interaction of political, economic, social, managerial and other processes is growing. Changes in one area can significantly affect other areas that are important for the entire society.

Having made certain conclusions, it should be noted that for a deep and comprehensive understanding of the processes, some of which affect national security, it is necessary to use a systematic method of learning the patterns of social development. This method illuminates the society as a system consisting of interconnected elements, links and ties in the context of existing relationships and interests. Therefore, it requires a comprehensive approach in the implementation of legal regulation and management of national security, especially taking into account the threats and challenges associated with military aggression.

The influence of normative legal acts on various spheres of social relations, including national security, will be effective only when these acts contain clear, unambiguous and correctly defined norms. It is important that the legislation creates a single legal field for the regulation of social relations in the sphere of national security, and represented a complex unified nationwide system. Regulatory and legal acts that regulate the provision of national security must contain clear norms and be well written, ensuring the appropriate level of legal regulation, protection and effectiveness of the national security system.

In the sphere of ensuring national security in Ukraine, the system of normative legal acts currently does not meet the modern challenges and tasks facing the state, the subjects of ensuring national security. The main problem is the dispersion of legislation, uneven regulation of the processes of ensuring various, interrelated types of security. It is necessary to improve and harmonize the legal framework in the field of ensuring national security, to bring it into a single comprehensive system. After all, effective legislation is the basis for solving important tasks in the field of ensuring the country's national security.

Today, legislation in the field of national security is represented by numerous legal acts, namely: Laws of Ukraine "On the National Security of Ukraine" [12], "On the Defense of Ukraine" [13], "On Ensuring Chemical Safety and Management of Chemical Products" [14], "On the Fight Against Terrorism" [15], "About Information" [16], defines the legal, organizational and economic principles in the field of ensuring chemical safety and management of chemical products, etc.; by-laws, such as Decree of the President of Ukraine No. 56/2022 dated February 16, 2022, which implemented the decision of the National Security and Defense Council of Ukraine dated December 30, 2021 "On the Strategy for State Security" [17], the Military Security Strategy [18]], the Information Security Strategy [19] and the Action Plan for its Implementation [20], the Comprehensive Strategic Plan for the Reform of Law and Order Bodies as a Part of the Security and Defense Sector of Ukraine for 2023-2027 [21] and others.

The above-mentioned normative legal acts are not properly coordinated among themselves and contain a number of shortcomings, which negatively affects the level of ensuring national security. These shortcomings of the legislation lead to problems of coordination of actions and ensuring interaction between various subjects of ensuring national security, and which direct efforts and activities to ensure an adequate level of security in our state. In our opinion, the improvement of legal regulation in the field of national security should be carried out by developing a coherent, systematized and interconnected legal framework. And this should happen not by creating a significant array of legislative and by-laws, but by unifying and systematizing (perhaps codifying) the existing ones.

Conclusions. The conducted research confirms that the current system of regulatory and legal acts in Ukraine in the field of ensuring national security does not meet modern challenges and threats. The legal system is not comprehensive and unevenly regulates the process of ensuring different, interconnected types of security and the powers of the relevant subjects.

In order to achieve a state of improvement and increase the effectiveness of the legal provision of national security in Ukraine, it is necessary to develop a systematized, logically

connected and interconnected regulatory framework in this area, to agree on terminological concepts among themselves, and the powers of subjects of national security provision. This will help solve the difficult challenges facing the national security system and create a legal basis for its effective development.

The main goal of legal regulation of national security is the creation of a coherent and comprehensive state policy in the field of national security, which should be calculated both for today and for the future. Legislation in the field of national security should reflect modern challenges and threats and contain clear measures to counter them, as well as contain effective mechanisms for the implementation of legislative prescriptions that apply not only to the subjects of the security and defense system, but also to all subjects of public relations, which may be involved in performing tasks related to ensuring national security.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The article examines the legal regulation of national security in Ukraine. The author analyzed the concept of national security and its components. The article examines the system of normative legal acts in the field of ensuring national security, identifies the main shortcomings of legislation in this field. It was found that the legislation in the field of ensuring national security in Ukraine does not meet modern challenges and threats related to national security. It is argued that normative legal acts in the field of national security are not properly coordinated among themselves and contain a number of shortcomings, which negatively affects the level of ensuring national security. Based on the results of the research, conclusions were formulated and suggestions were made regarding the improvement of the legal regulation of national security in the conditions of martial law. It is suggested that in order to achieve a state of improvement and increase the effectiveness of the legal provision of national security in Ukraine, it is necessary to develop a systematized, logically connected and interconnected regulatory framework in this area, to agree on terminological concepts among themselves, and the powers of subjects of national security provision. This will help solve the difficult challenges facing the national security system and create a legal basis for its effective development. It is substantiated that the main goal of legal regulation of national security is the creation of a coherent and comprehensive state policy in the field of national security, which should be calculated both for today and for the future. Legislation in the field of national security must reflect modern challenges and threats and contain clear measures to counteract them, as well as contain effective mechanisms for the implementation of legislative prescriptions that apply not only to the subjects of the security and defense system, but also to all subjects of public relations, who may be involved in tasks related to ensuring national security.

Keywords: *security, national security, state security, security under martial law, legal regulation, improvement.*

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Andriy SAMOTUHA©
Ph.D. (Law),
Associate Professor
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

Ricardo FURFARO©
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MEDIA BETWEEN STATE, LAW AND SOCIETY DURING INTERNATIONAL ARMED CONFLICTS. PART ONE: WORLD WAR I, THE ENTENTE

Андрій Самотуга. Рікардо Фурфаро. МЕДІА МІЖ ДЕРЖАВОЮ, ПРАВОМ ТА СУСПІЛЬСТВОМ ПІД ЧАС МІЖНАРОДНИХ ЗБРОЙНИХ КОНФЛІКТІВ. ЧАСТИНА І: ПЕРША СВІТОВА ВІЙНА, КРАЇНИ АНТАНТИ. Оскільки будь-які суспільні події, зокрема конфлікти, заслуговують на висвітлення, вони привертають велику увагу з боку медіа. Взаємодія між медіа (друкованими чи електронними) та збройними конфліктами набувала різноманітних

© Samotuha A., 2023
ORCID iD: https://orcid.org/0000-0001-9802-0226
samotuga@ua.fm

© Furfaro R., 2023
ORCID iD: https://orcid.org/0000-0002-5054-129X
ricardofurfaro@yahoo.com.ar

форм в історії, і різні журналісти чи інформаційні організації по-різному підходили до різних збройних конфліктів, і чим більший був їхній масштаб, тим більше суб'єктів інформаційно-правових відносин (суспільство (що набувало ознак інформаційного), медіа, держава, військовики, політики) були втягнуті в різноманітні процеси як взаємодії, так і протистояння.

На тлі постійних дебатів щодо співвідношення між мораллю та об'єктивністю в журналістиці, між дотриманням конституційного суб'єктивного права на інформацію (що включає такі похідні права, як свобода вираження поглядів і переконань, право отримувати, створювати, зберігати, поширювати, знищувати та спростовувати інформацію) автори досліджують еволюцію академічної дискусії навколо зв'язку медіа та збройних конфліктів, особливо у контексті появи та розвитку новітніх інформаційно-комунікаційних засобів і платформ.

Ця стаття започатковує цикл публікацій, що висвітлюють проблеми конституційного обмеження права на інформацію, протидії ворожій пропаганді та просування власних ідеологем і наративів як елементів контрпропаганди. Адже нинішні інформаційні війни як складові гібридних характеризуються битвою вже не стільки фактів, скільки сенсів і наративів, що майже не спростовуються протиборчими сторонами, а отже, все менше підпадають під правове регулювання, а більше – під політичні кон'юнктури. Значну увагу приділено питанням медійної цензури під час війни. Часові межі постановки наукової проблеми охоплюють період від Першої світової війни як першого міжнародного збройного конфлікту за кількістю держав-учасників до наших днів – російсько-української війни як предтечі нового протистояння між авторитарними режимами і демократичним світом.

На прикладі країн Антанти (Велика Британія, Франція, Російська імперія) та її асоційованої держави-учасниці – США, авторами зроблено висновок, що Перша світова війна, за відсутності тоді міжнародно-правового обмеження суб'єктивного права на інформацію аж після закінчення Другої світової війни, започаткувала подальшу із наростанням участь державних і недержавних суб'єктів у реалізації інформаційної політики як у міжвоєнні періоди у формі гібридних війн, так і відкритих збройних конфліктів у контексті всіх етапів інформаційної революції.

Ключові слова: *медіа, Перша світова війна, Антанта, суспільство, законодавче регулювання, власність, цензура, пропаганда, обмеження права на інформацію.*

Relevance of the study. It has just so happened that when, in early 2014, russia has committed an act of aggression against Ukraine, annexing Crimea and starting hostilities in Donbas, the world at the same time remembered the 100th anniversary of the beginning of the first full-scale armed conflict in the history of mankind – the First World War. Society and the government learned about the course of frontline events primarily from military reporters – representatives of various press agencies, newspapers and magazines, which were then already the most developed media since the times of industrial capitalism and which successfully influenced public sentiment through their owners' interests. There were certain information consumers in society preferred to receive which was revealing exclusively the truth, which would either cheer the public up thanks to reports of victorious battles over the enemy, or, on the contrary, plunge into despair and panic due to losses and defeats. There was other information thet users with real power supported by monopolistic and oligarchic capital, has ben subject to limited dissemination in addition to revealing the truth. To protect themselves from public criticism, the ruling political class resorted to selecting or even inventing only positive content, which consisted of certain forms of information policy such as censorship and propaganda. The second one could also be turned into counter-propaganda aimed at demoralizing the enemy.

Today, under a full-scale russian-Ukrainian war, proposals were made by some pro-government media officials to introduce censorship in all media during the war, which still does not stop both support and condemnation from the media community [10]. For its part, censorship is prohibited by the Constitution of Ukraine, which cannot be amended under martial law [2]. At the same time, according to representatives of the military authorities, Ukrainian society has become accustomed to a certain information culture, which enabled the authorities to avoid the introduction of information censorship in wartime [7].

However, we should not rely on the complete absence of censorship and propaganda instead of objective information at any time and in any country, because the State may not disclose to the public the counter-information measures taken by it for national security reasons. Moreover, the issue of censorship, disinformation and propaganda during war has existed for more than one century. After all, even in his work "The Art of War", the ancient Chinese strategist and thinker Sun Tzu called deception one of the means of defeating the enemy [4].

Recent publications review. In Ukraine, the topic of information policy in general covers mostly the fields of political and historical sciences. The legal field is represented by

works mainly on the theory and history of the state and law (K. Dolgoruchenko, I. Doronin, I. Mukomela, L. Pohorila, V. Politansky, V. Romashchenko), constitutional law (Yu. Bohdan, V. Seredyuk, I. Chyzh) and most of all – administrative and informational law. However, similar issues in the context of armed conflicts, in particular the First World War, have not been investigated by Ukrainian legal science, with the exception of some works on historical sciences (O. Kyriyenko, S. Kotova, R. Kutsyk). Similar topics are also covered in many social and political publications by authors from other countries, such as: R. Blank, M. Bourrie, J. Davidson, N. Fischer, O. Forcade, L. Gershon, I. Gillich, R. Greenslade, I. Hiltunen, R. Jolly, J. McEwen, A. Rai, M. Robbins, G. Stone, L. Tagg, M. Zohoor & N. Sadiq).

Considering the certain lack of coverage of the legal aspects of military information policy in Ukrainian science, it is the world developments of the analyzed topic that require additional use in our research.

The research paper's objective is to find out peculiarities on the implementation of information policy during World War I by the Entente countries using its restrictive measures, the legislative support of this policy with the definition of the range of its actors and its further impact on the development of the international security system.

Discussion. In the previous publication, we have indicated that such a form of state information policy as propaganda is primarily an information weapon of totalitarian states, aimed first at the internal audience to overcome resistance to the ruling regime, then at the external consumer to make a favorable international informational environment. [9, p. 260]. However, information policy, in general, and its elements such as propaganda and censorship, in particular, have become traditional for the Western legal system for more than a century. At the same time, in contrast to authoritarianism, in this article we will in a certain way avoid the concept of "democracy", since the constitutions of Western countries, mainly of the Anglo-Saxon system, do not use denominations such "democratic" for their description. Rather, democracy is not a characteristic (static), but a goal (dynamic) of the existence of these countries. That is why we will start our discussion with Great Britain as a classic representative that stood at the origins of this legal system and was also an active participant in the World War I.

With the beginning of the World War I, censorship was introduced in all European participating countries. Censorship departments were established in military institutions, various ministries, and even in local self-government bodies. In Germany, Austria, and russia, the censors were mostly military officers, and in Britain, France, and Italy, they were mostly civil servants [8].

First, we should note that Great Britain is the birthplace of capitalism, which caused, along with industrialization and the liberation of the workforce, the emergence of mass media. Such media accompanied and influenced political and socio-economic processes, in particular, the course of military campaigns long before the First World War, for which the British were comparatively better prepared, in particular from an information point of view.

Anglo-Boer Wars (1880-81, 1899-1902), according to some researchers, was not just a disaster for the British army in terms of geopolitics and the perception of its power on the world stage. It was also a disaster in terms of public relations. Much of the European and American press had supported the Boers, casting these Dutch settlers as victims of brutal British colonialism (though very little ink was devoted to the dispossessed indigenous Africans who were colonized by the Boers and the British). Meanwhile, foreign press printed stories about the new British invention, the "concentration camp" where Boer civilians were herded, and of the boldness of the guerrilla campaigns waged by these farmers against the professional army of one of the world's strongest powers. So the British learned their lesson for their next war – the First World War, almost 12 years later – investing significant money and effort into developing a scientific censorship and propaganda system to manipulate world public opinion. The best minds in the British press and universities were co-opted to develop censorship and propaganda systems, and they learned that it only worked if the marketplace of ideas was cleansed of competing narratives [12].

According to other British contemporary authors, journalists, as ever, were prevented from informing the public by three powerful forces – the government, the military and their own proprietors. It is undeniable that newspapers began by demonizing the German enemy. They published fabricated stories of German barbarism, which were accepted as fact. Although Belgian and French citizens were executed as reprisals by the German army in the early months of the war, many unverifiable stories – later dubbed "atrocity propaganda" – were

wholly untrue. Editors and journalists were therefore guilty. Censorship was a different matter. It was imposed from the opening of hostilities and, although gradually relaxed, it remained sufficiently strict to constrain reporters from obtaining information or from publishing it, should they manage to get it. Rigid government control was exercised in conjunction with a complicit group of committed pro-war press proprietors [18]. In this regard, it is worth adding that the media industry, being owned by oligarchic capital, which was simultaneously involved in the military-industrial complex thanks to increased state orders during the war, also turns out to be an element of the state-military machine.

The information policy of the British government of that period received state regulation in the Defense of the Realm Act (DORA – the Defense of the Realm Act) of August 8, 1914, i.e. 5 days after the start of the war. DORA was originally issued as an ordinary law, and it was already amended many times during the war. It authorized the government to do almost anything it thought necessary to help the war effort and protect the country. It allowed the government to pass laws and avoid the drawn-out process of having bills proposed, voted on and ratified by Parliament. Laws were designed to protect sensitive information, maintain morale and maximize production: censorship of newspapers and correspondence to and from the trenches was introduced to maintain morale and keep troop movements secret; striking was outlawed to protect production of goods in the factories; the working day was extended in many sectors and wages were either lowered or kept at the same level, the aim was to increase production without increasing expense; pub opening times were limited, as was the strength of drinks, which were watered down; the buying of drinks for others was banned, this aimed to tackle lateness and loss of productivity at work. "We are fighting German, Austrians and drink", as Lloyd George put it. After all, it is clear that the state of intoxication, by unblocking the inhibitory processes of the psyche, contributes to the "excessive talkativeness" of a person. In addition, no-one was allowed to talk about naval or military matters in public places; spread rumors about military matters; buy binoculars; trespass on railway lines or bridges; melt down gold or silver; light bonfires or fireworks; give bread to horses or chickens; use invisible ink when writing abroad. At first, the public accepted the need for increased security and control over areas seen as vital to the war effort. However, as the war went on people objected to the way that DORA undermined their basic freedoms. Most people thought many of the rules were trivial and inconvenient [14, 20].

Censorship also prevented war correspondents from working. With the beginning of the war, the British government banned reporters from going to the front line. Then two correspondents, Philip Gibbs of the "Daily Chronicle" and Basil Clarke of the "Daily Mail", went to the front line illegally, at their own risk. After several articles, the journalists were caught and sent home, threatening to be shot if they returned. In a few months, the government allowed five correspondents to be accredited at the front line. But they worked under the strict supervision of escort officers.

Sometimes it reached the point of absurdity: journalists were required to tell about the soldier’s exploits, but were forbidden to mention specific military victories. It was, of course, forbidden to write about defeats or the harsh conditions of trench life. In the case of the "Spanish flu", this led to tragic consequences on a global scale. In the countries participating in the war, reports about mass diseases on the front lines were not passed by censorship, so that the soldiers did not lose their fighting spirit. At the end, the "Spanish flu" epidemic turned into the most massive pandemic in human history, from which 50 to 100 million people died.

Postal censorship went even further and took up correspondence among civilians. In Britain, all mail was controlled by special censor departments. In 1918, about five thousand censors worked there. Special attention was paid to letters sent abroad, primarily to neutral countries. Later, censorship also reached private conversations. In Britain, people could be fined or imprisoned for "unsavory" speeches at conferences, for example, for calls promoting peace talks.

And, of course, censorship helped politicians win elections and eliminate competitors. David Lloyd George began the First World War as the Minister of Finance of Great Britain. Subsequently, he received the specially created position of Minister of Munitions, then became the State Secretary for War Affairs, that is, the head of the Military Department. And in December 1916, he replaced Henry Asquith as prime minister. Last but not least, Lloyd George owed his successful career to the British media magnate Alfred Harmsworth, Lord Northcliffe. He owned "The Times", "Daily Mail" and other smaller newspapers, and in total controlled more than 40 percent of the circulation in Britain. In fact, it was the Northcliffe papers that first

advocated the creation of the post of Minister of Munitions, which was filled by Lloyd George, and later criticized Asquith, destroying his public rating. A grateful Lloyd George offered Northcliffe a ministerial portfolio in his office. But the latter refused in favor of a more profitable position for himself as the director of the propaganda department [8].

In Britain, in September 1914, a secret organization was established – the military propaganda bureau "Wellington House", which called on journalists and newspaper editors to write and distribute articles sympathetic to Britain, countering hostile statements. In addition to placing positive reports on the press of neutral countries, WN printed its own newspapers for distribution around the world [22]. Illustrated news containing drawings or photographs were considered particularly effective. By the end of 1916, the newsreel "War Pictorial" was distributed in 500,000 copies in four editions in 11 languages. Along with attempts to influence public opinion in neutral countries, propaganda was also used directly against enemies. Since the beginning of the war, all sides have used airplanes and balloons to drop leaflets and posters over combat units and civilians [19].

The implementation of foreign information policy to gain international support and sympathy was an important goal for all states. It was one of the first successful actions made by Britain at the beginning of the war was to cut Germany's submarine communications cables, which gave Britain a monopoly on the fastest way to transmit news from Europe to the American press agencies, and therefore to induce the Americans to enter the war and provide military aid to the British.

Highlighting features of the US information policy during World War I, it should be noted that, although there was a great upsurge in propaganda during the Civil War (1861-1865), the issue of state propaganda remained fleeting for the rest of the XIX century, and continued to be associated almost exclusively with war. And the term "propaganda" itself had yet to acquire a pejorative meaning. First used in 1622, – by Pope Gregory XV when he formed the Office for the Propagation of the Faith to supervise missionary activity, "propaganda" had remained a neutral concept, deriving meaning from "its authors and their aim". The era of mass and continuing state propaganda, and of the associational evolution of the word propaganda into "a synonym for big black lies", began abruptly during the First World War [16, p. 54].

The "Great War," as it was soon named, was "the first war in history where both the ideology and the practical resources existed for governments to mobilize entire industrial societies for warfare". While the US did not enter the war for two and a half years, the administration of President Woodrow Wilson was perhaps uniquely prepared for a propaganda war. Within days of Congress's declaration of war on Germany on April 6, 1917, the federal governments propaganda agency, the Committee on Public Information (CPI), commenced operations. Until its dissolution in June 1919, the CPI issued a vast body of propaganda, in an unprecedented range of media. Its innovative use of the printed and spoken word, and of graphic images in poster and motion picture formats, won the admiration of contemporary and future observers, and helped usher in a new era of truly professional propaganda. And while there is some disagreement whether the propaganda of the British government or the CPI was most innovative and influential, the CPI's status as the first agency not only in the US but in the world to fully control a national government s propaganda policy and resources is universally accepted [11, p. 437].

Three months after the United States entered the war (at the same time, not wanting to dissolve into the Entente, they declared themselves an "associated country" of this grouping), the Congress, at the request of President W. Wilson, adopted the Espionage Act of July 15, 1917. This has criminalized transmission of information aimed at hindering military operations. The subsequent Sedition Act of May 16, 1918, expanded the Espionage Act and introduced severe penalties for a wide range of dissent, including insults to the US government, the Stars and Stripes, the Constitution, and the military. These laws were directed against socialists, pacifists and other anti-war activists. The Wilson administration argued that these laws were essential to the war effort and prosecuted thousands of anti-war activists under several provisions. While today scholars believe that these acts violate basic principles of free speech protection, the Supreme Court at the time affirmed these beliefs. In the decades that followed, the Supreme Court reversed rulings, increasingly protecting free speech, building on a series of landmark judges' opinions in the 1910^{s} and 1920^{s}.

For example, the wording of the rules of Section III of the Espionage Act and Section III of the Sedition Act were almost identical, stating: "Whoever, when the United States is at

war, shall willfully make or convey false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States, or to promote the success of its enemies, or shall willfully make or convey false reports, or false statements, ... or incite insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or shall willfully obstruct ... the recruiting or enlistment service of the United States, or ... shall willfully utter, print, write, or publish any disloyal, profane, scurrilous, or abusive language about the form of government of the United States, or the Constitution of the United States, or the military or naval forces of the United States ... or shall willfully display the flag of any foreign enemy, or shall willfully ... urge, incite, or advocate any curtailment of production ... or advocate, teach, defend, or suggest the doing of any of the acts or things in this section enumerated and whoever shall by word or act support or favor the cause of any country with which the United States is at war or by word or act oppose the cause of the United States therein, shall be punished by a fine of not more than $ 10,000 or imprisonment for not more than 20 years, or both... " [15].

Summarizing the regulatory and institutional component of the legal support of the US information policy during the First World War, some researchers claim that nearly a century after it was formed, the CPI should be recognized for having revolutionized the role and production of state propaganda, and for beginning the manufacture and distribution of state "soft" power. The CPI's innovative use of media, professional communicators, community leaders and public volunteers was crucial in professionalizing both its communications techniques and products, enabling the US to promote its war policies and aims with far greater effectiveness than Germany and arguably Great Britain. Its example was followed not only by successive federal governments, but also by civil associations and especially corporations, as they strove to harness mass communications to win political support and consumer loyalty [16, p. 74].

On this occasion, some of the so-called progressives sincerely hoped that CPI would enlighten millions of citizens not only of the US but also of other nations, by showing them the virtues of American democracy and industry. Yet his efforts led directly to the promotion of crass consumerism and to equally crass political crusades, often with tremendously bloody consequences. The CPI also demonstrated, as no other organization had before, how citizens in a mass polity could be mobilized and coaxed into censoring thought and conduct. In this way, the CPI subverted "the contrivances of state and society that the liberal imagination prizes and recommends as an antidote" to state exploitation of civil society. It also demonstrated, with hitherto unparalleled success, the paradoxical capacity of propaganda to seduce "even those whom it most horrifies" [13, p. 30].

Equally important for our research is the information policy of other Entente states, in particular France as one of the birthplaces of democracy and republicanism, where state censorship, propaganda and disinformation turned out to be much stricter. There, in general, they introduced an unspoken ban on the word "peace" in articles. The fate of the French newspaper "*Le bonnet rouge"* and its socialist editor Miguel Almereyda was the worst. In July 1917, the newspaper was closed on the suspicion that it was financed by the Germans. Almereyda was arrested, and a month later he was found dead in a cell hanging by shoelaces. And although almost no one believed in the version of suicide, the case was closed [8].

As some French authors now point out, the establishment of censorship presented contemporary examples with a dilemma. The controls it imposes limit the exercise of civil liberties, especially freedom of the press, which is at the heart of the republican compact. This contradicts the historical process of democratization of society, initiated by the French Revolution, the achievement of which was guaranteed by the Republic. However, censorship is considered important by the government in view of the disastrous experience of September 1870 (the Battle of Sedan during the Franco-Prussian War, which ended in the complete defeat of the French army and the capture of Napoleon III) and when the press revealed to public opinion, and at the same time to the Germans, plans for the concentration of the French army. We must prevent the spread of strategic military information and protect the morale of both the rear and combatants. There is a pause between the patriotic imperative and republican freedom, which politicians, journalists and writers must resolve. In addition, on August 4, 1914, two laws established preventive control over information. From October 1914, it became a social and moral factor and imposed, in connection with propaganda, the supervision of public opinion, which was maintained until the lifting of the state of siege in October 1919.

According to the analysis of O. Forcade, censorship is divided into three types of state bodies: first, those that carry out censorship strict sense (on the one hand, the press service that

has national competence, and on the other – censors of the Paris police prefecture). Secondly, civilian or military propaganda organizations (including the Grand Quartier Général and the House of the Press on the Quai d'Orsay), and thirdly, the postal control established at the end of 1915 to control the combatants' correspondence. It is on the first organization that the work is focused due to a quantitative and qualitative approach to its activities (1,100 instructions recorded in journals stored in the Library of Modern International Documentary Studies) and its staff (400 censors). As for censored topics, military failures (the battles of Verdun and the Somme, which O. Forcade spoke of as "the height of lies about combat losses"), the strikes of 1917 and 1918, the uprising of 1917, the condemnation of soldiers are noted, in particular councils of war and, in general, pacifism and the spread of positive images of Germany or negative images of France, but also, less expectedly, the issue of German atrocities. No less than complete suppression of information, censorship carries out its distortion: "there is nothing that the French do not know, except for information that is postponed, fragmented, metamorphosed by the propaganda game of the warring parties" [17, p. 296, 355].

However, as other French researchers claim, the terrible truth is difficult to contain... If censorship silences cry of despair as much as it can, certain letters still arrive safely, soldiers on leave testify to what they are experiencing, broken faces return from front, the countryside is becoming depopulated... We can then wonder to what extent civilians believed in "skull stuffing" (an expression popularized in 1914 by A. Londres, then war correspondent for "Le Matin"). The rear was certainly no fool. A missive from a civilian, contained in an army report dated June 30, states: "We no longer believe the newspapers, but news like that which you (the poilus) give us is believed to the letter". However, even when discredited, newspapers sell like hotcakes. The daily "Le Petit Parisien", the highest circulation on the eve of the war (1.45 million copies in 1914) shattered all records in 1916 with 2.18 million units sold each day. "Who reads newspapers in 1916? They are the brothers, the wives, the mothers, the children of those who are at the front, recalls S. Ambit. The press responds to a need: to reassure a terrified public who fear not seeing their loved ones return". Finally, the media will not be subject to any substantive criticism. With France emerging victorious from the war, their lies are tolerated. It was only in the 1920ˢ, when the press was shaken by financial scandals, that its detractors remembered the "bobbies" of the Great War [21].

In another member of the Entente – the russian empire – censorship during the war was not so strict. Initially, only articles related to military secrets were subject to the ban. Thanks to this, extremely critical articles on political topics were published in the press. When the Minister of Defense A. Polivanov was reprimanded for this reason, he just threw up his hands and said that his censor officers were acting according to instructions and were not involved in politics. Since 1916, the authorities tried to extend censorship to political articles and even to the speeches of Duma deputies. However, it was not possible to suppress dissatisfaction with the authorities. The political crisis, which began even after the lost "small victorious war" with Japan in 1905, only grew.

According to some Ukrainian researchers, in terms of organization, the propaganda measures of the russian government were less organized and less effective compared not only to the enemy Germany, but also to the ally Great Britain. The humanitarian discourse on the formation of the image of the "enemy" has moved mainly to the field of journalism, as well as to academic humanities and education. russian scientists, who tried to declare their own patriotism through collective appeals from universities, actively joined the "war of manifestos". However, even among them, the tonality of responses was different – from openly chauvinistic to restrained ones. Russian historians, like their German colleagues, were influenced by the national-state narrative and worked for the political legitimation of the Romanov empire [3, p. 14]. In our opinion, the government of the russian empire received a double profit from the absence of an information policy as such: first, the illiteracy and ignorance of the vast majority of the population (while Western industrial capital needed a skilled and educated labor force, which provided an impetus for the development of the media industry) , which was not capable of critically rethinking, but even receiving information and knowledge mainly from printed sources, and therefore did not pose, as hoped, a serious threat to the regime; secondly, the lack of information policy did not require huge public funds.

At the same time, the war conditions required the russian government to intensify military censorship, aimed primarily at the western outskirts of the empire – the Ukrainian provinces and the occupied lands of Galicia and Bukovyna, where, on the one hand, hostilities were taking place, on the other – the local population was more developed in terms of socio-

culture, and therefore easily perceived information, in particular through print media. The basis of the military censorship legislation of the russian empire was the regulation of the organization and functioning of military censorship bodies, in particular the "Temporary Regulation on Military Censorship dated 20.07.1914", "Lists of information and visual information regarding the external security of russia and its naval defense, prohibited until disclosure by means of information or in speeches or reports announced publicly" (editions dated July 26, 1914 and July 29, 1915). For the practical implementation of certain rules of current legislation in the field of military censorship, optimization of some areas of activity of specialized bodies in the territories subordinated to the command of the South-Western Front (most of the governorates of the Kyiv and Odesa military districts), the "Rules on the Organization and Implementation of Military Censorship of July 23" were developed 1914. In general, the russian military censorship provided effective control over the general political situation in the country, influenced the formation of public opinion, and its bodies tried to protect the interests of the army in the conditions of growing dissatisfaction with the war, protect the command, central and local authorities from criticism and discrediting information [1, p. 17]. Despite these and other informational and counter-propaganda measures, in the future, it was not possible to avoid the revolutionization of soldiers and other proletarianized social strata, as well as the intensification of the national liberation struggle of the enslaved peoples of the Austro-Hungarian, russian, and Ottoman empires, which accelerated their disintegration.

Other Ukrainian researchers also pay attention to the weakness of military propaganda in the russian army and the rapid depletion of patriotic sentiments that were characteristic of the summer of 1914. After the defeat in the fall of 1914 in the East Prussian battle, russian propaganda spread the information that the two russian armies, which were defeated in East Prussia, saved the Allies in the Battle of the Marne. However, such military propaganda only convinced the rank-and-file soldiers of the russian army and the rest of the population that it was fighting for russia's foreign interests, which indirectly prepared the revolution of 1917. Therefore, any propaganda is a double-edged sword [5, p. 409-410]. Moreover, in our opinion, the nutrient environment for the effectiveness of propaganda is mostly victorious relations, and in their absence, and vice versa, when the war acquires a positional-trench character, that is, reaches a dead end, propaganda, as well as censorship, cease to fulfill their main function – mobilization, which are then tried to be carried out exclusively by administrative and punitive measures.

Along with the media, literature and art were also influenced by state regulation. After all, literature served the war from a long time ago, and the war became a source for compiling poetic and historical chronicles, which, in turn, became a source for the development of national languages, e.g. "Strasbourg Oath", "A word about Ihor's regiment" and others. Over time, everything became more complicated – both the war and literature. Since the beginning of the 20th century, telegraph agencies have distributed worldwide reports of their correspondents about certain military actions from different parts of the planet. Literature with the development of communications was already on the back burner – it needed several years to be understood. The First World War and the literature about it can be considered as an illustrative situation. Initially, it was written about by its members – the lost generation, who were eighteen or twenty years old at the time of the beginning. Then it became the object of observation of those who did not participate, and later also of subsequent generations of writers. Both poets, and writers, and philosophers, and dramatists alike hated war and served in the army not out of will, but out of duty, which any state declares sacred and threatens deserters and defectors with imprisonment or the death penalty. For example, the biography of the French poet Guillaume Apollinaire, who, being at the front, was wounded in the head by a shell fragment on March 17, 1916, underwent skull trepanation in May, was weakened by the operation, and died on November 9, 1918 from the Spanish flu epidemic.

The semantics of war are the same: it includes economic, psychological, and demographic components; various contradictions of a social nature, territorial encroachments; the desire to capture, possess, enrich, hiding behind propaganda slogans specially prepared for such cases. In general, the First World War, after its declaration and with the beginning of hostilities in Europe, naturally divided the intellectuals of that time – writers and philosophers – into opposite camps: those who, for patriotic reasons, glorified the power of national weapons, and those who added anti-humane absurdity to the next worldwide bloodshed [6].

The epic artistic understanding of war is characteristic of the large-scale novels-

chronicles of French writers Roger Martin du Gard, Romain Rolland, and others. Books about the war show it in very different ways: from the depiction of its revolutionary influence in the novel "Fire" by Henri Barbusse (1916) to the pessimism and despair caused by it in the books of writers of the "lost generation".

If literary works about the war were mostly published after its end (E. Hemingway "Farewell to Arms!", 1929; R. Aldington "Death of a Hero", 1929), i.e. after the easing of censorship, then more effective for a mass audience in time works – films, theater plays, and even circus performances came under censorship. First of all, the works of authors from enemy countries were banned. The plays had to be edited so that there were no plots about adultery, scenes with a hint of sex, vulgar and abusive expressions. It was forbidden to make fun of the military and policemen, and the characters of "criminals" and "whores" were deleted from the plays plots. In Paris, the Special Commission at the Police Prefecture censored more than 4,500 performances. France also had one of the harshest film censors. In 1916, 145 films were banned there, and in the following year – already 198 [8].

From what has been stated, it can even be seen that every state participating in the war, without exception, but relying on its own resources, tried to surpass its opponents in the means and results of military information policy, also hindering the absence of any supranational, international and regional organizational and legal boundaries.

Conclusions. Coverage of the information policy of the First World War of the Entente countries allows us to state the following:

1) information policy during the war is characterized by a significant expansion of the circle of its actors – the state, media, society; in particular, the legislative regulation of this area is strengthened by introducing such forms of restriction of the right to information as propaganda, disinformation and censorship; the latter included almost the entire humanitarian and cultural-artistic area. In addition, each state participating in the war was extremely free to choose means and methods of conducting military information policy due to the lack of international legal regulation of this area at the time;

2) the experience of organizing military censorship in some countries of the Entente (Great Britain, France, the USA) proved that the implemented legal and censorship measures contributed to the strengthening of the information security of the states, strengthened the foundations of the defense capabilities of the countries, allowed timely detection and liquidation of enemy agents on their territories, to neutralize its ideological and propaganda influence on military personnel and the civilian population, to carry out current monitoring of the socio-political attitudes of the population and the military during warfare confrontation;

3) in another country of the Entente – russia, the collapse of the empire occurred due to the weakness of the information policy and the information vacuum, which was quickly filled by radical political forces through external assistance. They especially manifested themselves in another conflicting side – the Central Powers, with what a separate publication should be dealt;

4) thanks to the development of media and means of communication, the First World War led to revolutions and counter-revolutions all over the world. On the one hand, it marked the fall of monarchies and the birth of parliamentarism, on the other, it paved the way for the tyranny of Hitler and Stalin and the even greater global carnage, World War II, a generation later;

5) the experience gained during the First World War in organizing the activities of military censorship bodies was used and developed in the following years due to new information and communication technologies and the ever-growing accessibility of the media to ordinary information recipients.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

This article starts a cycle of publications highlighting problems of constitutional restriction of the right to information, countering enemy propaganda and promoting one's own ideologues and narratives as elements of counter-propaganda. After all, the current information wars, as components of hybrid ones, are characterized by a battle not so much of facts, but of senses and narratives, which are almost not refuted by the opposing parties, and therefore, fall less and less under legal regulation, and more under political conjunctures. Considerable attention has been paid to the issue of media censorship during the war. The time limits of setting the scientific problem cover the period from the First World War as the

first international armed conflict in terms of the number of participating states to the present day – the Russian-Ukrainian war as the forerunner of a new confrontation between authoritarian regimes and the democratic world.

On the example of the Entente countries (Great Britain, France, the Russian Empire) and its associated state-participant – the USA, the authors have concluded, that in the absence of then international legal restrictions on the subjective right to information even after the end of the Second World War, initiated the further and increasing participation of state and non-state actors in the implementation of information policy as in the interwar periods in the form of hybrid wars, as well as open armed confrontations in the context of all stages of the information revolution.

***Keywords**: media, World War I, the Entente, society, legislative regulation, property, censorship, propaganda, restrictions on the right to information.*

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Ihor NALYVAIKO©
Assistant Lecturer
(Dnipro University of Technology, Dnipro, Ukraine)

THE ROLE OF CONSTITUTIONAL NORMS IN THE FORMATION OF SOCIAL STANDARDS: ASPECTS OF AMERICAN, EUROPEAN AND UKRAINIAN LAW

Ігор Наливайко. РОЛЬ КОНСТИТУЦІЙНИХ НОРМ У ФОРМУВАННІ СОЦІАЛЬНИХ СТАНДАРТІВ: АСПЕКТИ АМЕРИКАНСЬКОГО, ЄВРОПЕЙСЬКОГО ТА УКРАЇНСЬКОГО ПРАВА. У науковій статті досліджено роль конституційних норм у формуванні соціальних стандартів у США, країнах Європейського Союзу та Україні. У статті розглядаються теоретико-правові аспекти, визначення та огляд конституційних положень, їх порівняння з міжнародними стандартами. Звертається увага на взаємодію міжнародного та національного права, імплементацію міжнародних норм у конституційні положення країн, можливі перспективи розвитку соціальних норм, заснованих на конституційних принципах. У статті ретельно аналізується роль міжнародних договорів у формуванні соціальних стандартів та їх імплементація в конституційне поле, розглядається вплив цього процесу на правове середовище. Перспективи розвитку соціальних норм, побудованих на конституційних засадах, визначаються через розширення соціальних прав, адаптацію до сучасних викликів, гармонізацію з міжнародними стандартами. Висновки статті вказують на важливість конституційних норм у забезпеченні соціальних стандартів та вказують потенційні напрямки подальшого розвитку, такі як розширення соціальних прав, адаптація до сучасних викликів та взаємодія з міжнародними стандартами для створення більш справедливого та інклюзивного суспільства. Відзначено можливості для більшого захисту прав громадян та необхідність врахування сучасних викликів для розвитку справедливого та інклюзивного суспільства, заснованого на конституційних принципах.

***Ключові слова:** конституційні норми, соціальні стандарти, міжнародне право, Європейський Союз, міжнародні договори, правове забезпечення, розвиток соціальних норм.*

Relevance of the study. In the modern world, constitutional norms not only determine the basic principles of the functioning of the legal space but also play an essential role in forming social standards. The Constitution, as the country's fundamental law, not only defines the rights and duties of citizens but also provides the basic framework for developing social

ORCID iD: https://orcid.org/0000-0003-1532-2996
uf.dekanat@gmail.com

policy. Its specific provisions are essential in determining the principles of social justice, distribution of social benefits, and provision of social protection.

Since each country has its constitution, its norms become crucial in determining the nature of social standards in a given society. The importance of constitutional norms lies in their ability to define values that are the basis for social progress and ensure decent conditions for all members of society.

Recent publications review. Legal aspects of social security standards and guarantees in the international and domestic context were studied by such legal scholars as: V. Andriiv, E. Astrakhan, I. Bezklubii, N. Bolotina, M. Buyanova, S. Vavzhenchuk, V. Venediktov, M. Vigdorchyk, T. Garasimov, V. Goncharov, Yu. Hryshina, I. Gushchin, D. Zhuravlyov, O. Zaykin, M. Zakharov, O. Machulska, N. Melnychuk, O. Moskalenko, S. Prilypko, O. Protsevskyi, V. Roik, S. Sinchuk, I. Syrota, B. Stashkiv, O. Tyshchenko, S. Chernous, V. Shcherbina, L. Shumna, O. Yaroshenko, and others.

Within the framework of this study, we will try to analyse the role of constitutional norms in the formation of social standards on the example of three different jurisdictions: United States of America, the countries of the European Union, and Ukraine. Considering these aspects will provide an opportunity to reveal the influence of constitutional norms on the definition of social standards and to find out to what extent they reflect the fundamental values of each society and its strategy in the field of social policy.

The research paper's objective is to analyse role of constitutional norms in the formation of social standards discussing the aspects of American, European and Ukrainian law.

Discussion. Modern challenges and changes in the world community undeniably determine the relevance of studying constitutional norms' role in forming social standards. In rapid social, economic, and political development, constitutional norms are becoming integral to state strategies in ensuring social welfare and development.

First, there is an increase in attention to human rights and social justice at the international level. In this context, constitutional norms become an important tool for harmonizing national legislation with universally recognized human rights and social justice standards. They define and consolidate citizens' fundamental social rights and freedoms, placing them in the central position of the legal system.

Secondly, world crises and challenges, such as global warming, pandemics, and economic crises, emphasize the need to regulate the socio-economic sphere effectively through constitutional principles. Constitutional norms become a tool by which countries can adapt to new realities and ensure sustainable social development while preserving basic values and priorities. This relevance determines the need for a deep understanding of the interaction of constitutional norms and social standards in the context of different countries, the peculiarities of their constitutional traditions, as well as the opportunities and challenges they pose to modern society.

The system of constitutional norms in the United States is defined by its unique concept of separation of powers and the protection of citizens' basic rights and freedoms. The US Constitution, adopted in 1787, and its amendments determine the framework for functioning social standards in the country [1]. One of the key constitutional norms defining social standards is the Preamble. This introductory text defines the main goals of the constitutional system, such as ensuring justice, ensuring the common welfare, and protecting the rights and freedoms of citizens. The Second Amendment of the US Constitution guarantees the right to own and bear arms, which affects social standards, particularly in the safety and self-defense of citizens. The US judicial system, as defined in Article III of the Constitution, also affects social standards by ensuring equality before the law and avenues of redress.

The principles of federalism, defined in Article I and Article VI, distribute competencies between the federal and state governments, creating conditions for various social standards at different levels of government. For example, states have authority over education and health care, which determines social standards in these areas at the state level [2].

It is important to note that the interpretation of constitutional norms changes due to the decisions of the US Supreme Court, which shape legal practice and determine social standards through consideration of specific cases. Thus, the decisions, for example, in the case "Brown v. Board of Education" 1954, influenced social standards of inequality and discrimination [3]. All these constitutional norms contribute to forming social standards in the United States, and their interpretation and development are determined according to public needs and contemporary challenges.

One of the most defining features of the US Constitution is its commitment to the basic principles and values that define the essence of American society. Enshrined in Part One of the Constitution, which consists of the Bill of Rights, these basic principles define the ideals and purpose of the American polity [4]. First, it is worth noting the principle of separation of powers enshrined in Article I (Congress), Article II (President), and Article III (Judiciary) of the Constitution. This principle ensures balance and control between different branches of government, aiming to avoid excessive concentration of power and ensure its effective functioning. The second principle – federalism – determines the distribution of competencies between the federal and state authorities. This gives states considerable autonomy in managing their affairs, particularly in education, health, and public order.

The basic values enshrined in the Constitution include freedom, equality, and justice. The Bill of Rights, specifically the First Amendment, guarantees freedom of speech, religion, assembly, and petition rights. The Second Amendment defines the right to keep and bear arms, emphasizing the importance of the individual rights of citizens. The rights specified in the Constitution are based on equality before the law. This is reflected in Clause 14 of Article I, which guarantees that "the States shall not have the right to abridge any rights or freedoms guaranteed or conferred by this Constitution". In addition, the Constitution defines the principles of justice and equality before the law. Justice is noted in the preamble, which defines "justice, ensuring peace at home, the general welfare and liberties of citizens". Article I, Clause 1, and VI emphasize equality before the law, which guarantees that the Constitution is the supreme law binding all other laws and government acts.

In defining social standards, the US Constitution serves as the primary document, defining the ideals and values that underlie American society. The principles of separation of powers, federalism, and the core values of freedom, equality, and justice lay the foundation for forming the nation's social standards [5]. The European Union consists of various countries, each with its constitution and system of legal norms regulating social standards. However, for the implementation of European integration, some common values and principles define social standards at the level of the European Union.

Within the framework of the European Union, the fundamental document is the Charter of Fundamental Rights of the European Union, which has a constitutional nature. The Charter includes many social rights, including the right to work, fair working conditions, social and housing protection, health care, and others. These norms serve as the basis for determining social standards in the countries of the European Union [6].

For example, many EU countries define the right to social protection in their constitutions, which cover social security, medical care, and other aspects of the social welfare of citizens. In particular, constitutional norms can guarantee the right to pensions and determine social insurance rules, living standards, and employment. In addition, the European Social Charter defines citizens' social and economic rights, such as the right to work, decent working conditions, housing, education, and others. These norms interact with the constitutional provisions of each country of the European Union, defining common standards of social protection and well-being for all members of the Union.

European integration is a unique process where the member states of the European Union share sovereignty and jointly develop policies, including those related to social norms. One of the features of this process is the existence of shared values and standards, which are defined at the European Union level and affect the member states' constitutional provisions.

One of the critical characteristics of European integration is the common market and free movement of persons, which the European Act defines. This principle affects the constitutional norms of the member states, as it ensures freedom of transfer and employment of citizens between EU countries. The constitutional provisions regarding the guarantees and rights of citizens take this aspect into account, ensuring the protection of the social rights of persons who enjoy freedom of movement within the EU. Another feature of European integration is the existence of the European Court of Human Rights and the European Court of Justice of the European Union. These institutions influence the formation of social norms, considering cases related to citizens' social rights and freedoms.

The decisions of these courts define common standards and precedents that are important for the constitutional law of EU member states. European integration also affects the social policies of member countries through the process of harmonization. For example, some social protection and social rights standards may be agreed upon at the EU level, which affects the constitutional provisions on social guarantees and standards in the member states.

However, it is essential to note that the constitutional systems of the European Union's member states remain independent, and European integration helps produce common standards and principles without interfering with individual countries' sovereignty and constitutional traditions.

The Constitution of Ukraine, adopted in 1996, defines the basic principles and values underlying Ukrainian society, including aspects of social standards. Several constitutional principles determine the social order and guarantees for citizens of Ukraine [7]:

1. Article 3. The Constitution of Ukraine defines Ukraine as a legal state where the rights and freedoms of a person and a citizen are of the highest value. This definition establishes the principle of the priority of protecting the rights and freedoms of citizens before any other aspects of the state system. Accordingly, social standards must be adequately protected and guaranteed in the context of the rule of law.

2. Article 22. This article of the constitution defines the right to social protection. It provides for the state's duty to create conditions for ensuring sufficient social protection, particularly pension and health insurance, social assistance, and other social benefits for citizens. This provision forms the constitutional basis for developing the social security system in Ukraine.

3. Article 24. Ensuring human rights to decent working conditions is the main constitutional guarantee. In particular, this article defines the right to work and recognizes decent working conditions, including the right to rest and paid holidays. This provides a legal basis for the formation of social standards in the field of labour and employment.

4. Article 49. According to this article, the state ensures the protection of the nation's health, the development of medical science, and the expansion of the network of medical and medical and preventive institutions. This constitutional provision defines social standards in health care and citizens' rights to access quality medical care.

These constitutional principles form the basis for forming social standards in Ukraine, defining the rights and obligations of citizens in the sphere of social protection, labour, health care, and other aspects of social life.

1. Comparison with world standards:

The Ukrainian Constitution defines citizens' basic rights and freedoms, providing social and economic guarantees. Compared to global standards, it includes key provisions that define social standards. For example, the right to social protection (Article 22), guarantees of the right to work and decent working conditions (Article 24), and the right to health care (Article 49).

However, it is important to note that the Ukrainian constitutional system can be improved to meet international standards. In addition, some social and economic rights may require more specific formulation and effective implementation in legislation and practice.

2. The role of the Ukrainian constitution in the context of harmonization:

Based on the European integration efforts, Ukraine undertook to adapt its legislation to European standards. In this context, the Ukrainian constitution plays the role of a key document that guides the development of legislation and guarantees compliance with international norms.

For example, the principles of the rule of law, the guarantee of the rights and freedoms of citizens, and the principles of social protection specified in the Constitution form the context for harmonizing domestic legislation with European norms. In particular, adapting legislation in human rights, social policy, and economic development aims to bring it closer to European standards.

The role of the Ukrainian constitution in harmonization is essential for ensuring the country's sustainable development and considering world trends in human rights and social standards. It also reflects Ukraine's strategic approach to establishing democracy, the rule of law, and social justice on the international stage.

International treaties and agreements play an important role in shaping social standards and defining principles and norms that influence the legislation and policies of participating countries. This role is vital in social standards, as international documents represent common values and minimum standards governments are committed to.

1. International standards and human rights. International treaties and agreements in the field of human rights establish the basic social standards that bind the participating states. For example, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights define such social rights as the right to work, decent working conditions, social security, and education. These norms are essential in forming social standards at both

international and national levels [8].

2. Implementation mechanisms. International agreements become the basis for creating mechanisms for implementing and controlling compliance with social standards. For example, the UN Committee on Economic, Social, and Cultural Rights analyses compliance by member states with their obligations under the International Covenant on Economic, Social, and Cultural Rights. Its recommendations can influence the internal legislative and political activities of countries.

3. Harmonization of national legislation. International treaties also stimulate the harmonization of national legislation with international standards. States undertake measures to implement domestic laws that would comply with international obligations. For example, having ratified the International Covenant on Economic, Social, and Cultural Rights, Ukraine undertook to provide its citizens with the social rights defined in it, which affects the formation of internal social legislation [9].

Thus, international treaties define standards that bind states and contribute to creating effective mechanisms for their implementation at the national level. Harmonizing international and national norms is an important element for achieving common goals in social standards and protecting human rights [10].

1. Implementation through constitutional amendments and regulations. Many countries incorporate international norms directly into their constitutions through constitutional amendments. This is an effective mean of implementation as constitutional provisions have superior legal force. For example, in 2004, Ukraine amended its Constitution, recognizing the priority of international law and providing the possibility of directly applying international treaties in domestic legislation.

2. Interpretation and compliance with international standards. Countries also implement international norms through their interpretation within the framework of the domestic legal order. Higher courts can use international treaties as a source of law and interpret their provisions in their decisions. For example, decisions of the Constitutional Court often reflect the principles established in international documents and determine their meaning in the context of national legislation.

3. Creation of new legislation. Countries can also create new national legislation taking into account international standards. In this case, new laws or codes are formulated to meet the country's international obligations. This may include adopting new laws or amending existing ones to ensure compliance with international standards.

4. Participation in international organizations. Countries can also implement international norms through participation in international organizations that develop and set international standards. Participation in such organizations can lead to adopting and implementing national laws that comply with international obligations.

The implementation of international norms in the constitutional provisions of countries reflects the obligation of states to fulfil their international obligations and ensures compliance of national legislation with international standards. This ensures the observance of the rights and freedoms of citizens, the development of the rule of law, and an increase in the level of human rights protection worldwide.

Constitutional norms play a decisive role in forming social standards and adapting to each country's specific social, historical, and cultural contexts in America, Europe, and Ukraine. In the United States, constitutional provisions establish fundamental principles and values that define social standards. The US Constitution recognizes citizens' fundamental rights and freedoms and amplifies the principles of justice and equality before the law. The Supreme Court's precedents are also important, which help expand constitutional guarantees and adapt them to societal changes. In Europe, the constitutional provisions of the countries of the European Union and their members are aimed at establishing the foundations of social security, protection of human rights, and the development of social justice. The constitutions of European countries reflect the principles of democracy and the rule of law, as well as define the social rights and duties of citizens before society.

The Ukrainian constitutional framework provides the basis for forming social standards in the context of the transformation of society. The priority of human rights, the right to social protection, decent working conditions, and health care are reflected in the constitutional provisions. Changes and amendments to the Constitution of Ukraine pave the way for adapting social standards to the challenges of the times and aligning them with world standards.

Consequently, constitutional norms act as cardinal structures that define and protect

social standards in all three contexts. Ensuring justice, equality, and protection of the basic rights of citizens is carried out through the systematic enshrining of these principles in constitutional acts, creating the basis for sustainable development and social progress.

Conclusions. Highlighting possible prospects for developing social norms based on constitutional principles involves taking into account modern trends and choosing strategies to support social justice and protect citizens' rights. The development of social norms based on constitutional principles can have several promising directions:

1. Extension of social rights and guarantees. The possibility of introducing changes and additions to the constitutional norms to expand the social rights of citizens is a crucial direction. This may include recognition of new social rights, adaptation to societal changes, and provision of more effective mechanisms for protecting and implementing these rights.

2. Synergy with global standards. Developing social norms based on constitutional principles may also include increased interaction and harmonization with international standards. Participation in global initiatives and adaptation of international obligations into domestic legislation can improve living standards and protect human rights in the worldwide community.

3. Ensuring equal opportunities. The development of social norms can be aimed at ensuring equal opportunities for all citizens. This may mean implementing measures to reduce social inequalities and providing access to education, health care, and other social services for all layers of society.

4. Adaptation to modern challenges. The development of constitutional norms should take into account modern challenges, such as technological development, changes in the labour market, and environmental issues. Ensuring social stability and protection of citizens' rights in rapid changes requires constant adaptation of constitutional provisions.

5. Support of an inclusive society. Constitutional norms can contribute to the creation of an inclusive society that takes into account the needs and rights of all citizens. Protection of the rights of smaller groups and support of tolerance and diversity can be built into constitutional principles.

Developing social norms based on constitutional principles requires flexibility and a deep understanding of society's needs. Ensuring social justice and improving citizens' quality of life can only be achieved through a combination of constitutional stability and readiness to innovate in accordance with changing conditions.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

This scientific article examines the role of constitutional norms in the formation of social standards in the United States, the countries of the European Union, and Ukraine. The article considers theoretical and legal aspects, the definition and review of constitutional provisions, and their comparison with international standards. Attention is drawn to the interaction of international and national law, the implementation of international norms in the constitutional provisions of countries, and possible prospects for developing social norms based on constitutional principles. The article carefully analyses the role of international treaties in forming social standards and their implementation in the constitutional framework, considering the impact of this process on the legal environment. Prospects for developing social norms built on constitutional principles are determined through the expansion of social rights, adaptation to modern challenges, and harmonizing with international standards.

The article's conclusions indicate the importance of constitutional norms in ensuring social standards and indicate potential directions for further development, such as the expansion of social rights, adaptation to modern challenges, and interaction with international standards to create a fairer and more inclusive society. Opportunities for greater protection of citizens' rights and the need to consider modern challenges to develop an equitable and inclusive society based on constitutional principles are noted.

Keywords: *constitutional norms, social standards, international law, European Union, international treaties, legal support, development of social norms*.

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Andriy SIRKO ©
Adjunct
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

THE CONCEPT AND ESSENCE OF MARTIAL LAW AS AN EMERGENCY LEGAL REGIME

Андрій Сірко. ПОНЯТТЯ І СУТНІСТЬ ВОЄННОГО СТАНУ ЯК НАДЗВИЧАЙНОГО ПРАВОВОГО РЕЖИМУ. У статті висвітлено питання щодо поняття та сутності воєнного стану як надзвичайного правового режиму, розуміння поняття правового режиму, а також характерні ознаки, особливості введення та обмеження, внаслідок настання цього правового режиму воєнного стану. Проаналізовано позиції вчених, щодо розуміння поняття правового режиму та виявлено, що науковці часто ототожнюють поняття правового режиму та правового регулювання. Також в ході дослідження було детерміновано, що на сьогодні правовою основою обмеження прав та свобод людини через воєнний стан є наступні нормативно-правові акти: Конституція України, Закон України «Про правовий режим воєнного стану», Указ Президента України «Про введення воєнного стану в Україні».

Визначено, що правовий режим воєнного стану – це правовий режим який запроваджується у виключних обставинах, що становлять загрозу цілісності держави, загрозу нормальному життю суспільству. Акцентовано на тому, що запровадження воєнного стану жодним чином не повинно впливати на базові права громадян, що затвердженні Конституцією та

k_appad@dduvs.in.ua

обмежуються права лише ті, які теоретично можуть посилити негативні наслідки воєнного стану, які чітко закріплені в Конституції. Визначено, що гарантією захисту прав і свобод людини, особливо в умовах воєнного стану, повинні виступати не лише закони, а й органи та установи, що здійснюють контроль за суб'єктами, які безпосередньо здійснюють таке обмеження прав в рамках закону.

У висновку підсумовано, що, введення правового режиму воєнного стану має відповідати принципам державної, суспільної необхідності, об'єктивності, доцільності та відповідальності за можливі наслідки для держави та суспільства адже не зважаючи на введення правового режиму воєнного стану людина залишається найвищою соціальною цінністю в державі та ті обмеження, що визначені законодавцем не можуть бути підставою для протиправної поведінки відносно людини.

Ключові слова: *права і свободи людини, воєнний стан, правовий режим.*

Relevance of the study. Under the pressure of the threats and challenges facing Ukraine, vital issues that need to be solved, improved and, at the same time, must meet the realities of today, became actualized. Thus, on February 24, 2022, the full-scale invasion of the russian federation into Ukraine began, and the decree of the President of Ukraine No. 64/2022 on the same day introduced the legal regime of martial law. During all the years of our country's independence, until February 2022, the legal regime of martial law was never introduced, which was probably the reason why this topic was little studied by scientists and specialists.

That is why, in the conditions of a full-scale military invasion of russia into Ukraine, it is extremely important to distinguish the general and specific principles of the introduction and functioning of martial law, as well as to investigate the results of the introduction of martial law, its legal consequences.

Recent publications review. There are practically no studies on the definition of the essence, concept and introduction of the legal regime of martial law among scientists. For the most part, scientists investigated the issue more generally, studying legal regimes. Thus, A. Slavko, I. Golosnichenko, V. Zavhorodnya, N. Kovalenko, V. Konopliov, M. Lazareva, S. Magda, T. Minka, V. Nastyuk, O. Petryshyn, R. Myronyuk, A. Sobakar and others. Given this, we emphasize the relevance of studying the issues of the essence of martial law as an emergency legal regime.

The research paper's objective is to clarify the concept and essence of martial law as an emergency legal regime, its characteristic features, features of introduction and restrictions, as a result of the onset of this legal regime.

Discussion. To determine the essence of the legal regime of martial law, let's first define the meaning of the term "legal regime". Scientists and legislators often use the term "legal regime", attaching different meanings to its essence. At the same time, this concept often has different meanings, even if it is used in the same legislative field. Attempts by scholars to define the concept of "legal regime" have not led to unanimous opinion or certainty.

One of the scientific positions recognizes the legal regime in the theoretical sense as a special order of legal regulation, expressed in a combination of legal means – permits, prohibitions, positive prescriptions – which creates and ensures the appropriate degree of favorability or unfavorability for satisfying the interests of legal subjects [5].

We believe that scientists equate different concepts in this definition, that is, the legal regime is defined as a type of legal regulation. In addition, the subjects of provision, purpose, mechanisms of application of the legal regime are not specified.

Yu. Chupryna's opinion is impressive, which emphasizes that the administrative-legal regime should be understood as a specific order of activity of legal subjects in various spheres of social life, the establishment and regulation of which occurs with the help of special legal means [3].

I. Sokolova came to the conclusion that the legal regime should be understood as a set of interrelated legal means based on general principles (types) of regulation, which ensure stable regulatory regulation of a certain sphere of social relations, express the degree of rigidity of legal regulation, favorability or disadvantage for satisfying the interests of sub legal entities, the acceptable level of their activity [24, p. 36].

O. Skakun also noted in her textbook on the theory of state and law that the type of legal regulation determines the type of legal regime [4, p. 496].

The scientific opinion of T. P. Minka deserves attention, which notes that the legal regime cannot be based only on general principles (types) of regulation, since the legal regime,

figuratively speaking, cannot be reduced, that is, based on a system of legal norms, where the principles of law, as general principles, exert their regulatory effect. As an element of legal regulation, the legal regime is a legal and juridical category, and since legal regulation is a social phenomenon, it is not reduced only to the dictates of the state, and therefore the legal regime, as a broader category in relation to the legal regime, is based not only on norms, principles legal regulation, according to types, but also, first of all, on the laws of social development, political, economic, social, cultural system [1, p. 457].

Thus, having clarified the essence and nature of the concept of legal regime, we will proceed to consider the concept of legal regime of martial law. The concept of martial law, as well as the specifics of its introduction and cancellation are defined by the current legislation.In Ukraine, the basic law regulates the legal bases of the activities of state authorities, military command, military administrations, local self-government bodies, enterprises, institutions and organizations in conditions of martial law, guarantees the rights and freedoms of people and citizens, and the rights and legitimate interests of legal entities in conditions of the legal regime of martial law is the Law of Ukraine "On the Legal Regime of Martial Law" dated May 12, 2015.

Thus, martial law is a special legal regime introduced in Ukraine or in some of its localities in the event of armed aggression or threat of attack, danger to the state independence of Ukraine, its territorial integrity, and provides for the provision of appropriate state authorities, military command, military administrations and bodies local self-government of the powers necessary to avert the threat, repulse armed aggression and ensure national security, eliminate the threat of danger to the state independence of Ukraine, its territorial integrity, as well as temporary, due to the threat, restriction of the constitutional rights and freedoms of the person and citizen and the rights and legitimate interests of legal entities indicating the period of validity of these restrictions [6]. Analyzing the above concept in the law, we will highlight the most important aspects:

1) The legal regime of martial law is a legal regime that is introduced in exceptional circumstances that pose a threat to the integrity of the state, a threat to the normal life of society, etc.;

2) The introduction of martial law should in no way affect the basic rights of citizens, which are approved by the Constitution;

3) Rights are limited only to those that can theoretically increase the negative consequences of martial law (for example, strikes);

4) The introduction of martial law refers to this type of legal regime, which is associated with the probable introduction of a number of special measures, which in one way or another determine the functioning of state and public institutions;

5) The introduction of the legal regime of martial law must comply with the principles of state, social necessity, objectivity, expediency and responsibility for possible consequences for the state and society as a whole.

In Ukraine, the legal regime of martial law, in addition to the above-mentioned Law, is regulated by a number of important legislative documents.

Yes, the basis is the Constitution of Ukraine dated June 28, 1996, which provides for the procedure for declaring a state of war. Yes, according to clause 19. Art. 106 The President of Ukraine submits to the Verkhovna Rada of Ukraine a petition to declare a state of war and, in the event of armed aggression against Ukraine, makes a decision on the use of the Armed Forces of Ukraine and other military formations formed in accordance with the laws of Ukraine; according to Clause 9 of Art.85 The powers of the Verkhovna Rada of Ukraine include the declaration of a state of war and the conclusion of peace at the request of the President of Ukraine, approval of the decision of the President of Ukraine on the use of the Armed Forces of Ukraine and other military formations in the event of armed aggression against Ukraine [7].

One of the important normative legal acts on the investigated issues is the Law of Ukraine dated 02.03.2015 No. 141-VIII "On Military-Civil Administrations", which defines the organization, powers and procedure of operation of military-civilian administrations, which are formed as a temporary forced measure with elements of the military management organization to ensure security and normalization of the life of the population in the area of repelling armed aggression of the russian federation, in particular in the area of the anti-terrorist operation, which does not aim to change and/or cancel the constitutionally enshrined right of territorial communities to local self-government [8].

The next document is the Presidential decree on the introduction of martial law, as well as, if necessary, on the extension of this state of affairs, because according to the Constitution of Ukraine, only the President of Ukraine makes, in accordance with the law, the decision to introduce martial law in Ukraine or in some of its localities in the event of a threat of attack, danger to the state independence of Ukraine. The Decree of the President of Ukraine "On the introduction of martial law in Ukraine" No. 64/2022 dated February 24, 2022 [9] is currently in force in Ukraine.In connection with the full-scale invasion, the Decree of the Cabinet of Ministers of Ukraine dated February 24, 2022 No. 181-r "Issues of introducing and ensuring the implementation of measures of the legal regime of martial law in Ukraine", regarding the implementation of the measures specified in this plan and established responsible structures: Ministries, other bodies involved in the implementation of measures of the legal regime of martial law, together with the Security Service, the Foreign Intelligence Service, the State Security Department and local self-government bodies [10].

Conclusions. So, currently, the current legislation of Ukraine regulates the introduction and procedure for extending martial law. The Constitution of Ukraine, Laws, Decrees of the President, orders of the Cabinet of Ministers of Ukraine.

We can state that the normative and legal provision that regulates the introduction and enforcement of the legal regime of martial law, in the same introduction of martial law, refers to this type of legal regime, which is associated with the probable introduction of a number of special measures, which in one way or another determine the functioning state and public institutions, as a result of which the rights of citizens are limited, and therefore the introduction of a legal regime of martial law must comply with the principles of state, social necessity, objectivity, expediency and responsibility for possible consequences for the state and society as a whole.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The article highlights the issue of the concept and essence of martial law as an emergency legal regime, the understanding of the concept of legal regime, as well as characteristic features, features of the introduction and restrictions, as a result of the onset of this legal regime of martial law.

The positions of scientists regarding the understanding of the concept of legal regime were analyzed and it was found that scientists often equate the concepts of legal regime and legal regulation. Also, during the research, it was determined that today the legal basis for restricting human rights and freedoms due to martial law is the following normative legal acts: the Constitution of Ukraine, the Law of Ukraine "On the Legal Regime of Martial Law", the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine".

It was determined that the legal regime of martial law is a legal regime that is introduced in exceptional circumstances that pose a threat to the integrity of the state, a threat to the normal life of society.

It was emphasized that the introduction of martial law should in no way affect the basic rights of citizens, that the rights approved by the Constitution are limited only to those rights that theoretically can increase the negative consequences of martial law, which are clearly enshrined in the Constitution. It was determined that the guarantee of protection of human rights and freedoms, especially in the conditions of martial law, should be provided not only by laws, but also by bodies and institutions that exercise control over entities that directly exercise such restriction of rights within the framework of the law.

The conclusion concluded that the introduction of the legal regime of martial law must comply with the principles of state, social necessity, objectivity, expediency and responsibility for possible consequences for the state and society, because regardless of the introduction of the legal regime of martial law, a person remains the highest social value in the state and those restrictions defined by the legislator cannot be the basis for illegal behavior in relation to a person.

Keywords: *human rights and freedoms, martial law, legal regime.*

CURRENT ISSUES OF LAW ENFORCEMENT AND ITS HUMAN RESOURCES

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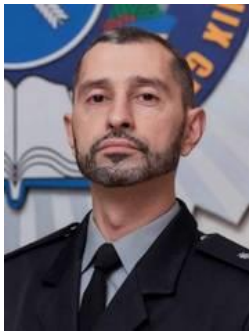

Andriy SOBAKAR′ ©
Dr. of Law,
Professor
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

Oleksandra NESTERTSOVA-SOBAKAR′ ©
Ph.D. (Law),
Associate Professor
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

ENSURING THE LEGALITY OF THE APPLICATION OF ADMINISTRATIVE COERCION MEASURES BY THE POLICE IN THE SPHERE OF PUBLIC ORDER AND SECURITY UNDER MARTIAL LAW

Андрій Собакарь, Олександра Нестерцова-Собакарь. ЗАБЕЗПЕЧЕННЯ ЗАКОННОСТІ ЗАСТОСУВАННЯ ПОЛІЦІЄЮ ЗАХОДІВ АДМІНІСТРАТИВНОГО ПРИМУСУ У СФЕРІ ГРОМАДСЬКОГО (ПУБЛІЧНОГО) ПОРЯДКУ ТА БЕЗПЕКИ ПІД ЧАС ДІЇ ПРАВОВОГО РЕЖИМУ ВОЄННОГО СТАНУ. У статті на основі аналізу чинного законодавства України та практики його застосування, теоретичного осмислення ряду наукових праць з різних галузей знань, з'ясовано сутність, значення та особливості дотримання принципу законності застосування поліцією заходів адміністративного примусу у сфері забезпечення громадського порядку та громадської безпеки під час дії правового режиму воєнного стану.

Доведено пряму залежність ефективності забезпечення громадського порядку та громадської безпеки та якісного виконання працівниками поліції своїх повноважень від дотримання принципу ними принципу законності під час застосування заходів адміністративного примусу.

Встановлено, що основною передумовою законності застосування заходів адміністративного примусу є дотримання суб'єктами владних повноважень вимог законодавства, зокрема, підстав та особливостей застосування зазначених заходів працівниками поліції у межах здійснення ними правоохоронної діяльності у сфері забезпечення громадського порядку та громадської безпеки. Визначено характерні порушення законності та службової дисципліни в діяльності поліції під час застосування заходів адміністративного примусу у сфері забезпечення громадського порядку та громадської безпеки в умовах дії правового режиму воєнного стану.

Сформульовано низку пропозицій та рекомендацій, спрямованих на підвищення ефективності адміністративно-правового забезпечення законності та дисципліни в діяльності поліції, у тому числі шляхом: продовження розбудови зовнішніх та внутрішніх механізмів контролю над діяльністю поліції, зокрема за участю експертів, представників громадянського суспільства, зосередження уваги на заходах, які би надали змогу ефективно запобігати зловживанням поліцейських владою тощо.

Ключові слова: *законність, адміністративний примус, заходи адміністративного примусу, громадський (публічний) порядок, громадська безпека, поліція, воєнний стан, правовий режим, порушення законності.*

© Sobakar′ A., 2023
ORCID iD: https://orcid.org/0000-0002-7618-0031
k_app@dduvs.in.ua

© Nestertsova-Sobakar′ O., 2023
ORCID iD: https://orcid.org/0000-0003-0712-4076
k_cpd@dduvs.in.ua

Relevance of the study. Law enforcement agencies in general and structural divisions of the National Police of Ukraine, in particular, play one of the main roles in the process of implementing the functions of a democratic, legal, and social state. Therefore, the main goal of the National Police is to serve the people of Ukraine, protect the rights, freedoms and legitimate interests of citizens, ensure public safety and order, and provide law enforcement services. The level of law and order and legality in the state and society largely depends on the effectiveness of the tasks assigned by the state to the National Police of Ukraine. An employee of the National Police of Ukraine, as an official endowed with state authority, as well as as a citizen, during the performance of his duties and in everyday life, must strictly observe official discipline, without appeal and accurately fulfill the requirements of all legal regulations, ensuring public order and public safety.

The state of law and order in the state directly depends on how effective the activities of the police will be in protecting and protecting the rights and freedoms of citizens. This also applies to the sphere of ensuring public order and security, where police officers are endowed with a significant arsenal of powers, including the use of administrative coercion measures and the bringing of the guilty to administrative responsibility, which allows timely and prompt termination of any criminal and administrative offenses, providing emergency assistance to injured persons.

Recent publications review. Unfortunately, despite the urgency of the need to ensure legality and discipline in the activities of police units, the issue of using the available tools to achieve the stated goal was left out of the attention of domestic lawyers. At the same time, there are many scientific works directly devoted to the study of the legal status, peculiarities of the organizational structure of the police, measures to increase the efficiency of its functioning and ensure legality in the activities of the public administration, among which, in particular, the works of O. Bezpalova, D. Kalayanov, T. Kolomoets, A. Komzyuk, R. Melnyk, R. Myronyuk, O. Muzychuk, V. Olefir, O. Yunin and other scientists. However, along with significant achievements in solving existing scientific and applied problems of domestic theory and practice of police activity, not all tasks have been solved. In the conditions of the legal regime of martial law, the issue of compliance with the principle of legality of the use of administrative coercive measures by the police in the sphere of ensuring public order and public safety remains poorly studied.

The article's objective. Therefore, the insufficiency of developments at the theoretical level and the presence of practical legal problems indicate the need to clarify the essence and peculiarities of ensuring legality and discipline in the activities of police units during the application of administrative coercion measures in the field of public order and public safety, and also emphasize the relevance of the chosen research direction.

Discussion. Any actions of officials, including the National Police, must be carried out only within the limits of the law, on the basis of and in compliance with the law. Without it, subjectivism and dilettantism, spontaneity, anarchy, lawlessness and arbitrariness are inevitable. However, the scope of application of legality is not limited to its impact on the process of implementation of legal norms. Legality affects the entire system (mechanism) of legal regulation, ensuring its reality and effectiveness. Regime of legality is a necessary condition for the existence of the legal order, which characterizes social relations from the point of view of their systematicity, orderliness, which occurs as a result of the implementation of legal norms in accordance with the requirements of the regime of legality.

In police activity, legality is understood as the creation of such a legal regime in which police officers, performing law enforcement functions, are obliged to strictly comply with the requirements of regulatory and legal acts and at the same time demand from officials and citizens' unconditional compliance with the provisions of laws and by-laws, carry out other law enforcement and law enforcement measures aimed at strengthening law and order in the state [1, p. 15].

According to D. Polonskyi, legality in police activity is a legal regime of its functioning, aimed at strengthening law and order in society, under which the system of police services and units is obliged to strictly comply with the requirements of current legislation and ensure the unconditional fulfillment of general and special legal norms by other participants in relevant legal relations [2, p. 12].

It is clear that loudly proclaiming the need to observe the principle of legality in the activities of the patrol police is not enough, it must be ensured, which, according to representatives of the Kharkiv Scientific School of Police Law, is understood as "the formation

of such an administrative and legal regime in society, under which the police in the process of performing their functions ensuring the rights and freedoms of citizens, maintaining public safety and order, combating crime is obliged, on the one hand, to implement its activities based on the norms of current legislation, and on the other hand, to control and supervise the activities of officials and citizens with regard to the implementation of universally binding rules in order to ensuring law and order in the state" [3, p. 295].

It follows from paragraph 3 of the European Code of Police Ethics that the legality of its operations is assessed not only in the context of national law, but also international human rights standards. Paragraph 38 of this Code stipulates that the police have an ex-officio duty, which consists in checking the legality of their operations before and during their conduct: "The police must always verify the legality of their planned actions". This principle is applied to the police as an organization, as well as to its officials and employees [4, pp. 20-21].

Among the factors that have a negative impact on the state of ensuring legality in the activities of the National Police, we can name: unsatisfactory organization of operational search and investigative actions aimed at identifying persons involved in the kidnapping and murder of citizens, as well as the commission of other serious crimes; delay in the immediate initiation of criminal proceedings based on these facts, the initiation of operational-investigative cases and the implementation of the entire complex of urgent operational-investigative measures and investigative actions in them; improper verification and response to available negative information regarding the personnel of law enforcement forces; low-quality examination of candidates for service, ignoring the requirements of regulatory acts, which regulate the procedure for the organization of verification and collection of information regarding their moral and business qualities and psychophysiological characteristics; lack of control of direct managers over the behavior of subordinates, their ignorance of living conditions and personnel needs; untimely and formal conduct of attestations and special inspections of personnel; improper fulfillment of the requirements of the orders on issues of work with personnel and strengthening of discipline and legality in the activities of law enforcement agencies [5, p. 75].

Legality is a fundamental principle of police activity. Police officers are obliged to comply with the normative prescriptions of the Constitution of Ukraine, Laws of Ukraine, Presidential decrees, resolutions of the Cabinet of Ministers of Ukraine, etc. In general, compliance with legislation, generally recognized principles and norms of international law, and execution of court decisions should be mandatory for any police officer [6, pp. 63-68].

Such requirements also follow from Article 245 of the Code of Ukraine on Administrative Offenses, because the tasks of proceedings in cases on administrative offenses are: timely, comprehensive, complete and objective clarification of the circumstances of each case, its resolution in strict accordance with the law, ensuring the execution of the issued resolutions, as well as identifying the causes and conditions that contribute to the commission of administrative offenses, prevention of offenses, education of citizens in the spirit of law-abiding, strengthening of legality [7].

A police officer is obliged to stop various types of offenses and to fight crime, therefore the requirement of the Law "On the National Police" to prohibit directly or indirectly encouraging someone to commit illegal acts is quite logical. For the successful implementation of the principle of legality in police activities, it is necessary for the police officer to be clearly aware that under no circumstances can he carry out the criminal orders of higher officials. And in case of fulfillment of such, will bear responsibility in accordance with the law. A police officer can and must be guided only by legal orders and orders. Legality helps to strengthen the law and order, and also creates conditions for combating corruption, legality itself needs to be ensured by a whole complex of legal, organizational, economic and other means. Law is a coercive requirement for the realization of a certain minimum good or an order that does not allow known manifestations of evil. Based on this, the principle of legality acquires special importance when it comes to the possibility of applying measures of state coercion to counter criminal and other illegal encroachments for procedural purposes, as well as to protect the rights of citizens.

Legality as a regime of relations between the police and citizens, officials, representatives of legal entities is considered through the prism of compliance by the subject of authority with norms that establish the rights of a police officer and an official performing control and supervision activities in the field of road safety. It is about the legality of using the authority granted to the subject of management. It is more appropriate to pay attention to the

other side of the National Police's activities – ensuring that the police observe the law and the rights of citizens, which are guaranteed by the Constitution of Ukraine under martial law. Together with the increase in the competence of the police, the legislator significantly changed the balance of control over its activities, in particular, in the part of forms of control with the participation of the public, which were carried out in peacetime. In the conditions of war, none of the manifestations of public control over police activities provided for by the Law of Ukraine "On the National Police" (except for joint projects with the public) is carried out. In this regard, a logical question arises of clarifying the competence of the National Police upon the introduction of martial law, because the clarification of these powers is a guarantee of legality in the exercise of their powers by its officials during martial law, and contributes to the effectiveness of the relevant services and units.

The extreme difficulty of ensuring public order and security in the conditions of martial law requires high professional training of the employees of the National Police. Protecting public order in conditions of martial law, the National Police authorities use such methods of social regulation as persuasion and coercion, as well as administrative termination [8, p. 178]. Explanatory work as the main method of law enforcement activity, convincing citizens of the need for conscious and voluntary compliance with legal requirements, stopping anti-social behavior, preventive work with individuals is a necessary condition for promoting effective mobilization. Enlightenment work can be combined with coercion, when it is necessary to take certain important objects under protection, block communication routes, ensure the blocking of the location, document illegal activities, and establish an identity.

Therefore, the introduction of martial law does not exempt the police from observing the law while maintaining public order [9].

Also, the police are authorized to apply special measures, which are used much less often, compared to general purpose measures, and only in exceptional cases, when otherwise it is impossible to stop illegal behavior. The system of these measures consists of measures of physical impact, special means and the use of firearms, that is, those that are combined with the use of force. Such measures can be applied, as a rule, only after a warning about their use, subject to strict compliance with the requirements of the law [10, p. 46].

Despite the positive dynamics in the change of public opinion towards the police, the state of compliance with the law and official discipline in the activities of its units remains at an insufficient level. The facts of illegal administrative detention of citizens are not unique; violation of the requirements of the law when using special means (handcuffs) when detaining persons; unjustified detention of detainees for more than three hours and cases of entering into protocols on administrative detention an inaccurate time of actual detention of violators; unjustified stops of vehicles; violation of the requirements of Article 221 of the Code of Administrative Offenses regarding the consideration of cases of administrative offenses committed by minors; ignoring the requirements to inform the Regional Center for the provision of free secondary legal assistance about the detention of a person; failure to inform relatives of citizens detained for committing administrative offenses about their whereabouts; violation of the requirements of Art. 33, 36, 277-284 of the Code of Administrative Offenses on the terms and procedure of consideration of cases, the limits of the imposition of fines, the content of resolutions, their delivery to violators; abuse of power and official authority by the police; violation of norms of professional ethics, etc.

Cases of violations of the legality of the application of administrative coercion measures by police officers at checkpoints are not rare, even despite the entry into force a month before the start of the war, on January 26, of the Procedure for checking documents of persons, inspecting things, vehicles, luggage and cargo, office premises and citizens' housing in the provision of measures of the legal regime of martial law, which defines the mechanism of checking documents of persons, inspecting things, vehicles, luggage and even the housing of citizens during the provision of measures of the legal regime of martial law [11].

"Human rights in the conditions of war are an integral value of a progressive modern society; it acts as a key object of constitutional and legal regulation, which is an unconditional function of national legislation. During an armed conflict, the priority of observing human rights is not only evidence of the achievement of a high level of democracy in the state, the degree of development of society, but also an indicator of the recognition of citizens as the highest social value, a national priority" [12, p. 282]. Police officers have a special responsibility to counter misconduct, but police officers who misbehave should also be able to expect proper treatment [13].

Conclusions. Thus, the content of the implementation of the principle of legality of the use of administrative coercion measures by the police in the sphere of public order and security during the operation of the legal regime of martial law is that:

– firstly, all decisions made by police officers must comply with current legislation and by-laws;

– secondly, such decisions should not go beyond their powers, i.e. they can be made only on issues that fall within their competence;

– thirdly, the decisions of police officials must be made in such an order and in such forms that correspond to normative prescriptions.

Today, it is appropriate to improve the legislative provision of the principle of legality in the activities of the National Police by developing a mechanism for its implementation, outlining these provisions in Article 8 of the Law of Ukraine "On the National Police".

The implementation of the specified legislative proposals will significantly affect the effectiveness of the police, bring the public closer to their activities, which will ultimately contribute to ensuring the legality of the police's use of administrative coercion measures in the field of public order and security and higher indicators of the level of public trust in the police.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

In the article, based on the analysis of the current legislation of Ukraine and the practice of its application, the theoretical understanding of a number of scientific works from various fields of knowledge, the essence, significance and peculiarities of compliance with the principle of legality of the use of administrative coercion measures by the police in the sphere of ensuring public order and public safety during the operation are clarified the legal regime of martial law.

It has been proven that the effectiveness of public order and public safety and the quality performance of their powers by police officers are directly dependent on their compliance with the principle of legality during the application of administrative coercion measures. It has been established that the main prerequisite for the legality of the application of administrative coercion measures is compliance by subjects of power with the requirements of the legislation, in particular, the grounds and features of the application of the specified measures by police officers within the scope of their law enforcement activities in the field of public order and public safety.

Characteristic violations of legality and official discipline in the activities of the police during the application of measures of administrative coercion in the sphere of ensuring public order and public safety under the conditions of the legal regime of martial law have been identified.

A number of proposals and recommendations aimed at increasing the effectiveness of administrative and legal enforcement of lawfulness and discipline in police activities have been formulated, including by: continuing the development of external and internal control mechanisms over police activities, in particular with the participation of experts, representatives of civil society, focusing on measures, which would make it possible to effectively prevent police abuse of power, etc.

Keywords: *legality, administrative coercion, measures of administrative coercion, public order, public safety, police, martial law, legal regime, violation of legality.*

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Viktoria PYLYP©
Ph.D. (Law)
(Uzhhorod National University, Uzhhorod, Ukraine)

COMPARATIVE LEGAL ANALYSIS OF THE MUNICIPAL POLICE ACTIVITIES OF EUROPEAN STATES AND EXPERIENCE OF UKRAINE

Вікторія Пилип. МУНІЦИПАЛЬНА ПОЛІЦІЯ: ПОРІВНЯЛЬНО-ПРАВОВИЙ АНАЛІЗ ДІЯЛЬНОСТІ ДЕЯКИХ ЄВРОПЕЙСЬКИХ ДЕРЖАВ ТА ДОСВІДУ УКРАЇНИ. Досить вагому роль у забезпеченні належного рівня безпекового середовища в європейських громадах відіграє муніципальна поліція. Основним завдання останньої є взаємодія з населенням та здійснення превентивної діяльності. За схожим принципом зараз відбувається реформа поліції України, яка ставить собі за завдання забезпечення кожної територіальної громади поліцейським офіцером. Виходячи з потреби впровадження найкращих зарубіжних практик, метою статті стало проведення порівняльно-правового аналізу діяльності муніципальної поліції держав Європи на прикладі: Австрії Англії, Уельсу, Нідерландів, Франції.

За результатами аналізу зарубіжного досвіду функціонування муніципальної поліції таких країн як Австрія, Англія, Нідерланди, Франція, Уельс, установлено, що у діяльності останніх превалюють дві основні тенденції. Однією з таких є розширення завдань діяльності та функціональних повноважень муніципальної поліції до тих, якими наділені національні поліцейські органи, що власне кажучи призводить до закріплення іншої тенденції – віддалення таких поліцейських від населення, що негативно позначається на їхній взаємодії з населенням. З'ясовано, що в країнах Європи фінансування муніципальної поліції може здійснюватися як за рахунок державного бюджету, так і місцевими силами. При визначенні штатного розпису муніципальної поліції місцева влада також виходить з потреб громади. Констатовано, що розширення повноважень муніципальних поліцейських Європи певною мірою підриває переваги плюралізації державної поліції, а новостворені підрозділи місцевої поліції стають прототипом національної поліції, що ускладнює процес розподілу повноважень і завдань останніх.

У контексті діяльності поліцейських офіцерів громади України варто підкреслити, що вони є штатними працівниками територіальних підрозділів Національної поліції, що наділяє їх досить широким спектром повноважень, однак чи дозволяє це їм здійснювати ефективну взаємодію та комунікацію з мешканцями територіальних громад, питання також досить неоднозначне, а тому наголошено на потребі проведення подальших ґрунтовних досліджень у контексті цієї проблематики.

Ключові слова: правоохоронна діяльність, муніципальна поліція, національна поліція, зарубіжний досвід, повноваження, органи місцевого самоврядування, взаємодія.

Relevance of the study. Law enforcement agencies play a significant role in creating an appropriate level of security environment. They perform the tasks of protecting human rights and freedoms, maintaining public safety and order, combating crime, etc. The national legislation of Ukraine entrusts the solution of these tasks to the National Police of Ukraine. This same body of executive power interacts with the population more often any others. Currently, a whole complex of legal means and methods has been developed, which are aimed at involving citizens in the implementation of the law enforcement function.

Currently, the reform of the National Police continues in Ukraine. One of the tasks of these reforms is to provide each territorial community with a police officer. The activity of such an entity should take place in close interaction with the population of the community and

ORCID iD: https://orcid.org/0000-0001-6483-0749
viktoriia.pylyp@uzhnu.edu.ua

be aimed at meeting its needs. That is, it is somewhat similar to the activities of the municipal police of European countries. Because an effective way of carrying out reforms is the use of proven international experience, we consider it necessary to compare the experience of the functioning municipal police in Austria, England, Wales, the Netherlands, France and Ukraine.

Recent publications review. Problems related to the activities of national law enforcement agencies are considered urgent among Ukrainian and foreign scientists. Among these bodies, the police also is a subject of separate analysis. Some aspects of the police activities of foreign countries have always been the subject of research by Ukrainian scientists. A. Bilas (2016) conducted a comprehensive comparative legal study of the law enforcement activities EU countries. O. Perederii (2009) paid thorough attention to the analysis the legal status of the France, Germany, and Poland police. V. Chumak (2019) carried out a comparative analysis of the administrative and legal bases of Georgia, the Baltic countries, and Ukraine police activity [3]. S. Myronyuk (2019) studied social models and service functions of the Western European countries police and their adaptation in Ukraine. Scientific searches of Ukrainian scientists are aimed at researching various aspects of the European countries police activities. However, the peculiarities of the functioning municipal police of European states have not yet been the comprehensive research subject by Ukrainian scientists.

The activity of the municipal police European countries is one of the discussion topics among foreign scientists. This is related to the questions regarding its armament, staffing, types of tasks and limitations in legal powers, etc. In this context, the works of A. Baker (2014), E. Bervoets (2013), F. Bonnet, J. Maillard and S. Roché (2015), T. Eikenaar (2019), Gr. Wenda (2013), M. O'Neill, J. Maillard and R. van Steden (2023) are important [1-10].

The article's objective is a comparative legal analysis the municipal police of European states activities (on the example of: Austria, England, Wales, the Netherlands, France and Ukraine). We consider this direction of scientific research to be quite relevant. Because the study of proven international experience can be recognized as a guarantee of improving the activity of the national practice of Ukraine.

Discussion. The establishment of municipal police is guaranteed by the provisions of the current legislation many European countries. Such legal principles are embodied in the laws of Austria, England, the Netherlands, France, etc. Municipal police agencies are established in the public sector as auxiliary forces. However, there are significant differences in the features of their creation and functioning. We consider it necessary to find them out.

The municipal police of England and Wales are similar in principle to Ukraine. It is understood that the latter function as part of the state police, and are not maintained at the expense municipal authorities. The latter are called "Police Community Support Officers (PCSO)". These units have been in operation since 2002. Among the fundamental differences between PCSO is that they do not have the authority to arrest citizens and are not empowered to keep, carry or use weapons. Thus, the scope of their powers is limited. It is significantly different from those vested in the main police forces of the state.

Regarding the duties of Community Support Officers in England and Wales Police, their main task is to deal with minor offenses and anti-social behavior. At the same time, they remain accountable to the public and partner organizations, because they also have to solve problematic issues at the local level that belong to their competence.

The activities of community support officers of the police in England and Wales have already undergone significant changes after 2017. This happened in connection with the adoption of the Law on Policing and Fighting Crime. This law expanded their powers. However, their main task remains prevention, carried out by establishing compatible communication with communities.

Unlike the municipal police in England and Wales, municipal authorities employ auxiliary agents in France and the Netherlands.

The French municipal police are quite numerous. As of July 2019, France had approximately 22,700 municipal police officers (civil servants with some police powers who work in municipalities and are thus independent of the national police and gendarmerie).

The French municipal police law of 1999 establishes the general principles governing the procedure for its operation (in particular, weapons, coordination with state forces, training, rules for granting powers, skills, etc.).

The coordination of the actions of the municipal police and the national police of France is achieved by signing a coordination agreement on the division of roles by the police (or the gendarmerie in rural and suburban areas). Unlike the police in England and Wales, French

municipal police may be armed.

The mayors of France have the right to arm the municipal police with the permission granted by the prefect. The number of armed officers (including all types of weapons) increased from 46 % in 2005 to 82 % in 2014. For firearms, the increase is more recent, with 53 % of officers carrying a firearm in July 2019, up from 39 % at the end of 2015 [9, p. 1683].

Several cities in France have established municipal police with large numbers of personnel and a clear mandate. This is designed for anti-crime tasks accompanied by particularly aggressive rhetoric from the mayor (such as Cannes, Nice in the southeast or Levallois-Perret in the suburbs of Paris). This growing similarity between Municipal and National Police has various implications for the relationship between them. In some cities, this can lead to increased cooperation between two organizations with similar mentalities and goals, but it also increases tensions. After all, the officer's national police have lost their traditional monopoly on the implementation powers aimed at combating crime [7, pp. 286-291].

The rhetoric of the French municipal police, particularly in Paris, is more radical. Among the demands of the latter and their unions are the right to access the radio files and airwaves the national police, as well as the authority to keep, carry and use weapons [9, p. 1685-1686]. At the same time, a significant difference in their activities is the lack of powers to investigate criminal cases, as well as closer interaction with the public.

It should be noted, that the Netherlands Municipal Police has been created in the 2000^{s}, in order to combat mass riots. The insufficient number of police officers led to the need to find an alternative, which led to the formation of units' municipal law enforcement officers. Currently, they have the judicial status of special investigative officers, have the right to impose fines and make arrests [8, pp. 146-153].

Legal literature states that municipal law enforcement officers are currently a mature version of previously created city supervisors. The latter did not have any police powers at all. Ensuring public order is one of their main tasks.

As for the special tools that municipal law enforcement officers in the Netherlands are authorized to use, they are handcuffs, batons and body cameras, but the monopoly on the use of force is reserved for the national police.

A significant trend observed in the policy of local self-government bodies in the Netherlands and noted in the specialized literature is the concentration of control over community policing by local mayors in their municipal areas. They will likely be able to obtain the right to use force if will be successfully expand the boundaries of their professional activities [6; 9, pp. 1687-1689]. The question arises as to how this will affect the activities of the national police.

According to the Austrian Federal Constitution, municipalities have the right to establish municipal police departments that are responsible for police matters within their jurisdiction. Each locality in Austria uses its own names for the municipal police, including "Public Guard", "Municipal Police", "Municipal Guard", "City Police" (in large municipalities with city status). The most common general term for all municipal police services is "community watchdogs".

Austrian municipal police departments report to the mayor of the municipality, and all members are municipal employees. However, their powers are not limited by territorial boundaries, as they are "support agents" for various administrative, security agencies, and criminal justice agencies.

In addition to patrolling and enforcing local ordinances, they respond to calls under to the Act about the Security Police, perform road safety duties and even conduct investigative work. Some municipal police forces have motorcycles, radar control teams, bicycles, e-bikes or patrol their assigned areas on roller skates. Several departments use police dogs, although the federal police usually provide canine services.

In the structure of the municipal police, units with the status of "corps" (Public Security Authority) can also be created. They are vested with many of the powers of the federal police. In particular, this is the fulfillment of the requirements of the Law on the Security Police, the conduct of criminal investigations and certain actions provided for by the articles of the Criminal Procedure Code. A municipal police force that does not have "Corps" status. Technically, it is called "Ordinary Municipal Quard". The set of their duties and powers is quite limited and focused on issues of local public safety [10, pp. 55-59].

Thus, Australia, England and Wales, France and the Netherlands represent different policing and policy contexts. These jurisdictions were chosen because they each have a

subsidiary police authority in the public sector, but these authorities oscillate around two key points. Municipal authorities employ first, auxiliary agents in France and the Netherlands, while the state police employ agents in England and Wales. Second, the auxiliaries in the Netherlands, England and Wales are staff rather than police, while the agents in France are municipal police, albeit with limited powers compared to those of the national police. Despite these key differences, a primary focus on "law enforcement" becomes apparent. This calls into question the extent to which pluralistic policing offers a genuine alternative to "state" policing (Baker, 2014). Because the adoption of many of its core components potentially calls into question the symbolic dominance of state police as key agents of security, control and trust.

Multiple policing and the presence of auxiliary police officers have been the cause of scholarly debate about their position vis-à-vis "regular" police. On the one hand, these new government agents can be considered alternative ways to patrol the streets and interact with citizens. On the other hand, they can be seen as agents of the state, trying to imitate the traditional police, their powers and appearance. According to this second interpretation, they would try to be like the more prestigious state police, especially with regard to law enforcement orientation and the use of force. Since these are aspects of their powers that are more limited, but still prioritized in the political direction.

That is, there is currently a trend in the reform of the municipal police of European states. The central idea is the expansion of the powers of the latter in the context of the use of force, entrusting them with the performance of additional functions, in particular, such as the investigation of criminal offenses, etc. This trend continues despite the distinct institutional and political contexts of policing in the countries outlined. It also questions whether auxiliary police services can be considered an alternative form of policing or whether they should be equated with national police authorities.

Conclusions. There is considerable diversity in the way municipal police are organized and empowered in some European countries. Some give priority to relations with local residents and a preventive focus of activity. Others put them the first and even assign them tasks related to the fight against crime. Such newly created bodies do not always function and are financed at the state budget expense. In some cases, the local communities' forces carry out the full support of the latter.

The staff list of municipal police officers is determined taking into account the needs of the community. However, the question regarding their powers, the distribution of functions assigned to them are debatable. If the powers of the municipal police are expanded, it will to some extent undermine the advantages of the pluralization of the state police. The newly created units, which should provide for the needs of the community, will turn into the usual prototype of the national police, thereby distancing them from the population. In general, the reality does not correspond to the fundamental idea of creating a municipal police.

There is currently no such threat in Ukraine, because community police officers are actually full-time employees of territorial police departments. However, whether this interaction of police officers with the population corresponds to the criteria and ideas that were laid down during the reform. This question is also debatable. Positive in this aspect is the list of services that a police officer community can offer to residents of Ukrainian citizens. After all, he does not turn into the municipal police officers of England, Wales, and the Netherlands, who are the prototype of the employees of their national police bodies. We believe that for an objective analysis the mentioned trends, an analysis of their strengths and weaknesses, further comparative legal studies are necessary.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

Municipal Police plays a key role in ensuring an adequate level of security environment in European communities. Its main task is interaction with the population, prevention of misdemeanors. Ukraine is also reforming the National Police. The main task of this reform is the creation of similar units in the structure of the National Police of Ukraine. In the future, it is planned that each territorial community of our state will have its own police officer.

Two trends prevail in the activities of the municipal police in Austria, England, the Netherlands, France, and Wales. One of these is the extension of Municipal Police powers to those of National Police authorities. The second trend is related to the distancing of such police officers from the population, which negatively affects their interaction with the population.

In the context of the activities of police officers of the community of Ukraine, it should be emphasized that they are full-time employees of territorial divisions of the National Police. This gives them a wide range of powers. However, this does not allow them to carry out effective interaction and communication with the residents of territorial communities, because they see them as civil servants who can act from a position of strength. The problem of expanding the powers of munitions police officers is quite complex, and therefore requires further thorough research.

Keywords: *law enforcement, Municipal Police, National Police, foreign experience, legal powers, self-government bodies, interaction.*

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Artem PLAKHOTNYI ©
Senior Lecturer
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

SOME LEGAL ASPECTS RELATED TO FIREARMS IN THE NATIONAL POLICE OF UKRAINE

Артем Плахотний. ДЕЯКІ ПРАВОВІ АСПЕКТИ, ПОВ'ЯЗАНІ ІЗ ВОГНЕПАЛЬНОЮ ЗБРОЄЮ В НАЦІОНАЛЬНІЙ ПОЛІЦІЇ УКРАЇНИ. У статті акцентовано увагу на правових аспектах, пов'язаних із вогнепальною зброєю в Національній поліції України. В статті аналізуються чинні нормативно-правові акти, які визначають різницю між термінами «застосування» та «активне застосування» вогнепальної зброї, описані ключові наукові погляди на цю проблематику. Автором встановлено основні відмінності між поняттями «застосування» та «активне застосування» вогнепальної зброї.

Стаття спрямована на аналіз правових аспектів щодо розрізнення термінів «застосування» та «активне застосування» вогнепальної зброї поліцейськими Національної поліції України. Автор проводить аналіз юридичної бази стосовно використання зброї поліцейськими, включаючи міжнародні стандарти прав людини, національні закони та нормативно-правові акти.

В статті розглядаються різні ситуації, в яких поліцейські можуть застосовувати вогнепальну зброю, такі як самозахист, захист інших осіб та запобігання серйозним злочинам. Автори підкреслюють важливість чіткого розрізнення термінів «застосування» та «активне застосування» вогнепальної зброї, оскільки між ними існує суттєва різниця.

Крім того, стаття розглядає можливі юридичні наслідки «активного застосування» зброї, зокрема вимогу для поліцейських обґрунтувати свої дії та можливість кримінальної відповідальності у випадку, якщо використання сили було надмірним або незаконним.

Ключові слова: *зброя, вогнепальна зброя, застосування, активне застосування, правові аспекти, закон.*

Relevance of the study. According to Art. 3 of the Constitution of Ukraine, a person, his life and health, honor and dignity, inviolability and safety are recognized as the highest social value in Ukraine, in connection with which the state must ensure the realization of the rights and freedoms of citizens. The National Police of Ukraine is one of the central bodies of the executive power that serves society by ensuring the protection of human rights and freedoms, countering crime, and maintaining public safety and order.

It is worth paying attention to the fact that a police officer throughout the territory of Ukraine, regardless of the position he holds, location and time of day, in the event that any person addresses him with a statement or notification of events that threaten personal or public safety, or in the event upon direct detection of such events is obliged to take the necessary measures for the purpose of rescuing people, providing assistance to persons who need it, and to notify the nearest police authority [1].

The above indicates that a police officer must be constantly ready for professional intervention in any situation that arises both during the performance of his official duties and outside of them. This is especially true for patrol officers, who are the first to respond to reports of crime, and given their 24-hour duty.

Recent publications review. The issue of distinguishing between the concepts of "use" and "active use" of firearms was and remains relevant [1-8]. This issue was investigated in the scientific works of V. Osadchiy, T. Minka, V. Timofeev and others [2, 3, 4]. However, a

© Plakhotnyi A., 2023
ORCID iD: https://orcid.org/0000-0003-2700-0214
k_tsp@dduvs.in.ua

unified and clear approach to distinguishing the concepts of "application" and "active application" at the scientific level has not yet been developed.

The article's objective is to characterize and analyze some legal aspects related to firearms in the National Police of Ukraine.

Discussion. The most severe measure of coercion is the use of firearms, in connection with which it is extremely important for the police to comply with the requirements of the law to prevent excesses of authority and harm. The actualizes the research of regulatory and legal regulation of relations in the sphere of the application of police coercive measures, including the use of firearms during the performance by police officers of their tasks and powers.

In the context of our research, it is worth paying attention to the terminological characteristics of the concepts of "use" and "active use" of firearms.

Let's start with the fact that in Ukraine the issue of the use of firearms is enshrined in Art. 46 of the Law of Ukraine "On the National Police" [1].

The very fact of enshrining the strictest coercive measure at the legislative level is positive and corresponds to international legal acts regarding the use of firearms. At the same time, questions arise regarding the terminology used in the article, which regulates the use of firearms.

According to Art. 46 of the Law, a police officer is authorized to store and carry firearms, as well as their use and use only on the condition that he has undergone appropriate special training.

Part 10 of the commented article states that the police officer is obliged to notify his supervisor in writing about the use of firearms, as well as to immediately notify his supervisor of the active use of firearms, who, in turn, is obliged to inform the central management body the police and the relevant prosecutor. Having introduced the concept of "active application", the legislator does not disclose it and does not explain the difference between it and the term "application".

The legislator delineates that when using a weapon, a police officer must notify the supervisor, and when actively using a weapon, the immediate supervisor is immediately notified, who is obliged to transfer this information to the central police management body and the relevant prosecutor.

As we can see, Article 46 of the Law contains debatable provisions in almost every part, both in the context of defining the content itself and in the matter of ignoring language laws when constructing sentences. Part 10 of Art. is not an exception. 46 because, firstly, the issue of informing the manager when using and actively using firearms is unclear, and secondly, it is not clear how to distinguish the concept of "active use of firearms" from "use of firearms"?

We consider it expedient to focus attention on the comparison of terms of use and active use of firearms.

This is the opinion of the team of authors of the Dnipropetrovsk State University of Internal Affairs in the scientific and practical commentary of the Law of Ukraine "On the National Police of Ukraine", who defined the active use of weapons as the use of firearms without warning. Cases of such application are:

1) when a person detained by a police officer with a firearm in his hands tries to approach him, shortening the distance determined by him, or touch the weapon;

2) in the case of an armed attack, as well as in the case of a sudden attack using military equipment, vehicles or other means that threaten the life or health of people;

3) if a person detained or arrested for committing a particularly serious or serious crime escapes using a vehicle;

4) if the person offers armed resistance;

5) to stop an attempt to take possession of a firearm [2, p. 220].

In the mentioned work, V. Osadchii conducted an etymological analysis of the term "apply" and determined that it is use, the use of something with benefit, the use of something that is expressed in active behavior. Taking this into account, we can conclude that V. Osadchii equates the content of the terms of use and active use of firearms [3, p. 156].

At the same time, this team concluded that this is not appropriate and erroneous, because according to part 13 of Art. 46 of the Law of Ukraine "On the National Police" outlines an exhaustive list of reasons for the use of firearms by police officers, namely: "a police officer may use a firearm to signal an alarm or call for auxiliary forces, or to neutralize an animal that threatens the life or health of a police officer and other persons" [1].

The commentary also emphasizes that the difference between the two terms is that a police officer can use a firearm only against a person and use it to provide auxiliary functions:

calling for reinforcements and giving an alarm signal [4, p. 238].

At the same time, in the work mentioned above, the DDUVS team equates the meaning of the term's "use" and "active use" of firearms, which, in our opinion, is not quite appropriate. The team of authors defined the use of a weapon as the use of a firearm without warning.

However, we can only agree that a police officer can only actively use a firearm against a person.

We believe that the process of using a firearm includes the following stages: taking a firearm into one's hands (baring the weapon), bringing it to readiness, directing it in the direction of the offender (object), firing a shot if there are grounds provided for in Article 46 of the Law of Ukraine "On National police" without harming the life and health of the offender.

When analyzing the current legal norms that regulate the process of use and active use of firearms, we singled out a rather significant difference and difference between these processes, which is that a police officer must notify his supervisor in writing about the use of firearms, and regarding the fact of active application, the law enforcement officer is obliged to inform the manager, who, in turn, has the duty to inform the relevant prosecutor and the central police management body, which is specified in Part 10 of Art. 46 of the Law "On the National Police" [1] and in paragraph 54 of Section II "Criminal offenses, other offenses, emergency situations and other events related to police officers, employees and cadets (students) of educational institutions (educational centers) with specific conditions trainings that train police officers and the facilities where they are located" "List of offenses and events, information about which is submitted to the central police management body, the main departments of the National Police in the Autonomous Republic of Crimea and the city of Sevastopol, the regions and the city of Kyiv", approved by the order of the NPU dated July 4, 2018 No. 645 [5].

In the "List of offenses and events, information about which is submitted to the central authority of the police, the main departments of the National Police in the Autonomous Republic of Crimea and the city of Sevastopol, the regions and the city of Kyiv", approved by the Order of the NPU dated 04.07.2018 No. 645, it is determined that in case of application, use of a weapon by a police officer or careless handling of a weapon by a police officer, which led to the death or injury of a person, the law enforcement officer through his supervisor must notify the central police management body of this fact within 30 minutes. An exception is the facts of the use of firearms, which are not reported to the central police management body, but the facts of active use are always reported [5].

And as a conclusion, analyzing and combining the current provisions of the Law "On the National Police" "List of offenses and events, information about which is submitted to the central police management body, the main departments of the National Police in the Autonomous Republic of Crimea and the city of Sevastopol, regions and cities. Kyiv", approved by the order of the NPU dated 04.07.2018 No. 645 and "Procedure for drawing up reporting forms No. 1-NP o/s "Report on the state of law enforcement by police officers and emergency events involving them", approved by the order of the NPU dated 07.21.2016 No. 626, we can state that the use of weapons can be considered active only in the case when a person was killed, maimed or injured as a result of the shot. What the police officer reports to the manager, who is obliged to inform the prosecutor and the central police management body about it.

Conclusions. So, summarizing all of the above, it is worth summarizing that the use of firearms by a policeman consists in taking a weapon in his hands (baring it), bringing it to the ready and firing a shot if there are grounds provided for in Article 46 of the Law on the National Police, without causing harm to life and health of the person (person, offender). After such use, the police officer must report this fact to his immediate supervisor for further official investigation and write-off of used cartridges [6, 7].

The active use of firearms, in turn, consists in taking (baring) a firearm in one's hands, bringing it to the ready, directing it in the direction of the offender and firing a shot with the obligatory infliction of bodily harm to the person (mutilation, injury, injury, death).

After the active use of firearms, the police officer is obliged to immediately notify his supervisor, who must inform the relevant prosecutor and the central governing body of the National Police in order to appoint an official investigation, write off the bullets and enter information in the ERDR and start a pre-trial investigation into the fact of causing harm to health or death persons as a result of the actions of a police officer [6, 7, 8].

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article focuses on legal aspects related to firearms in the National Police of Ukraine. The article analyzes the current legal acts that define the difference between the term's "use" and "active use" of firearms, describes the key scientific views on this issue. The author established the main differences between the concepts of "use" and "active use" of firearms.

The article is aimed at analyzing legal aspects regarding the distinction between the term's "use" and "active use" of firearms by police officers of the National Police of Ukraine. The author conducts an analysis of the legal framework regarding the use of weapons by the police, including international human rights standards, national laws and regulations.

The article examines the various situations in which police officers may use firearms, such as self-defense, the protection of others, and the prevention of serious crimes. The authors emphasize the importance of clearly distinguishing between the term's "use" and "active use" of a firearm, as there is a significant difference between the two.

In addition, the article examines the possible legal consequences of the "active use" of weapons, including the requirement for police officers to justify their actions and the possibility of criminal liability if the use of force was excessive or unlawful.

Keywords: *weapons, firearm, application, active use, legal aspects, law.*

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Kateryna KOROL ©
Senior Lecturer
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

PROSPECTS FOR THE USE OF TECHNICAL DEVICES AND PHOTO AND VIDEO RECORDING EQUIPMENT BY DISTRICT POLICE OFFICERS WHEN RESPONDING TO STATEMENTS AND REPORTS

Катерина Король. ПЕРСПЕКТИВИ ВИКОРИСТАННЯ ДІЛЬНИЧИМИ ОФІЦЕРАМИ ПОЛІЦІЇ ТЕХНІЧНИХ ПРИЛАДІВ ТА ТЕХНІЧНИХ ЗАСОБІВ ФОТО ТА ВІДЕОФІКСАЦІЇ ПРИ РЕАГУВАННІ НА ЗАЯВИ ТА ПОВІДОМЛЕННЯ ПРО ВЧИНЕННЯ ДОМАШНЬОГО НАСИЛЬСТВА. В статті розглянуто питання використання дільничними офіцерами поліції портативних відеорєестраторів при реагуванні на ситуації, пов'язані з домашнім насильством.

Домашнє насильство є дуже поширеною проблемою, яке потребує вирішення з боку Національної поліції України. Головними завданнями поліції у сфері протидії домашньому насильству є: вчасне реагування та протидія даному виду правопорушення, притягнення правопорушників до юридичної відповідальності, відповідно до чинного законодавства. Однією з нерозв'язаних проблем, яка недостатньо вивчається в законодавстві є застосування відеореєстраторів саме дільничними офіцерами поліції при реагуванні на різні види правопорушень, наприклад домашнє насильство.

Використання портативних відеореєстраторів (портативних камер для запису відео) дільничними поліцейськими є практикою, яка стає все більш поширеною в багатьох країнах. Ці пристрої можуть мати значний вплив на забезпечення безпеки, підвищення відповідальності і транспарентності поліцейських дій.

Дослідження судової практики вказує на тенденцію того, що суди різних рівнів все частіше зауважують про відсутність достатніх доказів від дільничних офіцерів поліції, які можливо підтверджували б правомірність їхніх рішень щодо винесення термінового заборонного припису. Фактично судам стає недостатньо лише самого заборонного припису, де коротко викладена суть справи, і заяви потерпілої особи, а також інших матеріалів щодо адміністративного правопорушення. Також вивчення судової практики вказує на те, що стають частими випадки оскарження рішень дільничних офіцерів поліції щодо видачі термінових приписів, що свідчить про потребу вдосконалення механізму впровадження спеціальних заходів у сфері протидії домашньому насильству.

***Ключові слова**: Національна поліція України, поліцейський, дільничний офіцер, портативні відеореєстратори, домашнє насильство.*

Relevance of the study. According to Article 1 of the Law of Ukraine "On the National Police", the National Police of Ukraine is a central executive body that serves the public by ensuring the protection of human rights and freedoms, combating crime, and maintaining public security and order. The main tasks of the police are to provide police services in the following areas: ensuring public safety and order; protection of human rights and freedoms, as well as the interests of society and the state; combating crime; providing, within the limits established by law, assistance to persons who, for personal, economic, social reasons or as a result of emergencies, need such assistance [1]. It is for the legitimate exercise of their powers and tasks that portable video recorders are an effective means of recording offenses. However, the use of portable video recorders in police activities needs to be improved, because currently, only patrol police officers have the opportunity to use video recorders to record offenses.

cvetok18081970@ukr.net

However, an important step in improving the work of the National Police is the possibility of using portable video recorders by all police officers to prove the legitimacy and legality of their actions, coercive or preventive police measures. In our opinion, this will be an effective step to fulfill the powers vested in the police.

Recent publications review. Certain issues of the use of portable video recorders by police officers are reflected in the works of H. Blinova, O. Bochkovyi, R. Valiev, Y. Gerasymchuk, Y. Hnusov, V. Korshenko, E. Mamedova, O. Mysliva, M. Mordvintsev, S. Prokopov, V. Svitlychnyi, E. Korol, and others, who considered the necessity and feasibility of using portable video recorders, but at present, this issue is still not fully considered and requires more thorough research.

The article's objective is to prove the need for district police officers to use portable video recorders when responding to situations involving domestic violence.

Discussion. Law enforcement units in different countries have been using video recording for quite some time now, not only during investigative actions, but also in the course of their normal daily work on city streets and roads. Due to the fact that equipment that allows for long-term recording was, until recently, rather cumbersome, it was placed only on cars. Improvements in microelectronics have made it possible to create devices capable of recording video and audio throughout the working day in a small footprint, which makes it possible to use them to record the situation around police officers moving on foot.

A miniature video recorder is placed on the chest of an officer and fastened to his or her clothing. Its purpose is to control everything that happens in the frame, including recording the behavior of offenders and patrol officers in various controversial situations.

Analyzing one of the priority laws of Ukraine, which the police rely on in the performance of their duties, namely the Law of Ukraine "On the National Police", we can single out Article 40, which regulates the use and application of portable video recorders: the police, in order to perform its tasks and exercise its powers, may use the following technical devices, technical means and specialized software: photo and video equipment, including equipment operating in automatic mode, technical devices and technical means.

According to Article 40 of the Law of Ukraine "On the National Police", "the police may attach automatic photo and video equipment to their uniforms, official vehicles, and mount/place it on the outer perimeter of roads and buildings to ensure public safety and order" [1].

Portable video recorders are an integral part of a police officer's uniform to record offenses. The use of video recorders greatly simplifies the subject of disputes in administrative and, more importantly, criminal courts. In my opinion, "A portable video recorder has been and remains an integral attribute of a patrol police officer's equipment, which is designed to demonstrate the openness and objectivity of the patrol police, to control and, most importantly, to keep the behavior of participants in the situation in the legal field, to simplify the subject of dispute over administrative or criminal offenses" [2, p. 414].

As already noted, portable (wearable) video recorders are being introduced to improve the system of recording traces of crimes and offenses in general in order to document the actions of offenders, prevent and stop their illegal actions, accumulate evidence in the commission of crimes and offenses, complicate the operational situation, as well as ensure effective control over the performance of service by police officers, assess the legality of their actions in various situations during service [3, p. 56].

However, analyzing the current prospects for the use of portable video recorders, we can conclude that these devices are commonly used and applied in the activities of patrol police officers, which is a problem of our time.

Therefore, it is important to note the importance of using portable video recorders among district officers.

District officers are representatives of law enforcement agencies who work in specific districts or neighborhoods. Their task is to ensure security and order in a particular area. They can perform a variety of functions, such as patrolling, responding to citizen calls, investigating crimes, and cooperating with other security services. The term "district" is often used to indicate that these officers are responsible for a specific neighborhood or precinct within a larger area.

Therefore, in cases where district officers respond to offenses, portable video recorders should be used, which will allow them to record the act of committing an offense and prove the legitimacy of their actions in court. Also, video recorders, often installed on the uniforms of district officers, are an important tool for ensuring security and documentation in the work of

law enforcement officers.

Here are some applications of video recorders among district officers [3, p. 67]:

1. Evidence in crime investigations – video recordings can serve as evidence in the investigation of crimes or events. They can record the behavior of individuals, evidence of events and serve as objective testimony in court proceedings.

2. Analysis of actions – video recordings can be used to analyze and improve actions and strategies for responding to various situations.

3. Protection against unlawful accusations – DVRs can serve as a defense against unlawful accusations against law enforcement officers. Recordings can help resolve disputes and establish the circumstances of events.

4. Patrolling and responding to calls – district officers can use video recorders to record their patrolling movements and responses to calls. This can make it easier to monitor their performance and identify areas for improvement.

5. Increased objectivity – video recordings can serve as an objective source of information that helps to resolve conflicts and ensure openness and transparency in law enforcement activities. The use of video recorders among district officers can help improve interaction with the community, increase safety and efficiency of law enforcement.

At the same time, the analysis of case law suggests that district police officers should use portable video recorders, especially when responding to situations involving domestic violence.

Domestic violence is an act (actions or omissions) of physical, sexual, psychological or economic violence committed in the family or within the place of residence or between relatives, or between former or current spouses, or between other persons, who live together in the same family, but are not in a family relationship or married to each other, regardless of whether the perpetrator of domestic violence lives in the same place as the victim, as well as threats of such acts [4].

That is, analyzing the legislative framework, we can conclude that the powers of the police, including district officers, include responding to and counteracting manifestations of domestic violence, so we can identify a number of advantages in the use of portable video recorders by district police officers in situations related to domestic violence.

First, as already mentioned, it is an evidence base, i.e. portable video recorders can serve as a source of objective and documentary evidence of events. This can be useful in investigating and prosecuting domestic violence cases by providing details and context to the situation.

Secondly, it is the prevention of misconduct, the presence of video recorders can serve as a precautionary measure that limits the possibility of misconduct or aggressive actions by both police officers and other participants in the situation.

Thirdly, a portable video recorder can serve as a way for a district officer to analyze the actions taken. This helps to improve professional skills and the effectiveness of response to domestic violence situations.

Increased openness and public trust, i.e. recorded video can contribute to increased openness and public trust in police activities. Citizens can be assured that the actions of law enforcement officers are recorded, which contributes to a positive perception of police work.

Supporting decisions in court: Video recordings can serve as a key element in court decisions in cases of domestic violence. They can confirm the circumstances and record the behavior of the participants in the trial.

Reducing the possibility of manipulation of information by perpetrators Video recordings provide an objective means of recording events, reducing the possibility of manipulation or distortion of facts.

It is important to consider ethical and constitutional issues related to the use of video recorders, and to develop policies for the retention and use of recordings to protect the rights of citizens and ensure compliance with the law.

Conclusions. Thus, we can conclude that it is necessary for district police officers to use portable video recorders when responding to situations related to domestic violence, Video recordings from portable video recorders can be used by the police to document statements, observe the behavior of the victim of the offense and/or the offender, document evidence in the case, record other circumstances that may serve as grounds for issuing urgent restraining orders, etc. In my opinion, "the use of portable video recorders will reduce the escalation of the conflict, deter aggression against the police officer and/or other parties to the conflict, and the

video recording made by such a recorder can be used by the police officer as a means of justifying the decision made or the police measure applied" [2, p. 416]. That is, analyzing the above, I can add that the use of a portable video recorder in the activities of a district police officer is necessary, since the video recording from such a recorder will act as a means of preventing errors when deciding to issue an urgent restraining order and registering the offender for preventive registration.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The article examines the use of portable video recorders by precinct police officers when responding to situations related to domestic violence.

Domestic violence is a very common problem that needs to be addressed by the National Police of Ukraine. The main tasks of the police in the field of combating domestic violence are: timely response and combating this type of offense, bringing offenders to legal responsibility, in accordance with current legislation. In our opinion, one of the unsolved problems that is not sufficiently studied in the legislation is the use of video recorders by precinct police officers when responding to various types of offenses, such as domestic violence.

The use of portable video recorders (portable video recording cameras) by precinct police officers is a practice that is becoming more common in many countries. These devices can have a significant impact on ensuring security, increasing accountability and transparency of police actions.

A study of judicial practice indicates a tendency that courts of various levels increasingly note the lack of sufficient evidence from precinct police officers, which would possibly confirm the legality of their decisions to issue an urgent restraining order. In fact, only the prohibition order itself, which briefly outlines the essence of the case, and the statement of the victim, as well as other materials regarding the administrative offense, is not enough for the courts. Also, the study of judicial practice indicates that there are frequent cases of appeals against the decisions of district police officers regarding the issuance of urgent orders, which indicates the need to improve the mechanism of implementing special measures in the field of combating domestic violence.

Keywords: *National Police of Ukraine, police officer, precinct officer, portable video recorders, domestic violence.*

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Olena NAHORNA©
Senior Lecturer
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

Karyna LAHUN©
Cadet
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

SOCIAL PROTECTION AND SOCIAL SECURITY OF POLICE OFFICERS

Олена Нагорна, Карина Лагун. СОЦІАЛЬНИЙ ЗАХИСТ ТА СОЦІАЛЬНЕ ЗАБЕЗПЕЧЕННЯ ПРАЦІВНИКІВ ПОЛІЦІЇ. У статті розглядається соціальний захист та соціальне забезпечення працівників поліції, які виконують небезпечну та важливу роботу забезпечення громадської безпеки. Автори досліджують різні аспекти соціального захисту поліцейських, зосереджуючись на їх правах, пільгах та гарантіях, що надаються для забезпечення їхнього добробуту та безпеки.

У статті аналізується система соціального захисту поліцейських, включаючи підтримку у випадку травм та інвалідності, медичне страхування, пенсійну систему та інші соціальні вигоди. Автори також досліджують проблеми, з якими зіштовхуються поліцейські у сфері соціального забезпечення, такі як недостатня фінансова підтримка, недостатня медична допомога та використання права на страйк.

Також звертається увага на необхідність покращення системи соціального захисту поліцейських, включаючи збільшення фінансування, покращення умов праці та забезпечення належної медичної допомоги. Автори пропонують рішення, які можуть покращити соціальний захист поліцейських, зокрема шляхом розробки спеціальних програм та політик, які враховують їхні потреби та особливості.

Загальний висновок статті полягає в тому, що соціальний захист та соціальне забезпечення поліцейських є критично важливими аспектами їхньої професійної діяльності. Автори закликають до удосконалення системи соціального захисту, щоб забезпечити належні умови праці та безпеку для поліцейських, які віддають своє життя на захист громади.

Ключові слова: *соціальний захист, соціальне забезпечення, працівники поліції, безпека, права, пільги, гарантії.*

Relevance of the study. Social protection and social security of police officers is a topical and extremely important topic in modern society. Working in the field of law and order and ensuring public safety, police officers encounter difficult and risky situations that can affect their physical and psychological health.

Social protection aims to ensure that police officers receive the appropriate support and protection they need to carry out their professional duties. This covers a wide range of aspects such as social security, medical assistance, pension and injury or disability support, as well as psychological support and vocational rehabilitation.

Ensuring the social protection of police officers is important not only for the employee himself, but also for the efficiency and trust in the police as a whole. When employees feel that their safety and well-being is a priority for society, they can be more motivated and effective in performing their duties. In addition, it helps maintain a high standard of professionalism and ethics among police officers, which is critical to maintaining law and order in society.

Nowadays, there is increasing attention to the issues of social protection of police

© Nahorna O., 2023
ORCID iD: https://orcid.org/0000-0002-2611-6031
leoleo28206@gmail.com

© Lahun K., 2023
lagun19956@gmail.com

officers, there are various programs and legislative acts aimed at improving their situation. However, despite these efforts, there are challenges and issues that need further improvement. For the development and stabilization of society, it is important to pay attention to the social protection of the employees of the National Police of Ukraine. This aspect is inextricably linked to their professional position and ability to effectively perform their duties.

Recent publications review. In the Ukrainian scientific community, research into the social protection of police officers was conducted by such scientists as V. Andriyev, N. Bolotina, M. Inshin, M. Derevyanko, M. Klemparskyi, O. Kuchma, K. Melnyk, O. Moskalenko, P. Pylypenko, O. Protsevskyi, S. Synchuk, I. Sirota, B. Stashkiv, O. Tyshchenko, G. Chanysheva, L. Shumna, V. Shcherbina, M. Shumylo, O. Yaroshenko and others [10].

The article's objective is research and analysis of social protection and social security of police employees in Ukraine.

Discussion. In the conditions of modern Ukraine, where the country is in a state of war, the social protection of police officers acquires special importance. Given the complexity of their work and the high level of risk, it is necessary to ensure adequate monetary, medical, housing, material and food conditions for their life and professional activities.

Social protection of police officers is one of the components of social protection of the population in general. In connection with the performance of specific duties and risky professional activity, police officers are constantly in the zone of increased risk and danger. That is why their social protection needs special attention and a careful approach, since their motivation, professional development and the effectiveness of the National Police as a whole depend on it.

Ensuring adequate social protection of police officers is an important task for the state and government. This requires the development and implementation of effective economic and legal measures that guarantee an adequate level of social security for police officers. Only in this way can the stability and development of the National Police and the high quality of its work in society be ensured [1, p. 121].

According to M. V. Loinova, the legal protection of police officers remains an unsolved problem that creates obstacles to the development and establishment of stability in society. When analyzing the current national legislation in the field of legal protection of employees of the National Police of Ukraine, it was established that despite the large number of normative legal acts that regulate the legal protection of law enforcement officers and their family members, attention is drawn to the declarative nature of the norms and the optionality of their implementation, as well as the lack of of a unified approach to the legal regulation of social protection of the studied category of workers [2, p. 73].

Scientific sources focus attention on the social protection of police officers as a set of measures that should ensure the rights and interests of police officers and their family members in accordance with their status and nature of work. Social protection of police officers includes legally enshrined economic, legal and other rights, benefits and preferences, which not only provide this category of civil servants with a set of rights, but also provide an effective mechanism for the realization and protection of these rights.

Social protection of police officers should include a set of measures aimed at compensating for restrictions related to the nature of their activities, meeting social expectations of employees and neutralizing factors that prevent effective official activity [3, p. 96].

The main legislative act regulating the social protection of employees of the National Police of Ukraine is the Constitution of Ukraine. It defines the basic principles and state guarantees of social protection of citizens. In particular, Articles 46, 48, 49 of the Constitution guarantee the right to a sufficient standard of living, health care, medical assistance, social protection in case of disability, unemployment and old age [4].

In addition, the Code of Labor Laws of Ukraine also provides social and legal protection of workers in general, including police officers.

Provisions on social protection of employees of the National Police of Ukraine are also included in legislative acts, in particular, in the Law of Ukraine "On the National Police" dated 07/02/2015 No. 580 [4]. This law significantly changed the legal regulation of police activity and the status of police officers, introduced new legal institutions and revised the purpose and tasks of law enforcement. Compared to the previous Law of Ukraine "On the Police" dated 12/20/1990 No. 565-XII, the social guarantees of police officers in the new Law have been significantly expanded, in particular, the amount of compensation in case of incapacity or death

of police officers draws attention [5].

However, when analyzing this Law [5], insufficient attention to the issue of social protection of police officers can be noted. The declared norms do not reflect sufficient conditions of social protection, as well as the lack of the possibility of implementing the declared social guarantees due to the uncoordinated work of state bodies, the lack of clear regulatory and legal consolidation and the mechanism of application.

Among the legislative acts that define the general provisions regarding the social protection of employees of the National Police of Ukraine, it is worth noting the Law of Ukraine "On State Social Standards and State Social Guarantees", the Law of Ukraine "On Mandatory State Pension Insurance", the Law of Ukraine "On Mandatory State Pension Insurance" state social insurance" and Fundamentals of Ukrainian legislation on health care".

Some aspects of social protection of employees of the National Police of Ukraine are regulated at the sub-legal level. For example, the resolutions of the Cabinet of Ministers of Ukraine "On approval of the Regulations on the National Police" determine that the National Police is the central body of executive power, which is coordinated by the Cabinet of Ministers of Ukraine through the Minister of Internal Affairs. This police ensures the protection of human rights and freedoms, the interests of society and the state, the fight against crime, public safety and order [6, p. 163].

The order of the Ministry of Internal Affairs of Ukraine established the procedure and conditions for the payment of financial support to police officers of the National Police and students of higher educational institutions with specialized police training programs. This order defines the criteria for the payment of financial support, in particular, to students who have received special police ranks, and to institutions of higher education that train police officers.

Also, on February 28, 2022, the Cabinet of Ministers of Ukraine adopted Resolution No. 168 regarding payments to military personnel, police officers and their families during martial law. According to this resolution, police officers are given an additional remuneration in the amount of 30,000 hryvnias per month, and for those who participate in hostilities or ensure national security and defense, the amount of this additional remuneration increases to 100,000 hryvnias, depending on the duration of their participation [7].

This approach to the social protection of police officers is correct, because during a full-scale war, the scope of tasks for the National Police increased significantly. They are engaged in the daily work of exposing looters, counter-subversive activities, helping the military, evacuating civilians and performing a wide range of humanitarian tasks. So, new tasks have appeared that were not there before, and Ukrainian police officers show high professionalism in their performance.

After studying a significant volume of normative legal acts, it is important to note that the legislation regulating the social protection of employees of the National Police of Ukraine is constantly developing and improving. However, a significant number of these acts do not always guarantee integral and comprehensive social protection for this category of persons. When analyzing these normative legal acts, it was found that they are scattered and unsystematic, since specific types of social protection of employees of the National Police of Ukraine are not reflected in a single and complex normative legal act [8].

In order to ensure a clear understanding of the content, scope, size and procedure of implementing a specific type of social protection for employees of the National Police of Ukraine, a systematic analysis of several regulatory acts (laws, resolutions, orders) is necessary at the same time.

The researchers of this issue point out, and we agree with them, that the social protection of the National Police employees provided by the legislation is progressive and successful. However, certain provisions need to be reviewed and finalized, in particular regarding the expansion of social guarantees, improvement of living conditions, medical and rehabilitation services for police officers. It is also necessary to deeply study the regulatory framework regulating the social service of National Police employees, to conduct informational discussions and legal consultations with employees regarding their rights to social service. In addition, employees of the National Police should be able to independently choose the type of compensation for performing official duties on weekends, holidays and non-working days [8].

Only the application of a full range of measures will help create an effective system of social services for police officers and increase the prestige of service in the National Police of Ukraine.

Despite the fact that the social protection of National Police employees is provided for

by a number of legislative acts, many issues remain unresolved, especially in modern conditions.

We believe that effective social protection of police officers is impossible without proper regulatory and legal support, which not only defines social rights, but also guarantees their effective implementation. According to K. Bugaichuk, in order to improve the mechanism of social protection of law enforcement officers and provide them with proper working conditions, as well as to strengthen the motivation to perform official duties, it is necessary to make changes to the Law of Ukraine "On the National Police". This, of course, will be reflected in the level of security of both individual citizens and the state as a whole. The author also draws attention to the need to clearly define and provide additional guarantees regarding the length of police officers' working hours, housing and salary [9, p. 60].

Analyzing the Law of Ukraine "On the National Police", it is noted that not enough attention has been paid to the issues of social protection of National Police employees, since the declared norms do not provide adequate conditions for social protection, and there is practically no possibility of implementing the declared social guarantees due to the disagreement of the work of state bodies, the lack of a clear regulatory and legal consolidation and application mechanism.

The issue of social protection of police officers belongs to the urgent and complex issues of modern society. Despite the significant contribution that police officers make to public safety, they often face significant difficulties and challenges in their professional activities.

One of the main problems is the risk to the physical and psychological health of police officers. They face stressful situations, violence, and danger to their lives every day. This can lead to injuries, post-traumatic stress disorder and other psychological problems. Inadequate funding and limited resources can also affect the quality of medical care and rehabilitation programs for police officers.

The second problem is insufficient social support and protection in cases of professional misconduct. Police officers may face prosecution, threats and other dangerous situations as a result of their work. It is important that the justice system and judicial authorities effectively protect the rights and interests of police officers and provide them with the necessary support and protection [9, p. 61].

The third problem is inadequate working conditions and low pay. The police profession is associated with great risks and demands, but the remuneration and social guarantees do not always meet these demands. Insufficient pay and poor working conditions can lead to low motivation, exhaustion and a decrease in the quality of performance of official duties.

Finally, it is important to consider gender aspects in the context of social protection of police officers. Policewomen may face special challenges and forms of discrimination in the performance of their duties, and need additional support and protection.

It is also worth noting that the issue of social security for police officers is a serious challenge for society and the law enforcement agency itself. Police officers, who perform important public safety and order functions, need adequate social protection and support to carry out their duties effectively and safely.

One of the key problems is insufficient social security guarantees for police officers. This covers aspects such as health insurance, disability benefits, pensions and other types of social benefits. Often, police officers face difficult situations, injuries and challenges that can affect their health and life. Insufficient support and compensation can disrupt their physical and psychological well-being.

Another problem is related to the insufficient financial base for the social security of police officers. Insufficient budgets and limited resources can prevent adequate social protection for police officers. This may include underfunding medical programs, low pension benefits, and limited opportunities for professional development and support [10, p. 228].

In addition, the problem of social security also concerns insufficient psychological support for police officers. Police work is often associated with stress, traumatic situations and high risk. It is important to ensure that adequate support is provided by appropriate psychological services, counselors and programs to help police officers cope with stress and trauma and to maintain their mental health.

Solving these problems requires an integrated approach and joint efforts by the government, the police, the public and other stakeholders. It is necessary to provide adequate financial resources for the social protection of police officers, improve working conditions and

ensure access to quality medical care and psychological support. It is also necessary to strengthen the justice system to guarantee the protection of the rights and interests of police officers in cases of professional misconduct.

Conclusions. Social protection and social security of police officers is an important component of their professional activity and reflects the importance that society attaches to their role in ensuring law and order and security. Despite the existence of a number of legislative acts that regulate the social protection of police officers in Ukraine, a number of problems emerge that require attention and resolution.

Studies show that the regulatory and legal provision of social protection of police officers is insufficient and does not provide full and comprehensive protection of this category of workers. Dispersion and non-systematic norms, lack of clear legislative consolidation and mechanism of application of social guarantees are one of the main reasons for this situation.

In this regard, an important task is to strengthen the regulatory and legal provision of social protection of police officers. This involves revising and finalizing legislation, defining clear rights and guarantees for police officers in matters such as working hours, housing, wages, etc. In addition, it is necessary to create an effective mechanism for ensuring social guarantees and the realization of the rights of police officers by state bodies.

Effective social protection of police officers is essential to maintain their motivation, improve working conditions and ensure their safety. Given the modern challenges and risks associated with the police profession, it is necessary to create a comprehensive and effective system of social services for police officers, which will include guarantees regarding housing, medical, pension and other security, as well as ensure the availability and expansion of social rights and benefits.

Ensuring full-fledged social protection and social security for police officers will contribute to increasing the prestige of service in the National Police of Ukraine and maintaining the high level of professionalism of this important category of civil servants.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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ABSTRACT

The article examines the social protection and social security of police officers who perform the dangerous and important work of ensuring public safety. The authors examine various aspects of the social protection of police officers, focusing on their rights, benefits and guarantees provided to ensure their welfare and safety.

The article analyzes the social protection system for police officers, including support in case of injuries and disabilities, health insurance, pension system and other social benefits. The authors also explore the challenges faced by police officers in the field of welfare, such as insufficient financial support, inadequate medical care and the use of the right to strike.

Attention is also drawn to the need to improve the social protection system of police officers, including increased funding, improved working conditions and provision of adequate medical care. The authors propose solutions that can improve the social protection of police officers, in particular by developing special programs and policies that take into account their needs and characteristics.

The general conclusion of the article is that social protection and social security of police officers are critically important aspects of their professional activity. The authors call for improvements to the welfare system to ensure proper working conditions and safety for police officers who give their lives to protect the community.

Keywords: *social protection, social security, police officers, security, rights, benefits, guarantees*.

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Hanna TURCHANIKOVA©
Lecturer
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

REGULATORY AND LEGAL SUPPORT FOR THE ACTIVITIES OF CERTAIN ANTI-TERRORIST UNITS OF THE SECURITY AND DEFENCE SECTOR OF UKRAINE

Ганна Турчанікова. НОРМАТИВНО-ПРАВОВЕ ЗАБЕЗПЕЧЕННЯ ДІЯЛЬНОСТІ ОКРЕМИХ КОНТРТЕРОРЕСТИЧНИХ ПІДРОЗДІЛІВ СЕКТОРУ БЕЗПЕКИ ТА ОБОРОНИ УКРАЇНИ. У статті на основі критичного аналізу чинного законодавства, що регулює суспільні відносини у секторі безпеки і оборони держави, розглянуто стан нормативно-правового забезпечення боротьби з тероризмом та організацію і форми взаємодії суб'єктів боротьби з тероризмом. У статті на основі критичного аналізу чинного законодавства, що регулює суспільні відносини у секторі безпеки і оборони держави, розглянуто стан нормативно-правового забезпечення боротьби з тероризмом та організацію і форми взаємодії суб'єктів боротьби з тероризмом.

Одним із ключових явищ, що унеможливлює або ускладнює реалізацію національних інтересів та збереження національних цінностей України, є тероризм – суспільно небезпечна діяльність, яка полягає у свідомому, цілеспрямованому застосуванні насильства шляхом захоплення заручників, підпалів, убивств, тортур, залякування або інших посягань на життя чи здоров'я ні в чому не винних людей або погроз вчинення злочинних дій з метою досягнення злочинних цілей.

Діяльність центральних органів виконавчої влади, наділених владними повноваженнями у сфері боротьби з терористичною діяльністю, відповідно до їх компетенції та підслідності злочинів координується Службою безпеки України – державним органом спеціального призначення з правоохоронними функціями, який забезпечує державну безпеку України та здійснює "попередження, виявлення, припинення та розкриття кримінальних правопорушень проти миру та безпеки людства, тероризму".

Організація взаємодії та координація діяльності суб'єктів боротьби з тероризмом покладається на Антитерористичний центр при Службі безпеки України та здійснюється залежно від рівнів терористичної загрози шляхом обміну інформацією, координації дій суб'єктів боротьби з тероризмом. У разі встановлення рівня терористичної загрози "червоний" (загроза), "синій" (потенційна загроза) та "жовтий" (ймовірна загроза) у формі засідань Міжвідомчої координаційної комісії Антитерористичного центру при Службі безпеки України, а також координаційних груп при регіональних органах Служби безпеки України.

У разі встановлення рівня терористичної загрози "червоний (реальна загроза)" взаємодія суб'єктів боротьби з тероризмом здійснюється шляхом спільного виконання бойових завдань у формі проведення антитерористичної операції – комплексу скоординованих спеціальних заходів з попередження, запобігання та припинення терористичної діяльності, звільнення заручників, забезпечення безпеки населення, знешкодження терористів, мінімізації наслідків терористичної діяльності.

Ключові слова: *національна безпека, тероризм, суб'єкти боротьби з тероризмом, Антитерористичний центр, службово-бойова діяльність, Національна поліція України, взаємодія.*

Relevance of the study. According to the Constitution, Ukraine is recognised as a sovereign and independent, democratic, social and legal state [1, Art. 1], and Ukraine's sovereignty extends to its entire territory [1, Art. 2].

In turn, the protection of the sovereignty and territorial integrity of Ukraine, ensuring its

anya.turchan@gmail.com

economic and information security are the most important functions of the state [1, Art. 17].

The President of Ukraine, as the head of state and guarantor of state sovereignty, territorial integrity, and observance of human and civil rights and freedoms [1, Art. 102], ensures state independence and national security [1, Art. 106, para. 1], and exercises leadership in the areas of national security and defence [1, Art. 106, para. 17].

Thus, the creation of an effective system and functioning mechanism for ensuring Ukraine's national security as the protection of state sovereignty, territorial integrity, democratic constitutional order and other national interests of Ukraine from real and potential threats [2, para. 9, part 1, art. 1] is a key element of state-building and preservation of the identity of the Ukrainian people, development and strengthening of Ukraine as a democratic, social and legal state, ensuring human rights and freedoms and decent living conditions.

These issues have become particularly relevant in the context of disintegration processes destabilising the state system, growing contradictions between the interests of different social groups and segments of the population, antagonistic intentions of the Russian Federation, encroachments on Ukraine's state sovereignty and attempts to overthrow the democratic constitutional order, which were particularly acute in 2013-2014.

One of the key phenomena that make it impossible or difficult to realise the national interests and preserve the national values of Ukraine is terrorism – a socially dangerous activity consisting in the deliberate, purposeful use of violence by taking hostages, arson, murder, torture, intimidation of the population and authorities or other attacks on the life or health of innocent people, or threats to commit criminal acts in order to achieve criminal goals [3, Art. 1].

The Cabinet of Ministers of Ukraine [3, Part 1, Art. 4] is responsible for combating terrorism as an activity aimed at preventing, detecting, suppressing and minimising the consequences of terrorist activities [3, Art. 1] and providing it with the necessary forces, means and resources.

Recent publications review. The study of problematic issues of ensuring the national security of Ukraine is devoted to the works of O. Bandurka, A. Voloshchuk, S. Husarov, O. Dolzhenkov, Y. Dubko, I. Zozulya, I. Kirichenko, V. Kovalenko, V. Konoplyov, O. Kopan, M. Kornienko, V. Krutov, S. Kuznichenko, V. Lipkan, I. Musienko, V. Nastiuk, V. Olefir, A. Podoliaka, M. Saakyan, O. Shaptala, O. Shmakov, O. Yarmysh and others.

The role of law enforcement bodies in ensuring national security is the subject of scientific research by Y. Allerov, S. Belyi, A. Berlach, G. Drobakha, R. Kaliuzhnyi, V. Kolpakov, O. Kryvenko, V. Laptii, O. Ostapenko, V. Petkov, S. Poltorak, A. Spasskyi, S. Yarovoi, H. Yarmaki.

The immediate theoretical basis for the study of the regulatory and legal framework of the service and combat activities of the security forces of Ukraine was the scientific research of V. Antipenko, Y. Ivanov, T. Zhovtenko, O. Konev, V. Mayorov, S. Pecherytsia, D. Savochkin, M. Semykin, M. Slipchenko, A. Spasskyi, D. Talalai, O. Shevchenko.

The article's objective is to critically analyse the current legislation regulating public relations in the state security and defence sector and the interaction of the actors involved in the fight against terrorism.

Discussion. The concept of terrorist activity under Ukrainian legislation covers a wide range of unlawful acts, namely planning, organising, preparing and carrying out terrorist acts, incitement to commit terrorist acts, violence against individuals or organisations, destruction of property for terrorist purposes; Organisation of illegal armed groups, criminal groups (criminal organisations), organised criminal groups to commit terrorist acts, as well as participation in such acts; recruitment, arming, training and use of terrorists; propaganda and dissemination of terrorist ideology; terrorist training; leaving and entering Ukraine for terrorist purposes; financing and other assistance to terrorism [3, Art. 1]. The above in turn implies the use of a certain range of subjects to combat activities aimed at preventing, detecting, suppressing and minimising the consequences of terrorist activities.

The breadth of the object and the wide range of subjects of the fight against terrorism, although regulated by the Law of Ukraine "On Combating Terrorism", which defines the legal and organisational basis of this fight and in its entirety creates the national system of combating terrorist activity as a set of subjects of the fight against terrorism and their capabilities in this area organised in accordance with the legislation of Ukraine [3, Art. 4; 4, para. 2, item 1], which is endowed with system-forming factors, includes the participation of central executive authorities within the limits of their competence, established by laws and other regulatory legal acts adopted on the basis thereof.

At the same time, a number of laws and regulations provide an interpretative definition of such a system: "a unified state system for preventing, responding to and suppressing terrorist acts and minimising their consequences" [5, para. 1]; "a nationwide system for combating terrorism" [6, R. 2; 4, para. 2, R. 1], which, in our opinion, leads to some inconsistency and ambiguity in the application of the law in the service and combat activities of counter-terrorism actors.

The formation of terminology is not the subject of our study, but at the same time, considering that the concept of "terrorist activity" is broader than "terrorist act" and "terrorism", we believe that subordinate legal acts should be harmonised with the provisions of the Law of Ukraine "On Combating Terrorism" and the definition of "national system of combating terrorist activity" should be used in law enforcement.

Undoubtedly, from a practical point of view, it is expedient to focus not so much on the fight against terrorism, which in principle refers to already identified terrorist groups, but rather on the identification of a certain type of activity as terrorist and countering it, which corresponds to the modern dimension of terrorism.

However, returning to the subject of the study and taking into account the above, the following questions arise: How does this range of actors coordinate their activities? What are the forms of interaction between these actors in the fight against terrorist activity?

The analysis of the current legislation and regulations leads to the conclusion that the activities of the central executive bodies vested with powers in the field of counter-terrorism in accordance with their competence and jurisdiction over crimes are coordinated by the Security Service of Ukraine, a special state body with law enforcement functions, which ensures the state security of Ukraine [7, Art. 1] and, in accordance with its tasks, provides "prevention, detection, suppression and disclosure of criminal offences against peace and security of mankind, terrorism..." [7, Part 2, Article 2].

The subjects of the direct fight against terrorism are Security Service of Ukraine; Ministry of Internal Affairs of Ukraine (National Police of Ukraine, National Guard of Ukraine, State Border Guard of Ukraine, State Emergency Service); Ministry of Defence of Ukraine; State Penitentiary Service of Ukraine; State Protection Service of Ukraine; central executive body implementing state tax policy, state policy in the field of state customs [3, Art. 4].

The Ministry of Internal Affairs of Ukraine, together with the National Police, organises the fight against terrorism by:

– preventing, detecting and suppressing crimes committed for terrorist purposes, the investigation of which falls within the competence of the National Police under Ukrainian law;

– providing the Anti-Terrorist Centre of the Security Service of Ukraine with the necessary forces and means during anti-terrorist operations;

to ensure the effective use of forces and means during anti-terrorist operations [3, Part 2, Article 5].

In accordance with the provisions of the Law of Ukraine "On Combating Terrorism", the following tasks are assigned to the bodies directly involved in combating terrorism:

– cooperation to stop the criminal activities of persons involved in terrorism, including international terrorism, financing, supporting or committing terrorist acts and crimes committed for terrorist purposes

– exchange of information;

– promoting effective border control, control over the issuance of identity and travel documents in order to prevent their counterfeiting, falsification or illegal use;

– preventing the actions or movements of terrorists, terrorist groups or terrorist organisations, as well as persons suspected of committing terrorist acts or of being members of international terrorist groups or organisations;

– to prevent attempts by aliens with information on their involvement in international terrorist groups or organisations to transit through the territory of Ukraine [3, Part 1, Article 8].

Coordination of the activities of the unified state system for combating terrorist activities and counter-terrorist actors in the prevention of terrorist acts is entrusted to the Anti-Terrorist Centre, a permanent body under the Security Service of Ukraine [8, para. 1; 5, para. 5], which has significantly increased the coordination and coherence of the security and defence forces of Ukraine in the performance of counter-terrorist tasks.

The main tasks of the Counter-Terrorism Centre are:

– Development of conceptual frameworks and programmes for combating terrorism, recommendations aimed at increasing the effectiveness of measures to identify and eliminate

the causes and conditions that facilitate the commission of terrorist acts and other crimes committed for terrorist purposes;

– collecting, collating, analysing and evaluating information on the state and trends of the spread of terrorism in Ukraine and abroad in accordance with the established procedure

– organising and conducting counter-terrorist operations and coordinating the activities of bodies engaged in counter-terrorism and specific counter-terrorist operations;

– Organising and conducting command, staff and tactical special exercises and training;

– Participation in the preparation of draft international treaties of Ukraine, preparation and submission of proposals in accordance with the established procedure for the improvement of Ukrainian legislation in the field of counter-terrorism, financing of counter-terrorist operations by entities engaged in counter-terrorism, implementation of measures to prevent, detect and suppress terrorist activities;

– cooperation with special services, law enforcement agencies of foreign states and international organisations on counter-terrorism issues [3, Part 1, Article 7; 9, Clause 3].

The Counter-Terrorism Centre consists of an Interdepartmental Coordination Commission and Headquarters, as well as Coordination Groups and their Headquarters located at the regional offices of the Security Service of Ukraine.

The Interdepartmental Coordination Commission of the Anti-Terrorist Centre, which includes, inter alia, the Deputy Ministers of Internal Affairs of Ukraine and the Deputy Heads of the National Police, is directly responsible for coordinating the actions and interaction of actors in the fight against terrorist activities at the national level and for coordinating the activities of the functional subsystem of the unified state system for preventing, responding to and suppressing terrorist acts and minimising their consequences [5, para. 5].

Coordination groups at the regional offices of the Security Service of Ukraine, which analogously include representatives of the Main Departments of the National Police in the regions, are responsible for coordinating the actions and interaction of the actors in the fight against terrorist activities at the local level and for managing the territorial subsystems of the unified state system for preventing, responding to and suppressing terrorist acts and minimising their consequences [5, para. 5].

Depending on the level of terrorist threat, the interaction of counter-terrorism actors is built by:

1. If the level of terrorist threat is "grey" (possible threat):

– Providing the Counter-Terrorism Centre with information on the causes and conditions contributing to the emergence and spread of terrorism, providing the Counter-Terrorism Centre with methodological support and recommendations for identifying and eliminating these causes and conditions;

– Coordination of actions of the subjects of the fight against terrorism in order to expand cooperation with law enforcement bodies and special services of foreign countries, anti-terrorist structures of the UN, OSCE, NATO, EU, other international organisations involved in the fight against terrorism, on the basis of international agreements of the Anti-Terrorist Centre [5, para. 1, item 9].

2. If the terrorist threat level is set to "blue" (potential threat):

– Providing the Counter-Terrorism Centre with information on the targets of possible terrorist attacks, on preparations for a terrorist act;

– Coordinating the actions of the subjects of the fight against terrorism in order to verify the information on the probability of preparation or commission of a terrorist act by the Anti-Terrorist Centre. [5, para. 2, item 9].

3. In the event that the terrorist threat level is set at "yellow" (probable threat), by implementing the measures defined for the terrorist threat level "blue" (potential threat); and

– ensuring the timely exchange of information between counter-terrorism actors on developments related to the threat of a terrorist act through the Counter-Terrorism Centre. [5, paragraph 3, subparagraph 9].

4. In the event that the terrorist threat level is set at "red" (real threat) by implementing the measures defined for the terrorist threat levels "blue" (potential threat) and "yellow" (probable threat), and

– Providing the Anti-Terrorist Centre with forces and means to carry out an anti-terrorist operation;

– Coordinating and organising measures to stop a terrorist act and the actions of units and forces involved in the implementation of such measures by the Anti-Terrorist Centre;

– Ensuring the participation of all or individual counter-terrorism subjects, forces and means in the implementation of the counter-terrorism operation by the Counter-Terrorism Centre;

– Ensuring the interaction of the subjects of the fight against terrorism with the relevant central and local executive authorities, local self-government bodies, military-civil administrations, enterprises, institutions, organisations, regardless of their subordination and form of ownership by the Counter-Terrorism Centre. [5, para. 4, item 9].

Conclusions. Summarising the above, it should be noted that the breadth of the object and the wide range of subjects of the fight against terrorism, although regulated by the Law of Ukraine "On Combating Terrorism", which defines the legal and organisational bases of this fight and in its entirety creates the national system of combating terrorist activity as a set of subjects of the fight against terrorism and its capabilities in this area organised in accordance with the legislation of Ukraine [3, Art. 4; 4, para. 2, item 1], which is endowed with system-forming factors, shall include the participation of central executive authorities within the limits of their competence, which shall be determined by laws and other regulatory legal acts adopted on the basis thereof.

The activities of the central executive authorities vested with powers in the field of combating terrorist activities in accordance with their competence and jurisdiction over criminal offences are coordinated by the Security Service of Ukraine, which is a special purpose state body with law enforcement functions ensuring the state security of Ukraine [7, Art. 1] and, in accordance with its tasks, provides "prevention, detection, suppression and disclosure of criminal offences against peace and security of mankind, terrorism..." [7, Part 2, Article 2].

The subjects of the direct fight against terrorism are Security Service of Ukraine; Ministry of Internal Affairs of Ukraine (National Police of Ukraine, National Guard of Ukraine, State Border Guard Service of Ukraine, State Emergency Service); Ministry of Defence of Ukraine; State Criminal Enforcement Service of Ukraine; State Protection Service of Ukraine; central executive body implementing state tax policy; state policy in the field of state customs.

The organisation of interaction and coordination of activities of counter-terrorist actors is entrusted to the Anti-Terrorist Centre of the Security Service of Ukraine and is carried out, depending on the level of terrorist threat, through exchange of information, coordination of actions of counter-terrorist actors (in the case of establishing the levels of terrorist threat "grey" (possible threat), "blue" (potential threat) and "yellow" (probable threat) in the form of meetings of the Interagency Coordination Commission of the Anti-Terrorist Centre of the Security Service of Ukraine and coordination of the activities of the Anti-Terrorist Centre of the Security Service of Ukraine.

If the level of the terrorist threat is set at "red" (real threat), the interaction of counter-terrorism actors takes place through the joint implementation of combat missions in the form of an anti-terrorist operation – a set of coordinated special measures aimed at preventing and suppressing terrorist activity, releasing hostages, ensuring public safety, neutralising terrorists and minimising the consequences of terrorist activity.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article, based on a critical analysis of the current legislation governing public relations in the security and defense sector of the state, considers the state of regulatory and legal support in the fight against terrorism and the organization and forms of interaction between the fight against terrorism. The article, based on a critical analysis of the current legislation governing public relations in the security and defense sector of the state, considers the state of regulatory and legal support in the fight against terrorism and the organization and forms of interaction between the fight against terrorism. One of the key phenomena that makes it impossible or difficult to realize the national interests and preserve the national values of Ukraine is terrorism – a socially dangerous activity that consists in the deliberate, targeted use of violence by hostage-taking, arson, murder, torture, intimidation or other encroachments on the life or health of innocent people or threats to commit criminal acts in order to achieve criminal goals.

The organization of interaction and coordination of the activities of the subjects of the fight against terrorism is entrusted to the Anti-Terrorist Center of the Security Service of Ukraine and is carried out depending on the levels of terrorist threat by exchanging information, coordination of actions of the subjects of the fight against terrorism: "red" (real threat), "blue" (potential threat) and "yellow" (probable threat) in the form of meetings of the Interdepartmental Coordination Commission of the Anti-Terrorist Center of the Security Service of Ukraine, as well as coordination groups at regional bodies of the Security Service of Ukraine. In the case of establishing the level of terrorist threat "red" (real threat) interaction of the subjects of the fight against terrorism is through the joint implementation of combat missions in the form of anti-terrorist operation – a set of coordinated special measures to prevent, prevent and stop terrorist activities, release hostages, ensuring the security of the population, neutralizing terrorists, minimizing the consequences of terrorist activities.

Keywords: *national security, terrorism, subjects of fight against terrorism, Antiterrorist center, service and combat activity, National Police of Ukraine, interaction.*

ISSUES OF PUBLIC AND PRIVATE LEGAL REGULATION OF SEPARATE SOCIAL RELATIONS

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Andrii KUCHUK ©
Dr. of Law, Professor
(Sumy State Pedagogical University named after A. S. Makarenko, Sumy, Ukraine)

Yuliia SIHALOVA ©
Sudent
(Sumy State Pedagogical University named after A. S. Makarenko, Sumy, Ukraine)

LEGAL REGULATION OF COPYRIGHT ON THE INTERNET: GENERAL STATE

Андрій Кучук, Юлія Сігалова. ПРАВОВЕ РЕГУЛЮВАННЯ АВТОРСЬКОГО ПРАВА В ІНТЕРНЕТ: ЗАГАЛЬНИЙ СТАН. Актуальність дослідження обумовлюється необхідністю систематичного вивчення стану забезпечення авторських прав, зокрема через постійний розвиток інформаційної сфери. Вказується, що сучасній людині для розвитку своєї особистості важливим є доступ до мережі інтернет. Забезпечення доступу до мережі інтернет стало необхідністю для багатьох аспектів життя сучасної людини. Інтернет є безмежним джерелом інформації.

Метою дослідження є висвітлення загальних аспектів правового регулювання авторського права в мережі інтернет.

Наголошується, що Україна посідає перші місця серед європейських держав за кількістю порушень авторських прав в Інтернеті. Технологічний прогрес, з одного боку, покращив ситуацію щодо захисту авторських прав, однак, з другого боку, спричинив нові проблеми, які потребують свого вирішення.

Наводяться окремі приклади, пов'язані з конфліктами у сфері вирішення питань порушення авторських прав. Проведено аналіз національного законодавства щодо забезпечення авторських прав (загальні та спеціальні норми). Наголошено, що норми інституту авторського права, що закріплені у Цивільному кодексі України, не визначають особливості захисту авторського права щодо об'єктів, розміщених в мережі Інтернет.

Резюмується, що для вирішення викликів у сфері захисту авторського права в інтернеті в Україні необхідно: посилити контроль за дотриманням законодавства України у сфері захисту авторського права; запровадити ефективні механізми захисту авторського права в мережі Інтернет; адаптувати законодавство України до стрімких змін соціальних умов.

Ключові слова: *авторське право, захист авторського права, Інтернет, Інтернет-піратство, цивільне законодавство.*

Relevance of the study. Currently, the formation of a new generation of human rights is one of the important issues within the legal discourse. The essential nature of this generation of rights is connected with the development of the information technologies. Access to the Internet is crucial for the development of a modern person's personality. Modern technologies, in particular the Internet, actually play a key role in personality's development. Providing access to the Internet has become a necessity for many aspects of a modern person's life. The

© Kuchuk A., 2023
ORCID iD: https://orcid.org/0000-0002-5918-2035
kucshuk@ukr.net

© Sihalova S., 2023
ORCID iD: https://orcid.org/0009-0000-7945-8468
law@sspu.edu.ua

Internet is an unlimited source of information. A person can join various courses, read the news, explore the world and learn new ideas without leaving home, which expands opportunities for independent learning and personal development. By virtue of the huge volume of information on the Internet, a person can develop his critical thinking, analyze various sources of information and form rational opinions.

The Internet provides tools for self-expression, such as blogs, videoblogs, and social media. A person can share his thoughts, creativity, ideas and receive feedback from the audience. This promotes self-expression and creative skills development.

In this aspect, we will point out that the Internet allows a person to receive access to electronic resources of various libraries, museums, etc. Libraries and archives, museums, art galleries, etc. give way to electronic versions. The electronic data repository has a significant number of scientific and literary publications, providing simultaneous access to many users from different parts of the world. Scientific and technical progress (in particular the development of the Internet) affects a large number of life spheres of a modern person, including civil and legal relations.

The situation in the described area has gained special importance with the wide access of the population to artificial intellect, let's mention ChatGPT, Bard as the most famous among them. Thus, publications reporting on the appropriation of the authorship of works made by the artificial intellect periodically appear in the mass media.

Therefore, it can be stated that the issue of intellectual property regarding works on the Internet or created on the Internet is quite relevant today.

Recent publications review. It should be noted that the issue of protection of intellectual property rights (and in particular copyright) on the Internet is constantly the subject of discussion among legal scholars. However, the words of P. Kalynechenko that "problems of protecting copyright and related rights on the Internet are characterized by their specificity. Their consideration requires updating and improving, first of all, the provisions of international legal treaties to which Ukraine is a party, as well as the corresponding bringing of the national legislation acts into line with them" [1, p. 198].

L. Mamchur's conclusion that "it is difficult to apply national legislation to its territorial nature to the legal regulation of relations in the virtual world" should be also mentioned [2, p. 34].

Studying the peculiarities of the implementation of copyright norms on the Internet, one cannot ignore the creative paper of the domestic researcher O. Matskevych, in particular the paper devoted to copyright in the digitization of works [3, p. 14-23]. "Today, there is not just a process of converting analog works into digital ones, but a general conversion of the collective creative component into digital form" [3, p. 14].

Certain aspects of the raised issues are covered by T. Dudenko, researching the protection of rights to cultural values [4]. Analyzing the scientific literature by the subject of research, it is worth mentioning the names of scientists whose papers cover certain aspects of the issues under consideration: Yu. Boshytskyi, I. Vashchynets, O. Germanova, S. Glotov, T. Dudenko, L. Yerofeienko, O. Zhuvaka, Yu. Kapitsa, L. Mamchur, O. Matskevych, O. Pastukhov, O. Pidoprygora, P. Rippa, I. Rymarenko, S. Stupak, O. Sulyma, O. Ugrynovska, and others.

Herewith, one cannot but agree with L. Yerofeienko that "there is a necessity for further study of this themes taking into account the development of legislation and information and communication technologies" [5, p. 41].

The article's objective is to cover the general aspects of the legal regulation of copyright on the Internet.

Discussion. Before covering the main results, let's point out that discussions about the legal regulation of copyright on the Internet are becoming more urgent. It should be noted that Ukraine ranks first among European states in the number of copyright violations on the Internet. Although, it should be mentioned that quite often one can notice a message that a work has been removed from public access due to an appeal by the subject of copyright. Technological progress, on the one hand, has improved the situation regarding copyright protection, but on the other hand, it has caused new problems that should be solved. It is obvious that the development of the network is a factor in the spread of piracy. We would like to emphasize that the mentioned issue is quite relevant for the Ukrainian state, in particular due to the significant popularity of free servers from which one can illegally download or view copyright objects.

Copyright is a key aspect of the legal realm of intellectual property. Historically, it arose as a means of protecting the rights of creators of literary and artistic works. In modern times, the scope of copyright covers the results of a significant number of types of creative activity, let's mention, in particular, photographs, computer programs, databases, films, and others. Copyright is a system of subjective and exclusive rights providing the authors of literary, artistic, scientific and other works with the opportunity to receive social benefits from the results of their creative work.

Within the scope of our research, we cannot but mention that back in October 1998, the Digital Millennium Copyright Act was adopted in the United States of America, which became a reaction of legislators to the necessity to resolve the problems of copyright protection caused by the Internet and the development of information technology in general. Without resorting to the evaluation of this legislative act, we will point out the positive nature of the very fact of its adoption, indicating an effort to regulate the relevant relations by protecting the rights of the authors of the works.

Although, we cannot but point out the negative evaluations of this legislative act by some scientists. Thus, for example, Edward H. Freeman J. D. emphasizes the contradictory nature of the norms of this law [6, p. 4-8]. And "a significant number of copyright subjects believe that Section 512 of the specified legislative act is insufficiently effective in the fight against copyright infringement on the Internet" [7, p. 131].

Van Horn points out that the adoption of this legislative act has caused confusion and considerable criticism. Herewith, the following two norms of this law have received the greatest criticism:

– a ban on circumventing technological measures used by copyright holders to control access to protected works;

– a ban on the production or "other trade" of a device that is designed to bypass technological measures controlling access or protecting the rights of the copyright owner [8, pp. 248-249].

It is appropriate to emphasize that, like German lawyers, in this study we understand the term "copyright on the Internet" as "a collective term that covers the provisions of the law on copyright (it is the Law "On Copyright and Related Rights" [9]), as well as current legal practice" [10].

In Ukraine, in accordance with the norms established in Art. 54 of the Basic Law of the Ukrainian State, the state guarantees citizens "protection of intellectual property, and their copyrights" [11]; at the same time, "every citizen has the right to the results of his intellectual and creative activity; no one can use or distribute them without his consent, with exceptions established by law" [11].

These constitutional prescriptions determine the general principles of copyright protection, regardless of the ontological forms in which objects, the subject to protection, exist (whether it is a printed work, audiovisual on disk, etc., or whether this object is placed on the Internet). It is obvious that these provisions are becoming more specific in national legislation. Thus, first let's recall the norms of civil legislation.

In the text of the Civil Code of Ukraine, the term "Internet" is used only once: Art. 641 establishes the institution of an offer and states that the posting of certain information on the Internet (in public access) might be perceived, under certain conditions, as an offer to conclude a contract [12]. However, the norms of the copyright institute, enshrined in the Civil Code of Ukraine, do not determine the specifics of copyright protection for objects placed on the Internet.

The law that directly regulates relations in the field of copyright is the Law of Ukraine "On Copyright and Related Rights". "This Law regulates relations regarding the acquisition, implementation and protection of personal non-property and property copyright and/or related rights, as well as sui generis rights related to the field of copyright and/or related rights" [13].

Let's note that the term "Internet" is used 30 times in this law. We would also like to add that in order to substantiate the urgency for the adoption of this law, the legal subjects of the legislative initiative indicated the following: "The development of scientific and technical progress, the emergence of new opportunities for the reproduction and introduction of the results of creative activity into civil circulation in the field of copyright and related rights presupposes the introduction of appropriate changes to the current legislation, in particular for the purpose of keeping records of original digital works" [14].

A number of articles of the analyzed law establish the procedure for stopping violations

of copyright and related rights using the Internet (Article 56 of the law); obligations of hosting service providers to ensure protection of copyright and related rights using the Internet (Article 57 of the law); liability of content exchange service providers for copyright and/or related rights violations (Article 58 of the law) [13].

Let us point out that copyright on the Internet is protected in the same way as in other areas. The author of the work has the right to demand from copyright infringers the cessation of illegal use of the work, as well as compensation for the damage caused. It is important for the Internet users to understand that while the Internet is largely a space in which users remain somewhat anonymous and use the Internet not for direct profit, the Internet is not a completely "free space" where any activity is allowed.

For example, let us point out that the most famous example of copyright infringement on the Internet is piracy (the law uses the term "Internet piracy", manifesting itself through the illegal copying of files (these can be both books, video films, and computer programs, computer games, etc.). Usually, such a violation is carried out by virtue of sites that are file exchangers. We should point out that site administrators in many cases do not directly add pirated files themselves. However, as Damian Savytsky points out, this did not prevent the Court of the European Union to decide to ban such a site – The Pirate Bay – because of copyright infringement, creating conditions for sharing pirated files [15].

In this context, it is impossible but point out the numerous reports on copyright infringement due to the posting of videos on YouTube. Herewith, if cases of copyright infringement are found, the person who posts the relevant content is found guilty, not YouTube itself.

The following case is indicative in this aspect. After creating a video file with her child, the mother posted the video on YouTube (https://www.youtube.com/watch?v=N1KfJHFWlhQ). The child dances and a certain song is heard. Universal Music Group issued a takedown notice citing the use of its song. The mother appealed this removal. The court put an end to the case (8 years after the described event), pointing out the absence of copyright infringement, relying on the doctrine of fair use [15].

In our opinion, it is important to constantly monitor compliance with the norms of current legislation on copyright, the state of development of social relations and the provision of effective guarantees for the implementation of copyright. In the same aspect, it is worth mentioning the following proposals.

M. Melnikov believes that the lawmaker should strengthen sanctions for copyright infringement in all areas of use. The public authorities should demonstrate the rigidity of their position on copyright infringement by their actions [16, p. 3].

According to S. Galinska, electronic libraries have the right to exist, however, it is necessary to legally ensure the observance of copyright (property and non-property), for example, by providing for paid registration of electronic cabinets or charging a fee for downloading a file [17, p. 3].

Conclusions. Thus, in order to solve challenges in the field of copyright protection on the Internet in Ukraine, it is necessary to: strengthen control over compliance with Ukrainian legislation in the field of copyright protection; to implement effective copyright protection mechanisms on the Internet; to adapt the legislation of Ukraine to rapid changes in social conditions.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

The urgency of the study is determined by the necessity of a systematic study of the state of copyright protection, in particular due to the constant development of the information sphere. The issue of protection of intellectual property rights (and, in particular, copyright) on the Internet is constantly a subject of discussion among legal scholars. It is indicated that access to the Internet is important for a modern person to develop his personality. Providing access to the Internet has become a necessity for many aspects of the life of a modern person. The Internet is an unlimited source of information. The situation has become especially important with the wide access of the population to artificial intelligence: ChatGPT, Bard, etc. The purpose of the study is to cover the general aspects of the legal regulation of copyright on the Internet.

It is emphasized that Ukraine ranks first among European states in the number of copyright violations on the Internet. Technological progress, on the one hand, has improved the situation regarding copyright protection, but on the other hand, it has caused new challenges that should to be solved. Historically, copyright arose as a means of protecting the rights of creators of literary and artistic works. Nowadays, the sphere of copyright application covers the results of a significant number of types of creative activity. Individual examples related to conflicts in the sphere of resolving issues of copyright infringement are given. The adoption of the Digital Millennium Copyright Act in the United States of America is mentioned as one of the first legislative acts related to the protection of copyright on the Internet. An analysis of national legislation on copyright protection (general and special norms) was carried out. It is emphasized that the norms of the copyright institute, enshrined in the Civil Code of Ukraine, do not determine the specifics of copyright protection for objects placed on the Internet.

It is summarized that in order to solve challenges in the field of copyright protection on the Internet in Ukraine, it is necessary to: strengthen control over compliance with the Ukrainian legislation in the field of copyright protection; to implement effective copyright protection mechanisms on the Internet; to adapt the legislation of Ukraine to rapid changes in social conditions.

Keywords: *copyright, copyright protection, Internet, Internet piracy, civil law.*

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Cosmin DARIESCU©
Ph.D. (Law), Associate Professor
(Aleksandru Ioan Cuza University, Iasi, Romania)

Kateryna KHMELENKO©
Student
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

THE LAW APPLICABLE TO OBLIGATIONS ARISING OUT OF TORTS IN ROMANIAN AND UKRAINIAN PRIVATE INTERNATIONAL LAW

Катерина Хмеленко, Космін Дарієску. ПРАВО, ЩО ЗАСТОСОВУЄТЬСЯ ДО ЗОБОВ'ЯЗАНЬ З ДЕЛІКТІВ У РУМУНСЬКОМУ ТА УКРАЇНСЬКОМУ МІЖНАРОДНОМУ ПРИВАТНОМУ ПРАВІ. Сучасна правова співпраця України та Румунії базується на результатах партнерства держав у минулому. Актуальність дослідження пояснюється підвищенням рівня зацікавленості правників обох держав у дослідженні міжнародного приватного права (сімейне, спадкове, право тощо), викликаного посиленням співпраці України та Румунії у сфері транспорту, торгівлі, судноплавства, захисту біженців тощо після початку російсько-української війни у 2014 році. Метою статті є визначення законодавства, що застосовується до деліктних зобов'язань,

© Dariescu C., 2023
ORCID iD: https://orcid.org/0000-0002-9714-2157
cosmin.dariescu@uaic.ro

© Khmelenko K., 2023
ORCID iD: https://orcid.org/0000-0001-7089-4386
khmelenko.1gold@gmail.com

беручи до уваги як уніфіковані правила вибору права, передбачені міжнародним договором про правову допомогу в цивільних справах, так і законодавчі норми, що застосовуються в обох державах (норми національного права). У роботі були використані як загальнонаукові методи дослідження (аналіз, синтез, аналогія), так і спеціально-юридичні, серед них порівняльно-правовий метод.

У статті автори акцентують увагу на стані дослідження деліктних зобов'язань у міжнародному приватному праві в Україні та Румунії. Пояснюють відмінність законодавства щодо вибору права в Україні та Румунії. Проводять аналіз положень Договору між Україною та Румунією про правову допомогу та правові відносини в цивільних справах від 30 січня 2002 року. Описують особливості застосування статей 48, 49 та 50 Закону України "Про міжнародне приватне право", положень Регламенту Рим II та Цивільного кодексу Румунії. Крім того, науковці обгрунтовують історичний зв'язок співпраці України та Румунії впродовж століть. Основні висновки дослідження полягають у визначенні конкретних норм законодавства на основі детального аналізу законодавства обох держав.

Ключові слова: *міжнародне приватне право, делікти, законодавство України, законодавство Румунії, договір між Україною та Румунією, Рим II.*

Relevance of the study. The Romanian and Ukrainian peoples have a long history of coexistence and collaboration. Thus, the Romanian Petro Mohyla, Metropolitan of Kyiv, played a major role in Ukrainian cultural life of the 17th Century, by reforming the Orthodox Church in Ukraine, by printing an impressive corpus of theological scholarship and by establishing, in 1632, the Kyivan Mohyla Academy (the largest Orthodox center of scholarship and education in Eastern Europe [1]. Vasile Lupu, Prince of Moldavia (1634-1654), supported Bohdan Khmelnytsky in 1652 in his plans to create a Danube League. Vasile Lupu gave his daughter (Roksana) in marriage to Tymish Khmelnitsky. Petro Mohyla supported Vasile Lupu in establishing, in 1640, the Slavic-Latin College in Iași. In 1642 a common synod of the Moldavian and Ukrainian Orthodox Churches was held in Iași in order to establish a common blueprint for fighting against Protestantism [2].

But, the Romanian-Ukrainian relations took dramatical turns from time to time. For instance, Ivan Pidkova (Ioan Potcoavă), a fearless Cossack ataman invaded Moldavia, in 1577, and toppled Prince Petru Șchiopu. Ivan became the new prince. His reign was short-lived, being outcast by an Ottoman and Walachian army [3]. In 1681, George Duca, Prince of Moldavia became hetman of the Cossacks, when those entered under Ottoman control. Duca's rule as hetman lasted until the defeat of Ottomans in the siege of Vienna (1683), when hetman Kunitsky toppled him. Kunitsky even managed to depose Duca from Moldavian throne, imposing his protegee, Ștefan Petriceicu [4]. In the 20th Century, Romanian-Ukrainian relations were strained by the simultaneous struggle of the two peoples to build unitary nation states (disputes arose on the control of Bukovina, Maramureș and Bessarabia) [5].

In the 21th Century, despite Hague litigation over Snake Island, the russian aggression over Ukraine has shown that cooperation with Romania is more important than futile disputes ignited by nationalism. Thus, since February 10, 2022, nearly 4 million Ukrainian refugees have transited Romania [6]. Romanian road remains one of the most important trade routes for Ukraine during this turbulent time. Thus, Ukrainian wheat is exported in such large quantities through Romania that it has caused distortions on the Romanian grain market, causing discontent among Romanian producers [7]. In March 2023, Romania was Ukraine's largest supplier of diesel, overtaking Poland [8]. The port of Constanta is Ukraine's main sea gateway to the world until the deepening of the Bystroye canal is completed, although its use is stifled by the enemy's maritime supremacy [9].

Recent publications review. In Ukrainian legal literature the issue of the law applicable to torts in Private International Law is not popular among researchers. From our point of view this situation creates some difficulties for the development of this legal field in the country. But some scientists, such as K. Manuilowa and A. Lebedeva drew attention to this topic. Thus, A. Lebedeva highlighted that Rome II Regulation, in comparison with Ukrainian Private International Law, establishes a multifaceted mechanism of conflict-of-laws regulation [10]. K. Manuilova also comments on Regulation Rome II [11].

In Romanian legal literature, the matter of the law applicable to torts is treated, extensively, according to E.U. Regulation no. 864 of 2007 (Rome II Regulation), implicitly referred to in Article 2641 Civil Code. In respect of the law governing the liability for personal injury (not covered by Rome II Regulation), all the scholars analyze the provisions of Article 2642 Civil Code. Two scholars distinguish themselves by a different treatment: R. Ion approaches the question of the law applicable to torts only from the perspective of the

European Regulation, neglecting the provisions of the Civil Code [12], and C. Dariescu, while presenting Article 2641 of the Civil Code and the essential provisions of the Regulation, omits to present Article 2642 of the Civil Code [13]. Only S. Alexandru presents rules provided by international treaties on liability for torts in special fields such as: liability for nuclear damage (Vienna Conventions of 21 September 1988 and 12 September 1997), for failure to manage radioactive waste safely (Vienna Convention of 5 September 1997) and for transboundary pollution (MARPOL 73/78, United Nations Convention on the Law of the Sea, Montego Bay, 1982, London Convention of 30 November 1990, etc.) [14]. None of the scholars draws a parallel with Ukrainian private international law, nor do they pay attention to the choice-of-law rule on torts in the treaty on legal assistance in civil matters concluded with Ukraine.

The article's objective is to determine the law applicable to obligations born of torts, considering both the uniform choice-of-law rules of the international treaty of assistance in civil matters as well as the statutory rules enforced in the two states.

Discussion. *The Uniform Choice of Law Rules of the Treaty of January 30, 2002 between Romania and Ukraine.* Between Romania and Ukraine there is a treaty regarding legal assistance and legal relations in civil matters (the Treaty of January 30, 2002). It has been enforced since October 30, 2006 [15]. In Part II (Special Provisions), Section I (Choice-of-law Rules), there is Article 33, entitled Tort Liability. According to paragraph 1, compensations for damages resulting from legal relations arising out of torts are regulated by the legislation of the contracting party on whose territory the damaging act took place. Paragraph 2 provides for the legislation of the contracting party whose citizenship is shared by both the person who caused the damage and the person who suffered the damage. The laws designated for in paragraphs 1 and 2 do not apply when other rules of multilateral international conventions (regulating the same matter and to which the two contracting parties are members) provide otherwise (paragraph 4).

According to Article 2557, paragraph 3 of the Romanian Civil Code, the provisions of Book VII (Private International Law) are applicable to the extent that the international conventions to which Romania is a party, the law of the European Union or the provisions of the special laws [16]. So, from the point of view of Romanian authorities the choice-of-law rules of Article 33 of the Treaty of January 30, 2002, take precedence over the rules of Articles 2641 and 26 Civil Code (explained in the next section), whenever there is a litigation arisen of torts with a foreign element indicating Ukraine.

Ukrainian law hierarchy is different compared to Romanian one. It is explained by Romanian membership in the European Union. So that the main legal act in Ukraine is a Constitution, on the second place – international agreements (ratified by Verkhovna Rada), and only then – codes and laws. According to art.3 of Law no. 2709-IV of 2005 [17], if an international treaty to which Ukraine is a party lays down rules other than those established by this Law, the rules laid down in this international treaty shall apply. Therefore, the treaty that is essential for our research is the Treaty between Ukraine and Romania "On Legal Assistance and Legal Relations in civil matters" of January 30, 2002, ratified by Law no. 2822-IV of September 7, 2005 [18].

The Statutory Choice of Law Rules on Torts in Romania and Ukraine. At present, in Romania, the statutory provisions of Private International Law are to be found in the Civil Code, in the Civil Procedure Code [19] (Book VII of both acts) and in the Insolvency Code (Title III) [20]. As we have already mentioned, these statutory provisions are enforced in default of special provisions included in international treaties, EU regulations or special Romanian statutes (see Article 1065 Civil Procedure Code and Article 275 Insolvency Code).

The statutory choice-of law rules are provided in Article 2641 Civil Code. According to paragraph 1, the law applicable to non-contractual obligations shall be determined in accordance with the rules of the European Union law. According to paragraph 2, in matters not covered by the rules of the European Union, the law which governs the substance of the pre-existing legal relationship between the parties shall apply, unless otherwise provided by international conventions or special provisions. So, the Romanian statutory choice-of-law rule on torts refers to the EU Regulation no. 864 of 2007 (Rome II Regulation). Only in cases not covered by this regulation, the law that governs the pre-existing relationship between parties will prevail. In conclusion, in the majority of litigation generated by civil wrongs, Romanian courts will apply Articles 4 and 14 of Rome II Regulation.

According to Article 4 of Regulation (EU) no. 864 of 2007, the European uniform choice-of-law rule on torts, the obligations arising out of delict is governed by the law of the

member state where the damage occurs (*lex loci damni*). When both the person claimed to be liable and the person who suffered the damage have their habitual residence in the same state, when the damage occurs, the law of that state will apply. If the obligations born by tort have manifestly stronger connections with the law of another state than those of the place of damage or of the common habitual residence of the parties, the law of that third state will apply. The regulation gives an example of "a manifestly stronger connection with another country": a pre-existing legal relationship between parties, such as a contract closely connected with the delict. Article 14 makes room for *lex voluntatis* on torts matter. Thus, the parties are allowed to choose the law that governs the non-contractual obligation generated by delict, by an agreement concluded after the damaging event. But, if the parties are professionals, they are allowed to conclude such an agreement before the occurrence of the damaging event. The choice should be clear (or demonstrated with certainty by the circumstances) and it should not prejudice the rights of others (case in which the choice should be refuted because of the *fraude a la loi*). If all the relevant elements of the situation, at the time when the damaging event occurred, were located in another state than that whose law was designated by the parties, the mandatory provisions of that other state will carve out the chosen law. When the parties designated the law of a non-EU state, while all the relevant elements of the situation, at the time when the damaging event occurred, are placed in one or more EU member states, the EU mandatory rules will have the same carving effect over the law chosen by the parties. These EU rules served as a model for the Ukrainian legislator in drafting Article 49 paragraphs 2 and 4 of Law no. 2709-IV of 2005.

According to Article 2642 of the Civil Code, the law applicable to liability for injury to personality (through mass media or any public means of information) will be, at the choice of the injured party: the law of his habitual residence, the law of the state where the harmful result occurred or the law of the perpetrator's habitual residence. The law of the injured person's habitual residence or the law of the harmful result may apply only if the tortfeasor could reasonably have foreseen that the effects of the personal injury would occur in one of the two states. The right of reply against injury to personality is subject to the law of the state where the publication appeared or the broadcast was transmitted.

Ukrainian statutory legislation consists of the Civil Procedure Code of Ukraine, Merchant Shipping Code of Ukraine and Law no. 2709-IV of 2005 "On International Private Law". The umbrella legal act in this field is the last one. According to Art. 48, obligations arising from the action of one party, taking into account the provisions of Articles 49-51 of the same law, are regulated by the law of a state in which such action took place. Article 49 is dedicated to obligations of compensation for damages. According to the article of law:

1) the rights and duties under obligations arising as a result of causing damage are determined by the law of a state in which the action or other fact that became the basis for the claim for damage took place (*lex loci delicti*);

2) the rights and duties under obligations arising from damage caused abroad, if the parties have a place of residence or location in the same state, are determined by the law of that state;

3) the law of a foreign state does not apply in Ukraine if the action or other fact that became the basis for the claim for damage is not illegal under the legislation of Ukraine;

4) parties to an obligation arising from causing damage may choose the law of the forum at any time after its occurrence [17].

The provisions in the paragraph 1 of art.49 of the mentioned Law are the same with those in art. 33 of the Treaty between Ukraine and Romania on Legal Assistance and Legal Relations in civil matters.

Art. 50 of the Law no. 2709-IV of 2005 "On international private law" is more specialized and is dedicated to damage compensation for defects in goods and works (services). This provision gives an opportunity to choose the law, which will be used. Art. 50 is divided into 3 parts: part 1 includes the right of affected person to choose the law of the state of his residence, location or their principal business location (lex domicilii); part 2 includes the right to choose the law of the state of goods manufacturer's or work (services) performer's residence or location; part.3 includes the right to choose the law of the state, where the purchase was made or the work (service) was provided. This solution differs from the provisions of article 5 of the Rome II Regulation applicable in Romania which creates a more intricate system. Thus, non-contractual obligations arising out of damage caused by a defective product are subjected to one of the following laws (arranged in G. Kegel's ladder):

1) the law of the country in which the person sustaining the damage had his or her habitual residence when the damage occurred, if the product was marketed in that country (*lex domicilii*);

2) in default of the law mentioned at point 1, the law of the country in which the product was acquired, if the product was marketed in that country;

3) in default of the law mentioned at point 2, the law of the country in which the damage occurred, if the product was marketed in that country [21].

If the person claimed to be liable could not foresee the marketing of the product in the above mentioned states, the law of (her) his habitual residence will apply. If both parties have their habitual residence in the same state, the law of that state will govern, according to article 4 paragraph 2 of the regulation. We can notice similarities, though there is a focus on product markering in the EU Regulation. According to article 5 paragraph 2 of the Rome II Regulation where it is clear from all the circumstances of the case that the tort/delict is manifestly more closely connected with a country other than that indicated in paragraph 1, the law of that other country shall apply. A manifestly closer connection with another country might be based in particular on a preexisting relationship between the parties, such as a contract, that is closely connected with the tort/delict in question.

Conclusions. The provisions of the Treaty between Romania and Ukraine on Legal Assistance and Legal Relations in civil matters (January 30, 2002) should be the cornerstone of legal sources used for solving any legal conflict between Ukrainian and Romanian citizens in the field of private international law. Under the provision of Article 33 of the Treaty of January 30, 2002, the law applicable to the compensation for the damages arising out of torts is the law of the state where the delict took place. If both parties involved have Romanian or Ukrainian nationality, the law of that state shall apply. These conflictual solutions will not be enforced if otherwise provided by multilateral treaties on the matter, where Romania and Ukraine are parties.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

In the article the authors focus on the state of research on tort obligations in private international law in Ukraine and Romania. They explain the differences in the choice of law legislation in Ukraine and Romania. They analyze the provisions of the Treaty between Ukraine and Romania on Legal Assistance and Legal Relations in Civil Matters of January 30, 2002.

The authors describe the specifics of application of Articles 48, 49 and 50 of the Law of Ukraine "On Private International Law", the provisions of the Rome II Regulation and the Romanian Civil Code. In addition, the researchers substantiate the historical connection between Ukraine and Romania's cooperation over the centuries. The main conclusions of the study are to identify specific legal provisions based on a detailed analysis of the legislation of both countries.

Keywords: *International private law, torts, Ukrainian law, Romanian law, treaty between Ukraine and Romania, Rome II.*

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Alla AVSIYEVYCH ©
Postgraduate
(Educational and Scientific Institute of Law named after Volodymyr the Great, Private Joint-Stock Company "Interregional Academy of Personnel Management", Ukraine)

PROSPECTS OF INFORMATION TECHNOLOGY USE IN INTERNATIONAL COMMERCIAL ARBITRATION DISPUTE RESOLUTION

Алла Авсієвич. ПЕРСПЕКТИВИ ВИКОРИСТАННЯ ІНФОРМАЦІЙНИХ ТЕХНОЛОГІЙ У ВИРІШЕННІ СПОРІВ МІЖНАРОДНИМ КОМЕРЦІЙНИМ АРБІТРАЖЕМ. У статті висвітлено сучасні аспекти застосування онлайн-арбітражу в системі альтернативних способів вирішення правових конфліктів. Автор систематично розглядає переваги та недоліки цього методу, пропонуючи думки як зарубіжних, так і вітчизняних науковців. Обговорення поширюється на складність цивільного права та судового процесу, наголошуючи на протиріччях у дотриманні громадського порядку в онлайн-середовищі. Цей науковий матеріал має важливе значення для розуміння та аналізу сучасних тенденцій арбітражу та альтернативних судових методів вирішення спорів.

У статті дається стисле пояснення вирішення спорів у кіберпросторі за допомогою інформаційно-комунікаційних технологій. Стаття фокусується на конкретних аспектах дослідження, пов'язаних з використанням альтернативних методів вирішення спорів, зокрема використанням електронного арбітражу. У статті розглядаються регуляторні тонкощі та нюанси вирішення спорів у кіберпросторі, зрештою зроблено висновок, що ідея відмови від офлайн-методів вирішення спорів у найближчому майбутньому не буде реалізована.

Ключові слова: *арбітраж, альтернативні способи вирішення спорів, онлайн-арбітраж, арбітражна угода.*

Relevance of the study. The widespread use of online transactions has led to the emergence of conflicts of a fundamentally new type. Resolving such disputes requires not only technical knowledge but also prompt decision-making. The need for standardizing approaches to resolving such conflicts has led to the creation of lex electronica – a system of international legal norms regulating relations related to the conclusion of transactions in the electronic environment.

In turn, e-commerce has given rise to electronic dispute resolution, specifically online arbitration. The term "online arbitration" may have several meanings, but it is most often used to denote arbitration conducted using remote communication technologies among process participants [1, 2]. This form of arbitration is gaining popularity in various legal systems due to its efficiency, speed, quality, and cost-effectiveness.

Online arbitration is a legitimate method of independent, unbiased, and effective conflict resolution arising from contractual and non-contractual relationships, using electronic means of transmission and storage of information. Its purpose is the swift and economical resolution of disputes without adhering to formal procedural rules.

Online dispute resolution can also involve the use of alternative dispute resolution mechanisms through the Internet. Online dispute resolution methods can be applied to resolve disputes both offline and online. The idea of using online alternative dispute resolution mechanisms emerged in the 1990ˢ [3]. During this decade, notable online dispute resolution services, such as the "Virtual Magistrate Project", Online Ombudsman Office, and Online Mediation Project, were introduced [4, 5]. These projects were initially developed under the

ORCID iD: https://orcid.org/0000-0002-8192-8569
avsiievych.alla@maup.com.ua

auspices of various institutions, including the American Arbitration Association and the National Center for Automated Information Research.

Recent publications review. The concept of "ADR" commonly mistaken as an acronym for "alternative dispute resolution", was proposed by Harvard Law School professor Frank E. A. Sander [6]. ADR, in simple terms, signifies the idea of regulating and resolving disputes through means other than judicial proceedings. ADR encompasses a range of online communication tools, including email, internet relay chat, instant messaging, discussions on web forums, and similar text-based electronic communications.

In a short period, dispute resolution experts realized that there were opportunities for significant expansion in this evolving field. In 1997, Professors Ethan Katsh and Janet Rifkin founded the National Center for Technology and Dispute Resolution, which "supports and sustains the development of information technology applications, institutional resources, as well as theoretical and applied knowledge for better understanding and managing conflicts" [7]. Four years later, the first book in the field of ADR was written [8]. Subsequently, institutions such as the U.S. Federal Trade Commission, the U.S. Department of Commerce, Hague Conference on Private International Law, the Organization for Economic Cooperation and Development, the Global Business Dialogue, the World Intellectual Property Organization, and the European Union began to explore the field of ADR. In the European Union, legislative measures generally favor the use of ODR mechanisms. Examples include the Directive on Electronic Commerce, Articles 17, and the Directive on Certain Aspects of Mediation in Civil and Commercial Matters, Declarations 8 and 9. Additionally, in the field of consumer law, both a Proposal for a Regulation on Online Dispute Resolution for Consumer Disputes and a Proposal for a Directive on Alternative Dispute Resolution have been adopted. These proposals aim to improve the functioning of the internal retail market and enhance compensation for consumers' losses.

The article's objective is to discuss the prospects of use the information technology in international commercial arbitration dispute resolution.

Discussion. In principle, it is expected that ODR mechanisms, among other things, will "facilitate access to justice" [9] and should be able to address some of the issues associated with the use of offline dispute resolution mechanisms. ADR is considered to be able to "resolve conflicts more quickly and efficiently" than traditional methods. However, as far as we know, no reliable and skillfully conducted research has confirmed this assumption. Scholars have proposed various ideas aimed at developing an alternative dispute resolution system, and over the past 10 years, a considerable number of services in this field have been developed. In the broad spectrum of ADR mechanisms, the most common ones are negotiations, mediation, and arbitration.

As the legal profession has begun to modernize its working practices through various technological advancements in computing and telecommunications, one might question whether the use of offline mechanisms will eventually be replaced by so-called ADR mechanisms.

Electronic negotiations are one of the most prevalent forms of dispute resolution and likely one of the primary means of interaction. It is believed that people negotiate, even if they don't consciously think of it that way. Negotiations can be essentially defined as any form of communication between two or more people with the aim of reaching an agreement. In this context, negotiations can be seen as a friendly and perhaps highly desirable way of resolving conflicts. With the advent of the Internet, this form of interaction, particularly in the realm of dispute resolution and the legal profession, has somewhat shifted from court corridors and polished law firm offices to the Internet, leading to the advancement of e-negotiation.

The first research project in the field of negotiations via the World Wide Web (INSPIRE) was launched in 1996. This project was developed in the context of cross-cultural research on the decision-making and negotiation process. Extensive experiments with INSPIRE led to the development of several other electronic negotiation systems [9]. These systems, along with decision support systems, were classified into several categories, including planning systems, assessment systems, intervention systems, and process systems. However, public awareness of these tools remains very low, and it remains to be seen whether negotiations based on electronic means relying on these systems will gain widespread recognition.

The concept of electronic negotiations is closely related to the concept of computer-mediated communication. It is argued that such communication facilitates the process of

interaction through computers. The Internet has undoubtedly become one of the main means of communication and information exchange. Short text messages (SMS) via email, for example, are becoming an increasingly common phenomenon. A decade ago, corporate users sent and received approximately 105 email messages per day, amounting to 38,325 emails per year. New research is needed to determine how many of these email messages, if any, were related to negotiations. However, from the perspective of the efficiency of electronic negotiations through email, this can lead to misunderstandings, malicious attributions, and ultimately, a deadlock in negotiations.

Electronic arbitration itself can be defined as the "online version of offline arbitration". It covers everything from online arbitration agreements to online arbitration decisions. In general, in light of the principle of party autonomy, the legitimacy of online arbitration is not an issue. However, in the international context, concerns have been raised about the validity of not only online arbitration agreements but also online arbitration decisions, especially in the understanding of the 1958 New York Convention. It can be argued that this Convention was adopted "at a time when the drafters could not anticipate that [arbitration agreements, arbitration decisions] might take a form other than physical". Thus, it can only be assumed that over time, courts will agree that online arbitration agreements and online arbitration decisions meet the formal requirements of the New York Convention, thereby avoiding future problems with the recognition and enforcement of foreign arbitration decisions, including those made through online arbitration.

Currently, there are no "universally accepted rules for regulating online arbitration proceedings". Such proceedings undoubtedly take place, although comprehensive statistics on electronic arbitration seem not to have been published. It is expected that in online arbitration, parties, arbitration tribunals, experts, and witnesses will use electronic devices to participate in arbitration proceedings. This involves the use of sophisticated hardware and software devices. Existing systems, however, are criticized on the basis that they may deal only with "very limited classes of disputes, a simplified or basic arbitration process, the beginning of the process before changes become necessary, a process used by a single arbitration provider" [9].

The implementation of online arbitration has almost no significant obstacles but requires the resolution of practical issues of identifying the parties to electronic communication and their representatives, as well as the development of systems for exchanging electronic documents. The last decades show that the arbitration industry has become a major source of innovation in conflict resolution. The application of modern information technologies in specific arbitration proceedings has undeniable advantages, such as convenience, improved quality of hearings, and cost savings.

However, the transition to the online format of arbitration may pose certain problems, such as security and admissibility of evidence issues. Until unified rules at the international level are established, arbitration institutions will have to individually address issues, taking into account the specific circumstances of each case. For example, can an arbitrator in a case between parties from France and Canada "sign" an arbitration decision in electronic form, and what standard of electronic signature should be used. To resolve disputes using online systems, parties need to provide evidence of their claims. The preparation and presentation of evidence require time and effort, which can lead to avoiding the submission of unsupported claims.

Conclusions. Therefore, despite some optimistic forecasts regarding the potential of alternative dispute resolution (ADR) methods to coexist on equal terms with traditional methods, it is still too early to predict what the future may hold for such forms of arbitration. The benefits of technological progress in dispute resolution are likely overestimated. ADR is simply another option, and in some cases, it may even be the best option, but it is certainly not a panacea. The classical dispute resolution system is a complex system that cannot be replaced by faster microprocessors and larger memory boards. Dispute resolution mechanisms typically serve as a means of maintaining social order. These mechanisms are designed to resolve conflicts and disputes based on the rule of law, and it is doubtful whether such a function can be fully and effectively performed in cyberspace.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The article illuminates the contemporary aspects of employing online arbitration within the system of alternative methods for resolving legal conflicts. The author systematically examines the advantages and disadvantages of this method, offering insights from both foreign and domestic scholars. The discussion extends to the complexities of civil law and the legal process, emphasizing the contradictions in upholding public order within the online environment. This scholarly material is crucial for comprehending and analyzing modern trends in arbitration and alternative legal dispute resolution methods.

The article provides a concise explanation of dispute resolution in cyberspace through information and communication technologies. It delves into specific research aspects related to the utilization of alternative dispute resolution methods, particularly the use of electronic arbitration. The paper addresses regulatory intricacies and dispute resolution nuances in cyberspace, ultimately concluding that the idea of abandoning offline dispute resolution methods in the near future may not be realized.

Keywords: *arbitration, alternative dispute resolution methods, online arbitration, arbitration agreement.*

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Kateryna SHENDAKOVA©
Lecturer
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

Vitalina SHEBELA©
Cadet
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

DISCIPLINARY PROCEEDINGS IN NATIONAL POLICE UNITS AS A TYPE OF ADMINISTRATIVE-JURISDICTION ACTIVITY

Катерина Шендакова, Віталіна Шебела. ДИСЦИПЛІНАРНЕ ПРОВАДЖЕННЯ В ПІДРОЗДІЛАХ НАЦІОНАЛЬНОЇ ПОЛІЦІЇ ЯК ВИД АДМІНІСТРАТИВНО-ЮРИСДИКЦІЙНОЇ ДІЯЛЬНОСТІ. Стаття присвячена дослідженню дисциплінарного провадження в підрозділах Національної поліції як важливого елементу здійснення адміністративно-юридичної діяльності поліції. У контексті статті визначено, що дисциплінарне провадження в органах Національної поліції слугує важливим структурним елементом адміністративно-юрисдикційного процесу та формою притягнення працівників поліції до дисциплінарної відповідальності за порушення службової дисципліни.

Установлено, що на сьогодні чинне законодавство не визнає таке поняття як «дисциплінарне провадження в підрозділах Національної поліції». Визначено що однією з ключових проблем є необхідність у забезпеченні ефективної та високої якості несення служби поліцейських в умовах зростаючої складності суспільних викликів, що ставить під сумнів здатність існуючих процесів дисциплінарного провадження відповідати сучасним вимогам. Визначено, що правова основа дисциплінарного провадження в органах Національної поліції характеризується багаторівневим галузевим регулюванням, як по горизонталі, так і по вертикалі. З'ясовано, що дисциплінарні провадження регулюються не тільки нормами адміністративного права та процесу, хоча воно і відноситься до адміністративно-юрисдикційної діяльності поліції.

В статті також проаналізовано різні погляди науковців щодо визначення поняття «дисциплінарне провадження в підрозділах Національної поліції», а також сформоване авторське визначення поняття «дисциплінарне провадження в підрозділах Національної поліції» як урегульовану різними за юридичною силою нормативними правовими актами діяльність уповноважених на те посадових осіб органів Національної поліції та Міністерства внутрішніх справ України, спрямовану на встановлення підстав та вирішення питання щодо застосування передбачених законодавством заходів дисциплінарного впливу до поліцейських, з метою забезпечення законності та дисципліни.

Ключові слова: *дисциплінарне провадження, адміністративно-юрисдикційна діяльність, статут, дисциплінарна відповідальність.*

Relevance of the study. Disciplinary proceedings in the bodies of the National Police serve as an important structural element of the administrative jurisdictional process and a form of bringing police officers to disciplinary responsibility for violation of official discipline. The urgency of addressing the specifics of disciplinary proceedings in the National Police bodies is due to the specific conditions of service by police officers who exercise their powers during the legal regime of martial law [1, p.163]. One of the key problems is the need to ensure the efficiency and high quality of law enforcement services in the context of the growing complexity of social challenges, which calls into question the ability of existing processes of disciplinary proceedings to meet modern requirements.

© Shendakova K., 2023
k_app@dduvs.in.ua

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nnipfpnp@dduvs.in.ua

Another important problem is to ensure objectivity and justice in the process of disciplinary investigation, since not only the reputation of law enforcement officers depends on it, but also the level of trust of citizens in the police as a whole. Differences in the interpretation and application of norms and standards can lead to human rights violations and create a basis for social tension, which emphasizes the need for deep analysis and improvement of this aspect of disciplinary activity. An important challenge is also the adaptation of the processes of disciplinary proceedings to the rapid development of technologies and social transformations.The modern information space requires law enforcement officers to actively use technical tools and electronic systems to collect, analyze and process information that requires updating and improving disciplinary mechanisms. Adequate solutions to these problems require in-depth research and the development of strategic approaches to improve disciplinary proceedings in the units of the National Police, thereby ensuring efficiency, fairness and public trust.

Therefore, the actual task of scientific research in the field of administrative-jurisdictional activity is the scientific problem of distinguishing the features of disciplinary proceedings in the National Police in the conditions of martial law.

Recent publications review. The latest research and publications in the field of disciplinary proceedings in the units of the National Police identify several key areas that are reflected in the coverage of this topic. Thus, the following scientists and researchers dealt with the topics of the study of disciplinary proceedings through the prism of the relationship between disciplinary decisions and human rights, the peculiarities of the protection of police officers during an official investigation, as well as issues of official discipline and the means of ensuring it by authorized subjects: V. Averyanov, Yu. Bityak, L. Bila-Tiunova, V. Harashchuk, E. Dodin, Yu. Danylenko-Negara, I. Zadoya, S. Kivalov, L. Kornuta, L. Mozolyuk-Bodnar, Yu. Nazar, G. Chanysheva, V. Shcherbyna, O. Yaroshenko, O. Bandurka, V. Kikinchuk, S. Kovalev, O. Kuzmenko, N. Medvedenko, V. Mykhaylov, O. Novak, I. Sukhovetruk, M. Tyshchenko, O. Shevchenko and some other specialists in police law.

The analysis of the latest researches and publications shows the urgency of the problem, because currently there remain unresolved issues related to the peculiarities of the administrative and legal provision of the mechanisms of disciplinary proceedings in the National Police in the conditions of martial law.

The article's objective is to highlight and characterize the peculiarities of the regulation of disciplinary proceedings, its legal support in the National Police, in particular, in the conditions of martial law.

Discussion. Theoreticians include the following types of administrative proceedings as administrative-jurisdictional activities: proceedings in cases of administrative offenses, disciplinary proceedings and proceedings regarding citizen complaints [11, p. 17; 12, p. 194].

In the units of the National Police, the procedure for considering disciplinary proceedings is regulated by the Law of Ukraine "On the Disciplinary Statute of the National Police of Ukraine" dated 15.03.2018, which defines the essence of official discipline in the National Police of Ukraine, the powers of police officers and their leaders to comply with it, types of incentives and disciplinary penalties, and as well as the procedure for their application and appeal.

The Order of the Ministry of Internal Affairs of Ukraine dated 07.11.2018 No. 893 "On the Implementation of Certain Provisions of the Disciplinary Statute of the National Police of Ukraine", which defines the procedure for conducting official investigations in the National Police of Ukraine and the procedure for formation in bodies (units) of the police, as well as institutions of higher education with specific training conditions, which train police officers, disciplinary commissions and their powers.

However, the above-mentioned documents do not define such concepts as "disciplinary proceedings", so we will try to analyze it through the prism of the views of scientists and scientists who conducted research in this field.

Thus, in the textbook on "Police Activity" edited by S. Vitvitskyi, disciplinary proceedings are defined as the activity of authorized subjects regulated by the norms of administrative law, which is aimed at considering and solving individual-specific cases that arise in connection with the existence of grounds for the application of disciplinary measures against certain persons [2, p. 186].

A. Sakhno defines disciplinary proceedings as a set of successive interrelated actions of

participants in disciplinary proceedings, regulated by the norms of administrative procedural law, aimed at considering and resolving disciplinary cases regarding bringing police officers to disciplinary responsibility for committing a disciplinary offense [4, p. 252].

However, we partially disagree with the authors' views on the definition. After all, disciplinary proceedings are regulated not only by the norms of administrative law and process, although it also refers to the administrative and jurisdictional activities of the police.

Thus, the procedure for disciplinary proceedings in the bodies of the National Police of Ukraine is regulated by normative legal acts of different legal force. The legal basis of disciplinary proceedings in the bodies of the National Police is characterized by multi-level industry regulation, both horizontally and vertically [10, p. 102].

The concept of disciplinary proceedings is more successfully interpreted by N. Medvedenko, who understands by disciplinary proceedings in the bodies of the National Police of Ukraine the activity regulated by legal norms of the officials of the police bodies, aimed at establishing the grounds and resolving the issue of applying the measures of disciplinary influence provided for by the law to police officers, civil servants and other employees of the National Police of Ukraine [4, p. 211].

However, the author concludes in the definition that disciplinary proceedings are also possible in relation to civil servants and other employees of the National Police of Ukraine.

At the same time, the preamble to the Disciplinary Statute of the NPU stipulates that its effect applies exclusively to police officers, persons who have special titles of the Bureau of Economic Security of Ukraine, employees of the Judicial Security Service, and members of the rank and file and senior staff of the State Bureau of Investigation, who must strictly comply with its requirements. That is, civil servants and other employees of the National Police of Ukraine are not specified in the Law. In addition, the disciplinary responsibility of civil servants is regulated by the provisions of Articles 64-79 of the Law of Ukraine "On Civil Service".

The author also notes in the definition that disciplinary proceedings are activities of police officials authorized to do so.

However, according to p.8 of Article 15 of the Disciplinary Statute of the NPU, in the event of an official investigation of deputy heads of the National Police of Ukraine or heads of territorial bodies of the National Police of Ukraine, the disciplinary commission may include employees of the Ministry of Internal Affairs of Ukraine.

The definition formulated by V. Kryzhanovska and A. Kryzhanovsky, who understand disciplinary proceedings in the bodies of the National Police as a type of administrative-jurisdictional activity carried out in accordance with the procedure established by legislation for the resolution of a disciplinary case and the application of disciplinary measures to the guilty person, is quite justified. in order to strengthen and ensure official discipline [10].

Another scientific position of the scientist is interpreted as disciplinary proceedings in the bodies of the National Police as an administrative-jurisdictional activity of authorized subjects to resolve the issue of disciplinary responsibility of employees of the National Police bodies for a committed disciplinary offense, as well as the application of incentive measures for the successful performance of duties by a police officer, as well as for other services to the state and society [5, p. 310].

However, in the definition, the author does not clarify the relationship between disciplinary proceedings and incentives, because their application mechanisms are completely different.

Conclusions. So, we can formulate our own vision of the concept of "disciplinary proceedings in the units of the National Police" as the activity of authorized officials of the National Police and the Ministry of Internal Affairs of Ukraine regulated by different legal acts, aimed at establishing the grounds and resolving the issue of applying the provisions of the law measures of disciplinary influence on police officers, in order to ensure lawfulness and discipline.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

The article deals with study of disciplinary proceedings in the units of the National Police as an important element of the administrative and legal activities of the police. In the context of the article, it is determined that disciplinary proceedings in the bodies of the National Police serve as an important structural element of the administrative-jurisdictional process and a form of bringing police officers to disciplinary responsibility for violation of official discipline.

It has been established that the current legislation does not recognize such a concept as "disciplinary proceedings in units of the National Police". It was determined that one of the key problems is the need to ensure effective and high quality of police service in the conditions of increasing complexity of social challenges, which calls into question the ability of existing processes of disciplinary proceedings to meet modern requirements.

It was determined that the legal basis of disciplinary proceedings in the bodies of the National Police is characterized by multi-level sectoral regulation, both horizontally and vertically. It was found that disciplinary proceedings are regulated not only by the norms of administrative law and process, although it also refers to the administrative and jurisdictional activities of the police.The article also analyzes the different views of scientists regarding the definition of the concept of "disciplinary proceedings in the units of the National Police", as well as the author's definition of the concept of "disciplinary proceedings in the units of the National Police" as regulated by various normative legal acts, the activities of authorized officials of the National Police of the police and the Ministry of Internal Affairs of Ukraine, aimed at establishing the grounds and resolving the issue of the application of disciplinary measures to police officers provided for by law, in order to ensure legality and discipline.

Keywords: *disciplinary proceedings, administrative-jurisdictional activity, statute, disciplinary responsibility.*

COMBATING OFFENCES: ADMINISTRATIVE-LEGAL, CRIMINAL-LEGAL AND CRIMINOLOGICAL ASPECTS

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Kateryna BURIAK©
Ph.D. (Law)
(Ukrainian State University of Chemical Technology, Dnipro, Ukraine)

FOREIGN EXPERIENCE OF CRIME PREVENTION IN THE FAMILY SPHERE

Катерина Буряк. ЗАРУБІЖНИЙ ДОСВІД ЗАПОБІГАННЯ ЗЛОЧИННОСТІ У СІМЕЙНІЙ СФЕРІ. У статті зазначено, що у різних країнах наслідкамами злочинності у сімейній сфері можуть бути психічні, фізичні, економічні та сексуальні травми, які можуть стати загрозою для життя і здоров'я не тільки подружжя , а також і їх дітей. Тому злочинність у сімейній сфері – це не тільки вітчизняна проблема, це також і міжнародна проблема. Визначено, що початком попередження злочинності у сімейній сфері в зарубіжних країнах варто вважати результати активності жіночого руху на міжнародному рівні відобразилися у хронології конференцій, у текстах декларацій і конвенцій Організації Об'єднаних Націй (ООН), резолюцій регіональних міжнародних організацій, інших міжнародних документів останніх десятиріч, серед яких, насамперед, слід виділити Конвенцію ООН про ліквідацію усіх форм дискримінації стосовно жінок. Варто також наголосити, що проведене нами вивчення зарубіжного досвіду попередження злочинності у сімейній сфері засвідчило, що у Європі завдяки активним діям міжнародних правозахисних організацій істотно розширилися уявлення про дотримання прав людини, зокрема, змінилося розуміння відповідальності держави за вчинення особою – кривдником або кривдницею кримінального правопорушення. У статті досліджується досвід попередження злочинності у сімейній сфері у США, Швеції, Німеччині, Ізраілі, Греції, Франції, Великобританії. Подальша інтеграція України до ЄС та Євроатлантичного безпекового простору відкриє перед нашою державою чимало інструментів для попередження злочинності у сім'ї. Проте вже зараз в Україні на основі зарубіжного досвіду можна впроваджувати кампанії з підвищення обізнаності про домашнє насильство, надавати юридичну підтримку, забезпечувати безпечне середовище та усунення шкоди від насильства, проводити дипломні програми з гендерного насильства. Отже, осмислення світового досвіду попередження злочинності у сімейній сфері дасть змогу прискорити успішне вирішення цієї проблеми спільними зусиллями державних та не державних інституцій громадськості.

Ключові слова: *запобігання злочинності, сімейна сфера, кривдник, насильство.*

Relevance of the study. The problem of crime prevention in the family sphere is universal, Ukraine, as a socially legal state, is not an exception, and therefore its social orientation should be expressed in the appropriate service of civil society, the creation of necessary and sufficient conditions to prevent the perpetrator from committing criminal offenses in the family by implementing economic, social and cultural human rights, guaranteeing his social protection and social security, based on the principles of justice, proportionality and a harmonious combination (balance) of the interests of society and the family.

Crime in the family and domestic sphere essentially coincided with the recognition of the principle of equality between women and men and its comprehensive consolidation in numerous international legal acts. By the way, the analysis of international legal acts conducted

ORCID iD: https://orcid.org/0000-0001-6265-9706
industry_econom@udhtu.edu.ua

by us in the study confirms the equality of the rights of women and men, the recognition of everyone's right to life, liberty and bodily integrity, the prohibition of torture or cruel, inhuman or degrading treatment and punishment.

Recent publications review. Such scientists as L. Barbarosh, A. Blaga, I. Bogatyrov, A.Zakalyuk, M. Kelman, M. Kostitsky, O. Kulik, O. Litvinov, S.Luchko, M. Panov, P. Rabinovich, G. Fedotova and others paid attention in their works to certain problems of prevention in the family sphere.

The research paper's objective. The urgent issues of violence in the family, sexual, mental, financial freedom, which have become especially acute under the conditions of martial law in Ukraine, determine the need to study foreign experience in this area.

Discussion. The EU and its Member States work together to prevent and combat violence against women and girls, protect victims and punish perpetrators. After all, violence against women and girls is one of the most systematic and widespread violations of human rights throughout the world. EU countries are no exception. Unfortunately, every third woman has experienced physical or sexual violence, mostly by intimate partners.

For example, during the COVID-19 pandemic, there has been a significant increase in physical and emotional violence against women. Reports suggest that calls to domestic violence helplines have increased fivefold in some countries.

Online violence is also on the rise, targeting in particular young women and women in public life, such as journalists and politicians. Women also experience violence at work: around a third of women in the EU who have experienced sexual harassment have experienced it at work.

The EU and its Member States are working on different fronts to end gender-based violence, protect the victims of this horrific crime and punish the perpetrators.

There is currently no specific legislation on violence against women and domestic violence in the EU. However, this issue is covered by some EU directives and regulations, in particular in the areas of judicial cooperation in criminal matters, equality between women and men and asylum policy.

For example, the EU directive establishing minimum standards for the rights, support and protection of all victims of any crime ensures that the rights of victims of gender-based violence are ensured at all stages of the criminal process.

On March 8, 2022, the European Commission proposed a new directive to combat violence against women and domestic violence. The proposal is aimed at ensuring a minimum level of protection in the EU against such violence.

The new rules criminalize a range of offences, including female genital mutilation and cyberbullying.

Cyberbullying includes the non-consensual exchange of intimate images, cyberstalking, and cyberincitement to violence or hatred.

The directive will also ensure that victims of violence have: access to justice; the right to claim compensation; access to toll-free telephone help lines and rape crisis centers.

On 9 June 2023, the European Council (hereinafter referred to as the Council) agreed its position on the proposed Directive on preventing and combating violence against women and domestic violence.

The already mentioned Istanbul Convention of 2014 was signed by the EU on June 13, 2017. In February 2023, the Council requested the consent of the European Parliament to adopt a decision on the conclusion of the convention by the EU. On June 1, 2023, the Council adopts a decision on the accession of the EU to the Convention.

A woman's right to live free from violence is also supported by international agreements such as the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the United Nations Declaration on the Elimination of Violence against Women (1993).

In 2020, the European Commission adopted a gender equality strategy for the period 2020-2025. The strategy envisages an ambitious set of measures to end violence against women and domestic violence. With this strategy, the EU confirmed its commitment to: preventing and combating gender-based violence; support and protection of victims; bringing the culprits to justice [1].

In particular, it was under public pressure that state subsidization of crisis centers for family crime victims began in most European countries. Since the previous laws did not take into account the specifics and complexity of crime in the family and household sphere, the

legislator began to make various changes and additions to civil, administrative, and criminal legislation in order to prevent it, and most states began to develop special laws, the purpose of which was to create a legal basis to implement a comprehensive approach to solving the problems of crime prevention in the family and household sphere. Such laws are now in force in most European Union states.

For example, the Federal Republic of Germany, where the problem of crime in the family sphere is more relevant than ever. That is why the federal government calls the effective fight against violence against women, assistance to victims and consistent punishment of criminals among its most important tasks. The main preventive work in this direction is entrusted to the Federal Ministry for the Family, the Elderly, Women and Youth of Germany (Bundesministerium für Familie, Senioren, Frauen und Jugend).

The most widespread measures of police influence on crime in the family sphere include: removal from the apartment (house) of the person from whom the danger emanates (Wohnungsverweisung); prohibition of the person who poses a danger to enter the apartment (house) (Rückkehrverbot); removal from a certain place of the person from whom the danger emanates (Platzverweis); prohibition of stay (appearance) in a specified place for a person who poses a danger (Aufenthaltsverbot); prohibition of entering into contact (verbal contact on the street, by telephone, by e-mail, etc.) with the person from whom the danger emanates (Kontaktverbot); in particularly serious cases, the person from whom the danger emanates is taken into custody (Ingewahrsamnahme).

Among the measures taken by the state to prevent crime in the family sphere in Germany is concern for future generations. The German scientist K. Seitt [2, p.249-254] writes that if children saw their parents being openly abused by each other, their psyche suffers greatly. In most cases, they perceive violence as the basis of family relations, and are subject to exploitation and violence by their parents in the future.

Another European country, Great Britain, attaches great importance to the prevention of crime in the family sphere. According to the 2004 law, domestic violence is any incident of threats, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been roommates or against family members, regardless of gender, sexual orientation [3].

It is worth noting that the problem of crime in the family sphere forces Great Britain to look for optimal ways to prevent it. The main body for the prevention of such crime is the police, its main task is to ensure that the participants in the family conflict do not exceed the legal prohibition.

This form of work of the British police is also relevant for the National Police of Ukraine, because when going to a family conflict, employees can prevent the commission of a criminal offense by their actions, and can, on the contrary, provoke it after drawing up a protocol or a verbal warning.

This is very important to understand, because when going to family conflicts, police officers must be ready to solve any problem. First, it is worth clarifying the current legislation, and then deciding whether to apply the norms of administrative or criminal impact on the offender.

The experience of the Anglo-Saxon countries in the prevention of crime in the family sphere shows that this problem is constantly under the control of the state, and therefore it is the state that provides adequate funding for specialists of local support services and national hotlines, which respond to all types of criminal offenses committed in family sphere, while it is worth emphasizing that it is the state that is interested in providing all kinds of help and support to victims of criminal offenses committed in the family.

Interesting for our research is the experience of prevention of domestic crime in Sweden, in particular, due to the creation of a wide demand for the principles of gender equality and the preparation of the foundations for public policy aimed at ensuring equal opportunities for women and men in the formation of society and their own lives, the Swedish Government initiated four specific goals: equal distribution of power and influence on the decision-making process; economic equality and equal access to education; equal distribution of unpaid services and housework; ending men's violence against women[4].

Thus, the first serious step at the level of legislation was the introduction of a restrictive prescription, which was introduced by the relevant Law in 1988. The purpose of the Act was to prevent crimes against persons who are subject to persecution and harassment, as well as to create a sense of security for them. The law was designed to be gender-neutral, but

based on its rationale, it is clear that the law was intended to apply in situations where a woman has experienced violence or threats while in a relationship, or where a man stalks and harasses a woman in an intimate relationship that has already ended[5].

In 1998, a new crime was introduced in the Criminal Code of the Kingdom of Sweden – gross violation of a woman's integrity. By the way, a new definition was also introduced: "Sexual harassment", which means unwanted behavior based on sex or unwanted behavior of a sexual nature that violates the integrity of the employee at work [6].

Interesting from the point of view of the problem of crime in the family sphere that we are researching is the experience of Israel, where corporal punishment in the family is excluded. Any physical violence humiliates a person, and the threat of violence is considered psychological violence and is considered a crime. According to Israel's Law "On the Prevention of Domestic Violence", adopted back in 1991 (with further revision in 2001), not only the husband has the right to apply to the court for a protection order in order to obtain a ban on living in the apartment (home) of a family member who shows violence. The law provides a broad definition of a family member who has the right to file a lawsuit for a protection order: a divorced spouse, a grandparent, brothers or sisters, a child of a spouse, siblings of a spouse, uncles and aunts, nephews, common-law spouse , as well as a same-sex couple [7].

In the course of our research, we also paid attention to the experience of crime prevention in the domestic sphere in Greece, in particular, the Law "On Combating Domestic Violence", primarily aimed at protecting the basic rights of women and children, combating physical and sexual violence, as well as providing support and assistance to victims of domestic violence. According to its provisions, causing harm to health (causing bodily harm, beatings, etc.) in the family is considered an aggravating circumstance (as well as assaulting a woman who is known to the perpetrator to be pregnant), criminalized sexual violence against a spouse, intimate partner and corporal punishment of children, implemented protection measures (both legal and physical) for victims of domestic violence, a restraining order (according to which the offender is excluded from access to the place of residence / stay of the victim and (or) her close relatives, education of children, etc.) and a program psychological correction for offenders [8, p. 12].

The experience of France became interesting for our research. In particular, its statistical data revealed one of the types of criminal offenses, domestic violence. It was this type of criminal offense that forced the state leadership to take drastic steps to eradicate such negative trends. So, every year in France, active work is carried out to study the intensity of domestic violence. By the way, the monitoring of the situation of domestic violence in France was started quite a long time ago and currently from 200 thousand to 2 million women in France are victims of domestic crime, 400 die annually from beatings inflicted by a man in the family, that is, more than one woman daily[9].

In the United States of America (USA), the prevention of crime in the family sphere prevails in importance over other areas of crime fighting. The American experience in combating domestic violence is characterized by the presence of special norms in the criminal legislation, detailed regulation of the law enforcement activities of the police, prosecutor's office, courts, and the existence of a powerful social structure for the protection of victims of such violence [10].

Conclusions. The study of foreign experience of crime in the family sphere shows that its problem is relevant for all countries of the world, and therefore the introduction of the best foreign practices into domestic legislation will help Ukraine to solve a number of problems that arise today in our country in the work of law enforcement agencies in the prevention of crime in the family sphere.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The article states that in various countries, the consequences of crime in the family sphere can be mental, physical, economic and sexual injuries, which can become a threat to the life and health of not only spouses, but also their children. Therefore, crime in the family sphere is not only a domestic problem, it is also an international problem. It was determined that the beginning of the prevention of crime in the family sphere in foreign countries should be considered the results of the activity of the

women's movement at the international level reflected in the chronology of conferences, in the texts of declarations and conventions of the United Nations (UN), resolutions of regional international organizations, and other international documents of the last decades , among which, first of all, the UN Convention on the Elimination of All Forms of Discrimination against Women should be singled out. It is also worth emphasizing that our study of foreign experience in the prevention of crime in the family sphere proved that in Europe, due to the active actions of international human rights organizations, the concept of observing human rights has significantly expanded, in particular, the understanding of the responsibility of the state for the commission of a criminal offense by a person – an offender – has changed. The article examines the experience of crime prevention in the family sphere in the USA, Sweden, Germany, Israel, Greece, France, Great Britain. Further integration of Ukraine into the EU and the Euro-Atlantic security space will open up to our state many tools for preventing crime in the family. However, already now in Ukraine, based on foreign experience, it is possible to implement campaigns to raise awareness about domestic violence, provide legal support, provide a safe environment and eliminate harm from violence, conduct diploma programs on gender violence. Therefore, understanding the global experience of crime prevention in the family sphere will make it possible to speed up the successful solution of this problem through joint efforts of state and non-state institutions of the public.

Key words: *crime prevention, family sphere, offender, violence.*

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Valentyn LIUDVIK ©
Ph.D. (Law), Associate Professor
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

CRIMINAL LIABILITY FOR VIOLATION OF THE LAWS AND CUSTOMS OF WAR

Валентин Людвік. КРИМІНАЛЬНА ВІДПОВІДАЛЬНІСТЬ ЗА ПОРУШЕННЯ ЗАКОНІВ ТА ЗВИЧАЇВ ВІЙНИ. У науковій статті досліджені проблемні питання статті 438 (Порушення законів та звичаїв війни) Кримінального кодексу України. Розкриті форми вчинення цього злочину, а саме: жорстоке поводження з військовополоненими або цивільним населенням, вигнання цивільного населення для примусових робіт, розграбування національних цінностей на окупованій території, застосування засобів ведення війни, заборонених міжнародним правом, інші порушення законів та звичаїв війни, що передбачені міжнародними договорами, згода на обов'язковість яких надана Верховною Радою України, віддання наказу про вчинення таких дій.

Ключові слова*: війна, закони війни, звичаї війни, цивільне населення, військовополонені, національні цінності.*

Relevance of the study. According to the official statistics of the Office of the Prosecutor General "On registered criminal offences and the results of their pre-trial investigation", 12 criminal offences were registered under Article 438 of the Criminal Code in 2019, 223 criminal offences in 2020, 172 criminal offences in

2021, 60387 criminal offences in 2022, and 22168 criminal offences in January-April 2023 [1]. That is, we see that since the full-scale invasion of Russia, the number of recorded criminal offences under Article 438 of the Criminal Code has increased hundreds of times.

Practitioners of pre-trial investigation and court have to interpret Article 438 of the Criminal Code, taking into account that this provision is of a blanket nature and to clarify its content it is necessary to refer to international legal acts ratified by Ukraine.

ORCID iD: https://orcid.org/0000-0002-3385-6046
lyudvikvd@i.ua

Recent publications review. Problematic issues of criminal liability for violations of the laws and customs of war are usually studied within the framework of war crimes. War crimes have been studied in the works of scholars in the field of international and criminal law, in particular: V. Glushkov, V. Emelianov, V. Navrotskyi, A. Naumov, V. Panov, A. Piontkovskyi, A. Traynin, P. Fries, M. Khavroniuk and others. In the modern science of criminal law, the only dissertation study by V. Mironova "Criminal liability for violation of the laws and customs of war" (2008, DSUIA), as well as the monograph by the same author "Problems of criminal liability for violation of the laws and customs of war" [2], were devoted to the issues of criminal liability for violation of the laws and customs of war. After the aggression of the russian Federation against Ukraine, Ukrainian scholars turned their attention to certain issues of criminal liability for violation of the laws and customs of war, in particular, A. Vozniuk, M. Pashkovsky, M. Khavroniuk, V. Myslyvyi, O. Shapovalov, K. Popov and others.

The article's objective is to analyze and elaborate on the provisions of Article 438 (Violation of the Laws and Customs of War) of the Criminal Code of Ukraine.

Discussion. Art. 438 of the Criminal Code of Ukraine "Violation of the laws and customs of war" contains 2 parts.

The generic **object of** this crime is public relations in the field of protection of peace, human security and international law and order. The immediate main object is social relations in the field of compliance with international law during warfare. In addition to the immediate main object, the analysed crime also includes an immediate additional object, which includes social relations in the field of protection of life and health, property, freedom, honor and dignity of a person, etc.

The subject of the crime committed in the form of "looting of national property in the occupied territory" is national property. The concept of national values is not defined at the legislative level. As a rule, national values are understood as objects, phenomena and their properties that satisfy the needs of an individual, society and the state for safe existence and progressive development [2, p. 18]. In the context of the analysed crime, national values as the object of the crime should be understood as property in respect of which the state of Ukraine has established a special legal regime and which satisfies the needs of an individual, society and the state for safe existence and progressive development.

In committing certain forms of this crime, the legislator has specified special victims, namely prisoners of war and civilians. Prisoners of war should be understood as persons captured by the enemy and belonging to one of the categories defined in Article 4 of the Geneva Convention relative to the Treatment of Prisoners of War [3].

The civilian population includes those persons who, at any time and under any circumstances, find themselves, in the event of a conflict or occupation, under the authority of a party to the conflict or of an occupying power of which they are not nationals (Article 4 of the Convention relative to the Protection of Civilian Persons in Time of War) [5]. At the same time, they did not and do not participate in the armed struggle.

The objective side of the crime may be committed in one of the following forms:

1) Ill-treatment of prisoners of war or civilians;

2) Expulsion of civilians for forced labour;

3) Looting of national property in the occupied territory;

4) Use of means of warfare prohibited by international law;

5) Other violations of the laws and customs of war, as provided for by international treaties ratified by the Verkhovna Rada of Ukraine;

6) Issuing an order to perform such actions.

In the Ukrainian language, the term "cruel" is interpreted as showing severity, harshness, mercilessness, ferocity; heartless, ruthless [6, p. 544]. The term "ill-treatment" is not defined in national legislation or in international documents ratified by the Verkhovna Rada of Ukraine. In our opinion, ill-treatment should be understood as such actions of perpetrators aimed at causing physical or mental suffering to prisoners of war or civilians. Such actions, in particular, include:

– Violence against life and person, including all forms of murder, mutilation, ill-treatment and torture;

– hostage-taking;

– outrages on human dignity, including insulting and humiliating treatment;

– conviction and punishment without a prior judgement rendered by a duly constituted

court that provides judicial guarantees recognized by civilized nations as necessary [4, 5], etc.

The expulsion of civilians for forced labour should be understood as the coercion of civilians to perform unpaid work or work that is not paid fairly, i.e. clearly not commensurate with the effort expended.

According to Art. 40 of the Convention relative to the Protection of Civilian Persons in Time of War, protected persons may be engaged in forced labour only to the same extent as nationals of the State party to the conflict on whose territory they are located [5].

Citizens of the adversary state can be involved only in such types of forced labour, the performance of which is necessary to provide food, shelter, clothing, transport and human health and which are not directly related to military operations [5].

The looting of national property in the occupied territory should be understood as the illegal seizure of property (by any means) in respect of which the state of Ukraine has established a special legal regime in the territory temporarily under the authority of the army of another state with its subsequent removal from the occupied territory for the purpose of turning it over to another state or other persons. Occupied territory should be understood as the territory that is actually under the authority of the enemy army (Article 42 of the IV Convention relative to the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land) [7].

In cases where national property is destroyed or significantly damaged, the actions of the perpetrators should be qualified as other violations of the laws and customs of war. Thus, for example, Article 53 of the Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 prohibits: "any destruction by the Occupying Power of movable or immovable property, whether individually or collectively owned by private persons or by the State or by other public institutions or social or cooperative organizations, except as necessary for the conduct of military operations" [5].

Another form of the objective aspect of the crime in question is the use of means of warfare prohibited by international law. In particular, the following are prohibited:

– means of warfare that cannot be directed at specific military objectives; or whose effects cannot be limited [8];

– the use of asphyxiating, poisonous and other similar gases and bacteriological agents in warfare [9];

– specific types of conventional weapons that may be considered to cause excessive damage or have indiscriminate effects [10];

– to use weapons, projectiles, substances capable of causing excessive damage or excessive suffering, means of warfare that are intended to cause or may be expected to cause widespread, long-term and serious damage to the natural environment [11];

– to use laser weapons specially designed for use in hostilities solely or in particular to cause permanent blindness to the visual organs of a person who does not use optical devices, i.e. unprotected visual organs or visual organs that have vision correction devices [12];

– use mines, booby traps or other devices specifically designed to detonate when a munition is detected by publicly available mine detectors as a result of their magnetic or other non-contact effects during normal use in detection operations [13];

– use self-deactivating mines equipped with a non-retrieval element that is designed in such a way that the non-retrieval element is able to function after the mine has lost its ability to function [14];

– explosive bullets and bullets that easily turn around or flatten in the human body (bullets with a hard shell that does not completely cover the core or has incisions) [13];

– projectiles weighing less than 400 grams, explosive or equipped with an explosive or incendiary substance [14];

– torpedoes without a self-destruct device [14];

– automatic underwater contact mines, which are attached to minesweepers when they are no longer safe if they are dislodged from their anchors [14];

– incendiary weapons against the civilian population and civilian objects, as well as for the destruction of forests and other types of vegetation, except as specified in the Basic Requirements of Protocol III "On Prohibitions or Restrictions on the Use of Incendiary Weapons" to the 1980 UN Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects" [14], etc.

In our opinion, when prohibited methods of warfare are used, the actions of the

perpetrators should be qualified as other violations of the laws and customs of war.

Another form of committing the analysed crime is other violations of the laws and customs of war, which are provided for by international treaties ratified by the Verkhovna Rada of Ukraine. Other violations of the laws and customs of war include such violations of international treaties that are not covered by other forms of this crime enshrined in the disposition of Article 438 of the Criminal Code of Ukraine. Other violations include, in particular: looting; treacherously kill or wound persons belonging to the enemy nation or army; to kill or wound an enemy who, having laid down his arms or no longer having any means of defense, has unconditionally surrendered; declare that there will be no mercy; improperly use the parliamentarian's flag, national flag or military insignia and uniforms of the enemy, as well as distinctive signs under the Geneva Convention; to declare the rights and claims of citizens of the opposing party cancelled, suspended or inadmissible for consideration in court.

The belligerent is also prohibited from forcing citizens of the opposing party to participate in hostilities directed against their own state, even if they were in the service of such belligerent before the outbreak of war.

Indiscriminate attacks (except in cases of use of prohibited means of warfare during such attacks), (Article 51 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), of 8 June 1977) [8], Indiscriminate attacks include:

a) attacks not directed at specific military objectives;

b) attacks that use methods or means of warfare that cannot be directed at specific military objectives;

c) attacks which employ methods or means of warfare whose effects cannot be limited as required under this Protocol; and which, in each such case, strike military objectives and civilians or civilian objects without distinction;

d) an attack by bombardment, by any method or means, which treats as a single military objective a number of clearly connected and distinguishable military objectives located in a town, village or other area where civilians or civilian objects are concentrated;

e) an attack which may be expected to cause incidental loss of civilian life, injury to civilians and damage to civilian objects, or both, which would be excessive in relation to the specific and immediate military advantage to be obtained [8].

A general list of international treaties of Ukraine in the field of international humanitarian law that enshrine the laws and customs of war was provided by Mykola Khavroniuk in his article "Criminal liability for violation of the laws and customs of war: twenty questions and answers" [15].

The final form of committing this crime is giving an order to perform the actions described above. An order should be understood as a requirement of a superior to his/her subordinates to perform or not to perform certain actions. Thus, in wartime, the issuance of an order should be understood as a military official (by any means) communicating to subordinate personnel a requirement to perform or not to perform certain actions. Such orders include, in particular, the order not to leave anyone alive [8], the order to shoot prisoners, not to provide assistance to the wounded, to shoot civilians, etc.

An obligatory element of the objective side of this crime is the time of its commission, namely during the war. War should be understood as all cases of declared war and cases of any other armed conflict between states, even if one of them does not recognize the state of war (Article 2 of the Convention relative to the Protection of Civilian Persons in Time of War) [5].

In the verdict of the International Military Tribunal over the main war criminals of European countries, the Nuremberg Tribunal defined war as "the implementation of politics by means of violence" [16, p. 35].

The above-mentioned "Instruction on the Procedure for the Implementation of International Humanitarian Law in the Armed Forces of Ukraine", approved by the Order of the Ministry of Defense of Ukraine of 23.03.2017 No. 164, states: "The norms of international humanitarian law come into force with the beginning of an armed conflict or an operation to maintain peace and security. The scope of obligations of a party to an international armed conflict (war) is determined by both customary law and treaty-based international humanitarian law ratified by each party.

During a non-international armed conflict, the scope of IHL obligations for the parties to the conflict (the state and anti-government forces) is determined by common Article 3 of the Geneva Conventions of 1949 and the Second Additional Protocol of 1977, other conventions

ratified by the state, as well as customary international humanitarian law.

During international armed conflicts, the application of the rules ceases with the general cessation of hostilities, and in the occupied territory – with the end of the occupation, except for the application to persons whose release, repatriation or placement will be carried out after these periods. These persons shall be protected by the relevant provisions of the Geneva Convention and Additional Protocol I until their release, repatriation or placement" [14].

By its construction, the offence under Article 438 of the Criminal Code of Ukraine is formal, i.e. it is considered completed from the moment of committing at least one of the forms of the objective side specified in the disposition of the article.

Subject of the crime. According to Article 18 of the Criminal Code of Ukraine, the subject of a criminal offence is a natural, sane person who has committed a criminal offence at the age from which criminal liability may arise under the Criminal Code [17]. The analysis of Article 22 of the Criminal Code of Ukraine allows us to assert that criminal liability for committing a crime under Article 438 of the Criminal Code of Ukraine begins at the age of 16. When committing this offence in the form of "giving an order...", the subject of the offence will be an official who gives orders.

Subjective side of the crime. This crime can be committed only intentionally and only in the form of direct intent, namely, the perpetrator is aware of the socially dangerous nature of his/her act, is aware that he/she is ill-treating prisoners of war or civilians, expels civilians for forced labour, loots national property in the occupied territory, uses means of warfare prohibited by international law, commits other violations of the laws and customs of war provided for in international treaties ratified by the Verkhovna Rada of Ukraine or orders the above actions and wishes to do so.

Qualifying features. The second part of Art. 438 of the Criminal Code of Ukraine contains an aggravating circumstance, namely the acts provided for in Part 1 of Art. 438 of the CCU, if they are combined with intentional murder. The concept of murder is defined in Part 1 of Article 115 of the Criminal Code of Ukraine, according to which murder is the intentional unlawful infliction of death on another person [17]. At the same time, there is no need to additionally qualify the perpetrator's actions under Article 115 of the CC of Ukraine.

Conclusions. On 20 May 2021, the Verkhovna Rada of Ukraine adopted the law "On Amendments to Certain Legislative Acts of Ukraine on the Implementation of International Criminal and Humanitarian Law", which is still pending the President's signature [18]. According to this law, the Criminal Code of Ukraine is to be supplemented with a number of articles that provide for criminal liability for violations of the laws and customs of war, in particular:

Article 438. War crimes against a person.

Article 438^1. War crimes against property.

Article 438^2. War crimes involving the use of prohibited methods of warfare.

Article 438^3. War crimes involving the use of prohibited means of warfare.

Article 438^4. War crimes against humanitarian operations and the use of symbols.

Article 438^5. War crimes against cultural property protected by international humanitarian law.

In our opinion, the signing of this law by the President will greatly facilitate the prosecution of those responsible for violating the laws and customs of war.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article examines the problematic issues of Article 438 (Violation of the Laws and Customs of War) of the Criminal Code of Ukraine. The author reveals the forms of this crime, namely: cruel treatment of prisoners of war or civilians, expulsion of civilians for forced labour, looting of national property in the occupied territory, use of means of warfare prohibited by international law, other violations of the laws and customs of war provided for by international treaties ratified by the Verkhovna Rada of Ukraine, and ordering such actions.

***Keywords**: war, laws of war, customs of war, civilians, prisoners of war, national values.*

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Liliia TIMOFIEIEVA ©
Ph.D. (Law), Associate Professor
(National University "Odesa Law Academy", Odesa, Ukraine)

THE PROPORTIONALITY OF CRIMINAL LIABILITY FOR SOME CRIMINAL OFFENCES UNDER MARTIAL LAW

Лілія Тімофєєва. ПРОПОРЦІЙНІСТЬ КРИМІНАЛЬНОЇ ВІДПОВІДАЛЬНОСТІ ЗА ДЕЯКІ КРИМІНАЛЬНІ ПРАВОПОРУШЕННЯ В УМОВАХ ВОЄННОГО СТАНУ. У статті досліджуються питання пропорційності кримінальної відповідальності за деякі кримінальні правопорушення в умовах воєнного стану. З урахуванням аналізу тексту закону про внесення відповідних змін, пояснювальної записки до відповідного законопроєкту та практики ВС з'ясовано, що обтяжуюча обставина «з використанням умов воєнного або надзвичайного стану» за п.11 ч.1 ст. 67 КК України та кваліфікуюча обставина «в умовах воєнного або надзвичайного стану» санкцією у ч. 4 ст. 185, ч. 4 ст. 186, ч. 4 ст. 187 ч. 4 ст. 189, ч. 4 ст. 191 КК України мають однакову правову природу. На основі судової практики Верховного Суду встановлено, що кваліфікація крадіжок в умовах воєнного стану у будь-якому розмірі (зокрема у мінімальному) за ч. 4 ст. 185 КК України є не пропорційним засобом впливу

Умови воєнного стану існують по всій території України до закінчення війни. Але це не означає нівелювання основного складу та інших кваліфікуючих ознак складу. Запропоновано уточнити редакцію статті, зокрема з використанням умов воєнного або надзвичайного стану, з використанням безпорадного стану мешканців або інших умов, створених воєнними діями, що полегшують вчинення кримінальних правопорушень в ступені, що значно відрізняється від обставин звичайного життя.

Встановлено, що заходи реагування на військові кримінальні правопорушення мають бути пропорційними та співвідносними з іншими кримінальними правопорушеннями. Обмеження щодо можливості застосування звільнення від кримінальної відповідальності видаються недоцільними та такими, що суперечать Конституції. Поступово до цього списку обмежень можна буде додати всі кримінальні правопорушення виходячи з трендів протидії. Це нівелює існування інституту звільнення від кримінальної відповідальності як такого та порушують принципи кримінального права.

Ключові слова: *принцип пропорційності, умови воєнного стану, використання умов воєнного стану, принцип необхідності, принципи кримінального права.*

Relevance of the study. Principles are the foundation of any branch of law, including criminal law. They have many purely practical aspects that are overlooked. In addition, there is a question regarding the specifics of the implementation of the principles, in particular the principle of proportionality connected with changes related to the theft of property under martial law, as well as increased liability for military criminal offenses.

Recent publications review. A number of scientists and scholars studied the problems related to the application of provisions of criminal law in the conditions of martial law. O. Obodovsky researched the theory and practice of military criminal offenses [2]. O. Ostroglyad examined judicial practice in the Ivano-Frankivsk region regarding the imposition of punishment for theft committed during martial law [3]. N. Savinova investigates the issue of the balance of humanity, justice and non-discrimination [12]. V. Tulyakov studied the issue of regimes of criminal law regulation [15]. M. Khavronyuk investigated the feasibility of introducing amnesty laws in the transitional justice system, in particular regarding military

ORCID iD: https://orcid.org/0000-0002-6968-6587
l.ju.t@ukr.net

personnel [19].

In addition, the issue of applying the provisions of criminal law in the conditions of martial law is studied in the works of: D. Balobanova, N. Gutorova, O. Dudorov, R. Movchan, V. Navrotskyi, Yu. Ponomarenko et al.

However, these questions need further research. Taking into account already existing studies, it is planned to investigate applied issues of the implementation of the principle of proportionality in criminal law in modern conditions.

The article's objective is the optimization of criminal legislation, the formation of a unity of approaches in the practice of law enforcement in terms of the implementation of the principle of proportionality in criminal law.

Discussion. According to the Law "On Amendments to the Criminal Code of Ukraine on Strengthening Liability for Looting" No. 2117-IX dated 03.03.2022, the qualifier "under conditions of war or state of emergency" was added to some articles of the Criminal Code. This, in particular, concerns the commission of theft (Part 4 of Article 185 of the Criminal Code of Ukraine), robbery (Part 4 of Article 186 of the Criminal Code of Ukraine), the commission of robbery (Part 4 of Article 187 of the Criminal Code of Ukraine), extortion (Part 4 of Article 189 of the Criminal Code of Ukraine), committing appropriation, embezzlement of property or possession of it by abuse of official position (Part 4 of Article 191 of the Criminal Code of Ukraine), etc.

The law refers not only to looting, but also to general criminal offenses against property, but "under conditions of war or state of emergency". Looting is provided for in Art. 432 of the Criminal Code of Ukraine. The article provides for criminal liability for theft on the battlefield of things found with the killed or wounded. If the abduction is not related to the battlefield, then the abduction is treated as a property offense. Article 432 of the Criminal Code of Ukraine was also amended to increase liability. Before the mentioned changes, the sanction of this article provided for liability in the form of deprivation of liberty for a period of 3 to 10 years. The sanction became from 5 to 10 years after the changes.

Law of Ukraine "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine Regarding the Elimination of Contradictions in the Punishment of Criminal Offenses" dated July 13, 2023 No. 3233-IX [4] also amends Art. 190 of the Criminal Code of Ukraine ("fraud"). In particular, part 3 of Art. 190 of the Criminal Code of Ukraine is formulated in the following editing: "Fraud committed in conditions of war or state of emergency, which caused significant damage to the victim". Before such changes the Art. 190 of the Criminal Code of Ukraine didn't have qualified corpus delicty connected with conditions of war.

With regard to general criminal offenses against property under conditions of martial law and state of emergency (Part 4 of Article 185, Part 4 of Article 186, Part 4 of Article 187, Part 4 of Article 189, Part 4 of Article 191 of the Criminal Code of Ukraine), in particular, it seems disproportionate to qualify any theft that caused damage in minimal amounts (more than 0.2 of the tax-free minimum income of citizens (minimum social benefit for qualification), i.e. UAH 268.4 in 2023) under a specially qualified corpus delicty with the corresponding sanction.

Such ambiguity of the law caused problems in the practice of its application. In particular, by the Verdict of the Sokyrian District Court of the Chernivtsi Region of Ukraine dated May 25, 2022, the person was convicted under Part 3 of Art. 185 of the Criminal Code of Ukraine to the penalty of imprisonment for a term of 3 years, according to Part 4 of Art. 185 of the Criminal Code of Ukraine – for a term of 5 years of imprisonment. On the basis of Art. 70 of the Criminal Code of Ukraine, for a set of criminal offenses, the punishment in the form of 5 years of imprisonment was finally imposed. On the basis of Articles 75 and 76 of the Criminal Code of Ukraine, the person was released from serving the sentence of probation with a probationary period of 3 years. Thefts of other people's property were committed on February 8, March 8 and 9, 2022 in the territory of the village of Belousivky, Dnistrovsky district, Chernivtsi region.

According to paragraph 32 of the Resolution of the Supreme Court of March 28, 2023, case No. 722/594/22, proceedings No. 51-3186km22, the panel of judges of the Supreme Court of Ukraine believes that "the clearly expressed intention of the legislator does not give grounds to believe that the purpose of this law was to exclude the possibility of applying parts 1-3 of articles 185-187, 189, 191 of the Criminal Code of Ukraine in circumstances that have nothing to do with the use of the helpless state of residents or other conditions created by military actions that facilitate the commission of crimes to a degree that is significantly different from

the circumstances of ordinary life" [16].

The Board of Supreme Court judges (paragraphs 27-32) refers to the Explanatory Note to the draft law, which states that such changes are made in the context of the situation provided for in Art. 33 of the Geneva Convention on the Protection of the Civilian Population in Time of War (in particular, "robbery is prohibited"). In the justification of the need to adopt the law, it is also stated that military actions "force people to leave their homes and property". Often, such circumstances are used by attackers with the aim of virtually unimpeded possession of this property by breaking into apartments, residential buildings, offices or trade establishments. The conclusion also reflects the intention of the members of the Committee with the help of these changes "to establish a fair punishment for persons who use the helpless state of residents of certain territories during hostilities for robbery and robbery, as well as appropriate other people's property on the battlefield, using tragic circumstances for their own profit" [16].

The Grand Chamber of the Supreme Court, by its decision dated May 25, 2023, in criminal case No. 722/594/22 (proceedings No. 13-27кс23) refused, on procedural grounds, to consider the question put before it by the Criminal Court of Cassation of the Supreme Court regarding the interpretation and application of Part 4 of Art. 185 of the Criminal Code, which establishes criminal liability for committing theft "under martial law".

According to the decision of the Supreme Court of Ukraine dated January 17, 2023 (case No. 404/3367/22, proceedings No. 51-207sk23) [17] the court refused to open cassation proceedings based on the cassation appeal of the defense attorney against the verdict of the Kirovsky District Court of Kirovohrad dated July 28, 2022 and the ruling of the Kropyvnytskyi Court of Appeal of Ukraine dated October 11, 2022 regarding the convicted PERSON_5 for theft by taking away food and low-alcohol beverages for a total amount of 578 UAH from the hypermarket. According to the Supreme Court, the court of first instance correctly stated that the theft was committed under martial law, that is, during the period of martial law on the territory of Ukraine. At the same time, he emphasized that the reasons for the requalification of the actions of PERSON_5 on part 1 of Art. 185 of the Criminal Code of Ukraine does not have, since the commission of a crime under martial law, as a qualifying feature, is not the same concept of the circumstances of the commission of a crime using the conditions of martial law, and therefore the actions of PERSON_5 should be qualified under Part 4 of Art. 185 of the Criminal Code of Ukraine.

It seems that theft under martial law should be distinguished from looting. It seems disproportionate to qualify any theft, in particular, which caused damage in minimal amounts (268.4 UAH in 2023) by a specially qualified corpus delicty with the corresponding sanction in Part 4 of Article 185 of the Criminal Code. Martial law conditions exist throughout Ukraine until the end of the war. But this does not mean the leveling of the main corpus delicty and other qualifying features. The editing of the article should be clarified, in particular with the use of conditions of war or state of emergency, with the use of the helpless condition of residents or other conditions created by military actions that facilitate the commission of crimes to a degree that is significantly different from the circumstances of ordinary life [13].

In May, 2023, the author of the article prepared the Conclusion of the Department of Criminal Law on the letter of the Kherson region of the Prosecutor's Office dated 05 April 2023 No 09/2-297 issue-23. The request referred to the need to clarify the aggravating circumstances "using martial law conditions", "under martial law conditions" in the General and Special parts of the Criminal Code of Ukraine. Taking into account the analysis of the text of the law on the introduction of relevant amendments, the explanatory note to the corresponding draft law and the practice of the Supreme Court of Ukraine, it appears that the aggravating circumstance "using the conditions of martial law or a state of emergency" under point 11, part 1 of Art. 67 of the Criminal Code of Ukraine and the qualifying circumstance "under conditions of war or a state of emergency" by sanction in Part 4 of Art. 185, Part 4 of Art. 187 part 4 of Art. 189, Part 4 of Art. 191 of the Criminal Code of Ukraine have the same legal nature.

Not every commission of a criminal offense during the period of martial law in Ukraine will constitute a qualifying feature of a specific crime or an aggravating circumstance provided for in point 11, Part 1 of Art. 67 of the Criminal Code of Ukraine. Application of point 11, Part 1, Art. 67 of the Criminal Code of Ukraine will depend on the specific circumstances of a specific case. Such a circumstance is applicable in case that specific criminal offenses were committed precisely "with the use of the conditions of martial law or a state of emergency" and

the resulting consequences are in a causal relationship with the use of the relevant circumstance. Such a circumstance cannot be taken into account and blamed automatically just because martial law has been declared on the entire territory of Ukraine.

In a number of decisions of the Constitutional Court of Ukraine, attention is repeatedly drawn to the application and interpretative characteristics of the principles of criminal law, in particular the principles of individualization of responsibility, proportionality, proportionality, justice of punishment, and humanism.

According to the decision of the Constitutional Court of Ukraine in the case of the court imposing a milder punishment No. 15-рп/2004 dated November 2, 2004, the court noted: "A separate manifestation of justice is the question of the appropriateness of the punishment to the committed crime; the category of justice provides that the punishment for the crime should be commensurate with the crime... The law cannot put guilty persons who have committed crimes of minor gravity in a more unfavorable position compared to guilty persons who have committed more serious crimes" [11].

According to the decision of the Constitutional Court of Ukraine in the case of constitutionality of certain provisions of the second paragraph of Article 471 of the Customs Code of Ukraine dated July 21, 2021 No. 3-r(II)/2021, the court established: "the principle of the rule of law, in particular such a requirement of it as the principle reasonableness, are interconnected fundamental principles of the functioning of the entire legal system of Ukraine, including the regulatory establishment of administrative responsibility by the legislator. Therefore, specific sanctions for administrative offenses must be fair and correspond to the principle of appropriateness, that is, the legislator must determine administrative penalties taking into account their justification and need to achieve a legitimate goal, taking into account the requirements of the adequacy of the consequences caused by such sanctions (including for a person, to which they are applied), the damage that occurs as a result of an administrative offense" [10].

According to the decision of the Constitutional Court of Ukraine dated June 15, 2022, in the case regarding the compliance with the Constitution of Ukraine (constitutionality) of Article 485 of the Customs Code of Ukraine (regarding the individualization of legal responsibility), the Constitutional Court of Ukraine noted: "The punishment imposed by the court must correspond to the degree of public danger of the crime, the circumstances of its commission and take into account the person guilty, that is, to be fair. The establishment by the legislator of a non-differentiated punishment and the impossibility of reducing it does not allow the punishment to be applied to persons who have committed crimes of minor gravity, taking into account the degree of gravity of the crime committed, the amount of damage caused, the form of guilt and motives of the crime, the property status of the defendant and other significant circumstances, which is a violation of the principle justice of the punishment, its individualization and appropriateness... The principle of individualization of legal responsibility in the procedure of bringing a person to administrative responsibility on the basis of Article 485 of the Code must be manifested not only in bringing to responsibility the person guilty of committing an offense, but also in assigning him the type and amount of punishment must take into account the nature of the committed illegal act, the form of guilt, the characteristics of this person, the possibility of compensation for the damage caused, the presence of circumstances mitigating or aggravating responsibility" [9].

Based on the position stated in the decision of the Supreme Administrative Court of Ukraine dated November 2, 2004, the panel believes that the principle of individualization and proportionality of punishment also requires not to put persons who have committed crimes of different severity in the same position. Person who took advantage of the actual circumstances of a state of war or emergency and person who committed crimes under normal circumstances are in a significantly different situation. The non-discriminatory application of the same punishments to them not only does not pursue the goal stated by the legislator, but also does not ensure reasonable proportionality of the measures taken and the goal, even if such a goal were stated.

O. Ostroglyad analyzed the decisions of the courts of the Ivano-Frankivsk region, as remote from the zone of direct hostilities for the period July 1 – September 1, 2022. During this period, 56 verdicts were handed down (not all of them related to acts committed after March 6, 2022) accused of committing acts provided for in Art. 185 of the Criminal Code of Ukraine. According to one verdict dated July 1, 2022, "PERSON_1 should be found guilty of the criminal offense provided for in Part 4 of Art. 185 of the Criminal Code of Ukraine and punish

him with the application of Art. 69 of the Criminal Code of Ukraine in the form of imprisonment for a term of 2 (two) years". Moreover, Person 1 has part of the unserved sentence from the previous sentence. In total, there are 11 analyzed sentences of this type, the punishment ranges from a fine of 17,000 hryvnias, 3 months' imprisonment, to 4 years' imprisonment. In most cases, 3 years of imprisonment. Another verdict already with the appointment of a punishment within the scope of the sanction of Part 4 of Art. 185 of the Criminal Code up to 5 years of imprisonment, but further "On the basis of Art. 75 of the Criminal Code of Ukraine, PERSON_1 should be released from serving a sentence of imprisonment with probation, setting a probationary period of one year and six months". There were 6 such sentences, all of them were sentenced to 5 years of imprisonment, a probationary period from 1 year 6 months to 3 years, in most cases – 2 years. In the analyzed judgments there is also a combination of Articles 69 and 75 (sometimes 79) [3].

This problem applies to different regions and different circumstances. But the general qualification of absolutely all thefts under part 4 of Art. 185 of the Criminal Code of Ukraine, taking into account the existence of martial law conditions.

In addition, it is necessary to pay attention to the proportionality of criminal liability for military criminal offenses. According to the Law of Ukraine "On Amendments to the Code of Ukraine on Administrative Offenses, the Criminal Code of Ukraine and other legislative acts of Ukraine regarding the peculiarities of military service under martial law or in a combat situation" dated December 13, 2022 No. 2839-IX [5], a number of changes were made to the Criminal Code of Ukraine.

In particular, according to the changes provided for by this law, person who has committed criminal offenses provided for in Articles 403, 405, 407, 408, 429 of the Criminal Code of Ukraine, committed under martial law or in a combat situation, for torture committed by a representative of a state, including a foreign one it is impossible to impose a milder punishment than that prescribed by law in the presence of several circumstances that mitigate the punishment and significantly reduce the severity of the committed criminal offense (Article 69 of the Criminal Code of Ukraine); the application of exemption from serving a probationary sentence is limited (Article 75 of the Criminal Code of Ukraine).

In addition, the sanction of Part 3 of Art. 403 of the Criminal Code of Ukraine "from three to seven" to "from five to eight". And also the editing of Part 5 of Art. 407 of the Criminal Code of Ukraine, and is formulated as follows: "Unwillingly leaving a military unit or place of service, as well as failure to report on time for duty without valid reasons by a serviceman, committed under martial law or in a combat situation" [5].

In the Explanatory Note to the draft law of December 13, 2022 No. 2839-IX, the need for such changes was justified by the fact that during the ongoing phase of the war and the declaration of martial law in Ukraine, a significant number of cases are being considered for the specified offenses (voluntarily leaving a military unit or place of service by a serviceman), both in criminal and administrative proceedings. According to the developers of this draft law, this judicial practice of handling cases simulates negative behavior among military personnel and nullifies the principle of the inevitability of fair punishment for committing offenses related to the voluntary abandonment of a military unit during the performance of military service duties.

Law of Ukraine "On Amendments to the Criminal and Criminal Procedural Codes of Ukraine on Eliminating Contradictions in the Punishment of Criminal Offenses" dated July 13, 2023 No. 3233-IX again amended Art. 407 of the Criminal Code of Ukraine. In particular, part 4 and part 5 of Art. 407 of the Criminal Code of Ukraine is set out in the following editing: "4. Voluntary abandonment of a military unit or place of service by a serviceman, as well as his failure to report on time for duty without valid reasons for more than three days, committed in the conditions of a special period, except for martial law"; "5. Arbitrarily leaving a military unit or a place of service by a serviceman, as well as his failure to report on time for duty without valid reasons, committed in a combat situation, as well as the same actions lasting more than three days, committed under martial law". That is, responsibility was differentiated depending on the situation in which such actions were committed. The sanction is different if such actions were committed under the conditions of a special period, except for martial law or in a combat situation, or under martial law (lasting more than three days) [4].

At the same time, the admission of relevant exceptions nullifies constitutional norms and principles, in particular, it discriminates against this group of criminal offenses. For such actions, bringing to criminal responsibility without the possibility of transition to a lighter

punishment or exemption from criminal responsibility appears to be a disproportionate measure. The means of criminal law should be perceived as a last resort, and not a way to influence any situation, especially if it concerns "hot" issues for a certain period of time.

As for restrictions on the application of incentive norms regarding specific criminal offenses, they began with their introduction regarding corruption offenses under Part 1 of Art. 45, 46, 47 and 48, Part 4 of Art. 74, p. 1, part 3, art. 81, part. 1, part 4, art. 82 of the Criminal Code of Ukraine according to the Law of Ukraine "On the National Anti-Corruption Bureau of Ukraine" dated October 14, 2014 No. 1698-VII [7]. According to the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Strengthening Liability for Certain Offenses in the Field of Road Traffic Safety" dated February 16, 2021 No. 1231-IX [6], restrictions on the application of the provisions of Art. 45, 46, 47, 48, Part 4 of Art. 74, Part 1 of Art. 75, points 1, 2, part 3 of Art. 81, points 1, 2, part 4 of Art. 82, Part 4 of Art. 86, Part 3 of Art. 87 of the Criminal Code of Ukraine was introduced regarding violations of traffic safety rules or the operation of transport by persons who drove vehicles under the influence of alcohol, drugs or other intoxication or were under the influence of drugs that reduce attention and reaction speed.

About the discriminatory nature such provisions have already been noted in previous works [14]. According to Art. 24 of the Constitution of Ukraine, citizens have equal constitutional rights and freedoms and are equal before the law. In the decision of the Constitutional Court of Ukraine, in the case No. 1-33 /2004 dated November 2, 2004, No. 15-rp/2004 (the case on the appointment of a milder punishment by the court) [11], the provision of Part 1 of Art. 69 of the Criminal Code of Ukraine in the part that makes it impossible to assign to persons who have committed crimes of minor gravity a milder punishment than provided by law, as this violates the principle of equality of citizens before the law in the process of differentiation of criminal responsibility, however, the law should establish uniform principles of application of such responsibility

In the Conclusion of the General Directorate for Human Rights and the Rule of Law of the Council of Europe regarding the draft Law of Ukraine No. 2897 "On Amendments to Certain Legislative Acts of Ukraine Regarding the Introduction of Criminal Misdemeanors", prepared on the basis of research by experts Jeremy McBright, Peter Pavlin and Iva Pushkarova-Gocheva dated 6 of December 2016 indicated the need to revise the restriction on the impossibility of applying exemption from criminal liability for corruption crimes as inconsistent with Protocol 12 to the Convention on the Protection of Human Rights and Freedoms, which prohibits discrimination [1].

As N. Savinova noted, "it is necessary to explain the action of criminal law to the general public, to transform criminal law in the minds of the population into a means of protection and, accordingly, humane, but also fair treatment of criminals. With all criminals. Without discrimination" [12, p. 26].

According to the comment of M. Khavronyuk on his Facebook page dated January 27, 2023, such changes are discriminatory against military personnel, the punishments are disproportionate, and they also add uncertainty. In addition, these provisions equate war crimes with corruption, and treat them on the same level as murders and assaults by the aggressor, based on sanctions. This does not stimulate military personnel to perform their duties effectively.

Also in another work M. Khavronyuk notes that an amnesty for Ukrainian military personnel will become practically necessary, based on the fact that amnesty has not been implemented since 2016, and the number of military personnel convicted by the courts of Ukraine in 2017-2022 is 15,435, most of them convicted of evading military service [19, p. 261].

According to V. Tulyakov, general (separated on the grounds of responsibility), special (separated on the status and social role of the offender) and special (emergent) regimes (separated on the basis of temporal international obligations or features of the political and social situation) can be attributed to individual types of regimes in the country and society). Special regimes that are separated depending on the socio-role characteristics of the perpetrator of the criminal offense, which affect the specifics of prosecution and realization of criminal responsibility. What is more, in this case we are not talking about general or exclusive (in the case of crimes against voting rights) rules of differentiation and individualization of criminal liability, but rather a specific complex regime for dealing with criminal offenders. Among them V. Tulyakov separates: the regime of responsibility for corruption criminal offenses (Article 46

of the Criminal Code of Ukraine); regime of responsibility for criminal offenses of minors (articles 97-108 of the Criminal Code of Ukraine); the regime of responsibility for violations of traffic safety rules or the operation of transport by person who drove vehicles under the influence of alcohol, drugs or other intoxication or were under the influence of drugs that reduce attention and reaction speed, and corresponding to the latter features of exemption from responsibility, punishment , and its execution (Articles 45-48, 55, 74, 75, 81-82, 86-87 of the Criminal Code of Ukraine); regime of quasi-criminal liability of legal entities (Articles 96-3-96-11 of the Criminal Code of Ukraine) [15]. The scientist refers to the restrictive legal regimes: the regime of responsibility for a criminal offense committed under martial law or in a combat situation; extraordinary criminal law regime in the temporarily occupied territory; state of emergency.

According to the draft of the new Criminal Code of Ukraine, developed by the Working Group on the Development of Criminal Law (text as of October 14, 2023) [8], typical sanctions are provided. The Special Part provides for the category of criminal offense (1st degree, 2nd degree, etc.), and there are no sanctions. The General Part provides categories of criminal offenses and punishments that can be provided within the framework of one or another category. In addition, aggravating and mitigating circumstances can change the category of the criminal offense. That is, qualified and mitigating clauses are not provided for in the Special Part. Therefore, we do not duplicate the same aggravating and mitigating circumstances in the General and Special parts. In addition, it contributes to the effective implementation of the principles of differentiation, individualization of criminal responsibility, and proportionality. The presence of standard sanctions would eliminate the problems of culpability in "conditions of martial law" and "with the use of conditions of martial law" in the General and Special parts.

It seems that in the presence of certain features of criminal responsibility for specific categories of persons, there should be uniform approaches to the implementation of the principles.

Conclusions. To sum up, taking into account the analysis of the text of the law on the introduction of relevant changes, the explanatory note to the relevant draft law and the practice of the Supreme Court of Ukraine, it appears that the aggravating circumstance "using the conditions of martial law or a state of emergency" under point 11, part 1 of Art. 67 of the Criminal Code of Ukraine and the qualifying circumstance "under conditions of war or a state of emergency" by sanction in Part 4 of Art. 185, Part 4 of Art. 186, Part 4 of Art. 187 part 4 of Art. 189, Part 4 of Art. 191 of the Criminal Code of Ukraine have the same legal nature.

It seems disproportionate to qualify any theft, in particular, which caused damage in minimal amounts (268.4 UAH in 2023) by a specially qualified corpus delicty with the corresponding sanction in Part 4 of Article 185 of the Criminal Code of Ukraine. Martial law conditions exist throughout Ukraine until the end of the war. But this does not mean the leveling of the main corpus delicty and other qualifying features. The editing of the article should be clarified, in particular with the use of conditions of war or state of emergency, with the use of the helpless state of residents or other conditions created by military actions that facilitate the commission of crimes to a degree that is significantly different from the circumstances of ordinary life.

Not every commission of a criminal offense during the period of martial law in Ukraine will constitute a qualifying feature of a specific crime or an aggravating circumstance provided for in point 11, Part 1 of Art. 67 of the Criminal Code of Ukraine. Application of point 11, Part 1, Art. 67 of the Criminal Code of Ukraine will depend on the specific circumstances of a specific case. Such a circumstance is applicable in case that specific criminal offenses were committed precisely "with the use of the conditions of martial law or a state of emergency" and the resulting consequences are in a causal relationship with the use of the relevant circumstance. Such a circumstance cannot be taken into account and blamed automatically just because martial law has been declared on the entire territory of Ukraine.

Military criminal offenses require an appropriate response from the state. However, such measures should be proportionate and proportionate to other criminal offences. Restrictions on the possibility of applying the exemption from criminal responsibility seem inappropriate and contrary to the Constitution. Gradually, it will be possible to add all criminal offenses to this list of restrictions, based on countermeasure trends. This nullifies the existence of the institution of exemption from criminal responsibility as such and violates the principles of criminal law.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article examines the issue of proportionality of criminal responsibility for some criminal offenses under martial law. Taking into account the analysis of the text of the law on the introduction of relevant amendments, the explanatory note to the corresponding draft law and the practice of the Supreme Court of Ukraine, it was found that the aggravating circumstance "using the conditions of martial law or a state of emergency " under point 11, part 1 of Article 67 of the Criminal Code of Ukraine and the qualifying circumstance "in conditions of war or state of emergency" of sanction in Part 4 of Article 185, Part 4 of Article 186, Part 4 of Article 187 part 4 of Article 189, Part 4 of Article 191 of the Criminal Code of Ukraine have the same legal nature.

On the basis of the judicial practice of the Supreme Court of Ukraine, it was established that the qualification of theft under martial law in any amount (in particular, in the minimum amount) according to part 4 of Article 185 of the Criminal Code of Ukraine is a disproportionate means of influence

Martial law conditions exist throughout Ukraine until the end of the war. But this does not mean the leveling of the main corpus delicty and other qualifying features of the corpus delicty. It is proposed to clarify the editing of the article, in particular, using the conditions of war or a state of emergency, using the helpless state of residents or other conditions created by military actions that facilitate the commission of criminal offenses to a degree that is significantly different from the circumstances of ordinary life.

It is established that measures to respond to military criminal offenses must be proportionate and proportionate to other criminal offences. Restrictions on the possibility of applying the exemption from criminal responsibility seem inappropriate and contrary to the Constitution. Gradually, it will be possible to add all criminal offenses to this list of restrictions, based on countermeasure trends. This nullifies the existence of the institution of exemption from criminal responsibility as such and violates the principles of criminal law.

Keywords: *principle of proportionality, martial law conditions, use of martial law conditions, principle of necessity, principles of criminal law.*

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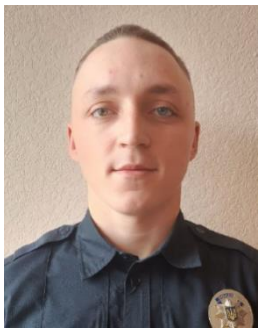
Karina PISOTSKA ©
Ph.D. (Law), Associate Professor
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)



Ihor KRUSHENYTSKYI ©
Cadet
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

PREVENTING AND COMBATING DOMESTIC VIOLENCE UNDER MARITAL LAW: CHALLENGES AND PROBLEM SOLUTIONS

Каріна Пісоцька, Ігор Крушеницький. ЗАПОБІГАННЯ ТА ПРОТИДІЯ ДОМАШНЬОМУ НАСИЛЬСТВУ В УМОВАХ ВОЄННОГО СТАНУ: ВИКЛИКИ ТА ВИРІШЕННЯ ПРОБЛЕМИ. Повномасштабне вторгнення військ країни-агресора на територію України не зупиняє вчинення правопорушень, які були поширеними в нашій державі у мирний час. Так, одним із таких правопорушень є домашнє насильство, яке виступає таким явищем, яке у період воєнного стану може лише загострюватися і при цьому залишатися невидимим.

В статті проаналізовано особливості та актуальні аспекти запобігання та протидії вчиненню домашнього насильства в умовах дії правового режиму воєнного стану. Нами було здійснено дослідження нормативно-правових актів, які регулюють норми протидії домашньому насильству, а також здійснено аналіз наявних в умовах сучасності змін національного законодавства України, які набрали чинності після введення правового режиму воєнного стану.

Крім того, в даній статті було звернено увагу на можливі напрями удосконалення наявних на сьогодні засобів та способі запобігання та протидії домашньому насильству, а також звернено увагу на суб'єктів, які уповноваженні на здійснення такої діяльності. Зокрема, в статі визначено, що домашнє насильство в Україні під час дії правового режиму воєнного стану не втратило своєї та проблема набрала поширеності в суспільстві, в умовах сьогодення.

Щодо способів та засобів запобігання та попередження вчинення домашнього насилля саме в умовах воєнного стану, визначено, що доцільним є проведення регулярних профілактичних бесід із сім'ями, які пережили виїхали із тимчасово окупованих територій: сім'ями, які втратили близьких родичів; сім'ями, в яких близькі родичі воєнні тощо. Тобто, під час воєнного стану досить важливо, щоб загальні та спеціалізовані служби підтримки постраждалих осіб здійснювали належні профілактичні заходи щодо попередження насильства в сім'ї.

Ключові слова: *правовий режим воєнного стану, домашнє насильство, адміністративна відповідальність, форми домашнього насильства, протидія правопорушенням.*

Relevance of the study. In modern conditions, our state must fight not only with the external enemy, but also in a certain way ensure that the rights of its citizens are not violated in the middle of the state. Unfortunately, each citizen of Ukraine reacts differently to what is happening in the country. This is due to the fact that people, being in constant stress and fear, begin to behave differently, and one of these consequences is an increase in the level of violence in families.

Let's pay attention to the fact that many cases of downplaying the problem of domestic violence were observed at the beginning of the full-scale invasion of the occupying forces of the Russian Federation. Currently, the corresponding situation is improving, in particular, thanks to the subjects of response to such offenses, including the police officers, who directly improve the mechanisms of response to cases of domestic violence to the current conditions.

Recent publications review. The issue we investigated regarding the prevention and

© Pisotska K., 2023
ORCID iD: https://orcid.org/0000-0002-9108-2640
pesoczkayakarina77@ukr.net

© Krushenytskyi I., 2023
nnipfpnp@dduvs.in.ua

counteraction of domestic violence was highlighted in the works of many domestic scientists, namely: N. Novytska, T. Malinovska, U. Mytnyk, T. Pertseva, V. Ogorenko, V. Nesterchuk, K. Cherevko, O. Haran, O. Stepanenko, A. Vozniuk, L. Sukmanovska, M. Repan, R. Myronyuk and others. Although the indicated experts have studied the issue of prevention of domestic violence and possible means and methods of combating this offense, in modern conditions there are still a number of unresolved issues that directly relate to the prevention and combating of domestic violence precisely in the conditions of the legal regime of martial law. Dialectical materialism was used as a general method of cognition to achieve the goal of the research and to fulfill the set tasks. The research is based on general scientific (analysis, synthesis, comparison of deduction, induction, analogy, etc.) and private scientific research methods (comparative legal, formal legal, etc.).

The article's objective is to conduct an analysis and research of current issues related to the effective use of means and methods of prevention and counteraction to the commission of domestic violence in the conditions of the legal regime of martial law.

Discussion. The activities of the National Police of Ukraine are directly related to ensuring the protection of the rights, freedoms and legitimate interests of every person, which are defined as fundamental and inviolable by the current Constitution of our country. Any threats to human life or health require the immediate intervention of law enforcement officers, who can use their special skills and knowledge to eradicate negative circumstances that entail certain dangerous consequences.

Specialists and experts note that domestic violence during martial law is a widespread phenomenon that becomes even more dangerous than in peacetime. Low incomes, unemployment, loss of residence – all these are socio-political and economic catalysts for the growth of domestic violence. In addition, it is more difficult for people who have experienced such violence now to find a way out, because they are often limited in their movement, they are even more dependent on the offenders physically and materially, that is, they are in the so-called "circle of violence".

In modern conditions, the occurrence of cases of domestic violence in the family is defined as an actual problem. Every day, the National Police receives statements from people who witnessed or directly suffered from such violent acts. Police officers who respond to this call must analyze the possibilities of a certain threat, as well as plan all further actions and determine the range of methods and means that can be used in that situation.Thus, in accordance with the Law of Ukraine "On the National Police", police officers are authorized in certain cases to apply measures of a preventive and coercive nature [1]. It should also be remembered that this Law does not create certain limits in the activities of the police, because the police can apply any other measures of influence that are clearly defined by the current legislation of Ukraine.

According to statistics, the National Hotline for Prevention of Domestic Violence, Human Trafficking and Gender Discrimination recorded 39,472 calls in 2022, 0,551 in the first quarter of 2023, more than 92 percent of calls related to domestic violence. In addition, in 2022, the police registered 244,281 calls for domestic violence. For example, according to the data of the Lutsk District Police Department, as of 15/05/2023, 1,189 reports of domestic violence were received from citizens, correspondingly the same number of visits to the scene were made, 232 protocols on administrative offenses were drawn up, provided for in Article 173-2 of the Code of Ukraine on Administrative Offenses. 140 urgent injunctions were issued. Regarding the Dnipropetrovsk region, we can note that since the beginning of 2023, almost 12 thousand administrative protocols and more than 7.3 thousand urgent prohibitory orders have been drawn up in the Dnipropetrovsk region. According to Article 126-1 (domestic violence) of the Criminal Code of Ukraine, 213 criminal proceedings have been opened, and in general, 10,000 domestic abusers have been registered with the police [4].

It should be noted that one of the main legislative acts in the researched area is the Law of Ukraine "On Prevention and Counteraction of Domestic Violence", which in the content of its provisions stipulates that domestic violence is an act (action or inaction) of physical, sexual, psychological or economic violence committed in the family or within the limits of the place of residence or between relatives, or between former or current spouses, or between other persons who live (lived) together in the same family, but are not (were not) in family relations or married to each other, regardless of whether the person who committed domestic violence lives (has lived) in the same place as the victim, as well as threats to commit such acts [2]. In addition, in the content of the researched normative legal act, namely in part 3 of Article 6, it is

clearly defined that the entities that carry out measures in the field of prevention and counteraction of domestic violence are authorized units of the National Police of Ukraine. Their powers include entering a person's home without a reasoned court order in urgent cases that are directly related to stopping an act of domestic violence, as well as in case of danger to the life or health of the victim [2].

If we take into account certain statistics of the Institute of Sociological Research of Ukraine, we note the fact that 68 % of women are abused in the family, and a quarter of them suffer from beatings. As stated in Article 3 of the Council of Europe Convention on the prevention of violence against women and domestic violence, and the fight against these phenomena, domestic violence is a complex of all acts of physical, sexual, psychological and economic violence that occur in the family or within immediate place of residence, or between former or current partners, regardless of whether the offender lives in the same place as the victim or not [3].

In addition, when considering domestic violence, it should be noted that it should be considered as a separate type of violent actions during martial law, because it, like any stressful situation, affects the worldview of both the perpetrator and the victim.Certain reasons for such manifestations can be: stereotypes of family upbringing, tensions, conflicts, violence in society, lack of decent living conditions, lack of conscious parenthood and family values, lack of reproductive culture in the population, alcoholism, drug addiction, etc. [5, p. 45].

Regarding the forms of domestic violence, we note that both in peacetime and wartime, violence includes: physical (for example, illegal deprivation of liberty, beatings, slapping, slapping, etc.); psychological (verbal insults, any manifestations of threats, humiliation, harassment, etc.); sexual (sexual harassment, coercion, etc.); economic (deprivation of food, money, housing, documents, etc.); cyber-violence (intimidation through e-mails, hacking of pages in social networks, distribution of false information, personal photos, videos, etc.) [7, p. 24]. The first four forms of domestic violence are defined as those that were identified in peacetime, and regarding the last one identified above, we note that this form is quite widespread in the conditions of martial law.

Specialists and practitioners point out that the most effective, today, is a special measure against domestic violence, which consists in an urgent restraining order (hereinafter, a restraining order). As indicated by the legislator, the latter is used by the authorized units of the National Police of Ukraine as a response to the facts of domestic violence and is aimed at the immediate cessation of domestic violence, elimination of danger to the life and health of the affected persons and prevention of continuation or repetition of such violence.In turn, the patrol, which goes to the incidents of domestic violence, conducts an assessment of the risks of domestic violence at the scene and determines the level of danger, which can be high, medium, or low. Guided by this, the police conduct preventive conversations with the offender to prevent the commission of domestic violence and impose a 10-day tzp. This fact means that during this period, the offender cannot approach the place of residence of the victim (even if he is the owner of the real estate), cannot call, talk, or generally contact the victim of the offense. Based on the results of the review of the materials, the employee of the authorized police unit makes a decision to place the offender on preventive registration [8, p. 118].

Regarding the methods of further prevention of domestic violence, we can note that the court, when deciding on the issue of imposing a penalty for an administrative offense, has the right to simultaneously decide on the issue of sending a person to undergo a program for such persons (offenders). In turn, the main goal of such programs is to provide psychological assistance to persons (often men) prone to aggressive behavior, with the aim of overcoming an aggressive communication style and forming partnership skills in a social environment.

Tasks of programs for work with offenders: 1) to identify and overcome the state of mental stress; 2) feel the limits of one's own personality and build relationships taking into account the recognition of the limits of one's own personality and family members; 3) resolve conflicts constructively; 4) partnership skills; 5) evaluate negative thoughts taking into account their realism and change them to constructive ones that more fully reflect reality and do not cause anxiety, anger, fear, etc. In addition, the specified program makes it possible to provide psychological support: in acquiring skills not to hide one's problems from loved ones and to effectively use the support of others; in overcoming self-doubt and fears that lead to aggressiveness; in overcoming shame for one's own imbalance [9, p. 143]. To the above, it should also be added that in order for police officers to effectively carry out their professional duties, in particular in cases of detection and prevention of domestic violence in the family,

these persons must possess special skills and be able to use physical force, if necessary (in cases of threat to their lives or health or surrounding persons).

It is important to note that during martial law, men return from the front straight home, carrying with them all the experience of armed conflict and the trauma of war. They often become more aggressive, assuming more authority over their mothers, wives and sisters, leading to unequal distribution of power within the family and deepening the causes of domestic and gender-based violence. Women are returning to their traditional roles as caregivers for children, the elderly, and the infirm, and are judged by the amount of burden the family carries. Due to the complete lack of special rehabilitation and reintegration strategies, women must take care of family members of combatants who may have psychological or physical injuries as a result of the armed conflict [10, p. 8].

For example, it is appropriate to pay attention to the fact that local authorities, non-governmental organizations with the support of international organizations and foundations joined the development of assistance services for various categories of war victims, in particular due to gender-based violence and domestic violence.For example, within the framework of the UNICEF war response program "Together" – an interdisciplinary platform for the provision of integrated services, social cohesion, community involvement and behavior change measures during 2022, more than 300 locations and mobile groups were prepared in 2 regions of Ukraine. The multidisciplinary mobile team is a rapid response team that provides socio-psychological assistance to families with children and other people affected by the war. In turn, the team includes a psychologist, a social worker, a lawyer and a doctor. Mobile teams work in support centers for displaced people, drive their own cars to places where help is needed, and also consult victims remotely – by phone or via video link [11, p. 357].

Conclusions. So, we can conclude that domestic violence in Ukraine during the legal regime of martial law has not lost its relevance, and therefore there is no doubt about the prevalence of this problem in society, especially in modern conditions. In the course of the research, it was determined that the armed conflict in itself exacerbates the problem of domestic violence, because aggression, a change in the usual rhythm of life, the need to adapt to new life circumstances can be the factors that directly affect the perpetration of domestic violence.

Regarding the ways and means of preventing and preventing the commission of domestic violence in the conditions of martial law, we can note that it is advisable to hold regular conversations with families who survived and left the temporarily occupied territories: families who lost close relatives; families in which close relatives are in the military, etc. That is, during martial law, it is quite important that general and specialized support services for victims take appropriate preventive measures regarding the operation of legislation, as well as interact with each other as much as possible.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

The full-scale invasion of the troops of the aggressor country on the territory of Ukraine does not stop the commission of crimes that were widespread in our country in peacetime. Yes, one of these offenses is domestic violence, which is such a phenomenon that during the period of martial law can only worsen and at the same time remain invisible. The article analyzes the specifics and actual aspects of preventing and countering the perpetration of domestic violence in the conditions of the legal regime of martial law.

We carried out a study of legal acts that regulate the norms of combating domestic violence, as well as an analysis of the current changes in the national legislation of Ukraine, which came into force after the introduction of the legal regime of martial law. In addition, this article drew attention to possible ways of improving the currently available means and methods of preventing and countering domestic violence, as well as drawing attention to the entities authorized to carry out such activities.

In particular, the article determined that domestic violence in Ukraine during the legal regime of martial law has not lost its significance and the problem has become widespread in society, in today's conditions. Regarding the ways and means of preventing and preventing the commission of domestic

violence in the conditions of martial law, it is determined that it is appropriate to hold regular preventive discussions with families who survived and left the temporarily occupied territories: families who lost close relatives; families in which close relatives are in the military, etc. That is, during martial law, it is quite important that general and specialized support services for victims take appropriate preventive measures to prevent domestic violence.

***Keywords**: legal regime of martial law, domestic violence, administrative responsibility, forms of domestic violence, combating crimes.*

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Iryna TSYB ©
Postgraduate
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

THE ETYMOLOGY OF THE CONCEPT OF "DESECRATION" IN CRIMINAL LAW OF UKRAINE

Ірина Циб. ЕТИМОЛОГІЯ ПОНЯТТЯ «НАРУГА» У КРИМІНАЛЬНОМУ ЗАКОНОДАВСТВІ УКРАЇНИ. У статті досліджуються етимологічні витоки поняття «наруга» в кримінальному праві України. Автор вказує, що ґрунтовне та всеохоплююче дослідження будь-якого кримінально-правового явища потребує дослідження його етимологічних витоків. Таке дослідження сприяє накопиченню знань про сутність явища як такого, та його використання/застосування в залежності від демократичних та правових цінностей людства на кожному наступному етапі його розвитку. Наразі поняття «наруга» використовується у кримінальному законодавстві у двох статтях КК України – ст. 297 «Наруга над могилою, іншим місцем поховання або над тілом померлого» та ст. 338 «Наруга над державними символами». В той же час Кримінальний кодекс України не вказує, які дії слід вважати кримінально-караною наругою.

Дослідивши наявні у словниках визначення поняття «наруги» автор робить висновок, що вони не зовсім вдало співвідносяться із діяннями, які утворюють об'єктивну сторону кримінальних правопорушень, ознакою яких є «наруга». Саме поняття «наруга» має значну кількість синонімів, проте жоден з них не в змозі повністю охопити ті дії, які входять в поняття «наруга». Також робиться висновок, що використання в назві та диспозиції кримінального правопорушення, передбаченого ст. 297 КК України поняття «осквернення/оскверняти» є більш доцільним, оскільки воно охоплює як дії, які характеризуються поняттям «наруга» згідно словників української мови, так і дії, які утворюють об'єктивну сторону кримінального правопорушення, передбаченого ст. 297 КК України та дії, які закріплені у Законі України «Про поховання та похоронну справу».

Що стосується використання в назві та диспозиції кримінального правопорушення, передбаченого ст. 338 КК України поняття «зневага/зневаження», то автором робиться висновок про доцільність використання саме цього поняття, оскільки поняття «зневага» є протилежним за значенням поняттям поняттю «повага», а в Конституції України закріплено обов'язок громадян виявляти шану державним символам України, тобто поважати їх.

***Ключові слова**: наруга, осквернення, зневага, повага, наруга над могилою, наруга над державними символами.*

Relevance of the study. A thorough and comprehensive study of any criminal phenomenon requires a study of its etymological origins. Such a study contributes to the accumulation of knowledge about the nature of the phenomenon as such and its use/application depending on the democratic and legal values of humanity at each subsequent stage of its

k_kpk@dduvs.in.ua

development. An accurate description of the characteristic elements of any legal phenomenon is carried out with the help of legal concepts. It is the legal concept that describes the content of the phenomenon, lists the signs of its identification and distinguishes it from similar phenomena.

At present, the concept of "desecration" is used in criminal law in two articles of the Criminal Code of Ukraine – in article 297 "Desecration of a grave, other burial place or the body of the deceased" and in article 338 "Desecration of state symbols". At the same time, the Criminal Code of Ukraine (hereinafter referred to as the CC of Ukraine) does not specify which acts should be considered criminal desecration.

Recent publications review. Certain problematic issues of "desecration" are reflected in the works of I. Bandurka, O. Bandurka, V. Holina, N. Horb, P. Hryshanin, I. Danshin, S. Denisov, V. Dziuba, A. Zelinsky, M. Korzhansky, O. Kostenko, L. Kuchanska, A. Landina, S. Lykhova, V. Lomako, V. Ludvik, P. Matyshevskyi, P. Mykhailenko, V. Navrotsky, V. Puliayev, P. Serdiuk, M. Khavroniuk, S. Yatsenko and others. However, despite a considerable number of scientific works, "insult" remains an under-researched phenomenon of criminal law.

In this regard, it is necessary to study the etymological origins of the concept of "desecration" in Ukrainian criminal law.

The article's objective is to examine the etymology of the concept of "desecration" in the Criminal Law of Ukraine.

Discussion. Academic explanatory dictionaries of the Ukrainian language define desecration as:

1) intolerable ridicule;

2) malicious ridicule of someone or something [1, 2].

We believe that the definitions of desecration given in the dictionaries do not quite successfully correlate with the acts that form the objective side of criminal offences, a feature of which is "desecration".

For example, the scientific and practical commentary to Article 297 of the Criminal Code of Ukraine and other educational sources on criminal law of Ukraine state that desecration may be committed by desecrating a grave, making contemptuous inscriptions, drawings, symbols or other images on monuments or grave structures or on an urn containing the ashes of the deceased. Desecration also occurs when digging up a grave, damaging a niche in the wall, an urn with ashes, desecrating a coffin, damaging a monument, tombstone, memorial inscriptions, pictures, fences, etc.[3; 4, p. 588; 5, p. 368]. Desecration is an offensive attitude, a demonstration of contempt for the burial place or the ashes of the deceased [6].

In the Law of Ukraine "On Burial and Funeral Business", desecration of a grave is defined as the unauthorised creation of inscriptions, drawings, symbols or other images on cemetery structures used for the burial ceremony and commemoration of the dead, tombstones, crypts, urns with ashes, graves or other burial places, or the unauthorised damage, excavation, destruction or other interference with cemetery structures used for the burial and commemoration of the dead, tombstones, fences, crypts, urns with ashes, tombstones, fences, crypts, urns with ashes, graves or other burial places, or use them for purposes not provided for by the legislation in force, or unauthorised use of cemetery facilities used for the ceremony of burial and commemoration of the dead, tombstones, crypts, urns with ashes, graves or other burial places, or commit other acts intended to disrespect the family or public memory of the deceased, to demonstrate a disrespectful attitude towards the burial place and social, religious principles and traditions in this area [7].

It is rather difficult to agree with the opinion that digging up a grave, making offensive inscriptions or other actions constituting the objective side of the criminal offence under Article 297 of the Criminal Code of Ukraine are, by their very nature, actions consisting of intolerable mockery or malicious ridicule.

As for desecration in the context of Art. 338 of the Criminal Code of Ukraine, desecration means a rude, insulting attitude, malicious ridicule, actions aimed at humiliating those values that other members of society treat with respect (for example, tearing down a flag or coat of arms, destroying or damaging them, using them for other purposes, making obscene inscriptions or drawings on them, distorting the text or music of the anthem, disseminating its text with distortion of its meaning and significance, other actions that reveal a person's disrespectful attitude to state symbols[4, p. 706; 5, p. 431]. As we can see from the above example, scholars believe that desecration of state symbols can also consist in "evil mockery".

Without going into a detailed analysis of this provision, as this will be done when analysing the objective side of criminal offences characterised by desecration, we only note that it would be more appropriate to replace the term "evil ridicule" with the term "mockery".

It should also be noted that the term "desecration" has a rather extensive list of synonyms. For example, in the dictionary of synonyms, words close to "desecration" are:

1) ridicule;
2) to mock;
3) to spit in the soul;
4) to insult;
5) to injure;
6) ridicule;
7) ridiculed;
8) to mock;
9) mock;
10) mocking;
11) (great) shame;
12) disgrace [8; 9, p. 228].

In the Great Explanatory Dictionary of the Modern Language, synonyms for "desecration" include shame, disgrace, dishonour, dishonour, blasphemy, shame, shamefulness, disgrace, disgracefulness, shame [3].

Despite a considerable number of synonyms for the concept of "desecration", none of them can fully cover the actions that are included in the concept of "desecration". Moreover, the concept of desecration is itself synonymous with the concept of zealotry. For example, the Consolidated Dictionary of Outdated and Infrequently Used Words uses the term "zelzhivost", which is synonymous with shame, disgrace, dishonour, insult, contempt, offence, slander, defamation, insult and the term "desecration". In turn, "zelzhyty" means to scold or shame [10].

In the literature, the term "zelzhivost" has usually been used to describe acts that are now referred to as "libel". Thus, in the case XXX. "Restoration of the dishonoured honour" by O. Levytskyi, it is stated that the courts of the Hetmanate very often had to consider cases of "setting offensive words", "zelazhennia in touching the honour", i.e. slander, all kinds of defamation. Often these were extremely petty, extremely bizarre cases, often the insult was mutual, often there was no insult at all, but one way or another the court had to consider the strength of cases of defamation of honour. So the case reads: "I have received a large "green card" on my honour. Please, let this Zhuk prove the theft to me, and I will explain my actions. The judges ordered him to "answer for this greenback". But what could he say when he had a hangover and could not remember yesterday's adventures" [11].

The next source says that "Also, after her husband's departure for Warsaw, a friend and neighbour came to Fedora and told her the rumours that, firstly, Napolski had taken several important documents from her box before the trip, and, secondly, that after the Sejm he intended to go to his brothers who lived in the Bug district, gather people there, and secretly return with them to Volyn to do "zelzyvist" to his wife, that is, to falsely disgrace her and her whole family" [12].

Another source uses the term "zelzhyvost" to refer to such actions as inciting hatred by spreading false information. For example, "...Mrs Hanna was accused of setting her husband against his brother, of pointing the finger at Mr Ivan's health, and that Mr Ivan would take revenge for this insult and 'zelzhyvost'. That same morning, passers-by flocked to the town in groups, reading aloud and some even writing down insulting poems about Mr Ivan's wife's infidelity" [13].

In some sources, the term "zelzhyvist" was also used to refer to acts similar in meaning to sexual violence or rape. "Fedora called Lavryn to her place and ordered her to torture him into telling her, out of fear, that the plan was to attack Adam Rudavsky's estate and kill the owner, and to 'zelzhyvost' (dishonour) his wife" [14].

Thus, as we can see, the term "zelzhyvost" was used to describe a significant number of acts that violated a person's honour and dignity. However, such acts do not in any way cover those acts that are included in the modern concept of "desecration". Thus, the concept of "zealotry", as well as its derivative concept "desecration", is not entirely appropriate for use in criminal offences under Articles 297 and 338 of the Criminal Code of Ukraine.

Continuing the analysis of explanatory and academic dictionaries of the Ukrainian language, we note that the concept of "desecration" is frequently used in the Ukrainian

language. In particular, this concept is used in the title and the wording of Article 179 of the Criminal Code of Ukraine "Illegal maintenance, desecration or destruction of religious shrines", as well as in Part 2 of Article 297 of the Criminal Code of Ukraine. Given that this concept is used in Part 2 of Article 297 of the Criminal Code of Ukraine, i.e. in the criminal provision whose characteristic is "desecration", we can assume that the legislator identifies the concepts of "desecration" and "defilement".

To desecrate is to harm or disrespect a sacred or special place or thing [15]. In the Practical Dictionary of Synonyms of the Ukrainian Language the word "defilement" means to desecrate, to defile; (less often) to disgrace, to tarnish [9, p. 266].

In the 20-volume Dictionary of the Ukrainian Language, the word "defilement" is used in the following meanings

1) to violate the purity, sacredness of someone or something; to defile;

2) to mock something high, pure. To humiliate, disgrace, stain;

3) to disgrace (by unworthy actions, behaviour, covering oneself, one's honest name, family, etc. with shame) [16].

In the dictionary of synonyms, the synonyms for "defilement" are:

1) desecrate;

2) defile;

3) disgrace;

4) stain;

5) defile [8].

In the Electronic Dictionary/Digital Lexicon of the Ukrainian Language, the word "defilement" means to bring shame on oneself, one's honest name, family, etc. by unworthy actions, behaviour. The dictionary also provides an extensive list of synonyms for the word "defilement":

1) to dishonour (less commonly); the same as disgrace;

2) to dishonour, to take away a good name; to disgrace, to disparage;

3) to stain, defile, disgrace, dishonour someone or something;

4) to disgrace, to cover with shame (2nd sense); to dishonour; to disgrace;

5) disgrace, defame, stain (adj.);

6) to pollute, to deprive of moral purity, to disgrace someone or something; to defile;

7) to tarnish (less commonly), to disgrace, to debase, to weaken; to defile;

8) to disgrace, humiliate, dishonour by unworthy, shameful actions;

9) to defame (colloquially), to cover with shame, to stain;

10) to compromise, to put in a bad light; to damage the good name of someone or something;

11) to disgrace oneself, one's name, one's family, etc., by unworthy actions, behaviour, to cause a bad opinion, moral condemnation, to cover oneself with shame; to disgrace;

12) disgrace (less common) is the same as dishonour;

13) dishonour (less common) to disgrace, disgraceful;

14) to disgrace, to disgrace by one's actions, behaviour, etc;

15) disgrace to cover with shame, disgrace;

16) paskudit (colloquially) to put someone or something in a bad light, to disgrace, to blacken;

17) to dishonour, to disgrace someone, something with something;

18) to defame, to defame something worthy of respect [17].

From the above it can be concluded that the use of the concept of "defilement" in the title and provision of the offence under Art. 297 of the Criminal Code of Ukraine is more appropriate, since it covers both actions which, according to the dictionaries of the Ukrainian language, are characterised by the concept of "desecration" (the concept of "desecration" is a part of the whole – the concept of "defilement") and actions which constitute the objective side of the criminal offence under Art. 297 of the Criminal Code of Ukraine and acts stipulated in the Law of Ukraine "On Burial and Funeral Services". With regard to the use of the concept of "desecration" in the title and wording of Article 338 of the Criminal Code of Ukraine, we note that this concept partially covers the actions that constitute the objective side of the said offence. However, in our opinion it would be more appropriate to use the concept of "Disdain".

The concept of "Disdain" is the opposite in meaning to the concept of "respect". "Respect is a feeling of honour, a favourable attitude based on recognition of someone's merits, high positive qualities of someone or something. Contempt is a feeling of contempt, a

lack of respect for someone. Indifference to someone or something, lack of care, concern for someone or something [18]. Disdain – to show contempt, disrespect for someone or something; the opposite of respect; to insult someone, to humiliate someone's dignity; to neglect something, not to give it due attention, not to attach importance to it [18].

Article 65 of the Constitution of Ukraine enshrines the obligation of citizens to show honour to the state symbols of Ukraine, i.e. to respect them. In such circumstances, it would be appropriate to use the same root term "Disdain" in the title and disposition of Article 338 of the Criminal Code of Ukraine, a criminal law provision that establishes liability for failure to fulfil this obligation. According to Article 24 of the Constitution of Ukraine, citizens have equal constitutional rights and freedoms and are equal before the law. There shall be no privileges or restrictions based on race, skin colour, political, religious or other beliefs, gender, ethnic or social origin, property status, place of residence, language or other characteristics. Thus, the obligation to "respect" state symbols applies to all citizens without exception. Article 1 of the Criminal Code of Ukraine states that the Criminal Code of Ukraine is aimed at ensuring legal protection of human and civil rights and freedoms, property, public order and public safety, the environment, the constitutional order of Ukraine from criminal offences, ensuring peace and security of mankind, as well as preventing criminal offences.

The Decision of the Constitutional Court of Ukraine in the case on the constitutional petition of citizen Yuriy Kostenko regarding the official interpretation of certain provisions of subparagraphs 1, 2 of paragraph 1 of the Law of Ukraine "On Amendments to the Law of Ukraine "On Perpetuation of the Victory in the Great Patriotic War of 1941-1945 regarding the procedure for the official use of copies of the Victory Flag" states that the state symbols of Ukraine are inextricably linked by their content to its state sovereignty. Ukraine is a sovereign and independent, democratic, social and legal state. Ukraine's sovereignty extends to its entire territory. The state symbols are a confirmation of the existence of the state, its sovereignty and are aimed at strengthening its authority, in particular during solemn events and official ceremonies. The state establishes the procedure for the use of state symbols and an appropriate system of their legal protection, which ensures respect (emphasis added) and dignity of state symbols [19].

As we can see, the Constitutional Court of Ukraine, when interpreting the provisions of the Basic Law relating to state symbols, also uses the concept of "respect" rather than the concept of "desecration", which is another argument in favour of using the concept of "contempt" in the title and disposition of Article 338 of the Criminal Code of Ukraine.

Conclusions. So, in conclusion, we can say that the definitions of the concept of "desecration" available in dictionaries do not quite successfully correlate with the acts that form the objective side of criminal offences, a characteristic of which is "desecration". The concept of "desecration" itself has a considerable number of synonyms, but none of them is able to fully cover the acts that are included in the concept of "desecration".

We believe that it is more appropriate to use the term "defilement" in the title and provisions of the criminal offence under Article 297 of the Criminal Code of Ukraine, since it covers both the actions characterised by the term "desecration" according to the dictionaries of the Ukrainian language and the actions constituting the objective side of the criminal offence under Article 297 of the Criminal Code of Ukraine, as well as the actions stipulated in the Law of Ukraine "On Funeral and Burial Activities".

We also consider it more appropriate to use the concept of "Disdain" in the title and disposition of the criminal offence under Article 338 of the Criminal Code of Ukraine. Thus, the concept of "Disdain" is the opposite in meaning to the concept of "respect". The Constitution of Ukraine establishes the obligation of citizens to honour the state symbols of Ukraine, i.e. to respect them. In these circumstances, it would be appropriate to use the same root word "contempt" in the title and wording of Article 338 of the Criminal Code of Ukraine, a criminal provision that establishes liability for failure to comply with this obligation.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article examines the etymological origins of the concept of "desecration" in Ukrainian criminal law. The author points out that a thorough and comprehensive study of any criminal law phenomenon requires a study of its etymological origins. Such a study contributes to the accumulation of knowledge about the essence of the phenomenon as such and its use/application depending on the democratic and legal values of humanity at each subsequent stage of its development. Currently, the concept of "desecration" is used in criminal law in two articles of the Criminal Code of Ukraine – article 297 "Desecration of a grave, other burial place or the body of the deceased" and article 338 "Desecration of state symbols". At the same time, the Criminal Code of Ukraine does not specify which acts should be considered criminal offences.

Having examined the definitions of the concept of "desecration" available in dictionaries, the author concludes that they do not fully correspond to the acts that constitute the objective side of criminal offences, a characteristic of which is "desecration". The concept of "desecration" itself has a considerable number of synonyms, but none of them is able to fully cover the acts included in the concept of "desecration". The author also comes to the conclusion that the use of the term "defilement" in the title and provisions of the criminal offence under Article 297 of the Criminal Code of Ukraine is more dictionaries of the Ukrainian language and the actions which constitute the objective side of the criminal offence under Article 297 of the Criminal Code of Ukraine and the actions which are regulated by the Law of Ukraine "On Funeral and Burial Business".

As for the use of the concept of "contempt/disrespect" in the title and provisions of the criminal offence under Article 338 of the Criminal Code of Ukraine, the author concludes that it is appropriate to use this concept, since the concept of "contempt" is the opposite in meaning to the concept of "respect", and the Constitution of Ukraine establishes the obligation of citizens to show honour to the state symbols of Ukraine, i.e. to respect them.

Keywords: *indignation, desecration, contempt, respect, desecration of a grave, desecration of state symbols.*

COMBATING OFFENCES: CRIMINAL-PROCEDURAL, FORENSIC, ORGANIZATION AND TACTIC ASPECTS

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Volodymyr KOPANCHUK ©
D.Sc. in Public Administration, Ph.D. (Law), Associate Professor
(Khmelnytskyi University of Management and Law named after Leonid Yuzkov, Khmelnytskyi, Ukraine)

Oleg KRAVCHUK ©
D.Sc. in Public Administration, Ph.D. (Law), Professor
(Khmelnytskyi University of Management and Law named after Leonid Yuzkov, Khmelnytskyi, Ukraine)

Oleksandr NOVAK ©
Senior Investigator
(Second Investigative Department (Zhytomyr) of Territorial Administration of the State Bureau of Investigation, Khmelnytskyi, Ukraine)

Yurii TUROVETS©
Ph.D. (Law), Associate professor, Honored Lawyer of Ukraine
(Khmelnytskyi University of Management and Law named after Leonid Yuzkov, Khmelnytskyi, Ukraine)

THE TACTICAL AND PSYCHOLOGICAL INFLUENCE OF THE INVESTIGATOR (DETECTIVE) ON PERSONS PARTICIPATING IN CRIMINAL PROCEEDINGS

Володимир Копанчук, Олег Кравчук, Олександр Новак, Юрій Туровець. ТАКТИКО-ПСИХОЛОГІЧНИЙ ВПЛИВ СЛІДЧОГО (ДЕТЕКТИВА) НА ОСІБ, ЯКІ БЕРУТЬ УЧАСТЬ У КРИМІНАЛЬНОМУ ПРОВАДЖЕННІ. Викладено правові основи та перспективи розвитку криміналістики, судової психології та кримінального процесуального права в світлі правової

© Kopanchuk V., 2023
ORCID iD: https://orcid.org/0000-0002-4198-6510
jrist_3z@ukr.net

© Kravchuk O., 2023
ORCID iD: https://orcid.org/0000-0002-7002-4070
olega_kravchuk@ukr.net

© Novak O., 2023
ORCID iD: https://orcid.org/0009-0001-4600-2293
novak2012@ukr.net

© Turovets Yu., 2023
ORCID iD: https://orcid.org/0000-0002-1110-9234
yura_turovets@ukr.net

реформи в України. Розглянуто особливості тактико-психологічного впливу слідчого (детектива) на осіб, які беруть участь у кримінальному провадженні. Надано на розгляд та обговорення загалу власна (авторська) методологія вирішення ряду проблемних ситуацій, які можуть виникнути у практичній діяльності працівника правоохоронних органів України. Обґрунтована необхідність ефективної співпраці працівників правоохоронних органів, спеціалістів у галузі криміналістики та судової психології з метою якісного та об'єктивного виконання завдань кримінального провадження, дотримання загальних засад кримінального процесу та покращення інноваційної політики України загалом. Авторами визначено та надано власний перелік правових позицій і техніку можливого протистояння процесуально-правовим прийомам та хитрощам підслідного. Надано методологічну основу щодо визначення під час допиту свідка або підозрюваного елементів брехні, обмови, промовки та навіювання. Розкривається значення та надається оцінка цим новелам в системі права, криміналістики, судової психології та кримінального процесу у цілому. Зроблені висновки та надані рекомендації щодо узгодженого застосування норм діючого законодавства у практичній діяльності слідчого, детектива та криміналіста. Привернуто увагу на необхідність подальшої наукової співпраці вчених, спеціалістів у галузі матеріального та процесуального права.

Ключові слова: *детектив, кримінальний процес, криміналістика, кримінальне провадження, норми права, психологія, слідчий, учасники.*

Relevance of the study. The influence on the psyche of persons involved in the case is one of the integral elements of the activity of representatives of the law enforcement system of Ukraine, in particular the investigator (detective). Theoreticians and practitioners of the criminal process and criminology often ignore this issue in silence, and sometimes even express an opinion about the inadmissibility of any mental influence on the part of a law enforcement officer. From our point of view, the impossibility of such an opinion is obvious. Because the investigator (detective) constantly influences people with his authoritative prescriptions, educational measures, procedural means of coercion. Without this, it is impossible to solve the tasks of criminal justice. The difficulty, in our opinion, is to determine which forms of influence are permissible, legal and which are mental violence, which is incompatible with the principles of the criminal process. This is impossible without strict compliance with the current legislation of Ukraine, in particular the norms of the Constitution of Ukraine [1] and legality procedures, requirements and institutions of substantive and procedural law. This, in our opinion, is the relevance of the investigated problem.

Recent publications review. The activity of detection, investigation and prevention of criminal offenses is related to solving tasks that require knowledge not only of criminology, criminal law and process, but also of psychology. Criminology and forensic psychology deal with the study of psychological patterns underlying the behavior of participants in criminal proceedings and the development of psychological recommendations used in the fight against crime. The analysis of the scientific and theoretical literature showed that scientists and practitioners (V. Tatsy, V. Tertyshnyk, M. Pogoretsky, L. Udalova, P. Tsymbal, etc.) repeatedly investigated the issue of procedural – legal activity of employees of pre-trial investigation bodies in general and their individual aspects in particular. However, consideration of the specifics of the tactical and psychological influence of the investigator (detective) on persons participating in criminal proceedings requires its own detailed research and analysis.

The article's objective. The article deals with the considering of separate scientific and practical issues of forensic tactics and the related psychology of pre-trial investigation, which took place in practice; revealing the author's position in the interpretation of scientific and theoretical issues of the tactical and psychological influence of the investigator (detective) on persons participating in criminal proceedings, as well as with outlining the legal solution of issues that arise in the practical activities of employees of pretrial investigation bodies, psychologists, for qualitative and objective performance of the tasks of criminal proceedings, compliance with the law when establishing circumstances that are subject to proof in criminal proceedings, and, as a result, on improving the innovative legal policy of Ukraine in general.

Discussion. Legitimate influence differs from mental violence in that the person who is influenced has free will in choosing one or another position. With legitimate mental influence, specific actions are not dictated, for example, indications of this or that content are not required, but a person develops a correct position, a conscious attitude to his duties. This mental influence indirectly leads to the choice of a certain line of behavior (the voluntariness of the choice distinguishes, for example, an interrogation aimed at obtaining truthful testimony from seeking recognition).

In the case of violence, a person is significantly limited or completely deprived of the opportunity to choose a line of behavior. It is determined by the alternative, which is set by the person conducting the investigation. At the same time, threatened harm becomes the main motivator. The subject sees the only way to avoid the threat in the execution of what is dictated by the investigator (detective).

If, for example, the suspect is told that if he pleads guilty he will be arrested, and if he confesses he will be released, then regardless of the reality of such promises and threats, the actions of the investigator (detective) have the character of mental violence. Violence is also a promise to provide some benefits or to cancel various oppressions imposed on a person, as a reward for the desired behavior of the investigator (detective).

At the same time, it is not necessary for demands to be accompanied by threats or promises. The very situation of the investigation may turn out to be such that a person sees only one way out of the situation, and in a state of willpower decline and confusion, people are sometimes more susceptible to the motives of the present time, which turn out to be stronger than individual ideas about the future.

Sometimes any influence or influence of one person on another is called suggestion. This is not accurate. Suggestion occurs when the subject perceives a certain idea without criticism and follows it automatically. For a domestic criminal process, such a form of influence on people is hardly acceptable. By reducing or turning off conscious volitional control on the part of the persons involved in the case, the investigator (detective) always risks pushing them to an objectively incorrect course of action, which, due to enthusiasm or prejudice, only appears to him to correspond to the truth, without actually being so.

Legitimate influence should induce a person first of all to consciously revise his position, which is contrary to public interests and the goals of justice.

The transition from opposition to facilitation, from closure to openness, from lies to the truth is always associated with great psychological difficulties. Therefore, we believe that the investigator (detective) is obliged to help interested persons to do this, to remove internal "brakes" that prevent this, using legal methods of mental influence.

The domestic criminal process offers the method of persuasion as the main form of influence. But this by no means turns the investigator (detective) into a moralist preacher who acts only by persuasion and persuasion. The investigator (detective) usually not only assures, but also convinces a person, but this task is more complex and wider in scope and is carried out in the investigation process only partially, to the extent necessary to establish the truth in the case.

To convince a person to testify truthfully or to perform the necessary actions means to prove to him the senselessness and harmfulness of another line of behavior. However, it does not follow from this that the one who conducts the investigation must first of all prove that this person has committed a criminal offense, because the suspect may be innocent of the crime committed, or not exposed by a sufficient amount of evidence, but the insufficiency of the evidence that exposes (most often in relation to to suspects), of course, does not eliminate the possibility and necessity of obtaining truthful testimony, inclination to conscientious behavior during the investigation.

Of course, conviction is most effective when the offense is fully proven, guilt is indisputable, and there is overwhelming and irrefutable evidence. In this case, a person confirms the obvious truth for logical reasons.

However, not always the presentation of evidence, the totality of which convinces others, is also perceived by this person. She may consider that these evidences are not sufficient, no matter how weighty they may seem to the investigator (detective) and no matter how they do not meet the legislator’s requirements regarding propriety and admissibility, which are set forth in the Criminal Procedure Code of Ukraine [2]. Therefore, it is necessary to look for other evidence that can convince this person, or to interpret the existing evidence more convincingly. Persuasion most often fails to achieve its goal simply because the true meaning of the evidentiary facts is not explained, not explained clearly enough.

It is not always necessary to try to "put" a finished idea into the person we are persuading. Sometimes it is advisable to express only an assumption at first, then confirm it with full-fledged arguments. A person gradually introduced to this idea perceives it as the result of his own understanding, and not a view imposed from the outside.

At the same time, all objections should be confirmed. Be ready to refute them. A person who is persuaded, seeing that his arguments are not refuted by the investigator (detective), may

think that the latter doubts the strength of his provisions. Because persuasion depends not only on the quality of the argument, but also on the moral character of the one who persuades.

Sincerity of the investigator (detective), his conviction in the rightness of the views that are being defended, interest in establishing the truth (and not in obtaining one or another specific testimony) are very quickly recognized by the subject due to his heightened sensitivity, which is due to his position.

To be successful, the investigator (detective) does not need to master the techniques of acting, only to play a certain role. Too obvious desire of the investigator (detective) to convince and the use of cheap acting techniques for this purpose can only hinder the achievement of the desired results.

When a person is presented with incontrovertible evidence and when he cannot offer serious counterarguments, the task of persuasion is naturally simplified. In such situations, the investigator (detective) does not need special ingenuity and art. But often the investigator (detective) has only a small amount of evidentiary facts at his disposal, but due to their tactical and psychological correct use, the suspect, in the absence of good will, gives out items that he is hiding, or reveals the truth.

The real skill of the investigator (detective) is manifested precisely when, having a sum of facts that allows interested persons to continue resistance, but using them tactically correctly, leads such persons to the conviction of the futility of resistance. However, this or that method, although it is capable of bringing success in individual cases, encouraging correct behavior, but it can also have the opposite effect. Therefore, it is unacceptable and should be excluded from the means of the investigator (detective).

This does not mean that the investigator (detective) does not have the right to create and use tactical advantages, to use certain psychological tricks to find out the truth. In this case, the application of specific legal methods is meant, for example, the factor of suddenness. Unpreparedness of the suspect to lie. His lack of information regarding the collected evidence and information available to the investigator (detective) and other similar measures.

What is the basis of the action of such methods? The state of the unknown is almost always more difficult than the awareness of a clearly visible and understandable danger. When a person does not know what to fear, what must be done to face the troubles that threaten, it is natural for him to assume the worst. When the facts, no matter how shocking they are, are known, then a person acquires the opportunity to resist or adapt to them. Uncertainty of the situation pushes a person towards events, she tries to force them, revealing the truth, which may be undesirable for her in a soberer assessment.

In these cases, when making a decision, a person is mistaken about the amount of evidence and their weight, a legal error is assumed regarding the operation and interpretation of certain norms of the Criminal Code of Ukraine [3]. Investigative practice is full of examples of the correct use of these mental laws.

Speaking about the means used by the investigator (detective), sometimes arguments addressed to feelings and arguments addressed to consciousness are considered in isolation. Such an opposition is wrong from all points of view. By influencing only the feelings of the interrogated, the investigator (detective) risks receiving false testimony under the influence of, for example, fear, anger and other negative emotions. Addressing only the consciousness of the suspect, suppressing his moral emotions, the investigator (detective) can also push the interrogated to give false testimony under the influence of selfish calculation. Therefore, influencing the course of the suspect's thoughts with arguments that should lead him to the right decision, it is also necessary to awaken emotions that strengthen his intentions in this.

The investigator (detective) should strive not only to influence the nature and content of the emotions of the participants in the case (inducing desirable emotions and neutralizing negative ones), but also to regulate the emotional tone.

If excitement threatens correct behavior, disorganizes the course of mental processes, it is necessary to defuse the atmosphere, relieve tension, distract or entertain the interrogated person, etc. If a person during procedural actions is withdrawn and unavailable, calm and self-confident, sometimes it is advisable to change his state to a more emotional one, even through an emotional outburst or explosion. But it is necessary to achieve this not by mental pressure from the outside, but by penetrating into the inner world of a person, by awakening memories of emotionally significant circumstances for him (biographical facts, family, past images, etc.).

Practice convincingly proves that an appeal to the feelings can lead to the fact that a person will testify even when the evidence alone would be powerless. But at the same time,

playing on base feelings, using superstitions, ignorance, superstitions, etc., is unacceptable, if even in one or another situation it can contribute to temporary success. As we noted, this method of action is in irreconcilable conflict with the tasks of criminal justice [2], with the educational function of the investigator (detective).

The investigator (detective) needs to master the technique of strengthening and weakening the emotional tone not only because it allows him to induce the desired external action, but also because it makes it possible to cause a certain experience in a person. Bringing the interrogated to sincere repentance, receiving truthful testimony from him, the investigator (detective) simultaneously takes the first step towards his correction and re-education.

The educational influence is often hindered by a moral and psychological barrier built by past experience, antisocial personality orientation. The investigator (detective) must overcome it, but for this most often it is necessary to find workarounds, using the positive qualities that every person has: it is necessary to reveal, actualize them and, on this basis, make it accessible to educational influence.

One of the types of mental influence is the urge to imitate. By calling to imitate positive images, which are given a known emotional value, it is often possible to incline a person to the desired behavior.

It is known how the investigation is facilitated when one or more persons interested in the case give truthful testimony. After them, others usually take the path of frank confession. Voluntary compensation for damages by one suspect very often encourages others to do the same. Communication with a criminal who has repented can play a positive role, and, on the contrary, it is known what a chain character is the refusal of previously given testimony. Therefore, it is necessary to create conditions that promote a certain positive influence and eliminate unwanted influences.

The correct psychological characterization of the relationship between the investigator (detective) and the persons involved in the case is important. Such relations have a dual nature, based on two seemingly opposite principles: psychological contact and psychological struggle. However, this does not mean that the investigator (detective) should apply two different approaches to the persons involved in the case, depending on their position.

Psychological contact cannot be understood as a relationship of mutual concessions, indulgences and favors, just as psychological struggle cannot be considered as a war with the suspect.

In the criminal process, they fight not with the suspect and the accused as individuals, but with individual manifestations of "backward" consciousness and low motivations, namely: for the rest of the best traits in this individual. The investigator (detective), in fact, participates in the struggle that takes place in the inner world of a person.

Psychological contact and psychological struggle are different sides of the individual-psychological approach, which always involves humanity and sensitivity in relations with persons involved in the case.

The feeling of fear, which both the criminal and the victim can feel during the commission of a criminal offense, and during interrogation, both the guilty and the innocent, has a particularly negative effect. Fear not only dulls the memory, but also suppresses the entire psyche of a person, affects his intellectual activity. It often reduces the will, moral self-control and critical abilities, prevents a correct assessment of the situation, makes a person more accessible to unwanted influences. Without exaggeration, we can say that the fear that, for one reason or another, is instilled in people by the persons conducting the investigation – carrying out the proceedings, is the biggest obstacle to finding out the truth. It is the basis of most motives for false testimony. That is why the legislation of Ukraine prohibits any threats and other similar measures, requires clarification and ensuring the rights of the participants in the process [2].

It is known that fear increases suggestibility, which to one degree or another is characteristic of everyone. Susceptibility increases with a general unfavorable environment, affective states, overfatigue, exhaustion of the nervous system, a dependent position of a person (that is, in conditions in which the subject may be under investigation). Feeling defenseless, he is particularly susceptible to suggestion. The excitement and tension felt during the interrogation can reach such a degree and exert such an influence on the interrogated person that he cannot always correctly explain his behavior after the interrogation. The possibility of inducing false testimony by the interrogator also increases during long interrogations and when the suspect is tired.

It is also necessary to take into account the high level of psychological influence exerted on a person by deprivation of liberty (which in itself is an objective factor). A change in the usual way of life, moral suffering and physical deprivation, forced inactivity, unknown future, lack of contact with loved ones and relatives, as well as generally limited opportunity to communicate with people make a heavy impression on a person. An arrest can cause particularly serious mental trauma to an innocent person. The explanation of many cases of self-defamation should probably be sought in the psychological influence of the factor of deprivation of liberty [4].

In this regard, we emphasize that detention, including short-term imprisonment (as well as other means of procedural coercion), is only a coercive measure against the perpetrator's evasion of responsibility and the commission of other offenses, and not a means of influence in order to obtain the desired evidence.

In the investigation process, one of the central places belongs to measures that prevent, detect, expose and refute lies, because they are the main obstacle to establishing the truth in the case.

It is commonly thought that there is nothing more random and capricious than a lie. However, this idea is wrong. A lie, like any kind of thinking based on a different principle, has its own forms, rules and techniques. A person who lies always resorts to certain laws of thinking, to certain forms of logic.

There are many types of lies [5, p. 35]. There is a lie that is completely made up. It is rare because it is easily revealed. The most common is an incomplete lie, when the liar processes the truth, distorting it in his own way. At the same time, intending to instill confidence in his words, he often deviates from real events, distorting them only as necessary. Yes, false testimony most often belongs to this type. They are fictitious only in that part, the truthful coverage of which is undesirable for the interrogated. To lie means to replace the truth with some fiction that is significant for the liar and to replace the facts that really happened with those that the liar would like to portray to his listeners. Lies often have a chain character: one lie gives rise to another and requires a series of interrelated facts to be reconciled with it.

Therefore, false statements often directly or indirectly contradict the part of the representations that correctly reflects reality. That is why it is often advisable not to interrupt the lie, to allow a person to contradict his own statements or firmly established facts, and in this way to deprive him of the opportunity to bring them into line with a more successful explanation or to adapt to them another, more difficult to refute false version. However, it is unacceptable to provoke a lie.

Presenting his argumentation in the form of a logical chain of judgments, the interrogate, if he is lying, proceeds from his own false statements or draws false conclusions. Having fixed this system of evidence, it is easier to show its viciousness and to convince him of the impossibility of the unargumentability of his chosen position.

In general, we recommend that you avoid hasty judgments about the falsity of certain testimonies, rush to refute them, express doubts or deny everything said without sufficient grounds. Sometimes it is useful to create the impression of complete trust in what was said, than to encourage interested persons to create false evidence, to use their unpreparedness for new lies [4].

Having made a false statement once, a person tries to stick to it in the future, but the details of the story can be forgotten, replaced by other details, and supplemented with new details. Therefore, the discrepancy between the reports, their inconsistency in both essential and secondary details should be alarming.

In the mind of the person who lies, two parallel events coexist at the same time: one – which really happened and which he wants to hide; the other is fictional, about which he, on the contrary, intends to tell. Thus, it is as if he has to "exorcise" from his memory what happened (and therefore remembered it well), and remember what did not happen, but what he only invented (and therefore it is more difficult to remember); one has to maneuver between the truth that cannot be spoken, the truth that can be spoken, and the lie that must be used to replace the hidden truth. At the same time, the poorer misconception is inhibited by a more vivid competing image that actually took place. At the same time, there is a struggle between the intention to lie and the natural truthfulness of a person (it is easier to tell the truth than to invent lies). That's why a liar always risks speaking out.

A slip of the tongue is objectively correct information that the interrogate may be interested in concealing, which got into his testimony as a result of his misunderstanding of the

meaning of the reported information or as a result of his uninhibited reaction to the question ("quick question – quick answer"); sometimes it is a careless, unintentional remark or statement.

It is necessary to distinguish a slip of the tongue from a slip of the tongue – an accidental factual error. A pleading is subject to correction, and a pleading which contains implied admissions of certain facts and is properly recorded may be probative. It is especially important in a tactical sense for obtaining detailed evidence on issues that were initially managed to be ascertained indirectly. Guilty awareness is revealed in the utterances, i.e. such knowledge of the circumstances and the course of the event, which a person can possess only under the condition of involvement in the offense. However, when evaluating such statements, the possibility of obtaining information from other sources (other people's stories, rumors, reports in the press, radio and the Internet) must be excluded.

In order to establish the truth, ignorance of those circumstances and details that should be known and could not be forgotten, or the person's testimony is true, may also be important. Such negative circumstances indicate the falsity of testimony (when, for example, a person is not able to correctly describe the place of the event and the mechanism of the event in which he was allegedly a participant, report vivid facts that allegedly happened in his presence, recognize a person or an object that should be his well known).

Ignorance is exposed as a lie if the statements of a given person imply the necessity of certain knowledge that he should have acquired in the past (professional training, language skills, knowledge of the settlement and the events that took place in it, acquaintance with members of a certain collective, etc.).

Close to this is also the inability to perform any actions or the impossibility of performing them in the order and under the conditions that the interrogated person speaks about. Such actions as verification of testimony on the ground, presentation for identification, investigative experiment, clearly demonstrate the impossibility of false statements, forcing a person to tell the truth.

Although a lie may have the value of one of the indirect evidences, it is not always due to the fact that the given person has committed a crime. It can be a defensive reaction of the innocent. The fear of undeserved accusation and punishment often pushes the suspect to deny valid facts and false statements, in which he looks for means to protect himself from false suspicions.

Even a person who is innocent of a criminal offense and who is beyond suspicion, in many cases does not give truthful testimony, distorts the facts, fearing an unfavorable coincidence of circumstances and the possibility of their unfavorable interpretation in relation to him by the detective (investigator).

The reaction to the presented or alleged accusation leads to the fact that the interrogated person consciously, and sometimes unconsciously, tries to minimize his role in the investigated event, minimize guilt, hide the most shameful acts and motives, portray himself in a more favorable light, pass himself off as a victim. in the event of an unfavorable coincidence of circumstances, by the executor of someone else's will or by a person whose actions are caused by the unjust actions of other people. This is especially characteristic of the part of testimony that highlights the subjective side of a criminal offense, when it comes to the causes and motives of the offense, the occurrence and formation of intent, and the prediction of the results of criminally illegal actions.

A similar tendency, which is sometimes caused by an involuntary desire to get rid of unpleasant memories, to push them out of consciousness, leaves an impression on the presentation of the actual circumstances of the case. Therefore, it is psychologically justified for the person being interrogated to "tolerate a half-confession" for a certain time, without forming evidence, postponing the receipt of truthful explanations on these issues to a later time.

Conclusions. The influence on the psyche of persons who take part in the case is one of the integral elements of the activity of the investigator (detective). The law enforcement officer constantly influences people with his authoritative orders, educational measures, and means of procedural coercion. Without this, it is impossible to solve the tasks of criminal proceedings, which are defined by the legislator in Article 2 of the Criminal Procedure Code of Ukraine [2]. The difficulty, in our opinion, is to determine which forms of influence are permissible, legal, and which of them are a manifestation of mental violence, which is incompatible with the principles of the criminal process.

Considering the presence of shortcomings in this area of procedural legal and forensic

activity, we consider further research of the appropriate direction to be relevant, because the latter will create prospects for theoretical and practical work and contribute to the resolution of problematic issues in this direction.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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ABSTRACT

The authors of the article outline the legal foundations and prospects for the development of criminology, forensic psychology and criminal procedural law in the light of legal reform in Ukraine. The peculiarities of the tactical and psychological influence of the investigator (detective) on persons participating in criminal proceedings are considered. The author's own (author's) methodology for solving a number of problematic situations that may arise in the practical activities of a law enforcement officer of Ukraine is presented for consideration and discussion. The need for effective cooperation of law enforcement officers, specialists in the field of criminology and forensic psychology in order to qualitatively and objectively perform the tasks of criminal proceedings, comply with the general principles of the criminal process and improve the innovative policy of Ukraine in general is substantiated. The authors defined and provided their own list of legal positions and techniques for possible opposition to procedural and legal techniques and tricks of the subject. A methodological basis for determining the elements of lies, slander, hearsay and suggestion during the interrogation of a witness or suspect is provided. The significance and evaluation of these short stories in the system of law, criminology, forensic psychology and the criminal process as a whole is revealed. Conclusions were made and recommendations were given regarding the coordinated application of the norms of the current legislation in the practical activities of the investigator, detective and criminalist. Attention was drawn to the need for further scientific cooperation of scientists, specialists in the field of material and procedural law.

Keywords: *detective, criminal process, criminology, criminal proceedings, legal norms, psychology, investigator, participants.*

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Viktor PLETENETS ©
Doctor of Law, Professor
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

FEATURES OF THE USE OF SPECIAL KNOWLEDGE IN THE INVESTIGATION OF ILLEGAL OCCUPATION BY FISH, ANIMAL OR OTHER WATER MINING

Віктор Плетенець. ОСОБЛИВОСТІ ВИКОРИСТАННЯ СПЕЦІАЛЬНИХ ЗНАНЬ ПРИ РОЗСЛІДУВАННІ НЕЗАКОННОГО ЗАЙНЯТТЯ РИБНИМ, ЗВІРИНИМ АБО ІНШИМ ВОДНИМ ДОБУВНИМ ПРОМИСЛОМ. Стаття присвячена розгляду особливостей використання спеціальних знань при розслідуванні незаконного зайняття рибним, звіриним або іншим водним добувним промислом. Серед заходів, спрямованих на подолання існуючих обставин вбачається у підвищенні фаху уповноважених осіб та розширенні можливостей залучення до проведення окремих слідчих (розшукових) дій спеціалістів відповідного профілю діяльності. Наголошується, що використання знань при проведенні слідчих (розшукових) дій в рамках розслідування кримінальних правопорушень проти довкілля взагалі та незаконного зайняття рибним, звіриним або іншим водним добувним промислом зокрема, обумовлено потребою залучення фахівців зі спеціалізованими знаннями у відповідній галузі, напрямку діяльності. В статті підкреслюється, що виявлення фіксація й вилучення слідів інформації, досить часто, визначається необхідністю здійснення разом із її носіями, знаряддями незаконного зайнятті рибним, звіриним або іншим водним добувним промислом.

Звертається увага, що на розсуд уповноваженої особи можуть залучатись й фахівці інших галузей знань до проведення всіх слідчих (розшукових) дій. Водночас, спрямована на підвищення ефективності діяльність уповноважених осіб може мати багато векторів, де залучення фахівців з відповідного роду знаннями, вміннями та навичками, профілю діяльності до участі в слідчих (розшукових) дій може визначатись ключовим з них. В дослідженні стверджується, що ефективність, як критерій використання спеціальних знань, доцільно розглядати одним із способів підвищення якості діяльності уповноважених осіб в реалізації завдань кримінального провадження. При цьому ретельна підготовка до проведення кожної окремої слідчої (розшукової) дії обумовлює, необхідність визначення спеціалістів, державних чи громадських організацій, зокрема й міжнародних, яких доцільно залучити.

Ключові слова: *кримінальні правопорушення проти довкілля, виявлення й документування суспільно-небезпечного діяння, незаконне здійснення рибного, звіриного або іншого водного добувного промислу, обстановка вчинення кримінального правопорушення, засоби й знаряддя реалізації злочинного задуму, уповноважені особи, спеціальні знання,спеціаліст, організація розслідування та слідчих (розшукових) дій.*

Relevance of the study. Environmental wrongful acts do not have such a spread, for example as crimes against property. At the same time, the judicial perspective of any criminal proceedings becomes possible only in the case of a complete and comprehensive establishment of all circumstances. This can be done, in particular, by using the relevant subjects of modern technical and forensic means. The required speciality of specialists of the relevant activity profile affects the effectiveness of the activities of authorized persons and the judicial perspective of the investigated criminal proceedings.

Of great importance in combating environmental offenses is the activities of both domestic and foreign public and state organizations, among which are the following: World

ORCID iD: https://orcid.org/0000-0002-3619-8624
viktor_plet@i.ua

Wildlife Fund (WWF) [1], which has a representative office in Ukraine [2], Greenpeace [3] with a representative office in our country [4], the International Union for Conservation of Nature (IUCN) [5]. International Green Cross (Global Green) [6] and others.

The activities of these and other organizations are focused on countering, to one degree or another, the most acute problems of the world in changing global values, based on advanced public projects, innovative research, environmental policy, environmental protection, stopping the degradation and maintenance of the natural systems of our planet. At the same time, the main directions of their activity are focused on the protection of seas and oceans, freshwater reservoirs and forests, the preservation of species of flora and fauna, minimization of the use of toxic substances, climate change.

In addition to this, they assist law enforcement agencies in identifying and eliminating relevant manifestations of offenses against environmental safety. Accordingly, the expertise and experience gained by these organizations and their employees can be used by law enforcement agencies of our state in identifying relevant acts against the environment, assessing the consequences for the environment and the damage caused, as well as determining ways to overcome them. This will ensure the correct qualification of the actions of the relevant subjects with a legal assessment in both state and international judicial institutions.

Thus, the use of special knowledge of relevant specialists should not be limited to state or public organizations of our country.

Resent publications review. At the same time, it is worth noting that the use of special knowledge was given considerable attention by a significant number of scientists, in particular: V. Bakhin, V. Bernaz, V. Veselsky, A. Volobuev, V. Galagan, V. Zhuravlya, A. Ishchenko, N. Karpov, N. Klimenko, V. Kovalenko A. Kolesnichenko, V. Konovalova, V. Korzh, A. Kofanov, V. Kuzmichev, V. Lisichenko, V. Lukashevich, E. Lukyanchikov, G. Matusovsky, O. Oderi, I. Pyrih, B. Romanyuk, M. Saltevsky, Z. Sokolovsky, R. Stepanyuk, V. Tishchenko, L. Udalova, O. Frolov, P. Tsymbal, V. Tsirkal, Yu. Chernous, V. Shepitko, M. Shumilo, M. Shcherbakovsky and others.

At the same time, the issues of using special knowledge in the investigation of illegal fishing, animal or other water mining in the present conditions require due attention and revision of the achievements of scientists who paid attention to this direction of research. Special importance is acquired in the conditions of martial law and other emergencies introduced in Ukraine by authorized persons to carry out activities to identify and collect evidence on illegal fishing, animal or other water mining.

The article's objective. The article is aimed at highlighting the peculiarities of the use of special knowledge in the investigation of illegal fishing, animal or other aquatic extractive fishing

Discussion. Among the measures aimed at overcoming the existing circumstances, we see in increasing the expertise of authorized persons and expanding the possibilities of involving specialists of the relevant activity profile in conducting individual investigative (search) actions. Article 71 of the CPC stipulates that a specialist in criminal proceedings is a person who has special knowledge and skills in the use of technical or other means and can provide advice during pre-trial investigation and trial on issues requiring relevant special knowledge and skills [7].

In turn, Z. Sokolovsky, under special knowledge, perceives a set of information obtained as a result of professional special training, which creates for the person who owns them the possibility of solving issues in any field [8, pp. 202-204].

Special knowledge B.Romaniuk defines as a set of scientifically based information of a separate (special type), which is possessed by persons – specialists within the framework of any profession in various fields of science, technology, art and craft, and, in accordance with the norms of criminal procedural legislation, use them for successful solving the problems of criminal justice [9, p. 57].

It is worth noting that the following C. M. Sokolovsky and B. Romanyuk loans coincide in the fact that they determine the special knowledge of the relevant person in any field, profession, industry. However, we believe that it would be more correct to state about the appropriate direction or a single industry, where a person can perfectly possess the appropriate level of knowledge, skills, experience of activities that are not common. Thus, the number of spheres of human activity in the modern world can be characterized by its diversity, which necessitates the possession of the appropriate level of knowledge and experience in a specifically defined, and not in all directions. The above-mentioned acquires the corresponding

significance during the organization of the investigation of criminal offenses qualified under Articles 236-254, which are included in Section VIII "Crimes against the Environment" of the Criminal Code of Ukraine [10], which may be characterized by diversity of both manifestations of socially dangerous acts and the collection of evidence base for them.

At the same time, as O. Oderiy emphasizes, the beginning of criminal proceedings is complicated by the circumstances that law enforcement officers often do not know the essence of the forensic characteristics of a particular type of offenses against the environment, underestimate the urgency of identifying and removing material traces, documents necessary for expert research [11, p. 178].

Accordingly, the use of knowledge in conducting investigative (search) actions in the investigation of criminal offenses against the environment in general and illegal fishing, animal or other water mining in particular, is due to the need to attract specialists with specialized knowledge in the relevant field, direction of activity.

No less important is the fact that the method of obtaining knowledge, as emphasized by W.M. Waldman, is one of the criteria for determining special knowledge [12, pp.5-6].

Accordingly, the knowledge gained by the authorized person during the training and the experience of their practical application should be assessed as professional. However, the insufficiency of any of these components may call into question the speciality and assessment of the possession of relevant knowledge as special, and hence the appropriate level of their application.

It should be noted that the possession, for example by an authorized person of knowledge in the appropriate direction, of a field of knowledge with the possibility of their application cannot be regarded as special for this subject. This is because knowledge in the field of forensic science is considered professional for the authorized person. But it is impossible to demand from the investigator in-depth knowledge of certain branches of forensic technology and forensic examination [13, p. 14].

Thus, special for the authorized person will be those knowledge that he does not have or does not have enough, which necessitates the involvement of subjects who are their carriers at the professional level. At the same time, the possession by an authorized person of the necessary level of knowledge and experience in their application does not exclude the possibility of attracting as specialists persons specializing in the same direction of activity.

It should be noted that the primary investigative (detective) action, with which, quite often, the fixation of the criminal offense in question begins, is a review. Part 1 of Article 237 of the Criminal Procedure Code of Ukraine determines that in order to identify and record information about the circumstances of a criminal offense, the investigator, prosecutor inspect the area, premises, things, documents and computer data [7].

It should be emphasized that the inspection of the scene is an investigative (investigative) action, the purpose of which is to study the material situation of the scene through its direct personal perception by the investigator, other participants in the inspection in order to identify, fix and extract traces of a criminal offense and other material evidence, to clarify the mechanism of the incident and other circumstances that are important for the proceedings [14, p. 333].

In many cases, when conducting one investigative (detective) action, the joint and simultaneous participation of several specialists is necessary. Thus, the investigator to inspect the place of the polluted river involved two specialists: an employee of the environmental inspection and a process engineer [15, p.809].

The given example can be used also for attraction of experts of the corresponding profile of activity during documenting of facts of illegal occupation by fish, animal or other water extractive trade.

At the same time, the definition for involving specialists of the appropriate profile who will be part of the investigative-operational group should be carried out as preparatory actions for departure to the scene [16, p. 229]. At the same time, the authorized person should take into account that upon arrival at the inspection site, there may be a need to attract specialists and other activities.

Their involvement is carried out in order to identify tools, means of committing criminal offenses in the field of ecology in general and illegal employment in fish, animal or other water mining in particular. Thus detection of fixation and removal of traces of information, quite often, is defined by necessity of realization together with its carriers, tools of illegal employment by fish, animal or other water extractive trade. These include: explosive

and toxic substances; electric current; prickly fishing gear; firearms and air guns (with the exception of harpoon rifles for spearfishing); industrial and other fishing tools made of mesh-net materials of all kinds and names, catching crayfish in the dark with the use of lighting [17, p. 123].

At the same time, the given set of tools that can be used to commit illegal occupation by fish, animals or other aquatic extractive industries is not exhaustive and can be expanded at the expense of tools that are prohibited by the use, in particular:

– electric fishing devices, prickly fishing gear, partial trawls, tulle nets and fibers in all water bodies throughout the year;

– partial casting nets and red tape in the reservoirs of the Dnieper and Seversky Donets – from the end of the spring ban until September, 20;

– nets with an eye of 52-68 mm in the Dnieper reservoirs, in all other water bodies – nets with an eye of 42-68 mm;

– grids with a length of more than 35 meters in small rivers and other water bodies with an area of up to 5,000 hectares and more than 70 meters – in water bodies with an area of more than 5,000 hectares [18].

These objects should be identified, investigated and removed with the involvement of, for example, specialists of fish inspection. These same specialists can determine the type, approximate age of the caught prey and orient the damage caused by illegal activities.

Preliminary evaluation of detected objects as fishing tools can help to obtain criminalistically significant information for the construction and development of versions in search of not yet established circumstances of the committed criminal offense.

No less attention should be paid to the detection and removal of micro-leads and micro-objects that may be carriers of information about a wrongful act. They, for the most part, are identified and seized at the points of contact of the relevant instruments of committing a criminal offense with other objects. The implementation of this, for the most part, relies on forensic specialists.

No less important is the discovery of the facts of committing illegal fishing, animal or other water mining in social networks on computer data carriers, including phones, as well as social networks. As N.V. Pavlova notes, the specialist will also assist in examining web pages and websites, user accounts in social networks with the subsequent storage and printing of a screenshot with criminalistically significant information [19, p. 65], where information on illegal fishing, extractive or other fishing is often distributed by relevant persons.

An important place in the activities of relevant specialists in fixing illegal acts against the environment is occupied by the applied scientific and technical means. At the same time, as V. Honcharenko emphasizes, special knowledge that meets the requirements of the modern development of science and can be used in the field of criminal procedural activity: in order to prove certain circumstances of the criminal case, collect and consolidate evidence, etc. [20, p. 11].

Modern capabilities of technical and forensic means in the identification, fixation and extraction of significant information determines the possibility of their use in the conduct of all without exception investigative (search) actions. Based on the generalization of materials of criminal proceedings, it can be argued that the involvement of a specialist in conducting examinations, interrogations, searches, investigative experiments, etc. allows obtaining the necessary evidence confirming the involvement of specific persons in illegal activities [21, pp. 448-449]. The given list of investigative (search) actions can be characterized as one that most often involves specialists, but the need for their participation is determined by the investigator in each case.

Of great importance in the investigation of criminal offenses against the environment and such manifestations as illegal fishing, animal or other water mining is the review of documents. During this, the investigator needs to study the general appearance and condition of the documents, their details; establish the circle of persons who had the right to certify specific documents with their personal signature and (or) stamp of the agricultural enterprise; determine their purpose [22 p. 14].

In this case, the documents can be those that provide the appropriate permission to catch fish, crayfish with a definition of the place, time, means of catching, and the permitted amount of catch, identity, used water-motor vehicles, etc.

A significant place in the familiarization can be acquired by the possibility of detecting signs of forgery, not matching any component granted by the permission and the revealed

violation. Documents can act as material evidence if they were an instrument of committing a criminal offense, retained its traces or contain other information that can be used as evidence of a fact or circumstances established during criminal proceedings [23, p.144].

To solve the problems of criminal proceedings, not only information occupies a significant place, materials contained in the document, as well as the state of the document, materials used for its execution, the presence of requisites, records and methods of its implementation, etc. This can help to identify non-compliance of permits and the identified catch, mining, which can be carried out with the involvement of a specialist of the appropriate activity profile, first of all, fish inspectorates, representatives of the society of hunters and fishermen [24].

The possibility of identifying the changes made to the priority content of documents can be carried out by involving forensic specialists.

No less important in obtaining information about the circumstances of the committed criminal offense is the involvement of specialists in conducting interrogations.

During interrogation, the volume and types of necessary special knowledge are determined by the investigator depending on the type of crime, the person being interrogated, the method of committing the crime, the number of collected material evidence, etc. [25 p. 283].

Part. 1 Art. 224 of the CPC of Ukraine determines that each witness is questioned separately, without the presence of other witnesses, and in accordance with Part 2 of Art. 224 of the CPC, he is warned of criminal liability for refusing to testify and for knowingly giving false testimony [7].

At the same time, the interrogation should be characterized by the clarity of the definition of the subject with the detailing of the content of the event. Significant importance in establishing psychological contact, as a key component of effective interrogation, may consist in attracting such specialists as a psychologist. Determination of the list and sequence of questions and tactics can increase the effectiveness of interrogation and other investigative (search) actions. Minimizing the possibility of forming a conflict situation, for example during simultaneous interrogation, can be regarded as a prevention of the formation of manifestations of counteraction to the pre-trial investigation.

No less important is such investigative (search) action as a search. Specialists of the relevant activity profile may also be involved in its conduct. The effectiveness of the search nature of this procedural action determines the need for appropriate training, within which the election of specialists should be given significant importance. At the same time, as specialists can be involved those who have already participated in inspections or other investigative (search) actions. This will contribute to a better orientation of these specialists during the search, because, having information about the circumstances of the criminal offense, tools and their components, the necessary tools, they will be able, with a greater degree of probability, to find the desired items [26, p.142].

At the discretion of the authorized person, specialists of other branches of knowledge may also be involved as to the investigative (search) actions considered by us. At the same time, the activity of authorized persons aimed at increasing efficiency can have many vectors, where the involvement of specialists with the appropriate kind of knowledge, skills and abilities, activity profile to participate in investigative (search) actions can be determined by the key one. At the same time, efficiency, as a criterion for using special knowledge, should be considered one of the ways to improve the quality of the activities of authorized persons in the implementation of criminal proceedings. The above, according to P. P. Mikhailenko, contributes to the observance of such a principle of pre-trial investigation as objectivity [27, p. 890]. At the same time, careful preparation for each individual investigative (detective) action determines the need to identify specialists, state or public organizations, including international ones, which should be involved.

Conclusions. Of great importance in obtaining the necessary information about the circumstances of illegal fishing, animal or other water mining is the conduct of such investigative (search) actions as: inspection, interrogation, search and others. Improving the effectiveness of the activities of authorized persons can have many vectors, where the involvement of specialists of state or public organizations, including international ones, who have the appropriate kind of knowledge, skills and abilities, the activity profile to participate in investigative (search) actions can be determined by the key. At the same time, it is advisable to consider efficiency as a criterion for using special knowledge during the investigation of illegal

fishing, animal or other water mining as one of the ways to improve the quality of the activities of authorized persons in the implementation of criminal proceedings.

The directions of our further research will focus on the specifics of investigating other criminal offenses against the environment.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The article is devoted to the consideration of the peculiarities of the use of special knowledge in the investigation of illegal fishing, animal or other water mining. Among the measures aimed at overcoming the existing circumstances is seen in increasing the expertise of authorized persons and expanding the possibilities of involving in the conduct of individual investigative (search) actions of specialists of the corresponding activity profile. It is noted that the use of knowledge in conducting investigative (search) actions in the investigation of criminal offenses against the environment in general and the illegal occupation of fish, animal or other water mining in particular is due to the need to attract specialists with specialized knowledge in the relevant field, direction of activity. The study argues that careful preparation for each individual investigative (detective) action determines the need to identify specialists, state or public organizations, including international, which should be involved.

Key words: *criminal offenses against the environment, identification and documentation of a socially dangerous act, illegal implementation of fish, animal or other water mining, the situation of committing a criminal offense, means and tools for implementing a criminal plan, authorized persons, special knowledge, specialist, organization of investigation and investigative (search) actions.*

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Ihor PYRIH ©
Dr. of Law,
Professor
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

Serhiy PROKOPOV ©
Senior Lecturer
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

PROBLEMS OF FORMATION AND USE OF FORENSIC RECORDS FOR OPERATIONAL AND INVESTIGATIVE PURPOSES

Ігор Пиріг, Сергій Прокопов. ПРОБЛЕМИ ФОРМУВАННЯ ТА ВИКОРИСТАННЯ КРИМІНАЛІСТИЧНИХ ОБЛІКІВ ОПЕРАТИВНО-РОЗШУКОВОГО ПРИЗНАЧЕННЯ. У статті приділено увагу одному з напрямків інформаційно-довідкового забезпечення розслідування, а саме формуванню та використанню криміналістичних обліків оперативно-розшукового призначення, що зосереджені на трьох рівнях – центральному, регіональному та місцевому Розглянуто детальніше окремі види оперативно-розшукових обліків, залежно від об'єктів, відомості про які містяться в кожному конкретному обліку, а також завдання та порядок отримання з них криміналістично значущої інформації, звертаючи увагу на проблеми, що існують в експертній діяльності з їх формування та ведення.

При розгляді функціонування дактилоскопічного обліку приділено увагу його реалізації з використанням програмно-апаратного комплексу АДІС «Дакто-2000», що дає можливість оперативно здійснювати обробку дактилоскопічної інформації та пошук необхідних відомостей щодо осіб певної категорії. Окрему увагу в статті приділено балістичному обліку, оскільки на сьогодні, у зв'язку з розв'язаною росією війною проти нашої країни, збільшилась кількість кримінальних правопорушень, що вчиняються з використанням зброї. Кулегільзотеки, що

© Pyrih I., 2023
ORCID iD: https://orcid.org/0000-0002-8391-067X
pira@ua.fm

© Prokopov S., 2023
proko@ua.fm

складають основу балістичного обліку створюються з метою: встановлення фактів використання одних і тих же екземплярів зброї у разі вчинення кількох кримінальних правопорушень; виявлення зброї, що застосовувалась у вчиненні правопорушень серед знайденої, вилученої та добровільно зданої, такої, що була на озброєнні поліції або військових підрозділів та іншої, зареєстрованої на об'єктах дозвільної системи. Розглянуто переваги автоматизованої балістичної інформаційної системи «BalScan», що використовується експертними підрозділами для проведення на якісному рівні роботи з обліку гільз і куль зі слідами вогнепальної зброї. Розглянуто облік грошових знаків, бланків документів та цінних паперів сприяє розслідуванню та попередженню фальшивомонетництва, а також правопорушень, що пов'язані з виготовленням і використанням підроблених документів. Зосереджено увагу на формуванні обліку трасологічних об'єктів у формі натурних предметів зі слідами, вилученими при огляді місця події та інших слідчих (розшукових) дій: взуття; рукавичок; знарядь зламу; транспортних засобів тощо або фотозображень таких слідів. При цьому звертається увага на функціонуванні інформаційної підсистеми «СЛІД» інформаційно-телекомунікаційної системи «Інформаційний портал Національної поліції України», що є нічим інакшим як узагальненням всіх існуючих обліків оперативно-розшукового призначення на місцевому та регіональному рівнях.

Звертається увага на існуючі проблеми в практичній діяльності з формування та використання обліків, пов'язані з неналежною взаємодією Експертної служби та підрозділів техніко-криміналістичного забезпечення органу досудового розслідування поліції. При цьому зроблено висновки, що існуюча на сьогодні система криміналістичної реєстрації потребує реформування шляхом зосередження криміналістичних обліків оперативно-розшукового призначення в одній службі, а саме у підрозділах з техніко-криміналістичного забезпечення органів досудового розслідування поліції.

Ключові слова: *кримінальні правопорушення, розслідування, криміналістичні обліки, слідчий, спеціаліст-криміналіст, експерт, сліди, інформація, техніко-криміналістичне забезпечення.*

Relevance of the study. One of the ways to improve the pre-trial investigation of criminal proceedings is its information support, which consists in collecting and processing existing information about the crime and providing an opportunity for the investigator to obtain this information in a form convenient for him for the purpose of its further use in the investigation [1, p. 338]. The accumulation of information obtained during the investigation and its systematization is a component of the activities of expert, investigative, information-analytical and other units of the National Police, and the result of such activities are forensic records formed according to certain criteria.

In the case when the sources of information are objects causally related to a criminal offense, and such objects are seized during investigative (search) actions, it is potentially evidential. If the information contains informative and reference information, it is indicative [2, p. 204]. According to this criterion, namely the functional purpose, forensic records are divided into operative-search and informational-reference [3, pp. 166-167].

To date, in our opinion, certain successes have been achieved in the formation of information and reference records, starting in 2017, when the Regulation on the Information and Communication System "Information Portal of the National Police of Ukraine" [4] was approved and a unified information system of the Ministry of Internal Affairs of Ukraine was formed [5]. Since that time, individual subsystems of this system have been constantly updated and improved. Information and analytical systems have acquired a certain development and use in the investigation and operational search activities [6, p. 344-349; 7, p. 165]. Taking into account the current conditions, namely the war launched by the russian federation against our country, appropriate means of countering aggression are being developed on the basis of existing information about the enemy. In particular, specialists of the Center for Innovations and Development of Defense Technologies of the Ministry of Defense of Ukraine developed a unique system for collecting, processing and displaying information "Delta" to ensure the coordination of defense forces and situational awareness on the battlefield [8]. Despite certain achievements in the formation of information and reference records, there are certain problems in the formation and use of records for operational and investigative purposes, although they play the main role in the establishment and identification of criminals.

Recent publications review. Considerable attention was paid to the problematic issues of the formation and use of forensic records in the investigation by Ukrainian scientists: V. Areshonkov, V. Bahina, A. Volobuyev, V. Biryukova, V. Goncharenko, D. Dabizhi, R. Demchyshak, V. Zhuravel, A. Ishchenko, N. Klymenko, V. Lysenko, V. Lukashevych, V. Lysychenko, E. Lukyanchykova, O. Motlyakh, O. Oderia, V. Prykhodko, M. altevsky, R. Stepaniuk, V. Stratonov, V. Tishchenko, V. Khakhanovskyi, K. Chaplinskyi, Yu. Chornous,

V. Shepitka, M. Scherbakovskyi, V. Yusupov, and others. However, despite the significant contribution of these scientists to solving the problems of creating forensic records, certain issues related to the use of records for operational and investigative purposes remain unresolved and require further development.

The article's objective. The purpose of the article is to develop recommendations for the formation and use of operational search records in the modern conditions of the development of information technologies.

Discussion. Operational investigative records function in the Expert Service of the Ministry of Internal Affairs of Ukraine and contain objects that are directly related to the occurrence of a crime and are seized during investigative (search) and covert investigative (search) actions. According to the Instructions for the Organization of the Functioning of Forensic Records of the Expert Service of the Ministry of Internal Affairs of Ukraine, "the sources of the formation of forensic records are objects (their copies, images) and (or) information about them, which come from the bodies of inquiry, pre-trial investigation, prosecutor's office, courts, divisions, which, respectively according to the current legislation, they have the right to carry out investigative activities, as well as from the Ministry of Health of Ukraine, the Ministry of Justice of Ukraine, other executive authorities, as well as the National Bank of Ukraine" [9]. In accordance with the same Instruction, investigative records are intended for obtaining information about a person who is involved in the commission of a criminal offense; identification of a person, instrument of crime: weapon, vehicle, equipment, etc.; establishment of common group belonging of substances and materials; other factual data testifying to the commission of an offense by a specific person; obtaining other information about the committed and prevention of criminal offenses [9]. After checking the forensic records, if a positive result is obtained, it is possible to assert the existence of certain facts in criminal proceedings, for example, the presence of a person in a certain place and at a specific time, or the belonging of traces from different places to a particular person or their belonging to the same person. From the foregoing, it is clear that the main purpose of investigative records is to establish group membership and identification of various types of objects, including living persons.

Information support is important during the investigation of criminal offenses in conditions of lack of information, when the investigator feels a shortage of the data he needs both to identify traces of the offense, to find out the mechanism of the crime, and to organize the entire investigation. In particular, this is required in investigative situations at the initial stage of the investigation, when the person who committed the criminal offense has not been identified. The activity of the investigator is based on the data of the forensic records, which consists in the construction and verification of versions, the organization and planning of the investigation, the selection of tactics for conducting separate investigative (search) actions, tactical combinations and operations and other measures [10, p. 235]. The effectiveness of the use of information contained in forensic records is of great importance, determined by the time since its receipt. The faster this information is implemented, the greater is its impact, and the higher the efficiency [11, p. 241].

During the formation of databases and ensuring their functioning, special knowledge is required in a non-procedural form. As a rule, the results of the accounting check are implemented in the form of an examination. According to the Instructions, registration is carried out only after their expert examination, which is diagnostic in nature and consists in identifying a set of signs that are individual and sufficient for the identification of objects. Objects obtained after conducting investigative (search) actions with the participation of persons suspected of committing a criminal offense are used as comparative samples in the databases of operative and investigative records. They can be photographs, video images, dactyloscopic maps, audio recordings, objects of biological origin, etc.

Operational investigative records function at the central level – at the State Scientific Research Expert Forensic Center of the Ministry of Internal Affairs of Ukraine, and at the regional level – at the regional Scientific Research Expert Forensic Center. This division fully corresponds to the system of the Expert Service of the Ministry of Internal Affairs of Ukraine [12]. However, the Instruction on the organization and functioning of forensic records of the expert service of the Ministry of Internal Affairs provides for three levels of their concentration – central, regional and local (bush) [9]. This state of affairs is explained by the fact that the specified legal act was adopted in 2009 even before the reform of the system of the Ministry of Internal Affairs of Ukraine and corresponds to the system of expert institutions of the Ministry

of Internal Affairs that existed at that time. It is clear that the specified Instruction is outdated and needs updating, as noted in the scientific literature [13, p. 10]. In our opinion, there is a need to create a new normative legal act that would regulate the procedure for the formation, maintenance and use of forensic records, which are currently concentrated in the Expert Service of the Ministry of Internal Affairs of Ukraine and pre-trial investigation bodies of the police, and would also regulate the issue of interaction between bodies and units other departments that have forensic records.

At the central level, – State Scientific Research Expert Forensic Center of the Ministry of Internal Affairs of Ukraine, – the following types of operational-investigative purpose records function: 1) central bullet casing file (cases and bullets with traces of weapons); 2) central collection of counterfeit money; 3) forged documents produced using printing methods; 4) the central file of handprints removed from the places of unsolved serious and high-profile crimes; 5) the central fingerprint index of persons subject to registration at the level of the State Department of Internal Affairs and Communications; 6) a central collection of phonograms with the voices and speech of anonymous announcers and established persons who reported on various socially dangerous acts; 7) shoe traces formed from images of shoe traces from the scene of various types of serious and especially serious crimes; 8) DNA profiles (human genetic characteristics); 9) explosive devices and their remains, removed from the scene; 10) central catalog of information on synthetic and semi-synthetic narcotic drugs and psychotropic substances [9].

At the regional level, the same types of operational search records function in the regional Scientific Research Expert Forensic Center as at the central one. At the same time, the Instruction provides certain types of records exclusively at the regional concentration level. They include objects and traces removed during inspections of the scene of events following proceedings on crimes committed in the territory of their service, as well as those provided for verification from other regions [9]. Therefore, the records of exclusively regional level are the following: objects bearing traces (copies, images of traces) of hacking tools or parts of broken obstacles, vehicles, gloves; subjective portraits of persons suspected of committing crimes. Depending on the method of registration of the object – descriptive, photographic, schematic or mixed (when objects are registered by at least two types of methods), the organization of accounting work can be carried out in different forms. The forms of their management are: card libraries, which consist of information and search maps of the established model and are placed according to a certain system; trace files containing copies of traces from unsolved crime scenes; photo and video libraries are an array of photographs and video images of registered objects; sound libraries contain an array of audio recordings of the voice of famous and unknown persons; magazines and e-magazines; automated data banks in which information about registered objects is stored in coded form: automated information systems and information search systems.

Let’s consider in more detail individual types of investigative records, depending on the objects, the information about which is contained in each specific record, as well as the tasks and the procedure for obtaining forensically significant information from them, paying attention to the problems that exist in the expert activity of their formation and driving We consider it expedient to consider in detail the purpose of those types of operational search records, the effectiveness of which is the highest. In turn, the procedure for obtaining information from any type of accounting is typical.

One of the main ones today is dactyloscopic accounting, given that handprints are the most common objects recovered at the scene. This account is one of the first, which was laid as a basis for accounting and registration activity as a whole. According to the Instruction on the procedure for dactyloscopic registration of the Expert Service of the Ministry of Internal Affairs of Ukraine, the purpose of this type of registration is: searching for people who have gone missing; establishing a person’s identity from unrecognizable corpses; confirmation of the identity of a person who was previously fingerprinted; identification of persons who left handprints at the scene; establishing the facts of one person leaving traces of his hands in the commission of various crimes [14]. Within the dactyloscopic records, the following components are interrelated: card index of handprints (fingerprint index) and index of dactyloscopic cards (fingerprint index). Today, dactyloscopic accounting functions and is implemented using the Automated information and search system "Dakto-2000" software and hardware complex, which makes it possible to quickly process dactyloscopic information and search for necessary information about persons of a certain category.

The system performs the following functions: entering fingerprints (fingerprint cards) and demographic data into the database; input into the database of fingerprints removed from unsolved crime scenes; storage and management of the database of handprints and unidentified traces; conduct and analysis of fingerprint card searches and traces with the database; preparation and printing of search results; creation of statistical reports; conducting searches based on demographic data of a person. The server provides work with databases containing arrays of automated dactyloscopic card files and ice files, manages the processing of requests, performs dispatching functions, analyzes and issues the results of automated processing of requests. The complex allows you to enter fingerprints and traces and transfer them to a higher level, where they are processed and entered into the database. The complex can exchange dactyloscopic data, send requests and receive search results with the central database through communication channels [15]. Also, for the purposes of registration of dactyloscopic objects, Automated information and search system software and technical complexes are used, which are equipped with colorless image input scanners, to which a finger, fingerprint card or a photo of the trace is applied, and their scanning takes place with subsequent display on the monitor screen. Having entered dactyloscopic information into the computer, with the help of such systems, checks are carried out and the coincidence or discrepancy of certain objects is established.

Today, in connection with the war waged by russia against our country, the number of criminal offenses committed with the use of weapons has increased. That is why the accounting of ballistic objects is of great importance. Bullet files are created for the purpose of: establishing the facts of the use of the same weapons in case of committing several criminal offenses; detection of weapons used in the commission of offenses among those found, seized and voluntarily surrendered; detection of facts of use by offenders of lost rifled or smooth-bore firearms that were in the service of the police or military units, registered at the objects of the permit system, and those that were in the personal use of citizens; detection of weapons lost by police officers among those found, recovered and voluntarily surrendered.

In order to carry out high-quality work on the accounting of casings, bullets with traces of firearms, expert units are equipped with the automated ballistic information system "BalScan" of Czech production, which is universal for detecting, fixing and accounting for traces of firearms on ammunition. Cartridges and bullets found at the scene are scanned using modern optics and a three-dimensional digital copy is created and stored in the database. The program automatically evaluates possible matches with other images in the database. The program has prepared a special mode for comparing found bullets or casings by a ballistic specialist. The system is designed for processing and storing in digital format a wide range of ammunition from traumatic and home-made weapons to firearms of industrial production. The side surface of the case or bullet, the bottom of the case are scanned completely in high resolution with a 360-degree surface coverage and include spatial information in 2D or 3D images. "BalScan" detects traces not only on undamaged surfaces, but also on bullets or their fragments deformed by impact. There is also the possibility of direct scanning of the striker and the front edge of the breech part of the firearm.

"BalScan" software includes a tool for managing scanned data based on proven Oracle database technology, divided into two logical units. The first – the database of criminal proceedings contains scanned reference bullets and casings, as well as those recovered from the scene. The second database allows you to match reference bullets and cases with a specific weapon. The database can be installed on a separate high-performance server connected to other "BalScan" workstations located in the network. Active stations equipped with the "BalScan" system provide real-time image analysis, digital images of casings and bullets, search and comparison in the database. Conventional computer servers, or passive stations, allow you to search and compare only the database. It is also possible to directly compare the front of the bolt and firing pin with the marks on the bottom of the case. Advanced algorithms and three-dimensional data analysis are used for maximum reliability. The operator has the ability to highlight the surface relief at different lighting angles, which can be easily synchronized and changed.

The accounting of currency signs, document forms and securities contributes to the investigation and prevention of counterfeiting, as well as offenses related to the production and use of forged documents. According to its purpose, it ensures: establishment of common features and one method of production with currency notes, document forms, securities in collections; identification of persons involved in the production of counterfeit securities,

money, and document forms. Today, this type of accounting is also automated. Information about the objects of accounting is concentrated in Automated information and search system "Forgery" or Automated workplace "TDOD", which ensure the functioning of accounting of real and forged documents with the possibility of use in banking, law enforcement and other spheres of activity.

During the commission of a significant number of criminal offenses, especially property offenses related to breaking into a home or storage, offenders use various tools and mechanisms to break security devices. Traces of gloves, shoes, other parts of a person's clothing, vehicles, etc. may be found at the scene. To create proper conditions for the identification of the specified objects, there are records of traceological objects in the form of physical objects with traces removed during the inspection of the scene of the incident and other investigative (search) actions: shoes; a glove; breaking tool; vehicles etc. or photographs of such traces. The main purpose of the traceological accounting is: identification of traces left by the same trace-forming object: shoes, gloves, burglary tools, vehicles when committing several crimes; identification of a trace-forming object belonging to a certain person based on the traces removed during the inspection of the scene of the incident; generalization of information about types of trace-forming objects.

Dactyloscopic, traceological and ballistic records receive and accumulate information from objects seized during investigative (search) actions. Most of these actions are carried out with the participation of forensic specialists of the technical and forensic support units of the police pre-trial investigation body. In addition to the functional responsibilities of the employees of the specified divisions regarding participation as specialists in investigative (search) actions, they are also responsible for the functioning of the information subsystem "SLID" of the information and telecommunication system "Information Portal of the National Police of Ukraine" [16].

The specified subsystem is nothing more than a generalization of all existing records of operational and investigative purposes at the local and regional levels. According to the Instructions for the formation and management of the "SLID" information subsystem, the information entered into it is kept under the following categories: photo images of traces: hands, shoe soles, breaking tools, material structure (gloves), vehicle tire protectors; multimedia information (photo, video, sound recording) about persons involved in the commission of a criminal offense; multimedia information (photo, video recording) of the situation of the event that occurred; information about casings, bullets and cartridges with traces of weapons; information about objects of biological origin; information about other seized material objects that were a tool for committing a criminal offense and retained its traces or contain other information that can be used as evidence of a fact or circumstances established during criminal proceedings [16]. Today, the process of forming this subsystem is fully automated, and active activities are being carried out to improve the process of automating the identification of all objects included in the system.

However, in the practical activity of creating and using records, certain problems arise related to the interaction of the Expert Service and technical and forensic support units of the police pre-trial investigation body. The heads of police investigative departments are ultimately responsible for the formation of the "SLID" subsystem at the regional level, and in the Expert Service, they are the directors of the NDEKC. These services are not subject to each other. Since the records contained in the Expert Service receive information precisely based on the results of investigative (search) actions by the police, in this case such information does not always arrive as intended. For example, forensic specialists, upon detecting handprints at the scene of the incident, enter their photographs into the "SLID" subsystem. This activity, according to the order, is strictly controlled by the heads of the investigative units of the police. At the same time, the procedure for transfer of dactyloscopic information to units of the Scientific Research Expert Forensic Center is regulated only by the Instructions [9, 14], the provisions of which are imperfect, the terminology, including the names of units, is outdated. Accordingly, there is no desire of the police units to do extra work on the transfer of such information.

Conclusions. Taking into account the above-mentioned problems, it can be noted that the existing criminal registration system needs to be reformed. Forensic records of operative and investigative purposes should be concentrated in one service. In our opinion, it is possible to do this in the units for technical and forensic support of police pretrial investigation bodies, leaving the performance of examinations as the sole activity of the Expert Service of the

Ministry of Internal Affairs. Another direction of reform may be a return to the system of expert institutions that existed before 2015, namely, the establishment of Scientific Research Expert Forensic Center divisions at district police departments with the duties of both conducting examinations and participating as specialists in investigative (search) activities and the formation of forensic records. Accordingly, the specified changes must be established by regulatory and legal acts of a departmental nature.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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ABSTRACT

The article pays attention to one of the areas of information and reference provision of the investigation, namely the formation and use of forensic records of operational and investigative purposes, which are focused on three levels – central, regional and local. Individual types of operational and investigative records, depending on the objects, are considered in more detail, information about which is contained in each specific account, as well as the task and procedure for obtaining forensically significant information from them, paying attention to the problems that exist in the expert activity of their formation and management.

When considering the functioning of dactyloscopic accounting, attention is paid to its implementation using the ADIS "Dakto-2000" software and hardware complex, which makes it possible to quickly process dactyloscopic information and search for necessary information about persons of a certain category. Special attention is paid in the article to ballistic accounting, since today, in connection with the war waged by russia against our country, the number of criminal offenses committed with the use of weapons has increased. Bullet magazines, which form the basis of ballistic accounting, are created for the purpose of: establishing the facts of the use of the same weapons in the case of committing several criminal offenses; detection of weapons used in the commission of offenses among those found, seized and voluntarily surrendered, such as were in the arms of the police or military units and others registered at the objects of the permit system. The advantages of the automated ballistic information system "BalScan", which is used by expert units to carry out high-quality work on the accounting of casings and bullets with traces of firearms, are considered. Considered accounting of currency signs, forms of documents and securities contributes to the investigation and prevention of counterfeiting, as well as offenses related to the production and use of forged documents. Attention is focused on the formation of the record of traceological objects in the form of real objects with traces removed during the inspection of the scene of the incident and other investigative (search) actions: shoes; a glove; breaking tool; vehicles etc. or photographs of such traces. At the same time, attention is drawn to the functioning of the information subsystem "TRACK" of the information and telecommunication system "Information Portal of the National Police of Ukraine", which is nothing other than a generalization of all existing records of operational and investigative purposes at the local and regional levels.

Attention is drawn to the existing problems in the practical activity of the formation and use of records, related to the improper interaction of the Expert Service and technical and forensic support units of the police pre-trial investigation body. At the same time, it was concluded that the currently existing system of forensic registration needs to be reformed by concentrating forensic records of operational and investigative purposes in one service, namely in the units for technical and forensic support of police pre-trial investigation bodies.

Keywords: *criminal offenses, investigation, forensic records, investigator, forensic specialist, expert, traces, information, forensic technical support.*

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Oleksii BOIKO ©
Ph.D. (Law)
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

PROBLEM ISSUES OF INTERACTION OF OPERATIONAL UNITS WITH INVESTIGATORS, WHEN DETAINING A PERSON ON SUSPICION OF A CRIME

Олексій Бойко. ПРОБЛЕМНІ ПИТАННЯ ВЗАЄМОДІЇ ОПЕРАТИВНИХ ПІДРОЗДІЛІВ ЗІ СЛІДЧИМИ ПРИ ЗАТРИМАННІ ОСОБИ ЗА ПІДОЗРОЮ У ВЧИНЕННІ ЗЛОЧИНУ. Проаналізовано кримінальне процесуальне законодавство щодо взаємодії оперативних підрозділів зі слідчими при затриманні особи за підозрою у вчиненні злочину.

Розглянуто та виділено проблемні, питання взаємодії оперативних підрозділів зі слідчими при затриманні особи за підозрою у вчиненні злочину, зокрема щодо: суб'єктів, які саме уповноваженні на затримання та складання протоколу затримання у порядку ст. 208 КПК України; проведення обшуку особи під час затримання (з моменту фактичного затримання чи іншим співробітником після доставлення особи до органу досудового розслідування); необхідності складання окремого протоколу обшуку особи під час затримання; особливостей затримання особи без ухвали слідчого судді в умовах воєнного стану.

Приділено увагу повноваженням співробітників оперативних підрозділів при надходженні до органу, підрозділу поліції заяв і повідомлень про кримінальні правопорушення, реагуванні на них щодо затримання осіб підозрюваних у вчинені злочину.

Виділені етапи затримання при взаємодії оперативних підрозділів зі слідчими щодо затримання особи за підозрою у вчиненні злочину до яких автор відносить: фактичне затримання особи; доставлення затриманої особи до органу досудового розслідування; тимчасове тримання особи під вартою.

В статті звертається увагу, що визначена в п. 6 ч. 1 ст. 615 КПК України додаткова підстава затримання особи без ухвали слідчого судді, суду уповноваженою службовою особою в умовах воєнного стану, суперечить ст. 64 Конституції України.

Автор доходить до висновку, щоб уникнути проблемні питання взаємодії оперативних підрозділів зі слідчими при затриманні особи за підозрою у вчиненні злочину необхідно чітко розподіляти та дотримуватись повноважень між оперативними підрозділами та слідчими; чітким дотриманням вимог кримінального процесуального законодавства України та його вдосконаленням.

Ключові слова: *оперативні підрозділи, взаємодія, затримання особи, слідчий, підозра, вчинення злочину, слідчий суддя.*

Relevance of the study. In recent years, there has been a steady trend towards a crime increase in Ukraine as a whole. A significant number of crimes, including serious and especially serious ones, remain unsolved. At the current stage the fight against crime requires not only the maximum use of all the forces of law enforcement agencies, but also a clear organization. It ensures their high efficiency, coordination of all services and divisions efforts of various law enforcement agencies to act with maximum efficiency according to the powers. Also it`s very important to combine capabilities of one units with other bodies and supplement by them. This complex combination of efforts implementes by the interaction of law enforcement agencies, primarily investigators and criminal investigation units.

Recent publications review. The study of the problems of the interaction of

ORCID iD: https://orcid.org/0000-0002-2316-4871
yyrpetrikovka@i.ua

investigators with operative units in pre-trial proceedings during investigating certain types of criminal offenses or conducted procedural actions were considered in the works of the following scientists: L. Garbovskyi, S. Ablamskyi, O. Yukhno, Yu. Lukyanenko, S. Soroka, H. Rymarchuk, V. Topchii and others [1-4]. However, problematic issues of the interaction of operative units with investigators during the detention of a person suspected of committing a crime were not resolved in the works of these scientists, although some of the scientists tried to investigate these issues in their scientific articles.

The article's objective is to obtain new scientific results regarding the problematic issues of interaction between operational units and investigators when detaining a person suspected in a crime. In order to achieve the goal, it is necessary to solve the following tasks: investigate the problematic issues of the interaction of operative units with investigators when detaining a person suspected of committing a crime; to propose ways to eliminate the problems by making changes to the Criminal Procedure Code of Ukraine (hereinafter – the Criminal Procedure Code of Ukraine).

Discussion. The process of solving crimes and investigating criminal proceedings involves close cooperation of law enforcement agencies and it is also a necessary condition for ensuring law and order in society and the state.

Scientists have always raised questions about the development of scientifically based recommendations for the interaction of operational units with investigators when detaining a person suspected of committing a crime.

The need of interaction of operational units with investigators when detaining a person on suspicion of committing a crime is determined by the requirements of criminal procedural legislation, from which various forms of interaction between operational units and investigators arise and give them different powers.

In essence, the problematic issues of the interaction of operative units with investigators remain relevant, including the cases of arresting a person on suspicion of a crime.

O. Boyko distinguishes the key issues of interaction, which can be implemented in any procedural form: 1) conduct of investigative actions and covert investigative actions on behalf of the investigator; 2) providing assistance to the investigator during individual investigative actions and covert investigative actions; 3) interaction during the application of measures to ensure criminal proceedings; 4) taking measures to establish the whereabouts of a suspect who is hiding from investigative bodies and the court to evade criminal responsibility for suspended criminal proceedings [5, p. 137].

Also, O. Boyko indicates in the scientific article, that for increasing the effectiveness of the interaction of investigators with operative units there is a need to improve the professional focus of interacting parties regarding each other's capabilities and the fullness of their use to solve the tasks of criminal proceedings [6, p. 203].

However, the issue of compliance with the law and the organization of the interaction of operative units with the investigator during the detention of a person on suspicion of a crime, on grounds provided for in Part 1 of Art. 208 of the CCP of Ukraine remain particularly relevant. A significant part of them is related to the distribution of powers regarding the procedural processing of the results of the detention of a person suspected of a crime and the transfer of temporarily seized property if it was seized.

In our opinion, based on the analysis of the Criminal Procedure Code of Ukraine and Legal acts, it is appropriate to include the following problematic issues of the interaction of operative units with the investigator when detaining a person on suspicion a crime:

– who draws up the arrest protocol (the person who actually arrested (operational officer) or the investigator to whom such a person was taken)?

– by whom and when is the person searched during detention (at the time of actual detention or by another employee after the person is brought to the pre-trial investigation body)?

– is a protocol of a search of a person drawn up during detention?

– who makes the decision on detention (operational officer or investigator)?

– who informs the relatives of the detainee about the detention (the authorized official who carried out the actual detention, or the employee of the pre-trial investigation body to which the person was transferred)?

– what are the features of detaining a person without a decision of an investigating judge in the conditions of martial law?

These issues are important, because each violation of the procedure for detaining a

person on suspicion of a crime may lead to the detention being recognized as illegal and the evidence obtained inadmissible (Part 1, Article 87 of the Criminal Procedure Code of Ukraine). It also entitles the detainee to compensation for damages, caused by the actions of the authorized official who carried out the detention (Article 130 of the Criminal Procedure Code of Ukraine).

In order to answer these questions, firstly it is necessary to determine the powers of operative units employees when receiving statements and reports of criminal offenses to the body, police unit, and responding to them regarding the detention of persons suspected of having committed a crime. The specified powers are distributed as follows.

After receiving information about the commission of a criminal offense and entering the information into the Unified register of pre-trial investigations under the leadership of the head of the body, the police unit carries out a set of priority measures and urgent investigative (search) actions, including on behalf of the investigator, aimed at identifying the person, who committed a criminal offense, and clarifying all the circumstances of the event.

Priority measures and urgent investigative (search) actions include: conducting an inspection of the scene of the incident; pursuit and detention of offenders following the traces or directions of the offender's movement indicated by victims and eyewitnesses or based on the results of the work of a service dog, organization of blocking measures, including the places where offenders may stay or appear, etc.

The powers of employees of operative units when receiving statements and reports about criminal offenses and responding to them when working as part of the National Security Service regarding detention include:

1) establishes the time, place and circumstances of the commission of a criminal offense; the number of persons who committed it, their signs; the presence of weapons, vehicles, traces on their clothes or body, which could have remained due to the resistance of the victims or when overcoming obstacles; individual signs of stolen things; the direction of movement of persons who have committed a criminal offense, other information necessary for their identification; uses available sources of operational information for the purpose of revealing a criminal offense;

2) immediately informs the investigator about the received data regarding the circumstances of the commission of the criminal offense and the persons who committed it, for their further fixation by conducting investigative (search) actions or covert investigative (search) actions.

The powers of the investigator when receiving statements and reports about criminal offenses and responding to them when working as part of the National Security Service regarding detention, include:

1) directs the actions of other members of the Investigative and operational group;

2) provides written orders to the employees of operational units to conduct investigative (search) actions in criminal proceedings [7].

As a result of analyzing the powers of operational units and investigators, the authors think that the lack of investigator`s powers to give an order to the operative unit to detain a person suspected of a crime is an unsettled issues, when receiving statements and reports about criminal offenses and responding to them when working as a part of the Investigative-operational group regarding detention to the body and police unit.

The process of detention includes the following stages:

1) actual detention of a person;

2) delivery of the detained person to the pre-trial investigation body;

3) temporary detention of a person in custody.

In accordance with Part 5 of Art. 208 of the Criminal Procedure Code of Ukraine an authorized official who has detained a person suspected of committing a crime is obliged to draw up a detention report. It specifies the place, date and exact time (hour and minutes) of detention in accordance with the provisions of Art. 209 of the CPC of Ukraine; grounds for detention; personal search results; petitions, statements or complaints of the detainee, if such were received; a complete list of procedural rights and obligations of the detainee. At the same time, as stated above, a personal search must be conducted upon actual arrest. This means that a separate personal search protocol is not drawn up, but the time of the personal search and its results (removed objects) are noted directly in the arrest protocol. Next, the arrest protocol is announced to the suspect by the authorized official who carried out the arrest, that is, the person who drew up the arrest protocol, and the detainee is also explained his rights and

obligations provided for by the Criminal Code of Ukraine [8].

It should be noted that the circumstances stated in the detention protocol indicate the legality of the detention. The detention report contains the grounds for detention, the recorded time of actual detention, which is not only the beginning of the calculation of the term of detention, but is also later included by the court in the term of punishment. For this reason, the protocol of detention must be drawn up by the authorized official who carried out the actual detention and has full knowledge of all the circumstances of the detention.

There is another problem that may be during the interaction of operative units with investigators regarding the detention of a person suspected of committing a crime when the last name, first name, and patronymic of the detainee are unknown.

In this case, based on the analysis of the CPC of Ukraine, the CPC of Germany and the opinions of scientists, O. Boyko thinks, that the part 5 of Art. 208 of the Criminal Procedure Code of Ukraine must be read as follows: "If at the time of detention the surname, first name, and patronymic of the detained person are not known, a detailed description with measurements of such a person must be noted in the protocol and his photograph with fingerprints must be attached [9, p. 243].

Also taking into account that martial law has been introduced throughout the territory of Ukraine since February 24, 2022 in accordance with Presidential Decree No. 64/2022 of February 24, 2024 "On the introduction of martial law in Ukraine" [10], the legislator in the CPC of Ukraine provided for certain features of the detention of a person without the decision of the investigating judge.

In particular, in accordance with Clause 6, Part 1 of Art. 615 of the Criminal Procedure Code of Ukraine, the legislator provided an additional basis for detaining a person without a decision of an investigating judge or a court-authorized official in conditions of martial law, in the event of reasonable circumstances that give grounds to believe that a person suspected of committing a crime may flee for the purpose of evading criminal responsibility [8].

We believe that the legislator's attempt to add grounds for detention under martial law contradicts Art. 64 of the Constitution of Ukraine, which states that the rights and freedoms, provided for in Art. 29 of the Constitution of Ukraine, cannot be limited even in conditions of war or state of emergency [11].

Also Part 2 of Art. 29 of the Constitution of Ukraine states that there must be an urgent need to prevent a crime or stop it by the bodies authorized by law to detain a person [11], and not when there are grounds that a person suspected of having committed a crime may flee in order to evade criminal responsibility.

Based on the analysis of the materials of criminal proceedings, the most typical violations of the criminal procedural legislation, which are made by operatives and investigators when drawing up the arrest protocol, are incorrect indication the time, place of actual detention, and the grounds for detention provided for in clauses 1-4, part 1 of Art. 208 of the Criminal Procedure Code of Ukraine, as well as.

There are also cases of absence of information about giving the detainee the opportunity to inform close relatives, family members or other persons of the person's choice in the materials of criminal proceedings.

In accordance with Part 1 of Art. 213 of the Criminal Procedure Code of Ukraine, the authorized person who carried out the detention [8] (for example, an employee of the operational unit) is obliged to provide such an opportunity.

As for the next stage of delivery to the body of pre-trial investigation, the authorized official who made the arrest should deliver the detained person to the nearest unit of the pre-trial investigation body, in accordance with the provisions of Part 1 of Art. 210 of the Criminal Procedure Code of Ukraine [8]. However, the criminal procedural legislation of Ukraine, as well as other normative legal acts, does not specify the time period of delivering a detained person to the body of a pre-trial investigation by authorized official.

We agree with the opinion of I. Bortun, who thinks that the process of detaining a person is a method of its legal delivery to the pre-trial investigation body, while the delivery period should not exceed three hours, in accordance with Art. 208 of the Criminal Procedure Code of Ukraine [12, p. 104; 13, 149].

Also, during the delivered a detained person to the body of pre-trial investigation operative units employees are obliged to hand over temporarily seized property (Art.168 of the Criminal Procedure Code of Ukraine).

Conclusions. Thus, the resolution of problematic issues of the interaction of operative

units with investigators during the detention of a person on suspicion of a crime is possible in such circumstances:

– a clear distribution and observance of powers of operative units (the authorized official who carries out the actual detention) and the investigator;

– the official who actually detained the person on suspicion of a crime should draw up all the necessary procedural documents in compliance with the requirements of Art.208, 168 of the Criminal Procedure Code of Ukraine;

– criminal procedural legislation should be improved in next positions: 1) to grant the investigator with the power to instruct the operational unit to detain a person suspected of committing a crime upon receipt of statements and reports about criminal offenses and responding to them when working as part of the Investigative-operational group. For this item Clause 3, Part 2 of Art. 40 of the Criminal Procedure Code of Ukraine should be supplemented with the power to issue instructions for the conduct of procedural actions, not only the Investigative search actions and Covert investigative actions; 2) Clause 6, Part 1, Art. 615 of the Criminal Procedure Code of Ukraine about the existence of an additional reason for detention under martial law by an authorized official without a decision of the investigating judge should be excluded due to the fact that it contradicts the requirements of Art. 64 of the Constitution of Ukraine.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The criminal procedural legislation on the interaction of operative units with investigators when detaining a person on suspicion of a crime was analyzed. Attention was paid to the powers of operational units employees when receiving statements and reports about criminal offenses and responding to them regarding the detention of persons suspected of a crime.Selected the next stages of detention during the interaction of operational units with investigators regarding the detention of a person on suspicion of a crime: actual detention of a person; delivery of the detained person to the pre-trial investigation body; temporary detention of a person in custody.

The author comes to the conclusion that in order to avoid the problematic issue of the interaction

of operational units with investigators when detaining a person on suspicion of committing a crime, it is necessary to clearly distribute and observe powers between operational units and investigators; strict compliance with the requirements of the criminal procedural legislation of Ukraine and its improvement.

Keywords: *operative units, interaction, detention of a person, investigator, suspicion, commission of a crime, investigating judge.*

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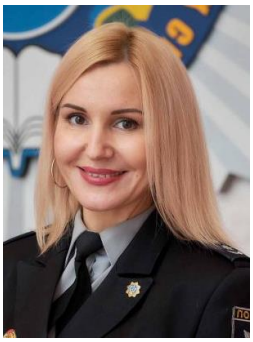

Natalia PAVLOVA ©
Ph.D. (Law),
Associate Professor
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

THE SITUATION OF COMMITTING FRAUD UNDER EXTRAORDINARY LEGAL REGIMES

Наталя Павлова. ОБСТАНОВКА ВЧИНЕННЯ ШАХРАЙСТВА В УМОВАХ НАДЗВИЧАЙНИХ ПРАВОВИХ РЕЖИМІВ. У статті на підставі аналізу криміналістичної літератури обстановку вчинення кримінальних правопорушень визначено як систему обраних злочинцем чи об'єктивно його оточуючих фізично-матеріальних та соціальних умов середовища, у яких відбувається кримінальне правопорушення. Відзначено, що кількісний та якісний склад структурних елементів обстановки вчинення кримінальних правопорушень залежать від видів кримінальних правопорушень. Відзначено, що шахраї нерідко пристосовуються до типових факторів у схожій обстановці, внаслідок цього з'являється типовий почерк злочинної діяльності. Щодо обстановки та умов кримінальних правопорушень, вчинених шляхом шахрайства, зауважується, що вони вчиняються під впливом певних економічних, правових, соціальних, політичних, психологічних та інших факторів, що створюють підґрунтя для безперешкодного здійснення обману та сприяють приховуванню протиправних дій.

Наголошено, що від того, як правильно слідчий здійснить аналіз просторово-часових характеристик та умов, в яких діяли шахраї, часто залежить результативність усього розслідування у кримінальному провадженні в цілому. Надзвичайно важливим є врахування особливостей обстановки, що складається в умовах надзвичайних правових режимів (епідемії, пандемії, воєнного стану та ін.), які прямо впливають на механізм вчинення вказаних кримінальних правопорушень і, відповідно, на рівень їх розкриття.

Ключові слова: *обстановка вчинення кримінальних правопорушень, вчинених шляхом шахрайства, криміналістична характеристика кримінальних правопорушень, методика, надзвичайні правові режими, епідемія, пандемія.*

Relevance of the study. Each criminal offense is always committed and concealed in specific conditions of reality and has its own spatio-temporal characteristics. At the same time, criminals often adapt to typical factors in a similar environment, as a result of which a typical pattern of criminal activity appears. Speaking about the situation and conditions of criminal offenses committed by fraud, it should be noted that they are committed under the influence of certain economic, legal, social, political, psychological and other factors that create the basis for the unhindered implementation of deception and contribute to the concealment of illegal actions. It is extremely important to take into account the specifics of the situation that exists in the conditions of emergency legal regimes (epidemic, pandemic, martial law, etc.), which directly affect the mechanism of committing the specified criminal offenses and, accordingly, the level of their disclosure.

ORCID iD: https://orcid.org/0000-0002-1572-4648
k_ksmp@dduvs.in.ua

Conducting a systematic analysis of the objective modern conditions in which criminal acts are committed is very important [1, c. 388]. The effectiveness of the entire investigation in criminal proceedings as a whole often depends on how correctly the investigator analyzes the spatio-temporal characteristics and conditions in which the fraudsters operated.

Recent publications review. Such well-known scientists as V. Bakhin, V. Veselskyi, A. Ishchenko, V. Konovalova, V. Kuzmichev, E. Lukyanchikov, M. Saltevskyi, R. Stepaniuk, K. Chaplinskyi, V. Shepitko and others. However, their works did not consider the setting of the crime as an element of the forensic characteristics of criminal offenses committed by fraud.

The article's objective is to study the situation and conditions of criminal offenses committed by fraud.

Discussion. The analysis of the legal literature showed that scientists put different criteria in the content of the circumstances of the commission of criminal offenses. At the same time, we are inclined to the fact that the specified element of forensic characteristics cannot be reduced to a set of physical (material, objective) conditions in which the criminal acted, but should be considered through a set of factors, both objective and subjective nature in which the subjects of the crime act. Such factors can be: conditions of a political and legal nature, conditions of a socio-psychological nature, conditions of a socio-demographic nature, conditions of a socio-economic nature, conditions of an organizational and management nature, etc.

Instead, absolutely all scientists agree that the main components of the criminal offense are the place and time of its commission. These elements establish the characteristics of the composition of a criminal offense and affect its criminal-legal qualification, determine the moment of the beginning and end of illegal actions.

On the other hand, practitioners who investigated criminal offenses committed by fraud reported that determining a specific place and time in this category of proceedings is difficult. In connection with this, there are certain difficulties associated with proving the circumstances to be proven, associated with the correct definition of the spatio-temporal characteristics of their occurrence.

Since the process of illegal possession of property is often stretched in time and space, fraud in 92 % of cases has a long-term nature, that is, the actions of fraudsters begin in one place and end in another after a certain period of time. Only street frauds can be committed in a short period of time and have clear time limits with a specific location.

In general, the place of commission of the crime is chosen taking into account the possibility of implementing the chosen method of crime, the object of the offense, and the identity of the victim.

So, the places where street frauds are committed are mainly: parks, jewelry stores, shopping centers, cafes, nightclubs and gaming clubs, train stations, public and railway transport, the place of residence of the fraudster or victim, etc. In 12 % of cases, such frauds are committed at night, 24 % – in the evening, 64 % of such frauds occur during the day.

Places of fraud related to the provision of services are mainly: beauty salons; places where visas or passports are issued for traveling abroad; travel companies; insurance companies; office of the "employer"; call centers; shops; medical institutions; pharmacies; banking institutions, etc.

Frauds of this category are also committed mainly during the day, which is connected with the working hours of service facilities.

The place of taking possession of weapons by fraud can be a warehouse, a security firm, institutions that have weapons and ammunition on their balance sheet, etc. And if the weapon is stolen by fraud by a military serviceman, the place of committing such a criminal offense is the place of military service (military unit, military training ground, combat zone, etc.).

Pharmacy warehouses, enterprises, institutions and organizations in which the above-mentioned substances are on the balance sheet, housing of citizens, etc. can be a place of fraudulent acquisition of narcotic drugs, psychotropic substances and their analogues.

Fraudulent extraction of human anatomical materials and blood mainly takes place in medical institutions (most of which operate illegally). Less often, such manipulations are carried out in the homes of citizens, in basements, in abandoned buildings, etc.

As evidenced by judicial and investigative practice and the analysis of scientific works in the researched direction, the most difficult thing is to determine the spatio-temporal characteristics in the investigation of criminal offenses where the subject of fraud was the right to property.

Fraud is even more long-lasting and undefined in time and space, where forged documents are used to acquire the right, an agreement is made with persons related to the accompaniment of civil legal transactions.

In particular, fraudulent activities can last a long period of time and be carried out in different places. At the same time, a large number of persons may be involved in the process of obtaining the right to property.

According to judicial and investigative practice, the places of committing criminal offenses related to fraud aimed at acquiring the right to property can be:

– location of local bodies of state registration of rights;

– the location of local bodies that issue certificates of residence and other documents necessary for the execution of the transaction;

– location of the notary office;

– location of the cadastral department of the land resources authority;

– location of privatization bodies;

– the location of guardianship and guardianship authorities (in case of acquisition of the right to the property of a minor);

– location of territorial bodies for the provision of service services of the Ministry of Internal Affairs;

– location of construction sites;

– location of licensing authorities, etc.

As for the time, it should be said that fraud, which consists in acquiring the right to property, is mainly committed between 10 a.m. and 5 p.m. on weekdays. This can be explained by the mode of operation of state and private institutions, without whose participation it is impossible to conclude civil law agreements related to the transfer of property rights.

Before committing fraud, criminals study the regulatory and legal framework for carrying out transactions or receive consultations from persons related to this, select and collect information about objects, pre-observe the victims, and then enter into their trust. On the path of criminals, there may also be obstacles related to the legal status of the person who owns the property, consisting in the presence of other persons who have certain rights to this property, any conditions set by the donor or testator. In order to achieve the goal, fraudsters often come into contact with corrupt officials from various organizations that have at least some relation to the execution of transactions, establish relations with employees of the migration service, registration services, condominiums, look for fake persons, acquire real ones or make forged documents, the study of which is of great importance [2, p. 25; 3].

From this it follows that the actions of criminals, aimed at the illegal acquisition of property by fraud, can be committed at any stage of the execution of the deed. In particular, they begin with the forgery, collection in various places (in the bodies of the state migration service, guardianship and guardianship authorities, etc.) of the documents necessary for the conclusion of the agreement, and continue with the notarization of the agreement and its registration, and end with the direct possession of property or the right to him. This is also confirmed by generalized data on the study of criminal proceedings, according to which in 86.2 % of cases, the place of commission of criminal offenses committed by fraud is several places. At the same time, the notary's office always appears as the main place of fraud related to taking over the rights of citizens [4, p. 140].

It is even more complicated to determine the time and place of criminal offenses committed by fraud using the Internet.

The era of dynamic development of information and communication technologies, one of which is the Internet, has led to the emergence of virtual space – a special electronic environment of interaction in which any actions with information are carried out using digital signals [5, p. 213].

In this regard, it should be noted that traditionally, relations between people are carried out through their direct communication, which takes place in their specific interaction in real time and at a real point in physical space. At the same time, in the electronic environment there are technical possibilities for social contacts, regardless of the person's location, with the possibility of avoiding direct contact. Thanks to electronic devices of various levels of complexity connected to a global or local network, a virtual environment emerges [6, p. 39].

In the case of cyber fraud, the place of direct commission of the illegal act (the location of the criminal, the means of committing the crime) never coincides with the location of the victim and the occurrence of the consequences of the crime, which is connected with the use of

electronic technical means and the Internet. Usually, the place where Internet fraud is committed can be the criminal's place of residence, work or study. That is, the criminal has the opportunity to take possession of the victim's property using only technical means, without having personal contact with him, although telephone calls to the victim may be made. Therefore, it can be noted that the location of the electronic technical means is the place where the crime was committed. At the same time, the peculiarity of crimes of this group is that they can be committed in various spheres of social life, in particular, in everyday life, business activities, etc., but the situation in which fraud is committed is most often characterized by the absence of witnesses [7, p. 53].

The majority of scientists agree that the crime scene should be investigated from the point of view of the geographical distribution of the criminal offence. So, when considering this problem, let's turn to the results obtained by T. Kalyuga, who studied the problems of the methodology of fraud investigation in the field of tourism. Therefore, the scientist emphasized that the peculiarity of the place of commission of such frauds in the narrow sense is that the complex of actions for the preparation, commission and concealment of the crime often takes place in several places. Thus, the place of sale (realization) of tourist services can be one country, and the place where these services are directly provided – another. At the same time, the situation of the crime is determined not only by the place, but also by the time and duration of the criminal act, which depends on what kind of tourist product the tourist wants to receive, in which region or part of the world. During domestic tourism, the southern regions (Odesa, Kherson, Mykolaiv regions) are in demand in the summer, and the western regions, on the contrary, in the winter (Lviv, Zakarpattia, Ivano-Frankivsk regions). During outbound tourism, a number of circumstances depend on the geographical location of the country to which the trip is planned and its climatic features. Seasonality is also affected by the type of tourism and the purpose of the trip. For example, Turkey is in demand in the period from May to September, which is associated with favorable climatic conditions. The largest number of excursion trips to European countries takes place in the autumn and spring period. Arab countries (UAE, Bahrain, Egypt) are located in a dry climate zone, so consumers of tourist services turn to tourism operators at any time. In addition, choosing the time of the planned trip may depend on the preferences of tourists and the period of the planned vacations [8, p. 7].

However, in this regard, it should be noted that since the beginning of the full-scale invasion of the Russian Federation on the territory of Ukraine, the southern regions (Odesa, Kherson, Mykolaiv regions) very rarely appear as places of fraud related to tourism. On the other hand, the rate of fraud in the field of tourism rose sharply in the western regions of Ukraine (accounting for 76 % of frauds related to tourism).

The socio-political situation in the country also affects the level of other criminal offenses committed by fraud. Thus, since the beginning of the full-scale invasion of the Russian Federation on the territory of Ukraine, the number of frauds related to volunteer activities has increased; fraud related to the allocation of funds and means for military needs; fraud related to the provision of social assistance to displaced persons, participants in hostilities and persons affected by the war, etc.

Conclusions. Therefore, criminal offenses committed by fraud are always committed in certain conditions of reality and have their own spatio-temporal characteristics. However, there is a direct influence of the socio-political situation in the country on the level of fraud and the adaptation of fraudsters to today's conditions, and these factors must be taken into account when investigating criminal offenses of this category.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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Abstract.

In the article, based on the analysis of forensic literature, the situation of committing criminal offenses is defined as a system of physical, material and social conditions of the environment chosen by the criminal or objectively surrounding him, in which the criminal offense occurs. It was noted that the quantitative and qualitative composition of the structural elements of the situation of committing criminal offenses depend on the types of criminal offenses. It is noted that fraudsters often adapt to typical factors in a similar environment, as a result of which a typical pattern of criminal activity appears. Regarding the situation and conditions of criminal offenses committed by fraud, it is noted that they are committed under the influence of certain economic, legal, social, political, psychological and other factors that create the basis for the unimpeded implementation of deception and contribute to the concealment of illegal actions.

It was emphasized that the effectiveness of the entire investigation in the criminal proceedings as a whole often depends on how the investigator correctly analyzes the spatio-temporal characteristics and conditions in which the fraudsters operated.

Keywords: *situation of committing criminal offenses committed by fraud, forensic characteristics of criminal offenses, methodology.*

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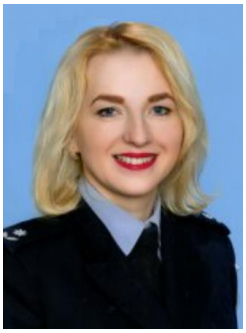

Yuliya SUKHOMLYN ©
Ph.D. (Law),
Associate Professor
(National Academy of Internal Affairs, Kyiv, Ukraine)

FEATURES OF PREPARATION FOR CONDUCTING INVESTIGATIVE (SEARCH) ACTIONS IN THE CONDITIONS OF EPIDEMIC, PANDEMIC

Юлія Сухомлин. ОСОБЛИВОСТІ ПІДГОТОВКИ ДО ПРОВЕДЕННЯ СЛІДЧИХ (РОЗШУКОВИХ) ДІЙ В УМОВАХ ЕПІДЕМІЇ, ПАНДЕМІЇ. Стаття присвячена особливостям підготовки до проведення слідчих (розшукових) дій в умовах епідемії, пандемії. Наголошується, що проведення слідчих (розшукових) дій в умовах епідемії, пандемії обумовлює пошук шляхів як організації так і тактики діяльності, що задовольняли б потреби реалізації завдань кримінального провадження та забезпечували б права його учасників зокрема й щодо забезпечення безпеки. Здійснення зазначеного автором вбачається у модернізації та комп'ютеризації, застосуванні досягнень науково-технічного прогресу й більш ефективного використання існуючих техніко-криміналістичних засобів та інших заходів, зокрема й організаційно-тактичного характеру та ін.

Підкреслюється, що потенційний ризик інфікування соціально-небезпечними інфекціями під час проведення слідчих (розшукових) дій є високим і вимагає відповідних заходів й засобів його мінімізації. Звертається увага на протилежність підходів вчених до оцінки значення проведення слідчих (розшукових) дій в режимі відеоконференції. Звертається увага на можливостях застосування техніко-криміналістичних засобів як сучасних, так і існуючих, щодо яких напрацьований значний досвід отримання криміналістично-значущої інформації.

Наголошується, що досягнення цілей кримінального провадження є можливим у разі ретельної підготовки до проведення слідчих (розшукових) дій в умовах епідемії, пандемії, де жодному заходу чи засобу забезпечення безпеки учасників не має надаватись виключна роль. Тільки комплексний й системний підхід в оцінці та застосуванні відповідної сукупності з уникненням можливості перебільшенні значення кожного окремо взятого засобу й заходу може підвищити безпеку уповноваженої особи, учасників розслідування та сторонніх осіб.

Ключові слова: *розслідування, слідчі (розшукові) дії, уповноважена особа, умови епідемії, пандемії, ризик інфікування, соціально-небезпечні інфекційні захворювання, заходи й засоби мінімізації ризику інфікування, забезпечення безпеки учасників, психологічний контакт, техніко-криміналістичні засоби, підготовка й проведення процесуальної дії.*

Relevance of the study. Conducting investigative (search) actions is the means that allows you to get the necessary and sufficient amount of data on the circumstances of a criminal offense. At the same time, the retrospective nature of the investigation as a whole determines the need to know those events that happened in the past. This necessitates consideration of a significant number of circumstances that may affect the course and determine the results of the relevant procedural actions. At the same time, the processes of coverage of previously perceived events and phenomena by the relevant participants, to one degree or another, paid attention to scientists in various fields of knowledge in particular: psychology, sociology, logic and other sciences, including legal orientation.

Resent publications review. Given the prevalence and significance, the process of obtaining evidence during the investigation (search) actions was the subject of research by such procedural scientists and criminologists as: P. Bilenchuk, V. Veselsky, A. Volobuev, V. Galagan, M. Efimov, V. Zhuravel, N. Klimenko, V. Lisichenko, E. Lukyanchikov, M. Pogoretsky, M. Saltevsky, S. Stakhovsky, V. Tertyshnik, V. Tishchenko, L. Udalova,

ORCID iD: https://orcid.org/0000-0002-5699-6914
k007@naiau.kiev.ua

K. Chaplinsky and many others. At the same time, existing studies did not take into account such conditions as epidemics, pandemics, which cannot but affect the effectiveness of their conduct in the present conditions. This necessitates paying due attention to the issue under consideration.

Conducting investigative (investigative) actions in the context of an epidemic, a pandemic determines the search for ways of both organizational and tactical nature that would satisfy the needs of the implementation of the tasks of criminal proceedings and would ensure the rights of its participants in particular regarding security.

The article's objective. The article is aimed at highlighting the features of preparation for conducting investigative (search) actions in an epidemic, pandemic.

Discussion. The implementation of this is seen to us in the use of the possibilities of criminal proceedings through modernization and computerization, the use of the achievements of scientific and technological progress and the more effective use of existing technical and forensic means and other measures, including organizational and tactical nature, etc.

The need to ensure the safety of participants in investigative (search) actions in the context of the COVID-19 coronavirus pandemic, tuberculosis epidemics, HIV-AIDS and others is of particular importance in Ukraine. So, in 1993, the World Health Organization declared tuberculosis a global problem of mankind, [1] which a few years later was officially registered in Ukraine [2]. The epidemic of this particularly dangerous infectious disease has not yet been overcome. No less attention is required for such a disease as the COVID-19 coronavirus, the outbreak of which in the world was defined on March 11, 2020 by the World Health Organization as a pandemic [3], which on May 5, 2023, according to the report of the 15th meeting of this organization from [4] was canceled.

At the same time, these and such socially dangerous infections as HIV-AIDS, hepatitis and others have their significant spread in Ukrainian society. Their totality in the epidemiological situation in Ukraine is determined by the worst in Europe.

It is worth noting that most infectious diseases are transmitted:

– by airborne droplets: during coughing, sneezing, talking a patient with tuberculosis along with particles of his harkotin;

– by air-dust: sputum and saliva settle on objects, dry and transform rush into infected dust;

– by alimentary route: during the use of products contaminated with infected sputum, and also during the use of milk (butter, cream and cheese based on it) obtained from sick cows;

– by contact: during milking of sick cows, the penetration of mycobacteria through damaged skin of the hands, during the autopsy of corpses of persons suffering from tuberculosis;

– intrauterine infection [5].

The above methods of infection determine the need to find ways to minimize the possibility of infection with socially dangerous infections during investigative (search) actions. At the same time, measures and means of ensuring security should not interfere with the activities of the authorized person aimed at the completeness and comprehensiveness of the procedural actions.

It is worth noting that most of the offices contain several jobs investigators. At the same time, the area of the office does not allow providing the necessary distance between workplaces, which would not be hit by participants in investigative (search) actions.

This is of particular importance during such investigative (search) actions as: interrogation, simultaneous interrogation of previously interrogated persons, presentation for identification of persons, etc. Simultaneous presence of a significant number of participants in one room makes it difficult/impossible to comply with security measures against the possibility of infection with socially dangerous infections.

It also needs attention that it is quite difficult to determine the presence of an infectious disease in a person during the incubation period of development. Accordingly, the absence of obvious signs of the disease or insufficient expertise of the authorized person before their detection may jeopardize the infection of the relevant participants or unauthorized persons. Thus, the potential risk of infection with socially dangerous infections of both participants in the relevant procedural action and unauthorized persons during investigative (search) actions is high and requires appropriate measures and means to minimize it.

At the same time, during the pre-trial investigation, police officers are often forced to work with many persons, in particular with those who are legally classified as high-risk groups

for tuberculosis infection: injecting drug users, sex workers, persons serving sentences in places of detention, etc. [6, p. 155].

At the same time, the risk of a more severe course of the disease is determined by the presence of chronic ailments, and infection with the coronavirus disease COVID-19 in aggregate can lead to fatal consequences. This makes it necessary to prevent the formation of these prerequisites by determining those measures and means that will make it impossible/minimize infection with socially dangerous infections during investigative (search) actions.

Among such legal measures in the field of criminal justice, M. Pogoretsky and O. Starenky include the possibility of conducting procedural actions in the mode of videoconference during criminal proceedings (remote criminal proceedings) [7].

Analyzing the Order of the Cabinet of Ministers of Ukraine "On the transfer of the unified state system of civil protection to the emergency mode" from March 25, 2020 No. 338-r [8], we can emphasize that the content of their provisions contain sufficient grounds for conducting investigative (search) actions in the videoconference mode in the conditions of the spread of especially dangerous infectious diseases in our country.

Considering the risk of infection with tuberculosis during simultaneous interrogation, E. Pochtova, notes that the presence of a contagious form of tuberculosis in one of the participants may fall within the scope of paragraphs 1 and 2 of Part 1 of Article 232 of the CPC of Ukraine, however, it suggests the presence of one of the persons between whom it is planned to conduct simultaneous interrogation of a contagious form of tuberculosis, refer it to the punt 5 of Part 1 of Article 232 of the CPC as another sufficient reason for conducting simultaneous interrogation via videoconference, which will facilitate the perception of the motivational part of the decision [9].

At the same time, we can emphasize the discussion of the approaches of scientists to the effectiveness of procedural actions using video conferencing. At the same time, in addition to positive aspects, conducting investigative (search) actions in the video conference mode, its shortcomings can also be called.

Thus, S. Stakhovsky defines the weakening of the psychological impact on the participants of simultaneous interrogation as one of the main factors contributing to the establishment of truth during the investigation [10, p. 26].

In turn, N. Pavlova, as a problem, cites the problems of financial support of video conferencing in criminal proceedings and the costs associated with the initial installation of equipment and the establishment of channels for video conferencing, which are global in nature [11, p. 480; 10].

Do not forget that in the context of the armed aggression of the Russian Federation against Ukraine, the risk of absence or problems with communication as a result of hacker attacks or shelling of the relevant infrastructure is highly likely, which requires consideration in the organization and planning of activities by authorized persons.

The position of A. Simchuk and D. Manubat also deserves attention, which emphasize that the reasons are the low awareness of employees in specific issues related to technical means, and the lack of appropriate material support, specifically regarding the latest technical means and persons with the appropriate level of knowledge in technically sectoral issues [12].

At the same time, the use of videoconferencing during investigative (search) actions in general and in an epidemic, a pandemic in particular can be assessed as progressive and promising.

In confirmation can be given the statement AND. Urgent, which emphasizes that it is quite difficult to answer the question of what exactly is preferred in the fight against crime – the protection of human rights and freedoms (in terms of ensuring the safety of participants in criminal proceedings and the use of video conferencing) or ensuring the completeness of pre-trial investigation by using a number of psychological techniques and methods during direct communication with a person without using video conferencing [13, p. 107]?

At the same time, the position of the author can be supplemented by such a component that would concern ensuring the safety of unauthorized persons from infection with especially dangerous diseases in the relevant region of the state. Thus, the combination of factors is much wider than it is given in the individual positions of scientists analyzed by us, which requires a real assessment of the possibility and feasibility of using video conferencing in an epidemic, pandemic.

This requires from the person conducting it, proper knowledge, skills and abilities

regarding the preparation (activation of technical means of video recording, checking the availability of free space on the internal medium of video recording, checking the operability of technical means of video recording, etc.) and the procedure for simultaneous interrogation in the video conference mode [14, p. 190].

It is worth noting that the presence of a person in a high-risk group as a carrier of socially dangerous infection and the risk of infection should be evaluated by an authorized person in preparation for investigative (search) actions. At the same time, they can be used as means and measures to minimize the transmission of infection through the use of appropriate means and means, as well as the issue of conducting investigative (search) actions in the video conference mode.

This can be implemented in particular in the case of a person's stay, for example, in hospital. At the same time, preparation for procedural actions should determine the list of issues to be clarified, the totality and sequence of the use of tactical techniques, etc. At the same time, it should be noted that they can be used more carefully with minimization of termination by the relevant participant in the investigation (search) actions, under any pretext (loss of communication, discharged for example a phone, a laptop, using which video communication was carried out, etc.), which should be assessed as manifestations of opposition.

Thus, the full use of means of psychological influence on unscrupulous participants of investigative (search) actions in the video conference mode is minimized. However, in relation to conscientious, the application of psychological influence is possible, provided that the appropriate level of contact is established.

It is worth noting that as a postulate in forensic science, the establishment of psychological contact with the corresponding participant in the investigative (search) action acquired particular importance, which is more difficult to implement if the defender participates in the interrogation of the suspect [15, p. 213].

In this case, the psychological process of communication with persons participating in the interrogation is aimed at obtaining comprehensive information about the relevant facts, can be implemented in the presence of an established business environment. At the same time, the establishment of psychological contact in an epidemic, pandemic, with awareness of the risk of infection and its consequences can be greatly complicated. This, in turn, will make it impossible to obtain the necessary full and sufficient information about the circumstances of the criminal offense. The participation of the relevant participant in the procedural action without the proper application of measures and means of protection against infection may be of a formal nature of the testimony, minimizing the time spent in the appropriate place, avoiding from appearance to the investigating authority, refusal to testify, etc., should be assessed as manifestations of opposition to pre-trial investigation [16], overcoming of which, under the considered conditions, require significant efforts on the part of authorized persons.

At the same time, not all investigative (search) actions can be implemented using a video conference. This makes it necessary to increase the efficiency of the use of technical, organizational, tactical and other components of the activities of the authorized person.

It is worth noting that, for example, inspection of the scene requires the personal presence of the investigator and other participants in its conduct. At the same time, technical and forensic means in an epidemic, pandemic should be used more effectively.

It is important to note that "forensic technology" is not limited to a set of technical means for disclosing criminal offenses. It is also a system of techniques and methods for the effective use of these means, as well as theoretical concepts that characterize these means [17, p. 65].

Of particular importance are the achievements of scientific and technological progress introduced by forensic science into the process of obtaining evidence-based information. So, among the latest means of detecting and extracting traces of the hands, I. Pyrih leads the development of Sirchie (USA), Foster & Freeman (UK). When inspecting a factory-made weapon with signs of number destruction, it becomes necessary to install it. Among the technical and forensic means for this, it is possible to use the eddy current magnetography device "Regula 7515M", which is used together with the magneto-optical device "Regula 7505M" to identify and detect falsifications of vehicle unit numbers [18, p. 295].

A significant place in the remote perception and fixation of the relevant scene of the incident is the use of drones. Training and their further use by members of the investigative-operational group does not cause difficulties, however, it necessitates the development of

appropriate methods.

Their application in the specific conditions of investigation of crimes are developed by criminology in accordance with its tasks and objects [19, p. 45].

At the same time, distancing from objects that may pose a threat determines the prospect and significance of their use, which is of particular importance in the conditions of russia's armed aggression against our state.

Thus, scientific and technological progress necessitates the use of modern technical and forensic means in the collection of criminalistically significant information, which in an epidemic, pandemic is of particular importance.

In addition, conducting investigative (search) actions in the context of the spread of the epidemic, the pandemic of especially dangerous infectious diseases in our country can pursue several goals at once:

– ensuring the safety of participants in investigative (search) actions and unauthorized persons;

– minimizing the spread of infectious diseases;

– implementation of criminal proceedings, etc.

Their achievement is possible in the case of careful preparation for conducting investigative (search) actions in an epidemic, pandemic, where no event or means of ensuring the safety of participants should be given an exclusive role. Only an integrated and systematic approach in the assessment and application of the appropriate totality can increase security with the avoidance of the possibility of exaggerating the importance of each individual tool and measure in the activities of an authorized person.

Conclusions. Ensuring the safety of participants in an epidemic, pandemic in the implementation by authorized persons of the tasks that are set before them should be determined by the key. Conducting investigative (search) actions in the videoconference mode will ensure the distancing of its participants, which will protect them from the possibility of infection with socially dangerous infections on the one hand, but will complicate/make impossible the establishment of psychological contact and the use of psychological means, without which the achievement of the expected result is unlikely.

Improving the effectiveness of procedural actions can be realized by using the latest and more intensive use of existing technical and forensic means. Preparation for conducting investigative (search) actions in an epidemic, pandemic, with the use of measures and means of protection against infection and collection of criminalistically significant information should be applied comprehensively and comprehensively. The directions of our further research will focus on the consideration of the possibilities of videoconference during the investigation in the conditions of russia's armed aggression against Ukraine.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Abstract

The article is devoted to the peculiarities of preparation for conducting investigative (search) actions in an epidemic, pandemic. It is noted that the conduct of investigative (investigative) actions in the context of an epidemic, a pandemic determines the search for ways of both organization and tactics of activity that would satisfy the needs for the implementation of the tasks of criminal proceedings and would ensure the rights of its participants in particular to ensure security. Implementation of the specified by the author is seen in modernization and computerization, application of achievements of scientific and technological progress and more effective use of existing technical and forensic means and other measures, including organizational and tactical nature, etc.

It is noted that the achievement of the goals of criminal proceedings is possible in the case of careful preparation for conducting investigative (investigative) actions in an epidemic, pandemic, where no measure or means of ensuring the safety of participants should be given an exclusive role. Only an integrated and systematic approach to the assessment and application of the relevant totality with the avoidance of the possibility of exaggerating the value of each individual tool and measure can increase the security of the authorized person, the participants in the investigation and third parties.

Keywords: *investigation, investigative (search) actions, authorized person, conditions of epidemic, pandemic, risk of infection, socially dangerous infectious diseases, measures and means of minimizing the risk of infection, ensuring the safety of participants, psychological contact, technical and forensic means, preparation and conduct of procedural action.*

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Taras VOLIKOV ©
Ph.D. (Law), Doctoral Student
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

THE CONCEPT OF FORENSIC CHARACTERISTICS AND ITS SIGNIFICANCE FOR THE METHODOLOGY OF INVESTIGATION OF CRIMINAL OFFENSES AGAINST PROPERTY

Тарас Воліков. КОНЦЕПЦІЯ КРИМІНАЛІСТИЧНОЇ ХАРАКТЕРИСТИКИ ТА ЇЇ ЗНАЧЕННЯ ДЛЯ МЕТОДИКИ РОЗСЛІДУВАННЯ КРИМІНАЛЬНИХ ПРАВОПОРУШЕНЬ ПРОТИ ВЛАСНОСТІ. У статті на основі аналізу думок науковців визначено поняття криміналістичної характеристики, що відповідає сучасним вимогам практики розслідування кримінальних правопорушень. Під криміналістичною характеристикою слід розуміти сукупністю взаємозалежних відомостей щодо криміналістично вагомих ознак кримінальних правопорушень певного групи (виду), що сприяють розслідуванню через діяльність з побудови та перевірки версій шляхом проведення запланованих слідчих (розшукових) дій та інших заходів. Як теоретична модель криміналістична характеристика складається з наступних елементів: предмету злочинного посягання; способу вчинення злочину, що має три складові: підготовку, безпосереднього вчинення та приховування злочинних дій; комплексу характерних слідів, що залишаються на місці події; характеристики особи правопорушника та потерпілого. В залежності від виду кримінального правопорушення можуть бути відсутні певні елементи. Всі елементи криміналістичної характеристики взаємозалежні та пов'язані між собою. Взаємозв'язок елементів розглядуваної наукової категорії розглядається як джерело відомостей щодо певних видів злочинів, виконує інформаційну функцію і становить єдину інформаційну систему, використання якої можливо шляхом одержання й аналізу окремих елементів і встановлення зв'язків між ними.

Приділяється увага теоретичному та практичному значенню криміналістичної характеристики. Для працівників правоохоронних органів, які безпосередньо проводять розслідування, найбільш важливим є практичне використання криміналістичної характеристики, особливо на початковому етапі розслідування, коли слідчий відчуває дефіцит інформації щодо події злочину та осіб, які його вчинили. На основі аналізу елементів криміналістичної характеристики слідчий висовує версії, перевіряючи які визначає найбільш перспективний напрямок розслідування, організовує цілеспрямований пошук злочинця, зниклого майна, вирішуються інші окремі завдання розслідування.

Зосереджено увагу на основних напрямках використання криміналістичної характеристики при розслідуванні кримінальних правопорушень проти власності, а саме для: виявлення ознак злочину; висунення версій щодо: злочинного характеру вчиненого діяння, особи підозрюваного, вчинення злочину групою осіб; виявлення місця приховання та реалізації викраденого для розшуку предметів посягання; визначення кола можливих джерел інформації про злочин; покращення діяльності з виявлення, фіксації та вилучення матеріальних слідів злочину в ході проведення початкових слідчих (розшукових) дій.

Ключові слова: *методика розслідування, криміналістична характеристика, кримінальні правопорушення проти власності, слідчий, предмет посягання, способи вчинення й обстановка злочину, сліди, особа злочинця та потерпілого.*

Relevance of the study. The methodology of investigation of certain types of criminal offenses is a scientific category that contains a complex of forensic recommendations of a practical nature regarding the conduct of an effective, quick and complete investigation. Forensic methodology, as a branch of forensics, has a certain structure. Its components are interpreted by scientists in different ways, but almost all scientists define forensic

© Volikov T., 2023
ORCID iD: https://orcid.org/0000-0002-2387-1410
k_ksmp@dduvs.in.ua

characteristics as an integral part of the methodology. During the development of this scientific category, many debatable issues arose. Separate opinions were even expressed regarding the lack of need for its development, since it has no practical application in the investigation of crimes [1, p. 10]. Today, most scientists are inclined to think about the importance of developing forensic characteristics. However, there are still discussions regarding: elements of forensic characteristics, their correlations; the relationship between forensic and criminal law characteristics and their impact on the subject of proof; differences in the structure and components of interspecies, extraspecies, species and intraspecies methods. Solving these problems determines the relevance of further development of forensic characteristics.

Recent publications review. The work of such Ukrainian scientists as Yu. Alenin, L. Arkusha, V. Bakhin, V. Bernaz, A. Volobuev, M. Yefimov, V. Zhuravel, A. Ishchenko, I. Kogutych, O. Kolesnichenko, V. Konovalova, V. Kuzmichev, V. Lukashevich, E. Lukyanchikov, V. Malyarova, G. Matusovskyi, O. Oderii, I. Pyrih, O. Pchelina, M. Saltevskyi, R. Stepanyuk, V. Tishchenko, K. Chaplinskyi, Yu. Chernous, S. Chernyavskyi, V. Shevchuk, V. Shepitko, B. Shchur and others. However, certain issues, in particular those mentioned above, remain debatable even today.

The research paper's objective. The purpose of the study is to define the concept of forensic characteristics that meets the modern requirements of the practice of investigating criminal offenses, in particular those that encroach on the right to property.

Discussion. O. Kolesnychenko and V. Konovalov, one of the first forensic scientists, defined the concept of forensic characteristics as a system of information on forensically significant signs of criminal offenses of this type, which reflect the natural connections between them and serve to build and verify investigative versions for solving specific tasks of the investigation [2, p. 16]. At the same time, the authors relied on four components: information about forensically significant signs of crimes of a certain type; is based on the structure of the crime (criminal law) and the structure of the subject of proof (criminal procedural law); includes data on regular statistical relationships between features of crimes of a certain type; serves to build and check investigative versions. V. Shepitko defines this category as a system of information about certain types of crimes, which are important for the detection and disclosure of such acts by forensic means, methods and techniques [3, p. 367].

As a scientific category, based on the practice of law enforcement agencies and forensic research, the model of the system of information on the forensic characteristics of a type, group or specific crime, which aims to optimize the process of investigating crimes, defines the forensic characteristics of A. Starushkevich [4, p. 9]. As an information model, which is a qualitative-quantitative system of describing the typical features of a specific type (group) of crimes, M. Saltevsky considers the forensic characteristics [5, p. 419]. Based on the study of the structure of individual forensic methods, R. Stepaniuk concludes that the construction of species, subspecies and complex methods is uniform, including the typification of the structure of the forensic characteristics of a certain type, subtype of criminal offenses or their complex [6, p. 157]. The expressed opinions of scientists are supported by the authors of textbooks on criminology and note that forensic characterization is a set of interdependent information on forensically significant signs of criminal offenses of a certain group (type), which contribute to the investigation through the activity of building and checking versions by conducting planned investigative (search) actions and other measures [7, p. 349; 8, p. 16].

Summarizing the views of scientists, V. Bakhin and B. Lukyanchikov define the forensic characteristics as follows: "1) information model of typical features of a certain type (group) of crimes; 2) a probable model of the event; 3) a system of data (information) about the crime that helps its disclosure and investigation; 4) a system of generalized factual data, the knowledge of which is necessary for organizing the disclosure and investigation of crimes; 5) a system of features of the type of crimes that are important for the investigation; 6) a system for describing forensically significant signs of crimes in order to ensure their disclosure, investigation and prevention; 7) the composition of the event of this type of crime, which indicates its permanent signs, which are manifested externally as a clearly defined system of material and intellectual traces, etc." [9, p. 39]. A similar definition is given in the multimedia textbook on criminology by the team of authors of the National Academy of Internal Affairs [10].

Definitions of forensic characteristics expressed by scientists differ in structure and style, but they are united in that this category is a system of information about a criminal offense. Let's find out what forensic features make up its content. V. Kuzmichev and G.

Prokopenko include the following components of forensic characteristics: object of criminal offense: various objects of organic and inorganic origin; the method of commission in its broadest sense: the circumstances of preparation, commission and concealment of traces, the nature of actions of the subject used to achieve the set goal; a typical "trace" picture in its broadest sense: a set of sources of ideal and material reflections in the surrounding material environment; the identity of the criminal – the characteristics of a person as a socio-biological system, the properties and signs of which are reflected in the material environment; the identity of the victim: demographic data, information about lifestyle, character traits, habits, connections and relationships, signs of victimization, etc. [11, p. 253]. Analyzing the components of forensic characteristics given by other scientists, it is possible to draw a conclusion about their common understanding of this concept [7, p. 350; 8, p. 17; 10; 12, p. 31]. We also support them and believe that the elements of the forensic characteristics are the following: the subject of criminal encroachment; the method of committing a crime, which has three components: preparation, direct commission and concealment of criminal acts; characteristic traces left at the scene; characteristics of the offender and the victim. Depending on the type of criminal offense, certain elements may be missing.

We agree with V. Malyarova's opinion that neither criminological, criminal-legal, nor other characteristics are capable of covering a number of features that are important for the formation and implementation of forensic methods. Such signs include actions aimed at preparing for the commission of a crime and concealing its traces, related to the mechanism of trace formation, etc. They are not included in criminal law or criminological features, as they have no legal significance. The information given in these characteristics is quite close in essence, but is intended to solve different tasks, is a constituent element of different systems, therefore can be studied in parallel and in a complex [13, p. 114].

In the structure of the forensic characteristics, V. Tyshchenko, in addition to the above, separates data on the goals and motives of activities for committing crimes [14, p. 60]. We believe that such data are not sufficiently informative elements from the point of view of forensics. Motive and purpose are signs of the subjective side of a criminal offense, i.e. elements of criminal-legal characteristics and, at the same time, circumstances to be established, investigated and proven. The relationship between the subject of evidence, forensic and criminal law characteristics consists in the use of the named categories by the investigator in the investigation of a specific act. At the same time, certain features of the identified criminal offense allow us to build a primary criminal legal characteristic, which, in turn, determines the qualification of the crime and the course of action to establish the subject of proof. As a result, all the circumstances of a specific offense are established and the final criminal-legal characteristics are determined, which are used in the formation of the forensic characteristics of a separate group of crimes. Thus, all the mentioned scientific categories are not complementary or interchangeable, as they perform different tasks. But at the same time, they influence each other, are interdependent and consistently contribute to the implementation of investigative tasks.

All elements of forensic characterization are interdependent and interconnected. Interrelationship of the elements of the considered scientific category H. Matusovsky considers the source of information on certain types of crimes, which, performing an information function, constitutes a single information system. It can be used by obtaining and analyzing individual elements and establishing connections between them. In this sense, all elements of the system are theoretically equivalent, and it is not appropriate to divide them into primary and secondary. At the same time, the use of such an information system requires in each specific case the identification of the main element through which you can enter the system in order to obtain the necessary information. Separation of the key element in a specific case depends on the investigative situation that has developed at this stage of the investigation, as well as on the initial data that the investigator has and what data still needs to be established [15, p. 149].

Let's focus on the importance of forensic characteristics for the investigation, in particular, of crimes against property. According to I. Pyrih and M. Efimov, the value of forensic characteristics can be divided into practical and theoretical. For law enforcement officers who directly conduct the investigation, the most important thing is the practical use of one or another tool that helps in the investigation process. "The real value of the forensic characteristics of this or that type of illegal act is the possibility of its practical application, the possibility of solving certain issues in view of it and, of course, the possibility, based on it, to

make the investigation of a certain category of criminal offenses faster and more effective", – they note scientists [8, p. 15]. When working on a specific criminal case, the investigator often faces difficulties in finding out the specifics of one or another group or type of crime, choosing the optimal approaches to their disclosure and investigation. In other words, the investigator needs the so-called "forensic matrix", by applying which to the investigative situation existing at the moment of the investigation, he would be able to clearly orientate what and how he should do to identify and expose the guilty persons and acquit the innocent if, due to the circumstances, that took place, turned out to be under suspicion. That is, the specified scientific category should group by its nature the most general and forensically significant signs of a criminal offense with their subsequent use in the investigation.

The method of investigation of criminal offenses against property, as we noted earlier, is a complex interdisciplinary method [16, pp. 115-118]. The applied value of the forensic characteristics in the investigation of apartment thefts is as follows: creation of search models of trace complexes for the implementation of a logical analysis of the mechanism of the commission of a crime when conducting some non-verbal investigative (detective) actions: inspection of the scene, search, investigative experiment; determination of investigative situations and, on this basis, the investigator's algorithm of actions, putting forward versions, determining the direction of the investigation, choosing, preparing and conducting investigative (search) actions, tactics for making and implementing the investigator's decisions; selection of tactics for conducting verbal investigative (search) actions, in particular interrogation; determination of directions for gathering information about the suspect for the purpose of a complete and comprehensive study of his identity; formulation of typical definitions of the functional role of accomplices in the crime when drawing up procedural documents; conducting analytical work to identify a series of crimes committed by a person who has not yet been identified, using the inductive method of activity, focused on the analysis of the circumstances of the same type of crimes, the methods of their commission, the trace pattern, etc., with the formulation of a conclusion about the presence (absence) of signs of seriality in the investigated group of criminal offenses, including monitoring of unsolved criminal proceedings using information contained in databases of forensic records. On the basis of such an analysis, a formal-logical model of the crime is built, which is used in the future to predict the existence of facts that have not yet been established, to search for evidence, to identify additional circumstances for those episodes of crimes where such circumstances should be present. The generalized model will contribute to the construction of an optimal scheme for exposing a person accused of repeated thefts in each such crime [17, pp. 11-12]. The opinions expressed by the authors regarding the importance of forensic characteristics for the investigation of theft, in our opinion, can be fully attributed to the investigation of all criminal offenses against property.

In our opinion, the forensic characterization of crimes against property includes information about the most significant characteristics of a particular type of criminal offense or their combination (object of encroachment, methods of commission, setting and traces of the offense, characteristics of the victim and the offender), which plays a key role at the initial stage investigation, when the investigator feels a lack of information regarding the event of the crime and the persons who committed it. Based on the analysis of the elements of forensic characteristics, the investigator puts forward versions, checking which determines the most promising direction of the investigation, organizes a targeted search for the criminal, missing property, and solves other separate tasks of the investigation. Therefore, the main areas of application of the forensic characteristics of criminal offenses against property can be considered the following: detection of signs of crime; proposing versions about: the criminal nature of this or that event, the identity of the criminal, the commission of a crime by a group of persons; detection of the place of concealment and sale of the stolen property, search for objects of encroachment; determination of the range of possible sources of information about the crime; to improve detection, recording and removal of material traces of a crime during initial investigative (search) actions.

Conclusions. Summing up, it can be noted that forensic characteristics are a component of a separate forensic methodology and represent a system of information about a criminal offense. As a scientific category, forensic characterization consists of the following elements: the subject of a criminal offense; the method of committing a crime, which has three components: preparation, direct commission and concealment of criminal acts; characteristic traces left at the scene; characteristics of the offender and the victim. All elements of forensic

characterization are interdependent and interconnected. Forensic characterization should be considered as a theoretical model of crime as used in investigative practice. The analysis of the elements of forensic characteristics at the initial stage of the investigation of crimes against property enables the investigator to put forward investigative versions, checking which he determines the most promising direction of the investigation, organizes a targeted search for the criminal, missing property, solves other separate tasks of the investigation.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

In the article, based on the analysis of the opinions of scientists, the concept of forensic characteristics is defined, which meets the modern requirements of the practice of investigating criminal offenses. Forensic characteristics should be understood as a set of interdependent information on forensically significant signs of criminal offenses of a certain group (type), which contribute to the investigation through the activity of building and checking versions by conducting planned investigative (search) actions and other measures. As a theoretical model, forensic characterization consists of the following elements: the subject of a criminal offense; the method of committing a crime, which has three components: preparation, direct commission and concealment of criminal acts; a complex of characteristic traces remaining at the scene; characteristics of the offender and the victim.

Depending on the type of criminal offense, certain elements may be missing. All elements of forensic characterization are interdependent and interconnected. The interrelationship of the elements of the considered scientific category is considered as a source of information on certain types of crimes, performs an informational function and constitutes a single information system, the use of which is possible by obtaining and analyzing individual elements and establishing connections between them.

Attention is paid to the theoretical and practical value of forensic characteristics. For law enforcement officers who directly conduct the investigation, the most important thing is the practical use of forensic characteristics, especially at the initial stage of the investigation, when the investigator feels a lack of information about the event of the crime and the persons who committed it. Based on the analysis of the elements of forensic characteristics, the investigator puts forward versions, checking which determines the most promising direction of the investigation, organizes a targeted search for the criminal, missing property, and solves other separate tasks of the investigation.

Attention is focused on the main directions of using forensic characteristics in the investigation of criminal offenses against property, namely for: identifying signs of a crime; proposing versions regarding: the criminal nature of the committed act, the identity of the suspect, the commission of a crime by a group of persons; detection of the place of concealment and realization of stolen objects of encroachment;

determination of the range of possible sources of information about the crime; improvement of detection, fixation and removal of material traces of a crime during initial investigative (search) actions.

Keywords: *investigation method, forensic characteristics, criminal offenses against property, investigator, object of encroachment, methods of commission and setting of the crime, traces, identity of the criminal and the victim.*

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Serhii ROZUMNY ©
Director
(Dnipropetrovsk scientific research Institute of Forensic Examinations of the Ministry of Justice of Ukraine, Dnipro, Ukraine)

THE USE OF SPECIAL KNOWLEDGE IN THE INVESTIGATION OF CYBERCRIMES

Сергій Розумний. ВИКОРИСТАННЯ СПЕЦІАЛЬНИХ ЗНАНЬ ПРИ РОЗСЛІДУВАННІ КІБЕРЗЛОЧИНІВ. В статті на основі аналізу думок науковців та правоохоронної практики розглянуто поняття та ознаки спеціальних знань, під якими треба розуміти сукупність теоретичних знань і практичних умінь та навичок у галузі науки, техніки, мистецтва чи ремесла, набутих у результаті спеціальної теоретичної підготовки або професійного досвіду роботи, що використовуються при розслідуванні кримінальних правопорушень. Наголошується, що загальною метою використання спеціальних знань є вирішення завдань кримінального провадження, визначених ст. 2 Кримінального процесуального кодексу України, а саме забезпечення швидкого, повного та неупередженого розслідування. Використання спеціальних знань, сприяє формування доказової бази шляхом виявлення нової інформації, яку неможливо отримати використанням тільки юридичних знань.

Приділяється увага формам використання спеціальних знань. Зазначається, що вони є ні чим іншим як способом реалізації теоретичних положень науки в практиці розслідування злочинів. Розглянуто окремі питання використання спеціальних знань у процесуальній та непроцесуальній формах при розслідуванні кіберзлочинів. Зосереджено увагу на процесуальних формах використання спеціальних знань, а саме залученні спеціаліста до проведення слідчих (розшукових) дій та призначення та проведення експертизи. Визначено спеціалістів, що приймають участь у розслідуванні визначеної категорії кримінальних проваджень, зазначено основні дії, що ними виконуються та зосереджено увагу на об'єктах, що вилучаються при огляді місця події. Розглянуто об'єкти та предмет експертиз: комп'ютерної техніки та програмних продуктів та експертизи електронних комунікацій, що частіше за все призначаються при розслідуванні кримінальних правопорушень, учинених в умовах воєнного часу та визначено об'єкти та предмет їх дослідження.

Ключові слова: *кримінальне провадження, розслідування, кіберзлочини, комп'ютерні технології, слідчі (розшукові) дії, огляд місця події, експертиза, спеціаліст, експерт.*

Relevance of the study. One of the main tasks of criminal proceedings is to ensure a quick, complete and impartial investigation (Art. 2 of the Criminal Procedure Code of Ukraine) [1]. In order to solve this task, the inquirer, investigator, and prosecutor, within the limits of their authority, carry out pre-trial investigation of criminal offenses, using all their professional knowledge, skills and abilities for this purpose. Despite the efforts of law enforcement agencies, crime is improving today: its organized forms are increasingly developing, new types of crimes are appearing, methods of their commission are being improved, the latest technical means of committing crimes are being used, etc. To counter modern criminal activity, it is not

polyana729@ukr.net

enough for an investigator to have only professional legal knowledge. Taking into account the improvement of the technical equipment of crime, the involvement of modern computer technologies for the commission of crimes, the investigator, accordingly, needs to acquire new knowledge or use the knowledge of various types of specialists during the investigation.

Positive trends in the development of innovative technologies and computer equipment in modern society led to the emergence of a completely new negative phenomenon, namely the so-called computer or cybercrime. According to statistical data of the Office of the Prosecutor General of Ukraine, in 2022, 3,415 criminal offenses were registered in the field of use of electronic computing machines, systems and computer networks and telecommunication networks, of which a notice of suspicion was served in 2,643 cases [2]. Criminal offenses in the field of computer technologies are characterized by high latency due to the complexity of their detection and investigation. The virtual or digital traces inherent in these crimes can be destroyed in an instant, while it is usually very difficult to identify the computer that was used to gain unauthorized access to a particular network. That is why it is necessary to use not only professional legal, but also special knowledge to carry out a quick and complete investigation. Today, in the theory of criminology and the practice of investigating criminal offenses, there are certain difficulties in determining the types and forms of special knowledge in general, and, in particular, when investigating such a latent and complex category as crimes in the field of computer technologies. Therefore, the relevance of the issues investigated in this article is beyond doubt.

Recent publications review. Considerable attention was paid to the methodology of investigating certain types of criminal offenses and the use of special knowledge by such domestic scientists as V. Areshonkov, L. Arotsker, V. Bakhin, A. Vinberg, A. Volobuev, V. Goncharenko, I. Hora, H. Granovskyi, S. Yevdokimenko, A. Ishchenko, N. Klymenko, V. Konovalova, V. Kuzmichev, V. Lysychenko, V. Lukashevich, E. Lukyanchikov, I. Petrova, I. Pyrih, M. Saltevskyi, M. Segai, E. Simakova-Efremyan, R. Stepaniuk, I. Fridman, K. Chaplinskyi, Y. Chornous, V. Shevchuk, V. Shepitko, M. Scherbakovsky, and others.

Recently, there have been enough scientific works investigating the use of special knowledge in the investigation of certain types of crimes. Among them, the following can be noted: I. Pyrih "Theory and practice of the use of special knowledge in the investigation of theft of goods on railway transport" (2006), P. Kravchuk "The use of special knowledge during the investigation of robberies and robberies" (2015), M. Bidniak "Use of special knowledge in the investigation of fraud" (2018), N. Timofeeva "Use of special knowledge in the investigation of crimes against production safety", A. Taranova "Use of special knowledge in the investigation of improper performance of professional duties by a medical or pharmaceutical worker" (2020), S. Borysov "Use of special knowledge in the investigation of illegal handling of weapons, ammunition or explosives" (2020), A. Lisitskyi "Use of special knowledge in the investigation of criminal offenses committed by arson" (2023). However, in the works of scientists, not enough attention was paid to the use of special knowledge in the investigation of cybercrimes.

The research paper's objective. The purpose of the article is to determine the specifics of the use of special knowledge in the investigation of cybercrimes.

Discussion. Regarding the definition of the concept of "special" knowledge, we consider it inappropriate to dwell on it, since the above-mentioned scientists have sufficiently developed this issue. At the same time, it should be noted that certain concepts used in jurisprudence in general and in criminal proceedings in particular are not clear enough, which leads to significant shortcomings during the investigation and making of procedural decisions. Concepts formulated by scientists, subject to the laws of dialectics, are clarified, changed, and improved over time. Separate concepts formed in science become the basis of their legislative consolidation and further use in practice, which, in our opinion, is natural.

Despite the fact that the concept of special knowledge is sufficiently developed in science, it is not legally established. In normative documents regulating expert activities in Ukraine, such as the Law of Ukraine "On Forensic Expertise" [3], the Instruction on Appointment and Conduct of Forensic Expertises and Expert Research dated October 8, 1998 No. 53/5 [4] and other interpretations there is no such concept, which sometimes leads to errors when appointing an expert or involving specialists in the investigation. There is no concept of special knowledge in Art. 3 "Definition of the main terms of the Code" of the Criminal Procedure Code of Ukraine. In Art. 69 of this Code states that "an expert in criminal proceedings is a person who possesses scientific, technical or other special knowledge", and

Art. 71 defines a specialist as a person who "has special knowledge". At the same time, the meaning of the concept of "special knowledge" is not clarified. Therefore, when controversial issues arise regarding the use of special knowledge, investigators use scientific interpretation, which sometimes does not lead to positive results during proof.

One of the fundamental scientific works summarizing the problems of the use of special knowledge in criminal proceedings is a monograph reflecting the results of M. Scherbakovsky's doctoral dissertation "Conducting and using forensic examinations in criminal proceedings" [5]. The author, summarizing the achievements of scientists, defines the controversial issues that are the basis of the discussion of scientists regarding the definition of the essence of special knowledge and their characteristic features. Let's dwell separately on their characteristics.

The first criterion that characterizes special knowledge is its lack of general knowledge and lack of general availability. At the current stage of informatization of society, the presence of the worldwide Internet, where you can get any information, "public access" as a term loses its meaning. Indeed, today there cannot be such knowledge that cannot be obtained, that is, which is not freely available. But this only applies to knowledge. If we talk about skills and abilities that are part of the definition of special knowledge, then it is impossible to get them quickly. Investigating cybercrimes requires computer knowledge. Any educated person today has this knowledge as a user, but to deal with issues related to, for example, network intrusion and the nature of hacker activity, more in-depth knowledge is required. The limit of general availability of knowledge is a dynamic concept and changes over time.

As fields of special knowledge, most scientists define science, technology, art and craft, with which we agree. Any kind of special knowledge belongs to the fields of science, technology, art or craft. Individual scientists note such fields of knowledge as physics, chemistry, natural science, etc. as independent, but the named fields are covered by the concept of science.

The ratio of special and legal knowledge is the most controversial among scientists. We believe that for an investigator who investigates criminal offenses, knowledge in the fields of criminal law, criminal procedural law and criminology is professional. Knowledge from other branches of law: civil, agrarian, administrative, etc., are special for him, and the investigator can involve in the investigation a specialist in the field, for example, financial or economic law, as a specialist. We also join those scientists who consider knowledge in the field of forensic technology to be special, since it is, in fact, knowledge in the field of technology or natural science [6, pp. 155–158].

Analyzing the relationship of special knowledge with abilities and skills, M. Scherbakovskyi notes that these concepts are, although interrelated, but different, and including "special knowledge" in the definition of abilities and skills does not correspond to the provisions adopted in psychology and pedagogy [5, p. 60]. In our opinion, knowledge, ability and skills are three interdependent and mutually determined concepts that fully characterize the concept of "special knowledge".

When determining the goals of using special knowledge in criminal proceedings, we agree with the opinion of V. Kuzmichev and I. Pyrih that "the use of special knowledge in investigative and judicial practice is always purposeful. A clear definition of the purpose of their application at each stage of the criminal process is important for a correct understanding of the functions and powers of persons who use certain types of knowledge in procedural forms provided for by law" [7, pp. 11-12]. The general purpose of using special knowledge is to solve the tasks of criminal proceedings, defined in Art. 2 of the Criminal Procedure Code of Ukraine. Solving the goal presents the investigator with a large number of tasks, which we consider impractical to enumerate within the scope of this publication. The use of special knowledge, in our opinion, contributes to the formation of the evidence base by revealing new information that cannot be obtained using only legal knowledge.

Above, we drew attention to insufficiently clear regulation of the process of using special knowledge by procedural law. Considering the variety of types and forms of special knowledge, as well as their dynamism, in our opinion, it is legally impossible to list all types of special knowledge and fix all possible cases of their use. However, the basic concepts, principles of use, forms, subjects of use, their rights, obligations, etc. must be enshrined in the Criminal Procedure Code of Ukraine and other legal acts.

Having considered the criteria that separate "special" knowledge from others, we will give a definition of special knowledge, which we consider to be more justified: "special

knowledge is a set of theoretical knowledge and practical abilities and skills in the field of science, technology, art or craft, acquired as a result of a special theoretical training or professional work experience used for the purpose of detection, investigation and prevention of crimes" [7, p. 14].

Understanding the concept of special knowledge and its types is of great importance for the theory of criminology. But in the investigation of criminal offenses, the concept of forms of using special knowledge is more essential, in our opinion. Forms of using special knowledge are nothing more than a way of implementing the theoretical provisions of science in the practice of crime investigation. Despite the sufficiently developed forms of use of special knowledge among scientists, there are still discussions on this issue. Changes in legislation and the lack of a clear list of forms of using special knowledge also contribute to scientific controversy.

Most scientists distinguish procedural and non-procedural forms of using special knowledge. Procedural should be considered those that are directly provided by the legislation, namely: the participation of a specialist during investigative (search) actions and conducting forensic examinations with the relevant subjects: a specialist (Article 69 of the Criminal Procedure Code of Ukraine) and an expert (Article 71 of the Criminal of the Procedural Code of Ukraine) [5, p. 65; 8, p. 14; 9, p. 81]. The structure of special knowledge of an expert and a specialist, according to M. Scherbakovskyi, is distinguished by taking into account the peculiarities of their procedural functions and the goals of involvement in criminal proceedings [5, p. 65]. However, this is not entirely acceptable, since they can have the same knowledge, skills and abilities, but use them according to their competence.

Non-procedural special knowledge should be considered not outside the limits of the criminal process, but such that is not directly provided for by the legislation. Such forms are: departmental investigations, inspections of technical condition; carrying out research of objects directly at the scene of the event; consulting and reference assistance; provision of technical assistance in the preparation of technical means, performance of labor-intensive works; the use of the help of knowledgeable persons in the implementation of operative and search measures [8, p. 14].

As mentioned above, one of the dangerous crimes, the investigation of which requires the use of special knowledge, are the so-called cybercrimes. These crimes are increasingly becoming organized and group, and sometimes transnational in nature, as criminals use such means of crime as computer viruses, software bookmarks, remote access software attacks, etc., to gain unauthorized access to any computer system.

The concept of "cybercrime", although it exists in informal legal terminology, has long been used to characterize criminal offenses provided for in Chapter XVI of the Criminal Code of Ukraine "crimes in the field of use of electronic computing machines (computers), systems and computer networks and networks telecommunication". Although this term is given in the title "Cybercrime Convention", adopted by the Council of Europe [10] and ratified by the relevant law of Ukraine [11]. According to this document, cybercrimes are divided into four groups: crimes against privacy: illegal access, illegal interception, system interference, data interference, misuse of devices; crimes related to the use of a computer as a means of committing a crime: computer fraud and computer forgery; offenses related to content, in particular child pornography; offenses related to the violation of copyright and related rights. But, in our opinion, the classification dividing cybercrimes into aggressive and non-aggressive is more successful. The first group includes: cyber terrorism; a threat of physical violence transmitted by means of electronic communication; cyber stalking; illegal sexual harassment and stalking of another person via the Internet (cyberstalking), child pornography – creating pornographic materials with the image of children, distributing them, gaining access to such materials. The second group covers: cyber theft, cyber fraud, cyber vandalism, cyber espionage, distribution of virus programs and spam [12, pp. 284-285].

Let’s consider the use of special knowledge in the investigation of cybercrimes in the form of involving a specialist in conducting investigative (search) actions. Virtually the only urgent investigative action, which is expedient to carry out at the initial stage of the investigation of cybercrimes, is a review [13, p. 10]. The specified investigative (search) action allows the investigator to directly perceive the situation of the scene of the incident and the objects located there in order to identify traces of the offense, clarify the circumstances of the incident that are important for criminal proceedings. This allows you to get an idea of the mechanism of the crime, put forward investigative versions, and determine the directions of the

investigation. The success of the entire investigation in many cases depends on the timeliness, urgency and quality of the inspection [14, pp. 213-214].

An expert in the field of computer technology is involved as a specialist when conducting an inspection of the scene. Already at the preparatory stage, he helps the investigator in the preparation of appropriate technical means: computer equipment that will be used for reading, copying and saving the extracted information; various connecting cables; special software that enables express analysis of information and its copying directly at the scene of the event, etc. During the work phase of the review, a specialist in the field of computer technology will explain what media may contain information of interest to the investigation: flash drives, laser CD, removable hard drives, etc., and what these media look like, as well as the rules for handling them etc. If the computer is connected to a local network, a specialist in the field of computer technology needs to establish the number of computers and servers connected to the server, their number in the network, the type of communication. If possible, organize a parallel review of computers connected to the local network. In the absence of such an opportunity, ensure that they are stopped and, in the future, conduct an inspection according to the diagram of a non-working computer [15, pp. 166-168].

We agree with the opinion of B. Teplytsky regarding the need to review mobile computer equipment with a telephone function. Considering the widespread use of mobile communication devices and the ability of mobile phones to collect, store and process information, the analysis of the information contained in them is important in the process of proof. In addition to making and receiving calls, a modern mobile phone combines many different functions, including: address and phone books; a diary with a list of meetings and affairs; notebook; messaging device; camera and video camera; dictaphone; multimedia player and others. All of the above data may contain indicative or evidentiary information displayed in digital traces, which can be analyzed in the presence of appropriate tools [16, p. 251]. Mobile phones can be inspected either directly at the scene or separately.

Specialists in the field of computer equipment and technologies are also involved in conducting a search and questioning of a suspect. During the search, his actions are similar to those performed when inspecting the scene. During the interrogation of the suspect, special knowledge is needed to explain to the investigator the meaning of certain terms related to the field of digital technologies or the content of the criminal actions described by the suspect.

In addition to specialists in the field of computer technology, forensic specialists are involved in the review. Their actions, depending on the stages of the review, are, in our opinion, traditional and sufficiently regulated by the Instruction on the Procedure for Engaging Employees of Pretrial Investigation Bodies of the Police and the Expert Service of the Ministry of Internal Affairs of Ukraine as specialists to participate in the inspection of the scene [17].

At the final stage of the examination with the participation of a specialist, it is necessary to determine which media can serve as sources of evidence, and which of them should be removed, taking into account the data on computer use. Such media can be: computer system units with hard drives installed on them (it is not recommended to remove them separately from the system unit); laptops; tablets; printers with memory cards; other computer components; portable media: flash cards, magnetic disks, memory cards, card readers, etc. The completeness of the evidence base depends on the number of information carriers that are removed and its quality, since the removed objects will be the objects of expert research in the future. Let's dwell on the types and subject of examination of examinations, which are assigned in the investigation of cybercrimes, as conducting examination is the second important form of using special knowledge.

The main expertise assigned during the investigation of this category of criminal proceedings is the expertise of computer equipment and software products. According to the Instructions on the Appointment and Conduct of Forensic Examinations, the main tasks of this examination include establishing: the working condition of computer and technical equipment; circumstances related to the use of computer and technical means; information and software contained on computer media; compliance of software products with certain versions or requirements for its development [4]. At the same time, the expert is provided with the computer medium itself for research, and if necessary, the computer unit; copies of the software product or software code, as well as all possible media specified by us above.

Taking into account the types of investigated objects of forensic examination of computer equipment and software products and the specifics of the tasks solved by it, B. Teplytskyi separates three subtypes of the specified examinations: computer equipment, which

establishes the circumstances and facts related to the functioning and operation of computer systems; software products, which establishes facts and circumstances related to methodological, hardware and structural features of software development and use; information and computer, establishing facts and circumstances related to information processing of the contents of file systems, their reproduction and storage on computer media [18, p. 31].

Electronic communications examination is an independent type of forensic examination, which is a type of engineering and technical examination, which is assigned during the investigation of cybercrimes. Electronic communications networks and their components, radio equipment, radio electronic devices, radiating devices and the information transmitted, received and processed by them are the objects of electronic communications expertise. The main tasks of electronic communications expertise are the research of electronic communications networks and their components, radio equipment, radio electronic means and radiating devices, namely: determination of their characteristics and parameters; establishment of facts and methods of transmission (reception) of information; establishment of facts and methods of access to them; determination of technical factors of the quality of the provision of electronic communication services at the level of their consumption; establishing their configuration and operating status; establishment of type, brand, model and other classification categories; research of information processing algorithms and its protection [4].

Conclusion. In conclusion, it can be noted that, based on the analysis of the opinions of scientists and law enforcement practice, we considered the concepts and signs of special knowledge, which should be understood as a set of theoretical knowledge and practical abilities and skills in the field of science, technology, art or craft, acquired as a result of special theoretical training or professional work experience used in the investigation of criminal offenses. Two forms of using special knowledge in the investigation of cybercrimes are considered: the involvement of a specialist in the conduct of investigative (search) actions, in particular, the inspection of the scene of the incident and the appointment of expertise, in particular, computer equipment and software products and electronic communications. The use of special knowledge during the investigation of cybercrimes contributes to obtaining objective and complete evidentiary information, expands the possibilities of the investigator in obtaining evidence.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article, based on the analysis of the opinions of scientists and law enforcement practice, considers the concepts and signs of special knowledge, which should be understood as a set of theoretical knowledge and practical abilities and skills in the field of science, technology, art or craft, acquired as a result of special theoretical training or professional work experience. used in the investigation of criminal offenses. It is emphasized that the general purpose of using special knowledge is to solve the tasks of criminal proceedings, defined in Art. 2 of the Criminal Procedure Code of Ukraine, namely the provision of a quick, complete and impartial investigation. The use of special knowledge contributes to the formation of an evidence base by revealing new information that cannot be obtained using only legal knowledge.

Attention is paid to the forms of using special knowledge. It is noted that they are nothing more than a way of implementing the theoretical provisions of science in the practice of investigating crimes. Separate issues of the use of special knowledge in procedural and non-procedural forms in the investigation of cybercrimes are considered. Attention is focused on the procedural forms of using special knowledge, namely, the involvement of a specialist in the conduct of investigative (search) actions and the appointment and conduct of an examination. Specialists participating in the investigation of a certain category of criminal proceedings are identified, the main actions performed by them are indicated, and attention is focused on the objects seized during the inspection of the scene. The objects and subject of examinations: computer equipment and software products and examination of electronic communications, which are most often assigned during the investigation of criminal offenses committed in wartime conditions, were considered, and the objects and subject of their research were determined.

Keywords: *criminal proceedings, investigation, cybercrimes, computer technologies, investigative (search) actions, inspection of the scene of the incident, expertise, specialist, expert.*

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Volodymyr KIYANITSA ©
Senior Lecturer
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

GROUNDS AND PROCEDURAL ORDER OF APPLYING PREVENTIVE MEASURES UNDER MARTIAL LAW

Володимир Кіяниця. ПІДСТАВИ ТА ПОРЯДОК ЗАСТОСУВАННЯ ЗАХОДІВ ПРОФІЛАКТИКИ В ПЕРІОД ВОЄННОГО СТАНУ. Указом Президента України № 64/2022 від 24.02.2022 року, у зв'язку з військовою агресією російської федерації в Україні, було введено воєнний стан. Введення режиму воєнного стану створили потребу ввести певні зміни до Кримінального процесуального кодексу України. Ці зміни стосувалися глави 18 розділу II, що регулює питання запобіжних заходів та затримання осіб, а також розділу IXI, який регламентує спеціальний режим досудового розслідування та судового розгляду умов воєнного стану. Ця ситуація призвела до змін у регулюванні практично всіх аспектів суспільного життя, включаючи кримінальну юстицію. Вона стала викликом для забезпечення обов'язковості відповідальності за вчинені кримінальні правопорушення, при цьому забезпечуючи безпеку осіб, які залучені до кримінального провадження. З метою пристосування чинного кримінального процесуального законодавства до поточних вимог законодавцем були прийняті деякі закони, які стосувалися різних аспектів кримінального провадження, включаючи питання вжиття запобіжних заходів. Це робить тему дослідження актуальною та обговорюваною у науковому співтоваристві. Дана стаття присвячена аналізу таких аспектів: умов, за яких держава може відмовити у гарантуванні прав та свобод особи згідно з Конвенцією про захист прав людини та основоположних свобод під час воєнного стану; змін, внесених до Кримінального процесуального кодексу України щодо вживання запобіжних заходів під час воєнного стану. Система запобіжних заходів, яка визначена в пункті 1 статті 176 Кримінального процесуального кодексу, включає в себе такі заходи, як особиста порука, застава, тримання під вартою та домашній арешт. Основною метою вживання цих запобіжних заходів є забезпечення дотримання підозрюваним або обвинуваченим вимог, які ставляться до них в рамках кримінального процесу, а також запобігання можливому неправомірному впливу на розслідування.

Ключові слова: *запобіжні заходи, тримання під вартою, затримання, воєнний стан, домашній арешт.*

Relevance of the study. After the declaration of a state of war, numerous legislative changes were introduced that impacted the application of preventive measures in criminal proceedings. Laws such as "On Amendments to the Criminal Procedure Code of Ukraine regarding the procedure for lifting a preventive measure for military service by conscription during mobilization, for a special period, or its changes for other reasons", "On Amendments to the Criminal Code and CPC of Ukraine to improve responsibility for collaboration activities and peculiarities of applying preventive measures for crimes against the foundations of national and public security", "On Amendments to the CPC of Ukraine to improve the procedure for conducting criminal proceedings in conditions of a state of war", and "On Amendments to the CPC of Ukraine regarding the improvement of certain provisions of pre-trial investigation in conditions of a state of war" [1] established a series of peculiarities related to pre-trial investigation, judicial consideration, procedural actions, powers of the investigating judge and prosecutor's office, deadlines for pre-trial investigation, application of preventive measures, the procedure for concluding pre-trial investigation, and the possibility of restoring lost materials of criminal proceedings in conditions of a state of war.

ORCID iD: https://orcid.org/0000-0001-9433-1924
kv3692686@gmail.com

Recent publications review. The state of study of this issue is the subject of a wide range of scientific research. The specified topic has been explored by V. Horbachovskyi, V. Kiiantse, A. Tumanyanu, M. Kalinovska, O. Herasymov, O. Riashko, V. Mikhaylenko, and many others [1-9]. However, to date, a significant number of questions regarding the application of preventive measures by police officers in conditions of a state of war remain unresolved.

The article's objective. The aim of the article is to examine the grounds and procedural order for the application of preventive measures in conditions of a state of war.

Discussion. The list of Ukrainian laws mentioned contains a significant number of changes related to the application of preventive measures in criminal proceedings. The volume of changes in this area is so extensive that their complete description and analysis within the confines of one article are impossible. However, some interesting aspects can be highlighted.

Currently, there are two different procedures for amending and canceling preventive measures:

1. The general procedure established by Articles 200-2011 of the Criminal Procedure Code of Ukraine.
2. The special procedure applied during criminal proceedings in conditions of a state of war and regulated by Article 616 of the Criminal Procedure Code of Ukraine.

In the matter of choosing preventive measures, the legislator, in Chapter IX-1 of the Criminal Procedure Code (CPC), provided for peculiarities in choosing a preventive measure in the form of detention and making a decision to permit detention during a state of war. The implementation of such measures is assigned to an investigating judge, differing from the regulated procedure for choosing other preventive measures.

This provision of the law may cause some confusion, as, while respecting the prosecutor's right to choose an exclusive preventive measure, the authority to apply less severe preventive measures remains with the investigating judge. The underlying purpose of these provisions remains somewhat unclear.

Judicial practice indicates that when considering issues related to preventive measures during a state of war, certain problematic aspects often arise, associated with the physical absence of materials from criminal proceedings [2].

According to the analysis of judicial practice, investigating judges and courts, when considering the issue of canceling a preventive measure, examine criteria such as the type of crime the person is suspected or accused of, the person's ability to defend the state, military obligations, and the absence of restrictions on military service, among other factors.

Overall, it is considered that even in the case of offenses committed during a state of war, the decision to apply a preventive measure to a suspected or accused person must be justified and motivated. Such a decision should take into account all circumstances of the criminal proceedings.

In the current conditions of a state of war, the legislator has provided peculiarities regarding the modification of preventive measures according to Part 5 and 6 of Article 616 of the CPC. For example, the possibility of changing a bail preventive measure to a personal obligation or changing house arrest to a personal obligation is envisaged.

Examining the issue of changing the preventive measure of house arrest to a preventive measure in the form of a personal obligation during a state of war (according to Part 6 of Article 616 of the CPC), it is interesting that such a decision is made by the investigating judge or the court upon the motion of the suspect or accused. It should be noted that the change of a preventive measure is possible only in the territory where active combat operations are taking place. This legislative provision has a consistent and logical character [3].

There are two ways to change the preventive measure in the form of bail. The first method is to change the bail to a personal obligation. The law establishes a condition that allows making a relevant decision – using the funds transferred as bail (in whole or in part) to deposit them into special accounts of the National Bank of Ukraine for the country's defense needs. The second method involves changing the preventive measure in the form of bail by reducing the amount that must be transferred for the needs of the Armed Forces of Ukraine.

Let's consider an example when Sychivsky District Court of Lviv satisfied the defender's motion to change the preventive measure for the accused. In this case, the preventive measure, which previously included bail, was changed to a personal obligation. It is crucial to note that the prosecutor did not raise objections during the court hearing regarding the satisfaction of this motion. This decision was justified by the desire to use the funds, which

were transferred as bail in the amount of 148,860 hryvnias, to redirect them to a special account of the National Bank of Ukraine to support Ukraine's defense [4].

The necessity of verifying and confirming the person providing bail's willingness should be taken into account by using the original statement provided by them, which is included in the documentation of the criminal proceedings.

"It is worth noting the shortcomings associated with the definition of grounds for canceling a preventive measure, which are ambiguously formulated in the law (according to Part 2 of Article 616 of the Criminal Procedure Code)" [5]. The legislator uses the formulation "in the presence of sufficient grounds", which has an evaluative character. Such a formalized definition may lead to ambiguous interpretations.

In the event of the introduction of martial law in Ukraine or in its specific territories, measures for national security and defense, as well as to prevent armed aggression by the russian federation or other states against Ukraine, a person who is in custody during pre-trial investigation or court proceedings has the right to apply to the prosecutor with a motion to cancel this preventive measure in order to enter military service during mobilization. This rule does not apply to persons suspected of committing crimes against the national security of Ukraine, as well as specific crimes listed in the law.

According to judicial practice, difficulties often arise in the consideration of issues related to preventive measures during a state of war, which are due to the lack of physical materials of the criminal proceedings.

The analysis of judicial practice shows that investigative judges and courts, when considering issues of canceling a preventive measure, examine various criteria, such as the nature of the committed crime, the person's ability to assume the function of defending the state, their military duty, the absence of restrictions on military service, and other factors.

Legislative amendments related to the application of preventive measures in conditions of martial law have a significant impact on the course of criminal proceedings. In particular, there is an expansion of the prosecution's powers, which can affect procedural guarantees of the person's rights in criminal proceedings. In these conditions, the legislator must carefully ensure the possibility of realizing the right to defense, especially when applying the most severe preventive measure – detention [3].

In the studied research, V. Kiyanytsya noted the existence of a special regime of pre-trial investigation, which operates in conditions of war, a state of emergency, or in the area of anti-terrorism operations. This institution is relatively new in the modern criminal procedural system and gained popularity after events unfolded in the occupied territories [6, p. 274].

It should be noted that citizens of Ukraine have inalienable rights and freedoms that cannot be restricted under any circumstances in criminal proceedings [7, p. 8].

In criminal proceedings, unlike many other legislative acts, human rights can be severely restricted. Therefore, the study of the evolution of various aspects of criminal procedural legislation in conditions of martial law has significant prospects for further scientific research [9].

Conclusions. Thus, the conditions of martial law require the introduction of special procedures to continue criminal proceedings based on legal practice. This practice has revealed the need to regulate many issues that have arisen in this area since the beginning of hostilities in Ukraine. After a thorough analysis of changes in legislation and a deep study of Articles 615 and 616 of the Criminal Procedure Code, it can be concluded that the legislator did not take into account several important aspects. For example, a clear structure and content of motions submitted by suspects and accused persons to the prosecutor were not defined. Also, clear grounds were not established, in the presence of which the prosecutor should apply to the investigative judge or court, or grounds under which the investigative judge or court could cancel the preventive measure (Part 2 of Article 616 of the Criminal Procedure Code uses evaluative concepts such as "in the presence of sufficient grounds", etc.). Overall, the analysis shows that some of the innovations in criminal procedural legislation regarding the application of preventive measures are logical and necessary, while others have serious shortcomings that require further scientific research and practical analysis".

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

By the Decree of the President of Ukraine No. 64/2022 dated February 24, 2022, in connection with the military aggression of the russian federation in Ukraine, a state of war was declared. The imposition of a state of war necessitated certain amendments to the Criminal Procedure Code of Ukraine. These changes pertained to Chapter 18 of Section II, regulating issues of preventive measures and detention of individuals, as well as Section IXI, which governs the special regime of pre-trial investigation and judicial consideration during a state of war. This situation led to changes in the regulation of virtually all aspects of societal life, including criminal justice. It posed a challenge to ensuring the enforceability of responsibility for committed criminal offenses while ensuring the safety of individuals involved in criminal proceedings. In order to adapt the current criminal procedural legislation to the current legislative requirements, several laws were enacted, addressing various aspects of criminal proceedings, including the issue of taking preventive measures. This makes the research topic relevant and discussed in the academic community.

This article is dedicated to the analysis of such aspects: conditions under which the state can refuse to guarantee the rights and freedoms of a person under the Convention for the Protection of Human Rights and Fundamental Freedoms during a state of war; changes introduced to the Criminal Procedure Code of Ukraine regarding the use of preventive measures during a state of war. The system of preventive measures defined in Article 176, paragraph 1 of the Criminal Procedure Code, includes measures such as personal recognizance, bail, detention, and house arrest. The main purpose of implementing these preventive measures is to ensure compliance by suspects or accused individuals with the requirements placed upon them within the framework of criminal proceedings, as well as to prevent possible unlawful influence on the investigation.

Keywords: *preventive measures, detention, arrest, state of war, house arrest.*

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Oleksandr KRYVOPUSK ©
Lectiurer
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

Olga OLEYNIK © **(KHLYNTSEVA)**
Senior Lecturer
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

FEATURES OF EXAMINATION OF A CORPSE DURING THE INVESTIGATION OF MALICIOUS FAILURE TO FULFILL DUTIES OF CARE FOR A CHILD OR A PERSON UNDER GUARDIANSHIP OR CARE ESTABLISHED

Олександр Кривопуск, Ольга Олійник (Хлинцева). ОСОБЛИВОСТІ ПРОВЕДЕННЯ ОГЛЯДУ ТРУПА ПІД ЧАС РОЗСЛІДУВАННЯ ЗЛІСНОГО НЕВИКОНАННЯ ОБОВ'ЯЗКІВ ПО ДОГЛЯДУ ЗА ДИТИНОЮ АБО ОСОБОЮ, ЩОДО ЯКОЇ ВСТАНОВЛЕНА ОПІКА ЧИ ПІКЛУВАННЯ. Стаття присвячена дослідженню тактичних особливостей проведення огляду трупа під час досудового розслідування злісного невиконання обов'язків по догляду за дитиною або особою, щодо якої встановлена опіка чи піклування. Автором детально розглянуто та конкретизовано цілі і завдання проведення слідчої (розшукової) дії в контексті розслідування злісного невиконання обов'язків по догляду за дитиною або особою, щодо якої встановлена опіка чи піклування. Розкрито питання взаємодії слідчого та інших учасників проведення огляду, зокрема судово-медичного експерта. В роботі обґрунтовано наголошується на необхідності

© Kryvopusk O., 2023
ORCID iD: https://orcid.org/0000-0003-4889-5205
k_ksmp@dduvs.in.ua

© Oleynik O., 2023
ORCID iD: https://orcid.org/0000-0002-4453-2397
olyasergeyevna@gmail.com

залучення спеціалістів з різних галузей знань, для проведення огляду трупа в ході розслідування злочинів передбачених ст. 166 КК України. В статті запропоновано авторський підхід до підготовчого етапу проведення вказаної слідчої (розшукової) дії.

На підставі аналізу матеріалів кримінальних проваджень встановлено місця проведення огляду трупа, притаманні розслідуванню злочину, передбаченого ст. 166 КК України. Крім цього, в статті наведено перелік технічних засобів, які використовуються в ході проведення слідчої (розшукової) дії, особливості виявлення, фіксації та вилучення слідів, які окремо, або в своїй сукупності можуть свідчити про вчинення злісного невиконання обов'язків по догляду за дитиною або особою щодо якої встановлена опіка чи піклування. Під час дослідження автором було використано діалектичний, формально-логічний, системно-структурний методи.

Ключові слова: *слідча (розшукова) дія, огляд, огляд трупа, досудове розслідування, злочин, дитина, опіка, піклування, батьки, опікуни, піклувальники.*

Relevance of the study. In the conditions of modern reality, characterized by economic instability, which is caused by the armed aggression of the russian federation, there is a rapid increase in crime in the country. Protection of the rights of children and persons who, due to physical and/or mental disabilities, require special care and attention remains a priority direction of the state policy of Ukraine.

The facts of malicious non-fulfillment of duties to care for a child or a person for whom guardianship or care has been established in today's conditions remain an actual problem, as evidenced by statistical data, where according to the information reflected in the Unified Report on registered criminal offenses and the results of their pre-trial investigations provided by the Office of the General Prosecutor of Ukraine, in 2019, 1,270 criminal proceedings were initiated, in 2020 – 1,322, in 2021 – 1,166, in 2022 – 759 criminal proceedings on the grounds of a criminal offense provided for in Article 166 of the Criminal Code of Ukraine [1]. At the same time, the number of indictments sent to the court remains insignificant, in particular, in 2019, 77 indictments were sent to the court (6.06 %), in 2020 – 60 indictments (4.54 %), in 2021 – 43 indictments (3.69 %), in 2022 – 33 indictments (4.35 %). Thus, the average rate of completion of the pretrial investigation in the form of an appeal to the court with an indictment is 4.66 % of the total number of registered criminal offenses qualified under Art. 166 of the Criminal Code of Ukraine.

In our opinion, it is appropriate to include a set of factors as the main reasons for this situation, in particular the imperfection of domestic legislation, which is expressed in the absence of a legally established concept of "malice" in the context of malicious failure to fulfill the duties of caring for a child or a person for whom guardianship or care was established. In addition, the interaction of pre-trial investigation bodies with representatives of authorized bodies, which are entrusted with the functions of protecting the rights of children and persons in respect of whom guardianship or care has been established, remains a problematic issue, as well as the lack of methodological support and scientifically based recommendations on increasing the effectiveness of individual investigative (search) actions as well as a general pre-trial investigation of malicious failure to fulfill duties to care for a child or a person in respect of whom guardianship or care has been established. Since the crimes provided for in Art. 166 of the Criminal Code of Ukraine can be attributed to those committed in conditions of non-obviousness, in conditions of insufficient information, investigators who conduct primary investigative (search) actions are assumed to have false qualifications. Separately, among the negative reasons that affect the quality of the pre-trial investigation, the low professional level of investigators who carry out primary investigative (search) actions based on the facts of reports of information that may indicate malicious failure to fulfill the duties of caring for a child or a person should be singled out. in respect of which custody or guardianship is established.

In turn, the review plays an important role in the course of the pre-trial investigation, since the informativeness of the investigative review is much higher than other investigative actions, for example, search, seizure or reproduction of the situation and circumstances of the event [2, p. 327].

In cases of malicious failure to fulfill the duties of caring for a child or a person for whom guardianship or care is established, the corpse of the victim can, without exaggeration, be considered one of the main, and sometimes the only, source of forensically significant information that allows conclusions to be drawn about the way the commission of the crime, its mechanism and establish the qualifying features that allow to bring the guilty persons to justice and to qualify the criminal's actions according to Art. 166 of the Criminal Code of Ukraine.

The course of the entire further investigation depends on establishing the cause of the victim's death.

Recent publications review. The problems and scientific substantiation of the tactical methods of conducting an investigative examination, in particular the examination of a corpse, were considered in their scientific studies at various times by the following outstanding scientists: V. Shepitko, M. Saltevskyi, A. Volobuev, K. Chaplinskyi, N. Pavlova, V. Kolmakov, I. Pyrig, O. Kurman, O. Musienko, T. Okhrimchuk, T. Pazynych, M. Yefimov, G. Badniak and a number of other domestic and foreign forensic scientists.

Among the scientists who were directly involved in the study of the peculiarities of the examination of the corpse of minors and/or minors, it should be noted the works of T. Ganja, O. Luchko, G. Bidnyak, I. Pyrih, etc. However, in the works of these scientists, attention is mostly focused on the problems of technical support for conducting the specified investigative action, or the problems are highlighted from the point of view of other branches of law, namely the criminal process. Thus, some issues of conducting an examination of a dead body during the investigation of the crime provided for in Art. 166 of the Criminal Code of Ukraine, require additional research in connection with the insufficient coverage of this problem, the change in the methods of committing these criminal offenses and the constant reformation processes of law-making activity taking place in our country, also in view of the state of war.

The article's objective is to determine the tactical features of conducting an investigative (search) action, an examination of a corpse, ways of improvement during the investigation of malicious failure to fulfill the duties of caring for a child or a person for whom guardianship or guardianship has been established.

Discussion. The most widespread and weighty in terms of informativeness investigative (research) action is a review. This action is carried out, as a rule, at the initial stage of the investigation, and the success of the entire subsequent investigation depends on its effectiveness [3, p. 220].

According to the approach proposed by M. Saltevsky, an investigative review is a procedural activity of authorized persons to apply methods and technical means of forensic tactics to identify, record research and extract information from material sources, as well as establish other circumstances that are relevant to the case [4, p. 220]. According to the position generally accepted in scientific circles, which is supported by leading forensic scientists, the examination of a corpse is one of the types of investigative examination. So, for example, V. Shepitko proposes the definition of an examination of a corpse as an investigative action carried out by an investigator or a person who conducts an inquiry at the place where the corpse was found in order to identify signs that allow to establish the identity of the victim, the place, time, circumstances and causes of death, as well as to find signs that indicate a possible criminal [5, p. 161].

Without entering into a scientific discussion about approaches to the definition of the concept of examination of a corpse in the science of forensics, we suggest taking as a basis the definition proposed by V. Shepitko and move on to consider the tactical features of the investigative (search) action, taking into account the specifics of the issue we are investigating.

On the basis of the conducted study of the materials of criminal proceedings, we have established that the consequence of the malicious failure to fulfill the duties of caring for a child or a person for whom custody or guardianship has been established, in the vast majority (75.00 % of cases) is characterized by the death of the victim [6, p. 451].

In this connection, special attention should be paid to the peculiarities of conducting a corpse examination. The specified investigative (search) action has its own characteristics and is regulated by a separate norm of the Criminal Procedure Code, namely Art. 238 of the Criminal Procedure Code of Ukraine, according to which the examination of the corpse by the investigator, prosecutor is carried out with the mandatory participation of a forensic medical expert or a doctor, if it is not possible to involve a forensic medical expert on time [7].

Having read the materials of the criminal proceedings on the malicious failure to fulfill the duties of caring for a child or a person for whom guardianship or custody has been established, it can be said that in most cases the examination of the corpse is carried out at the place of residence of the victim, namely in 68 % of the proceedings. In 16 % of cases, the examination of the corpse is carried out at the scene, outside the victim's permanent residence – in places of mass recreation on the water (public beaches, shores of reservoirs, other places of recreation and the territory adjacent to them). Somewhat less often, however, in 11 % of cases, the examination of the corpse is carried out on the territory of the home ownership of the

victim's permanent residence (outbuildings, open areas of the area on the territory of home ownership, etc.). In 5 % of cases, the examination of the corpse is carried out in health care facilities or ambulances. By citing the indicated statistical data, we mean that the place of death is the place of examination.

The examination of the corpse should be carried out directly at the place of its discovery, because otherwise the connection between the elements of the scene, the environment in which it was discovered, and the posture of the corpse, corpse phenomena and other signs is broken [8, p. 110].

According to generally accepted scientific approaches, as well as any investigative (search) action, scientists divide the examination of a corpse into three stages: preparatory, working and final. Taking into account the peculiarities of the issue we are investigating, we propose to investigate the peculiarities of the preparatory stage, which are inherent precisely during the investigation of the crime provided for in Art. 166 of the Criminal Code of Ukraine. First of all, it must be taken into account that the malicious failure to fulfill the duties of caring for a child or a person in respect of whom guardianship or care has been established belongs to the category of non-obvious crimes, and the investigator, before arriving at the scene of the incident, is in conditions of lack of information. Thus, at the preparatory stage, it is advisable for the investigator to carry out a set of actions aimed at:

– involvement in investigative (search) activities as a forensic medical expert. The obligation to involve a forensic medical expert, in addition to the norms of the Code of Criminal Procedure, is regulated by the joint Order of the Ministry of Internal Affairs, the Ministry of Health and the Office of the Prosecutor General No. 177/450/46 dated 09.03.2022 "On approval of the Procedure for interaction between bodies and units of the National Police of Ukraine, health care institutions and by the prosecutor's office of Ukraine when establishing the fact of a person's death during martial law on the territory of Ukraine";

– obtaining information by interviewing witnesses, the applicant or other persons who are at the place of the inspection regarding the situation and the reasons for contacting the law enforcement agencies;

– on the basis of the analysis of the received information, versions of the committed crime are put forward, conclusions are made about the way the crime was committed, and a decision is made about the feasibility of involving other specialists in the examination of the corpse (State Scientific Research Expert Forensic Center experts, employees of the Ministry of Health, etc.);

– drawing up an inspection plan, determining the limits of the investigative (search) action, choosing inspection methods and using technical means;

– distribution of roles and definition of tasks of each participant of the Investigative and operational group and persons involved in the examination of the corpse.

Yes, according to T. Ganja, the transitional border between the preparatory and working stages of the review is reconnaissance. The latter allows to correctly distribute the roles of each of the participants of the noted investigative (search) action and provides an opportunity to preliminarily compare the information received during the investigative (search) action with the real situation [9, p. 119].

We suggest that you pay attention to the methods of conducting a corpse examination. The choice of the most appropriate method, its sequence directly depends on the place where the corpse was discovered and the specific investigative situation that developed at the time of the investigative (search) action. On the basis of the analysis of the materials of criminal proceedings and after examining the approaches of scientists in the case of discovery of a corpse at the place of residence (i.e. in apartments, residential premises of private households), i.e. in the case of an opportunity to establish the limits of the investigative (search) action, it is advisable to use the concentric method of conducting an examination. The use of this method allows to ensure the preservation and completeness of the display of the trace picture at the scene of the incident.

In cases where a corpse is discovered in places where it is impossible to establish clearly defined boundaries of the examination, or to establish the exact location of the event, in our opinion, it is advisable to use eccentric or frontal methods of examination. Such places include the territories of private households where the corpse was found, the shores of reservoirs, beaches or other places of recreation.

Having read the materials of criminal proceedings of the studied category, it is possible to state the absence of a single approach to the procedural methods of fixing the examination of

the corpse. Some investigators conduct an examination of the corpse as part of the inspection of the scene of the incident, without drawing up a separate report. However, the majority of investigators, guided by the norms of part 2 of Art. 238 of the Criminal Procedure Code of Ukraine, which states that the examination of the corpse can be carried out simultaneously with the inspection of the scene, housing or other possessions of a person in compliance with the rules of the Criminal Procedure Code on the inspection of a person's housing or other possessions [7] separate the examination of the corpse into a separate investigative (search) action, based on the results of which a separate protocol is drawn up. Thus, in most of the materials of criminal proceedings examined by us, namely in 76.85 %, an examination of the scene and an examination of the corpse are carried out separately.

Moving on to the examination of the working part of the investigative (search) action, based on the analysis of the descriptive parts of the protocols of the examination of the corpse, according to the facts of the commission of the crime provided for in Art. 166 of the Criminal Code of Ukraine, it is worth noting that the protocol displays information about:

– location of the corpse and its position, location of limbs, gender; questionnaire data;

– clothes that are on the corpse and in the case of jewelry. When describing clothes, you should focus on fixing the presence of traces of blood, semen, urine, saliva, feces, etc. on the clothes, because their type, shape, direction, size, color, location, degree of penetration of the fabric by them allows you to reach certain conclusions. In particular, traces of sperm can indicate the presence of sexual intercourse; discharge of feces, urine is characteristic of asphyxiation; the location and direction of blood traces may indicate the position of the body at the time of injury; strong blood seepage of individual parts of clothing and the considerable length of such flows indicate a long stay of the body in a certain position [10, pp. 112-113];

– information about the conjuration of the corpse and the presence of corpse marks on the body. The process of detecting corpse spots refers to the dynamic stage of the survey, which consists in pressing open areas of the terrain (using a spring dynamometer) and setting the time after which the corpse stains disappear and regain their color. Identification of corpse stains and their description is carried out by a forensic medical expert. At the same time, the protocol should reflect the exact time of application of the dynamometer and what effort was used for this (the unit of measurement in this case is the kilogram per square centimeter of the body). This will allow, taking into account the surrounding environment (time of day, ambient temperature, room humidity, etc.), to establish the time of death as accurately as possible;

– the general constitution of the corpse, its body structure, special signs. When describing special signs, you should also indicate: the nature, name, location, shape, size, color, content of the tattooed picture or inscription. Accordingly, it is necessary to describe injuries and various traces found on clothes or shoes [11, p. 132];

– body length and weight, head circumference, chest circumference, abdominal circumference;

– the presence or absence of physical injuries, the facts of detection of deformation (bone fractures) are also recorded;

– the presence of traces of blood or other objects of biological origin on the bed of the corpse or in its immediate vicinity (saliva, vomitus, etc.);

– other information depending on the situation and investigative situation.

After displaying in the examination protocol general information about the sex, age, questionnaire data, clothing of the corpse, the body is examined from top to bottom (from head to feet), while first examining those parts of the body that at the time of the examination are the front part in relation to the investigator and a forensic medical expert. After inspecting the front part of the body and the sides, the corpse is turned over in the presence of the inspection participants to inspect the rear part, which ensures the principles of sequence and systematicity of the investigative action.

In the event that physical injuries are detected on the corpse, they are subject to a detailed description, while indicating the location of the injuries and their type (burns, open fractures of the limbs, sores, etc.); size, color and shape of the injury. If the injuries are cuts to the skin, the length of the cut and the depth of the skin damage are indicated.

It is advisable to record the entire process of examining the corpse with the help of a video recording and take separate photographs in compliance with the rules of forensic photography and video recording.

After the examination, the corpse is sent to the appropriate expert institutions for forensic medical examination based on the decision of the investigator.

Conclusions. On the basis of the above, it can be concluded that the results obtained during the examination of the corpse, during the pre-trial investigation of the malicious failure to fulfill the duties of care for a child or a person in respect of whom custody or guardianship has been established are one of the main sources of evidentiary information. Thanks to a properly conducted examination of the corpse, the investigator puts forward substantiated versions of the committed crime, draws conclusions about the circumstances and conditions of the committed criminal offense and the methods of its commission. The information obtained during the examination of the corpse allows to avoid mistakes in the qualification of the crime and to initiate investigative (search) actions at the further stages of the pre-trial investigation.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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ABSTRACT

The article is devoted to the study of the tactical features of conducting an examination of a corpse during a pre-trial investigation of malicious failure to fulfill the duties of caring for a child or a person for whom guardianship or custody has been established. The authors have considered in detail and specified the goals and objectives of the investigative (search) action in the context of the investigation of malicious failure to fulfill the duties of caring for a child or a person in respect of whom custody or guardianship has been established. The issue of the interaction of the investigator and other participants in the examination, in particular the forensic medical expert, was revealed. The work reasonably emphasizes the need to involve specialists from various fields of knowledge to conduct an examination of a corpse during the investigation of crimes provided for in Art. 166 of the Criminal Code of Ukraine. The article offers an authors' approach to the preparatory stage of conducting the indicated investigative (search) action.

On the basis of the analysis of the materials of the criminal proceedings, the places of examination of the corpse, inherent in the investigation of the crime provided for by Art. 166 of the Criminal Code of Ukraine. In addition, the article provides a list of technical means used in the course of an investigative (search) action, features of detection, fixation and removal of traces, which individually or in their entirety may indicate the commission of a malicious failure to fulfill the duties of caring for a child or a person in respect of whom guardianship or care has been established. During the research, the author used dialectical, formal-logical, systemic-structural methods.

***Keywords**: investigative (search) action, examination, examination of a corpse, pre-trial investigation, crime, child, guardianship, care, parents, guardians, custodians.*

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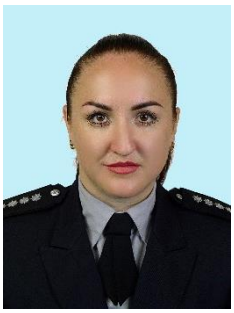

Alina DISHLYOVA ©
Adjunct
(Dnipropetrovsk State University ofInternal Affairs, Dnipro, Ukraine)

FEATURES OF PREPARATION FOR THE INSPECTION OF THE LAND OF STATE OR COMMUNAL PROPERTY ON THE FACT OF ILLEGAL ACQUISITION OF THE RIGHT TO IT

Аліна Дишльова. ОСОБЛИВОСТІ ПІДГОТОВКИ ДО ПРОВЕДЕННЯ ОГЛЯДУ ЗЕМЕЛЬНОЇ ДІЛЯНКИ ДЕРЖАВНОЇ АБО КОМУНАЛЬНОЇ ВЛАСНОСТІ ЗА ФАКТОМ НЕЗАКОННОГО НАБУТТЯ ПРАВА НА НЕЇ. В статті розглядаються організаційно-підготовчі заходи до проведення огляду земельної ділянки державної або комунальної власності на яку незаконно набуті права. Наголошується, що на підготовчому етапі закладаються ті підвалини, що забезпечують результативність проведення відповідної процесуальної дії. При цьому огляд місця події має особливого значення, бо може проводитись до початку кримінального провадження, що визначає його значення в отриманні вагомої у прийнятті організаційних, тактичних, правових та інших рішень.

На підставі аналізу практики розслідування вказаної категорії кримінальних правопорушень, зроблено висновки, що допущені слідчими, дізнавачами та прокурорам при проведенні огляду земельної ділянки, порушення та недоліки, в більшості випадків, стають підставою для винесення виправдувального вироку. Таким чином недостатня розробленість розглядуваної у статті проблематики, практичний досвід та інше обумовлюють формування для сторони обвинувачення труднощі отримання позитивного результату огляду як засобу отримання доказів.

Наголошується, що планування проведення огляду доцільно здійснювати вже після отримання відповідних даних про ділянку землі, що стала об'єктом посягання. У свою чергу усвідомлення мети проведення огляду забезпечить спрямованість зусиль, визначення необхідного інструментарію засобів, методів, необхідність за діяння фахівців відповідного профілю діяльності, мінімізації проявів протидії.

В статті наводяться перелік заходів, що є притаманними для таких складових підготовки огляду, що здійснюються до виїзду та по прибуттю на місце його проведення. Наголошується, що у випадку належної організаційної діяльності, визначення необхідних для результативного огляду заходів й засобів буде здійснено до прибуття. Потреби коригування спланованих дій, що виникли вже безпосередньо по прибуттю на місце проведення огляду мають, по-можливості, реалізовуватись до його проведення.

Ключові слова: *незаконне набуття права на землю, огляд земельної ділянки, уповноважена особа, учасники слідчої (розшукової) дії, ухвала слідчого судді, організаційно-підготовчі заходи, науково-технічні засоби.*

Relevance of the study. The European integration processes of Ukraine determine the transformation of state institutions, bodies and rules, economic, social and other spheres of activity in accordance with the needs of ensuring the external and internal political life of Ukrainian society. These phenomena, quite often, determine the formation of those conditions that, due to circumstances, make possible the commission of a number of criminal offenses. Since Ukraine is a state with the most valuable reference soils in the world, which increases the value of land as a commodity in a market economy and makes it an attractive object of criminal encroachments, including those committed by illegally acquiring the right to land of

ORCID iD: https://orcid.org/0000-0001-9755-439X
k_ksmp@dduvs.in.ua

state and communal property. Therefore, land and land relations are relevant in our country. It should be noted that Article 13 of the Constitution of Ukraine determines that the land, its subsoil, atmospheric air, water and other natural resources that are within the territory of Ukraine, the natural resources of its continental shelf, exclusive (maritime) economic zone are objects of property rights of the Ukrainian people [1]. At the same time, these rights are often illegally encroached upon by persons in order to acquire the right to land of state or communal property.

A significant place in fixing the facts of committing criminal offenses in general and such as the illegal acquisition of the right to land of state or communal property in particular is occupied by such an investigative (detective) action as a survey of a plot of land.

Forensic science determines the compilation of investigative (search) actions from the following stages: preparatory, working, final. The value of the above is due not only to the need to divide complex problems into their simple components, the solution of which is more understandable, accessible, but also to the fact that each stage is inherent only in their inherent tasks, measures and means of their effective implementation. At the same time, it is at the preparatory stage that the foundations are laid that ensure the effectiveness of the relevant procedural action. Inspection of the scene in this regard is of particular importance, because it can be carried out before the start of criminal proceedings, which determines its importance in obtaining weighty in making organizational, tactical, legal and other decisions.

Recent publications review.Conducting inspection of the scene in general and preparation for it was given in the works: V. Bakhina, V. Bernaza, A. Volobueva, V. Galagana, A. Gumina, M. Efimova, V. Zhuravlya, A. Ishchenko, N. Karpova, V. Kovalenko A. Kolesnichenko, V. Konovalova, M. Kostytsky, A. Kofanova, V. Kuzmicheva, V. Lysychenko, G. Lukashevich, E. Lukyanchikova, V. Malyarova, I. Piroga, V. Pletenets, B. Romanyuk, M. Saltevsky, Z. Sokolovsky, R. Stepanyuk, N. Tatarina, V. Tishchenko, L. Udalova, O. Frolova, P. Tsymbala, V. Tsirkal, K. Chaplinsky, Yu. Chernous, V. Shepitskaya and many others.

However, outside the proper attention of scientists remained the issues of preparation for the inspection of a land plot of state or communal property on the fact of illegal acquisition of the right to it. This, as Y. Dyakin emphasizes, leads to the fact that practical workers make procedural and tactical mistakes [2, p. 140].

In turn, analyzing the practice of investigating the specified category of criminal offenses, it is possible to draw conclusions that were made by investigators, interrogators and prosecutors during the inspection of the land plot violations and shortcomings, in most cases, become the basis for an acquittal. Thus, the insufficient development of this issue, the practical experience of authorized persons, etc., determine the formation for the prosecution of difficulties in achieving a positive result of the review as a means of obtaining evidence.

All of this necessitates paying attention to the study of the actions of authorized persons to determine: grounds, purpose; list of participants; the order of applied and scientific and technical means, etc., during the inspection of the land plot. Thus, the solution of the above is seen in both theoretical and practical planes.

The article's objective is to highlight the peculiarities of preparation for the inspection of a land plot that has become the object of illegal acquisition of the right to land of state or communal property.

Discussion. Investigative practice determines that each investigative (detective) action is individual and unique. There is no exception to this and such one as a review, which cannot be replaced by conducting other procedural actions. The review refers to priority, urgent investigative (search) actions that take on special importance at the beginning of the investigation.

Part 1 of Article 237 of the Criminal Procedure Code of Ukraine determines that in order to identify and record information about the circumstances of a criminal offense, the investigator, prosecutor inspect the area, premises, things, documents and computer data [3].

In turn, it is worth noting that the inspection of the scene is an investigative (search) action, the purpose of which is to study the material situation of the scene by direct personal perception of it by the investigator, other participants in the inspection in order to identify, fix and extract traces of a criminal offense and other material evidence, clarify the mechanism of the incident and other circumstances that are important for the proceedings [4, p. 333].

So, among the features of the organization of the inspection of the scene of the incident – the land plot during the investigation of the illegal acquisition of the right to land of state or

communal property, it can be determined that it is carried out after entering information into the URDI and receiving all the necessary documents for this land plot. The specified peculiarity lies in the fact that before entering information into the URDI, without any documents on the specified land plot, the authorized person may have difficulty understanding the procedure for the allocation, including the use of a specific direction of specialists, scientific and technical means, main and secondary objects, as well as their fixation in the protocol and annexes to it. In addition, the land may not correspond to the technical and physical characteristics described in the documents granting ownership to it. Especially when these documents are obtained illegally.

So in 2017, with the goal of building an elite residential complex on illegally leased land, the director of the company entered into a conspiracy with the owners and officials of the group of enterprises. Realizing her criminal plan, the suspect prepared and submitted to the Kyiv City Council documents containing knowingly false information about the grounds for the preemptive right to use the land on ul. Antonovich territorial community of Kyiv. By avoiding the procedure for the sale of lease rights to the land on a competitive basis (land bidding), the suspect continued to use it, that is, illegally seized the right to lease the land, which caused damage to the territorial community by almost 30 million UAH, thereby committing actions qualified under Part 2 of Article 366 and Part 5 of Article 91 of the Criminal Code of Ukraine [5].

Such examples demonstrate the need for proper preparation and complete fixation of the features of the land plot in the inspection protocol, which will become the basis for conducting an appraisal and land examination to establish the amount of damage caused by the illegal acquisition of the right to land of state or communal property. Without this, it is impossible to disclose the content of the subjective side in the alleged offense with material composition.

It is worth noting that the inspection of the land during the investigation of the illegal acquisition of the right to land of state or communal property is carried out in accordance with the requirements of the CPC of Ukraine. Part 2 of Article 237 of the CPC of Ukraine determines that the inspection of a dwelling or other possession of a person is carried out in accordance with the rules of this Code provided for a search of a dwelling or other possession of a person [3].

A special regime for the implementation of this procedural action is carried out on the basis of the decision of the investigating judge in order to respect the human rights provided for in Art. 30 of the Constitution of Ukraine [1], the Universal Declaration of Human Rights [6], the International Covenant on Social and Political Rights [7] and the European Convention on Human Rights [8], etc.

At the same time, if the area located outside the settlement is owned by a local self-government body, a decision to conduct a review by the investigating judge is not required.

As N. Tataryn emphasizes, it is advisable to inspect the scene of the incident according to the received message about the fact of unauthorized occupation of a land plot or unauthorized construction immediately after registration by the duty officer of the internal affairs body in the Journal of Unified Accounting before entering the data into the Unified Register of Pre-Trial Investigations, since this is how it is possible to fully record evidence indicating the commission of this particular offense [9, p. 307].

The given position can be supported if on the corresponding site already placed some equipment, means for carrying out construction or other earthworks, the site is surrounded by a fence (fence, provided with measures and means of protection, etc.), or made other changes in the material situation that can confirm the relevant fact.

The organization of the inspection of the land plot, the ownership of which was acquired illegally, should be applied taking into account the relevant features. In the absence of any guidelines that allow us to determine that it was this site that became the subject of criminal encroachment, there will certainly be difficulties in organizing its inspection, and the possibility of erroneous determination of the place will cast doubt on the effectiveness, and therefore the expediency of its conduct at the moment. In addition, the inspection as a manifestation of the activity of law enforcement agencies to the relevant fact may become known to criminals and persons not interested in the investigation. The measures taken by them to counteract by concealing the traces of the committed act, falsifying evidence, processing an alibi, etc. [10, p. 81], will complicate the collection of evidence and the judicial perspective of criminal proceedings. Therefore, the planning of the review, in our opinion, it is advisable to consider after receiving the relevant data on the land that has become the object of

encroachment both operationally and from open sources. Yes, the State Service for Geodesy, Cartography and Cadastre [11], on the web resource provides an opportunity to obtain information on the number of alienated land plots in pieces, the cost of dynamics on a monthly basis, in the context of regions. At the same time, it becomes possible to obtain data on owners and users of land plots, as well as data on the normative monetary valuation of land. The openness of the relevant data is aimed firstly at minimizing corruption risks, secondly – identifying by the public the facts of illegal seizure of both land and the right to it, and thirdly – quickly obtaining information necessary in organizing and planning activities to counter these illegal manifestations in general and conducting a review in particular. In turn, awareness of the purpose of the review will ensure the focus of efforts, the definition of the necessary tools, methods, the need for the actions of specialists in the appropriate activity profile.

A significant place in the preparation for the investigative inspection is to divide it into such components that are carried out before departure and upon arrival at the place of inspection.

At the same time, before leaving the scene, the investigator must carry out the following preparatory actions:

– receive comprehensive information about the circumstances of the criminal offense;

– ensure the protection of the scene of the incident (for example, by forces Patrol service, which are located near the crime scene, or the administration of the institution, etc.) and detain persons who are eyewitnesses of a criminal event, until the arrival of the investigative-operational group;

– to establish what measures have been taken to eliminate the consequences of a criminal offense;

– organize medical assistance to victims or persons who have committed an offense;

– determine the composition of the investigative-operational group (if necessary, attract the necessary specialists);

– in advance to ensure the availability of witnesses, if there is reason to believe that at the scene it will be difficult or impossible to attract them;

– prepare the necessary scientific and technical means to ensure the departure to the scene of the incident and the inspection (forensic means, transport, communications, etc.);

– to resolve the issue of the use of the service-search dog;

– ensure the participation of the necessary participants in the conduct of this investigative action [12, p. 229].

The study of the above general provisions, taking into account the needs of inspecting a piece of land of a state or communal property that has become the object of encroachment, allows us to identify the following key organizational and preparatory measures that determine the need:

– find out the form of ownership of the land,

– obtain, if necessary, permission of the court to conduct its inspection,

– to determine, taking into account the conditions of the armed aggression of the Russian Federation against Ukraine, measures and means of ensuring the safety of participants and unauthorized persons;

– outline the list of circumstances that need to be clarified (identified, fixed);

– prepare technical means necessary for inspection of the scene,

– determine the composition of the investigation team and involve witnesses, other participants in the inspection of the scene, depending on the situation, etc.

At the same time, depending on the circumstances, it is possible to apply the authorized person and other measures and means, participants. Specialists of the corresponding direction of activity acquire a separate meaning in the definition of participants. The need to involve a specialist during the inspection of the land is due to the need to establish the boundaries of the land and determine the area of illegally acquired land, which requires additional knowledge and the use of special measuring devices [13, p. 164].

In practice, the following specialists may be involved in conducting such a category of land surveys:

– certified engineer-surveyor, information about which is entered in the State register of certified engineers-surveyors [14];

– certified land surveying engineer, information about which is entered in the State Register of Certified Land Surveying Engineers [15];

– surveyor of the united territorial community, city or regional specialists-

representatives of the State Service of Ukraine for geodesy, cartography and cadastre. The above list is not exclusive and may, depending on the needs, be expanded by specialists in other areas of activity. At the discretion of the investigator, specialists of other areas of activity can also be involved, including the purpose of obtaining a model of the area with the use of laser scanning of the area for its spatial modeling [16].

At the same time, on the example of planning the location of highways and their design, where the use of LIDAR technology with photogrammetric mapping, which provides acceleration of activity, saving time and money [17], opportunities can be demonstrated to be used in the formation of a spatial model of a land plot of state or communal property, to which ownership is illegally acquired.

It should be noted that scientific and technological progress determines the possibility of using other scientific and technical means, including the on-board laser cartographer of the area ALTM 3100EA the Canadian company Optech [18]. This will allow you to get information about the shape of the relief of the corresponding area, which is of particular importance in difficult-to-reach places in conditions of steep slopes, swampy places, etc.

No less important is the need to determine GPS control points on the ground. However, it is worth noting that the election of technical means, the functioning of which involves Internet communication should be carried out taking into account its possible absence in the relevant area, or taking into account interruptions in the activities of the mobile operator [19].

At the same time, forecasting the need for appropriate means and measures upon arrival at the inspection site may require both adjustments and the use of others.

It is worth noting that the general provisions of the organization and inspection of the scene determine that arriving at the scene, the investigator must:

– mark the time of arrival of the investigative-operational group;

– make sure that the measures to protect the scene, assistance victims, elimination of consequences, are taken;

– take measures to preserve physical evidence;

– check the changes that occurred at the scene before his arrival;

– determine the circle of participants of the investigative examination and hold a briefing meeting;

– establish the identity of the victim (witnesses) and, if necessary, interview them, give tasks to the operational workers to establish the specified persons;

– determine the traces left by the victim, eyewitnesses and other persons who are not involved in a criminal offense;

– fix the location of the victim if it is necessary to transport him to a medical institution;

– get operational information for the nomination of investigative and search versions;

– remove from the scene unauthorized persons who are not related to the inspection;

– ensure the safety of traces, material objects and protection of the situation of the scene;

– to inform the territorial authorities about the nature of the crime and the signs of offenders;

– organize surveillance (ambush) in places where criminals may appear;

– use (if necessary) the media;

– draw up a plan for the inspection of the scene [12, p. 232].

Considering the given set of measures, we can note that it in one way or another can be applied during the inspection of areas of state or communal property that have become the object of criminal encroachment. At the same time, taking into account the needs arising from the review we are considering, we consider it appropriate to identify the following main measures that determine the need:

– ensure the safety of participants and unauthorized persons;

– carry out a general bypass of the area, during which he becomes acquainted with the situation;

– define boundaries, as well as main and secondary objects;

– choose the most appropriate methods of conducting techniques;

– identify key points for making photos, video recordings,

– make sure that the tasks are correctly allocated to the relevant participants and the use of existing human, technical resources;

– to attract, if necessary, specialists of other branches of knowledge, etc.

The set of organizational measures given by us has an approximate meaning and can, if

necessary, be adjusted to the needs of each individual inspection site. That is, already directly on the spot, the authorized person can determine the need to adjust the relevant measures and means that could not be predicted for attraction before arrival.

Thus, only preparatory measures for the inspection of the area, upon the fact of illegal acquisition of the right to land of state or communal property in its aggregate can ensure its effective conduct.

Preparation for the inspection should be considered from the standpoint of such components used by the authorized person before departure to the inspection site and upon arrival.

Each of these components is characterized by similar, but excellent measures and means aimed at implementing the tasks of inspecting the area. In this case, in the case of proper organizational activity, the determination of the measures and means necessary for effective inspection will be determined before arrival. The needs to adjust the planned actions that have appeared/have arisen immediately upon arrival at the place of inspection should, if possible, be implemented before it is carried out.

Conclusions. Our research allows us to emphasize that the solution of this problem is seen both in the theoretical and practical planes, the implementation of which necessitates during the organization of the review of the definition: grounds, goals; list of participants; the order of applied and scientific and technical means, etc., during the inspection of the land.

Preparation for conducting an investigative inspection of areas of state or communal property that have become the object of encroachment must be carried out from the standpoint of such training components carried out before departure and upon arrival at the place. Their inherent list of measures and means should be determined by the completeness of preparation for the implementation of the tasks of inspecting a land plot of state or communal ownership upon the fact of illegal acquisition of the right to it.

The directions of our further research will focus on the consideration of the tactical features of the inspection of the land on the fact of illegal acquisition of the right to land of state or communal ownership.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article considers organizational and preparatory measures for the inspection of a land plot of state or communal property to which illegally acquired rights. Based on the analysis of the practice of investigating the specified category of criminal offenses, conclusions were drawn that were made by investigators, interrogators and prosecutors during the inspection of the land plot, violations and shortcomings, in most cases, become the basis for an acquittal. The article provides a list of measures that are inherent in such components of the preparation of the inspection, carried out before departure and upon arrival at the place of its conduct.

It is noted that in the case of proper organizational activities, the determination of the necessary measures and means for effective review will be carried out before arrival. The needs to adjust the planned actions that have appeared/have arisen immediately upon arrival at the place of inspection should, if possible, be implemented before it is carried out.

Keywords: *illegal acquisition of the right to land, inspection of land, authorized person, participants of investigative (search) action, ruling of the investigating judge, organizational and preparatory measures, scientific and technical means.*

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Diana HARASHCHUK ©
Adjunct
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

THE SUBJECT OF CRIMINAL ENCROACHMENT AS AN ELEMENT OF THE FORENSIC CHARACTERISTICS OF THE ILLEGAL FISHING

Діана Гаращук. ПРЕДМЕТ ЗЛОЧИННОГО ПОСЯГАННЯ ЯК ЕЛЕМЕНТ КРИМІНАЛІСТИЧНОЇ ХАРАКТЕРИСТИКИ НЕЗАКОННОГО ЗАЙНЯТТЯ РИБНИМ ДОБУВНИМ ПРОМИСЛОМ. Наукова стаття присвячена дослідженню предмету злочинного посягання незаконного зайняття рибним добувним промислом, як складового елементу криміналістичної характеристики. Досліджено поняття предмету злочинного посягання і його особливості для вказаного кримінального правопорушення, зокрема зазначено умови при яких

ORCID iD: http://orcid.org/0000-0003-0221-6369
k_ksmp@dduvs.in.ua

водні біоресурси не являються предметом злочинного посягання.

Акцентовано увагу, що основними нормативними актами в яких міститься перелік видів водних біоресурсів, добування, яких всупереч установленому порядку є протиправним діянням, зокрема це: Правила любительського і спортивного рибальства, затвердженого наказом Міністерства аграрної політики та продовольства України № 700 від 19.09.2022 та Закон України «Про Червону книгу України» від 07.02.2002, який визначає перелік риб, вилов, яких категорично заборонений. Відповідно до наказу Міністерства захисту довкілля та природних ресурсів України № 29 від 19.01.2021 вказаний перелік містить в собі 77 видів риб.

На основі аналізу вивчення судових справ за 2013-2022 роки за фактами незаконного зайняття рибним добувним промислом, наведено перелік порід риб, які є предметом злочинного посягання, а саме: карась – 67 %, плитка – 55 %; окунь – 39 %, судак – 36 %, лящ – 34 %, плоскирка – 24 %, щука – 22 %, сазан – 20 % та інші.

Авторка зазначає, що предмет злочинного посягання, як елемент криміналістичної характеристики, досліджуваного протиправного діяння, пов'язаний з її обстановкою та способом. Даний взаємозв'язок ми маємо змогу прослідкувати завдяки дослідженню обов'язкової ознаки – істотної шкоди, зміст і поняття якої на законодавчому рівні не визначено, що створює певні труднощі для сторони обвинувачення. Тільки Пленум Верховного Суду України № 17 від 10.12.2004 «Про судову практику у справах про злочини та інші правопорушення проти довкілля» розкриває нам критерії істотної шкоди: знищення нерестовищ риби; вилов риби в період нересту, нечисленних її видів або тих, у відтворенні яких є труднощі; добування великої кількості риби, або риби, вилов якої заборонено тощо.

Ключові слова: *незаконний рибний промисел, предмет злочинного посягання, водні біоресурси, істотна шкода, кримінальне правопорушення, матеріальні збитки.*

Relevance of the study. The main task of modern society is the preservation of natural resources and their rational use. The state, for its part, has established certain restrictions on their use, and in case of violation of these requirements, punitive measures are taken against citizens in accordance with the norms of administrative or criminal legislation.

For the most part, this category of criminal offenses is committed in conditions of obviousness, i.e. the person who committed this illegal act is found at the scene of the commission of a criminal misdemeanor or crime, therefore, in the future, problematic issues should not arise regarding the conduct of the investigation, in terms of the implementation of investigative actions, aimed at establishing the location of a person. According to the statistical information presented by the Office of the Prosecutor General, we can see that only 50-60 % of criminal proceedings in Ukraine are sent to court to bring the guilty person to justice. Thus, in 2018, out of 538 registered criminal proceedings, 346 were sent to court (64 %); in 2019 from 619 to 372 (60 %), in 2020 from 608 to 376 (62 %), in 2021 from 613 to 355 (58 %), in 2022 from 576 to 321 (56 %) [8].

The above indicates the existence of problems in relation to the investigation of criminal proceedings initiated on the facts of the illegal fishing. In addition, after analyzing the above-mentioned data, we can claim that in 40-50% of the proceedings, the decision to close is made by the authorized official or they remain in the proceedings without a decision being made on them.

Therefore, we see an urgent need to investigate in detail the subject of the criminal offense of illegal fishing and its components, as it is evidence for the subsequent sentencing of the accused by the court to the person guilty of the illegal act.

Recent publications review. The study of the specifics of the subject of criminal encroachment of criminal offenses against the environment has received the attention of such scientists as V. Vasylynchuk, S. Havrysh, O. Dudorov, O. Zakharova, S. Knyzhenko, V. Konovalova, H. Matusovskyi, O. Oderii, Ye. Priakhin, M. Saltevskyi, F. Sokyran, Ya. Furman, S. Cherniavskyi, V. Shepitko, V. Yusupov and other scientists. However, due attention was not paid to this element of the criminalistic characteristics of illegal fishing in the scientific works of forensic scientists.

The article's objective. Research of the subject of criminal encroachment as an element of criminalistics characteristics of the illegal fishing.

Discussion. Starting the consideration of the mentioned element, we consider it necessary to cite the opinion of M. Saltevskyi, who defines the subject of direct encroachment as a wide variety of physical objects (things and objects) of organic and inorganic origin, which are a material expression of social relations. In addition, he notes that the description of the object of direct encroachment creates prerequisites for the use of forensic characteristics for the construction of a methodology for the investigation of a specific crime [4, pp. 268-269].

V. Shepitko emphasizes that the object of criminal encroachment is the things of the material world, affecting which a person encroaches on certain social relations. Accurate identification of the subject of a criminal offense makes it possible to distinguish one crime from another related to it. These or other signs of the object of the offense may act as mitigating or aggravating circumstances of the same crime or turn the crime into a particularly serious one [3, pp. 427-428].

V. Konovalova and H. Matusovskyi claim that the subject of environmental criminal offenses are things of the material world, affecting which a person encroaches on certain social relations [16, p. 78]. This opinion is also held by Ye. Priakhin, who also notes that the precise identification of the subject of the offense allows one to distinguish one type of crime from another [6, p. 11].

According to O. Oderii, the subject of encroachment makes it possible to distinguish specific types from the general group of crimes against the environment, to determine the circumstances of the crime, the methods of committing a criminal act, and the criminal behavior of a person [7, p. 256].

The subject of the criminal offense of illegal fishing is aquatic biological resources – a set of aquatic organisms (hydrobionts), the life of which is impossible without staying (being) in water at all stages of their development (caviar, fry, adults), in particular:

– freshwater fish;

– sea fish;

– anadromous fish (species of fish that spawn in fresh water and migrate to the ocean to forage and mature);

– catadromous fish (species of fish that live most of their adult lives in freshwater, but must return to saltwater to spawn) [10].

Undoubtedly, aquatic biological resources are the subject of criminal encroachment of the illegal act investigated by us in the case of their illegal extraction from the natural environment from the natural environment, which is carried out in violation of the current legislation that regulates the order and conditions of industrial, recreational, sport fishing, other use of aquatic living resources. In particular, fishing is illegal if it is carried out contrary to the existing rules: without proper permission, at prohibited times, in prohibited places, with the use of prohibited fishing gear, exceeding the established limits or catch rates [11].

It is worth noting that fish caught from specially equipped or adapted reservoirs, in which they are grown by enterprises, organizations or citizens, are not subject to criminal trespass. If there are appropriate reasons, the actions of the guilty person can be qualified as encroachment on someone else's property [11].

The opinion of O. Dudorov deserves attention, who notes that a fish removed from a reservoir that died as a result of anthropogenic influence, water intake or for other reasons (however, not due to the deliberate behavior of the person carrying out the removal) ceases to be an object of the animal world, and therefore, the object of legal (in particular, criminal law) protection of the animal world [2, p. 652].

It should be noted that the list of types of aquatic biological resources allowed for fishing is contained in the Recreational and sport fishing rules approved by order of the Ministry of Agrarian Policy and Food of Ukraine of September 19, 2022 № 700. The Law of Ukraine "On the Red Book of Ukraine" of February 07, 2002, specifies a list of fish, the catch of which is categorically prohibited.

Thus, the Recreational and sport fishing rules define the following list of types of aquatic biological resources: Azov sea turbot, red mullet, gobies (except for species listed in the Red Data Book of Ukraine), asp, grass carp, chub, platichthys luscus, prussian carp, spiny dogfish, mullets (except for species listed in the Red Data Book of Ukraine), tench, common bream, whiting, pontic shad, redlip mullet, common roach, Azov shad, vimba bream, common carp, peipsi whitefish, blue bream, Atlantic mackerel, wels catfish, mediterranean horse mackerel, zander, silver carp, bighead carp, brown trout, ziege, Black Sea turbot, northern pike. These rules contain the daily catch rate for one fisherman with an indication of the permitted size of fish catch and its weight [9].

For example, one fisherman per day is allowed to catch northern pike within the limits of the Dnipro reservoirs, each 50 centimeters long and weighing 3 kilograms, with non-prohibited fishing gear, in the permitted place and during the non-prohibited fishing periods specified by the rules.

In turn, the Red Book of Ukraine is an official state document that contains a list of rare

and endangered species of animal and plant life within the territory of Ukraine, its continental shelf and exclusive (marine) economic zone, as well as general information about the current state of these species of animal and plant life and measures for their preservation and reproduction.

The Red Book of Ukraine is the basis for the development and implementation of programs (action plans) aimed at the protection and reproduction of rare and endangered species of animal and plant life listed in it [12].

The list of fish species listed in the Red Book of Ukraine was approved by the order of the Ministry of Environmental Protection and Natural Resources of Ukraine of 19 January 2021 № 29. This list includes 77 species of fish, the fishing of which is strictly prohibited, including: carpathian brook lamprey, Ukrainian brook lamprey, bastard sturgeon, sterlet, Atlantic sturgeon, starry sturgeon, beluga European sturgeon, European eel, common dace, Black Sea roach, cactus roach, Azov shemaya, Crimea shemaya, vimba tenella, vistula barbell, thinlip mullet and others fish.

According to the results of the study of court cases for the years 2013-2022 on the facts of illegal fishing, we have the opportunity to observe that the following species of fish are the subject of criminal encroachment: crucian carp – 66,5 %, common roach – 55 %, common perch – 39 %, zander – 36 %, common bream – 34 %, white bream – 24 %, northern pike – 22 %, common carp – 20 %, tench –12 %, common rudd – 10 %, blue bream – 9 %, wels catfish – 7 %, silver carp – 6 %, ziege – 5 % and others fish.

It should be noted that the subject of criminal encroachmen, as an element of the forensic characteristics of the investigated illegal act, is related to its conditions and method. We are able to follow the specified relationship thanks to the study of the mandatory feature – substantial damage. The concept and content of substantial damage for the criminal offense provided for in Article 249 of the Criminal Code of Ukraine is not defined at the legislative level, which creates certain difficulties for the person authorized to conduct a pre-trial investigation. Only thanks to the Plenum of the Supreme Court of Ukraine № 17 of December 10, 2004 "On judicial practice in cases of crimes and other offenses against the environment" do we understand the meaning of this concept.

The fact that the damage is substantial can be indicated, in particular, by the following data:

– destruction of fish spawning grounds;

– fishing of fish during the spawning period, its few species or those that are difficult to reproduce;

– catching a large amount of fish, or fish whose fishing is prohibited, etc.;

If, as a result of the committed actions, no significant damage occurred, the guilty person, if there are grounds for that, may be held liable under Part 3 or Part 4 of Article 85 of Code of Ukraine on Administrative Offenses [11].

Let’s consider in more detail the first criterion of substantial damage for illegal fishing. Spawning is a process of mass natural reproduction of aquatic biological resources, which occurs during a period determined by climatic and biological conditions [9]. The spawning period is determined annually by the orders of the relevant territorial bodies of the State Agency of Melioration and Fisheries of Ukraine on the establishment of a spring-summer ban on fishing in fishery water bodies. For the most part, the spawning period in the entire territory of Ukraine begins on April 1.

Destruction of fish spawning grounds is also one of the components of substantial damage and consists in catching fish in areas of water bodies designated as spawning grounds during the spring-summer ban on fishing. The list of such areas, together with the spawning period, is determined by the orders of the relevant territorial bodies of the State Agency of Melioration and Fisheries of Ukraine. For example, on April 29, 2017 at 03:00 a.m. P. during the spring-summer ban on fishing in fishery water bodies, with the help of pre-prepared fishing nets in the amount of 10 pieces, arrived at the area located on the Bokova River, which according to the Order of the Department of State Agency of Fisheries in the Dnipropetrovsk region of March 15, 2017, is a spawning area, where an illegal catch of fish totaling 590 units was carried out. Thus, the implementation of citizen P., illegal fishing led to the loss of offspring, as well as the ecological value of species of illegally caught fish, the catch of which affects the spread of this type of fish to a specific water body [13].

The criterion "extraction of aquatic biological resources, the fishing of which is prohibited" applies primarily to species that have a special environmental protection status (in

particular, those listed in the Red Book of Ukraine). As one of the options, the specified criterion and the criteria "fishing of few species of aquatic biological resources" and "fishing of those species of aquatic biological resources, in the reproduction of which there are difficulties" can be identical and include species that are included in the Red Book of Ukraine. At the same time, it should be noted that for species of aquatic biological resources listed in the Red Book of Ukraine, damage assessment is generally inadmissible and may lead to the complete destruction of Red Book species of aquatic biological resources [1, p. 799].

For example, on May 17, 2020 V., R. and K. with the aim of engaging in illegal fishing with the help of electric current, arrived at the Kleven River, which flows near the village of Cherneve, Glukhiv district, Sumy region, where in the proper V. a rubber boat, they set sail on the Kleven River. Further, moving along the water, V. using electrofishing: an electric fishing rod, together with R. and K. caught fish, namely: 111 common roach, 3 white bream, 16 common perch, 15 northern pike, 1 burbot, 6 tench, 4 ides, 2 common rudd, 1 common carp, which caused damages in the total amount of 16 939 UAH. Taking into account the fact that fishing was carried out by the method of mass destruction of water resources (electric current), during the spring-summer ban on fishing for aquatic biological resources (spawning), its few species and species that are difficult to reproduce (ide and common carp), extraction of large number of fish (159 specimens) and fish listed in the Red Book of Ukraine (burbot), the fishing of which is strictly prohibited. Therefore, there is every reason to consider the damage caused to the natural environment to be substantial [14].

The criterion of catching a large amount of fish is also an evaluative concept, which is relied on by the prosecution at the beginning of the pre-trial investigation. For example, K. on April 05, 2016 from 10 p.m. to 11:30 p.m., without proper permission deliberately engaged in illegal fishing in the waters of the Sulyn Bay of the Kremenchug Reservoir on the territory of the landscape reserve of national importance "Sulinsky" in the area of the village of Mykhailivka, Chornobayiv district, Cherkasy region, in a place prohibited for amateur and sport fishing, using three net fishing tools, caught a large number of valuable fish: 1 common bream, 7 common roach, 17 blue bream, 1 common perch, 143 crucian carp. By his illegal actions, K caused substantial damage to the protected interests of the state, which consists in the illegal fishing of a large number of valuable species of fish for the total amount of 8 332 UAH [15].

An authorized person conducting a pre-trial investigation, upon arriving at the scene, must analyze in detail the signs of substantial damage and decide whether it is necessary to enter data based on the discovered fact in the Unified Register of Pre-Trial Investigations and to initiate investigation, or whether it is necessary to bring the guilty person to administrative responsibility under Part 3 or Part 4 of Article 85 of Code of Ukraine on Administrative Offenses.

Officials of the State Agency of Melioration and Fisheries of Ukraine are involved in determining the material component of significant damage, the investigated illegal act, and mostly they are the ones who identify persons who commit illegal activities in fish extraction. Based on The Resolution of the Cabinet of Ministers of Ukraine of September 29, 2023 № 1042, these officials assess the damages caused as a result of the illegal extraction of aquatic biological resources and provide a calculation of damages, which is subsequently attached to the materials of criminal proceedings and, as investigative practice shows, on the basis of it, a judicial economic examination to confirm the determination of the amount of damages.

It must be noted that in accordance under Clause 6 Part 2 of Article 242 of the Criminal Procedural Code of Ukraine the investigator or public prosecutor shall commit an expertise to conduct examination in respect of determination of the amount of pecuniary damages, the amount of non-pecuniary damage, environmental damage caused by a criminal offence [15]. This provision on the basis of Article 300 of the Criminal Procedural Code of Ukraine also applies to the investigation of criminal misdemeanours for part 1 of Article 249 of the Criminal Code of Ukraine.

Having analyzed the judicial practice, we can see that there are cases of disregarding the norm of Clause 6, Part 2 of Article 242 of the Criminal Procedural Code of Ukraine. Thus, the authorized persons of the prosecution take as a basis for determining the amount of damage caused by illegal actions – the calculation of damages, provided by officials of the Agency of Melioration and Fisheries of Ukraine, without conducting the appropriate examination. As a result, the courts believe that the pre-trial investigation body did not establish significant damage and recognize the person who was engaged in the extraction of water resources as

innocent and acquit him.

Conclusions. Taking into account the above, the subject of the criminal offense of illegal fishing is aquatic biological resources – a set of aquatic organisms (hydrobionts), the life of which is impossible without staying (being) in water at all stages of their development (caviar, fry, adults), in particular: freshwater fish, sea fish, anadromous fish and catadromous fish. The investigated constituent element of the forensic characteristics plays an important role, since the result of the analysis of the signs of significant damage caused as a result of an illegal act aimed at extracting fish resources is the beginning of a pre-trial investigation or bringing a person to administrative responsibility.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The scientific article is devoted to the investigation of the subject of criminal encroachment of the illegal fishing, as a constituent element of the forensic characteristics. The concept of the subject of criminal encroachment and its features for the specified criminal offense were studied, in particular, the conditions under which aquatic biological resources are not the subject of criminal encroachment were specified.

Attention was drawn to the fact that the main normative acts, which contain a list of types of aquatic bioresources, extraction of which, contrary to the established procedure, is an illegal act, in particular: Recreational and sport fishing rules approved by order of the Ministry of Agrarian Policy and Food of Ukraine of 19 September 2022 № 700 and in The Law of Ukraine «On the Red Book of Ukraine» of 07 February 2002, which defines the list of fish, the catch of which is categorically prohibited. In accordance with the order of the Ministry of Environmental Protection and Natural Resources of Ukraine of 19 January 2021 № 29, the specified list contains 77 species of fish.

Based on the analysis of the study of court cases for the years 2013-2022 based on the facts of illegal fishing, a list of fish species that are the subject of criminal encroachment is given, namely: crucian carp – 67%, common roach – 55 %, common perch – 39 %, zander – 36 %, common bream – 34 %, white bream – 24 %, northern pike – 22 %, common carp – 20 % and others.

The author notes that the subject of criminal encroachmen, as an element of the forensic characteristics of the investigated illegal act, is related to its conditions and method. We are able to follow this relationship thanks to the study of a mandatory feature – substantial damage, the meaning and concept of which is not defined at the legislative level, which creates certain difficulties for the prosecution. Only the Plenum of the Supreme Court of Ukraine № 17 of 10 December 2004 «On judicial practice in cases of crimes and other offenses against the environment» reveals to us the criteria for significant damage: destruction of fish spawning grounds; catching fish during the spawning period, few of its species or those that are difficult to reproduce; catching a large amount of fish, or fish whose catch is prohibited, etc.

Keywords: *Illegal fishing, subject of criminal encroachment, aquatic biological resources, substantial damage, criminal offense, material damage.*

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Kateryna POKRASA ©
Adjunct
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

INITIATION OF PRE-TRIAL INVESTIGATION OF INTENTIONAL DESTRUCTION OR DAMAGE TO SOMEONE ELSE'S PROPERTY COMMITTED BY ARSON AND CIRCUMSTANCES TO BE PROVEN

Катерина Покраса. ПОЧАТОК ДОСУДОВОГО РОЗСЛІДУВАННЯ УМИСНОГО ЗНИЩЕННЯ АБО ПОШКОДЖЕННЯ ЧУЖОГО МАЙНА, ВЧИНЕНОГО ШЛЯХОМ ПІДПАЛУ ТА ОБСТАВИНИ, ЩО ПІДЛЯГАЮТЬ ДОКАЗУВАННЮ. В статті на основі аналізу думок науковців та матеріалів слідчої практики розглянуто особливості початку досудового розслідування умисного знищення або пошкодження чужого майна, вчиненого шляхом підпалу та обставини, що складають предмет доказування за даною категорією проваджень. Наголошено на тому, що особливості початку досудового розслідування та обставини, що підлягають встановленню, дослідженню та доказуванню є неодмінними елементами структури методики розслідування злочину окремого виду. Приводами до початку розслідування при розслідуванні підпалів є: заяви та повідомлення громадян, повідомлення посадових осіб установ та організацій, безпосереднє виявлення органами дізнання та досудового слідства ознак злочину. Фактичні дані, що є підставами для початку кримінального провадження мають безпосереднє відношення до обставин, що підлягають встановленню, дослідженню та доказуванню. Доведено, що після отримання повідомлення про виникнення пожежі, одразу потребують встановленню наступні обставини: місце вчинення кримінального правопорушення, час виникнення та тривалість пожежі, безпосередня причина пожежі, елементи обстановки місця підпалу після припинення пожежі. В залежності від ситуаційної обумовленості, але, як правило, на подальшому етапі розслідування встановленню, дослідженню та доказуванню підлягають також наступні обставини: спосіб вчинення, мета і мотиви кримінального правопорушення; пожежно-технічна характеристика об'єкта, на якому сталася пожежа; наявність чи відсутність вогненебезпечних матеріалів та речовин, що можливо знаходились на об'єкті пожежі та у зоні горіння; особливості технологічного процесу, якщо пожежа виникла на промисловому об'єкті; події й обставини, що безпосередньо передували виникненню пожежі; розмір нанесених збитків; відомості, що характеризують особу злочинця; обставини, що обтяжують чи пом'якшують відповідальність.

Ключові слова: *методика розслідування, кримінальні правопорушення, початок кримінального провадження, власність, слідчий, обставини, що підлягають доказуванню, підпал.*

Relevance of the study. Criminal liability for intentional destruction or damage to someone else's property committed by arson is provided for in Part 2 of Art. 194 of the Criminal Code of Ukraine [1]. Although the analysis of statistical data of the General Prosecutor's Office of Ukraine indicates a certain decrease in the number of registered crimes of this category, about a third of them remain unsolved. During 2020, 935 such crimes were registered, of which suspicions were reported in 144 proceedings, in 2021 – 668, suspicion reports – 157, in 2022 – 342, suspicions were reported in 97 cases [2].

The beginning of the pre-trial investigation and the circumstances to be established, investigated and proven are indispensable elements of the structure of the method of investigation of a particular type of crime. It should be noted that since the development of forensic characteristics as a constituent element of forensic methods, the opinions of scientists have been divided regarding the interdependence and relationship between the concept of forensic

k_ksmp@dduvs.in.ua

characteristics and the subject of evidence. Some authors believed that the subject of proof is part of the forensic characterization as a structural element.

We join the opinion of scientists who believe that the subject of proof and the forensic characteristics of a particular type of crime are different concepts, although they are part of the system of forensic methodology. The concept of the subject of proof belongs to the theory of evidence and reflects the necessary set of essential circumstances to be established in a specific criminal proceeding. Forensic characterization is an information model, a collection of information about a particular type of crime, and is a theoretical component of forensic methodology. There is a relationship between them similar to the relationship between the doctrine of crime and the theory of evidence, but in no case are these concepts mutually constitutive or identical. Knowledge of the elements of forensic characteristics is used to solve the tasks of the investigation, which consists in proving certain circumstances specific to this particular crime. The position regarding the separation of forensic characteristics and the subject of proof is also followed by other scientists [3, p. 15; 4, p. 143; 5, p. 210]. Circumstances to be proven are a necessary element in the structure of the investigation methodology of certain categories of criminal offenses. Their definition gives the investigation purposefulness, and their establishment allows to give a correct assessment of the event, ensures the completeness and comprehensiveness of the investigation [5, p. 210]. Taking into account the importance of the considered categories both for the theory of criminology and for the practice of investigation, and the diversity of opinions of scientists regarding the subject of evidence, we consider it necessary to consider the mentioned debatable issues in the direction of the investigation of the destruction or damage of someone else's property, committed by arson, which causes a significant resonance in society.

Recent publications review. The following scientists paid considerable attention to the problems of the stages of the investigation and the circumstances to be proven: Yu. Alenin, L. Arkusha, V. Bakhin, A. Volobyev, M. Yefimov, A. Ishchenko, N. Klymenko, V. Konovalova, V. Kuzmichev, V. Lisichenko, E. Lukyanchikov, V. Lukashevich, G. Matusovskyi, O. Odery, I. Pyrih, M. Pogoretsky, O. Pchelina, M. Saltevsky, R. Stepanyuk, V. Tishchenko, L. Udalova, P. Tsimbal, K. Chaplinsky, Yu. Chernous, S. Chernyavsky, V. Shevchuk, V. Shepitko, B. Shchur and other scientists. However, in their work, in our opinion, insufficient attention was paid to the disclosure of the issues defined by us in relation to the investigation of such a category of crime as the destruction or damage of someone else's property committed by arson.

The article's objective. The purpose of this article is to determine the specifics of the initiation of a pre-trial investigation into the destruction or damage of someone else's property committed by arson and the circumstances that must be proven under this category of criminal proceedings.

Discussion. According to Art. 214 of the Criminal Procedure Code of Ukraine, an investigator, a prosecutor, immediately, but no later than 24 hours after submitting a statement, notification of a committed criminal offense or after independently discovering from any source circumstances that may indicate the commission of a criminal offense, is obliged to enter relevant information to the Unified register of pre-trial investigations and start the investigation [6]. From the content of this article, it is clear that the grounds for starting an investigation can be statements or reports from citizens or direct detection by pre-trial investigation bodies of signs of a criminal offense. The analysis of the materials of criminal proceedings based on the facts of the fire established that the beginning of the investigation served as: statements and reports of citizens in 75 %; notification of officials of institutions and organizations in 7 %; direct detection by bodies of inquiry and pretrial investigation of signs of a crime 18 %. Information about the occurrence of fires can be sent to the operational coordination center of the territorial body of the State Emergency Service or to the on-duty response units and sectors of the territorial units of the patrol police.

All reports and statements about events related to fires, depending on the presence or absence of sufficient data indicating signs of one or another component of the crime, can, in our opinion, be divided into three groups: a) those containing sufficient information about the signs of a crime committed by arson; b) those in which such data are incomplete or insufficient; c) those who do not have sufficient data on the signs of one or another component of the crime.

In the latter case, when such data are not available, the investigation is not started and the data is not entered into the register. This is, for example, in the case when, in the event of a

fire, there are witnesses or victims who directly indicate the causes of the fire, which arose as a result of their negligence. In the event that the available data in the materials is not sufficient to make a decision on the initiation of the investigation, it is necessary to conduct a review of the existing materials, during which special attention should be paid to the collection of data indicating signs of a crime or the absence of such signs. It is possible to start verifying such data even while the fire is ongoing by interviewing witnesses, eyewitnesses or property owners or representatives of the enterprise in whose premises the fire occurred.

Analyzing the essence of the grounds for initiating criminal proceedings, V. Zelenetskyi noted that they represent the unity of the factual and the legal, forming in the mind of the subject of knowledge the belief about the need to initiate criminal proceedings in the absence of circumstances that exclude the adoption of such a decision. The factual side of the reasons should be understood as the presence of objectively existing data, in particular, a fire that caused serious consequences, that is, those that indicate the signs of a crime. The legal side of the grounds for initiating criminal proceedings is the presence of signs of an offense that can be reflected in various types of documents, in particular the report of the inspection of the scene of the incident, explanations of witnesses, eyewitnesses or other persons who have information about the occurrence of the fire [7, p. 77].

As the analysis of investigative practice shows, it is quite difficult, and sometimes impossible, to establish the cause of the fire at the beginning of the investigation. As a rule, it is established by analyzing the circumstances that indicate signs of arson even after the fire has been extinguished during the inspection of the scene, interviewing eyewitnesses to the fire, and from other sources. Studying the practice of investigating crimes of this category shows that at the beginning of criminal proceedings there are certain difficulties with the qualification of crimes related to fires. In particular, it is difficult to differentiate the violation of fire safety requirements established by law (Article 270 of the Criminal Code of Ukraine) from arson for the purpose of intentional destruction or damage to property (Part 2 of Article 194 of the Criminal Code of Ukraine). This is due to the fact that the main circumstances that affect the correct qualification of an illegal act are the cause of the fire, the form of ownership of the burned or damaged property, and the form of fault (negligence or intent) of a specific person. Determining the form of ownership does not cause difficulties, in contrast to determining the cause of the fire and the form of fault, the establishment of which is the task of further investigation. Therefore, it seems that in cases where the cause of the fire and the form of guilt cannot be immediately established, and the fire damaged property or caused bodily harm, the death of people or other significant consequences, it should be classified as an illegal act under Part 2 of Art. 194 of the Criminal Code of Ukraine. Later, if during the investigation it is established that the fire occurred for other reasons, it is possible to reclassify the crime under any of the articles described by us earlier [8, pp. 303-307]. For example, in the modern conditions of the war with Russia, the cause of fire in the houses of civilian residents can be the impact of ammunition, mines, missiles or their fragments. In this case, it is necessary to qualify the criminal act according to Art. 438 of the Criminal Code of Ukraine.

Factual data, which are grounds for initiating criminal proceedings, are directly related to the circumstances to be established, investigated and proven. Even if the initial data is established before the information is entered in the Unified Register of Pretrial Investigation, then at the initial and subsequent stages of the further investigation, they will need to be confirmed by the evidence obtained as a result of the investigation. In addition, knowledge of the subject of evidence will allow the employee of the inquiry body or the investigator to plan the investigation more correctly, determine its limits and conduct further investigation in a purposeful manner. Therefore, it seems appropriate to consider the circumstances to be proven below.

The Criminal Procedure Law provides a list of circumstances that must be proven, which is common to all categories of criminal proceedings, including those committed by arson. The list of circumstances subject to proof is defined in Art. 91 of the Criminal Procedure Code of Ukraine, which states that the following must be proven in criminal proceedings: 1) the event of a criminal offense: time, place, method and other circumstances; 2) guilt of the accused in committing a criminal offense, motive and purpose, form of guilt; 3) the type and amount of damage caused by a criminal offense, as well as the amount of procedural costs; 4) circumstances affecting the severity of the criminal offense, characterizing the person of the accused, aggravating or mitigating the punishment, excluding criminal responsibility or are grounds for closing criminal proceedings; 5)

circumstances that are grounds for exemption from punishment or criminal liability; 6) circumstances that confirm that money, valuables and other property subject to special confiscation were obtained as a result of the commission of a criminal offense and/or are income from such property, or were intended to induce a person to commit, finance and/or materially support a criminal offense or rewards for its commission, or are the subject of a criminal offense, including those related to their illegal circulation, or sought, manufactured, adapted or used as means or instruments of its commission; 7) circumstances that are grounds for the application of criminal law measures to legal entities [6].

The content of criminal offenses related to the occurrence of fires has certain features due to the specifics of this type of crime. The presence of the very fact of fire and its harmful consequences is almost always obvious, but, as noted earlier, a fire may or may not be criminal in nature. The main circumstance indicating the criminal nature of the fire is the cause of its occurrence. From a legal point of view, arson is an uncontrolled burning outside a special hearth, which arose as a result of an illegal, criminally punishable act of a person, which resulted in socially dangerous consequences. According to V. Konovalova, the circumstances to be investigated in fire cases are determined depending on the nature of the event. In particular, in proceedings on arson, it is necessary to find out: a) the method of commission and the means used; b) objects; c) guilty person; d) accomplices; e) motives and purpose; e) whether any other crime was committed; f) consequences; g) material damage; g) reasons and conditions that contributed to the commission of a criminal offense [9, p. 403]. According to the authors of the textbook on methods of investigating certain types of crimes, it is necessary to establish data characterizing: the situation preceding the fire; the circumstances of the occurrence and development of the fire; the situation after the fire [10]. In our view, it is not possible to clearly separate the circumstances that existed before, during and after the fire, because they are interrelated and must be established almost simultaneously. The circumstances to be established, in our opinion, first of all depend on the stages of the investigation and the investigative situation that developed at a certain stage.

After receiving a notification about the occurrence of a fire, the following circumstances need to be established immediately:

1. Place of commission of a criminal offense. In the investigated category of criminal proceedings, it is understood as the place of the initial occurrence of the fire, because the crime is not the fire itself, as a natural phenomenon, but the actions of certain persons that caused the fire to occur, that is, in fact, the crime occurs in the place that later becomes the center fire [9]. Establishing the geographical location of the object does not present any particular difficulties. In the conditions of a city or village, such data is a street, house or apartment number. When setting fire to individual objects outside populated areas, it is necessary to record the location relative to fixed landmarks, preferably with GPS coordinates. The process of establishing the place of ignition at the scene is more complicated. This is a rather difficult task and it can be solved both at the initial and at the later stages of the investigation.

2. Time of occurrence and duration of the fire. This element of the subject of proof in the investigation of arson has its own characteristics, because a fire, as an illegal act, takes a certain, as a rule, quite long period of time. For a more accurate description of the event of a criminal offense, in our opinion, it is necessary to establish not only the time of the fire, but in some cases also the time of fire detection, the time of arrival of emergency service units, patrol police, the time of stopping the fire and eliminating its consequences. It is quite easy to establish individual time characteristics, since information about received fire reports is contained in the relevant units where they were received.

3. The immediate cause of the fire. Information about the cause of the fire is one of the most significant, characterizing the fault of a specific person and explaining the circumstances of its occurrence. Depending on the established cause of the fire, the investigator chooses one or another qualification of the criminal offense. The cause of the fire can be determined immediately based on the results of the inspection of the scene, the interview of witnesses and eyewitnesses. But, as a rule, this is a complex process, and at the initial stage, in many cases, it is possible to establish the cause of the fire only with a certain degree of probability. The fact of establishing the cause of the fire at the initial stage requires evidence obtained by further investigative (search) actions.

4. Elements of the setting of the arson site after the fire has stopped. As a rule, such elements are installed and fixed based on the results of an inspection of the scene. It is

necessary to pay attention to the consequences of the fire, the condition and localization of the traces of burning, the degree of burning of individual parts of the room, the remains of materials, equipment, etc.

Depending on the situational conditions, but, as a rule, at the further stage of the investigation, the following circumstances are also subject to establishment, investigation and proof:

1. The method of committing the crime. The method must be proven by actual data obtained as a result of the investigative (search) actions provided for by law, since the method of committing a criminal offense is of great importance for determining the degree of public danger of the act and the identity of the offender. In the process of proving the method of committing a crime related to a fire, it is necessary to find out the following questions: the mechanism of combustion; means of ignition and sources of their origin; if a violation of fire safety rules is established, what technical problems are associated with the cause of the fire; conditions and means that were used to intensify the combustion process. Considering that the method of committing a crime in criminology has three components, it is necessary to establish whether there were actions of the criminal aimed at preparing for the commission of the crime and hiding its traces.

2. Purpose and motives of the criminal offense. It is necessary to find out whether the actions of the criminal were really aimed at the destruction or damage of property and whether they had another intention.

3. Fire-technical characteristics of the object where the fire occurred, which should include: area, number and mutual location of rooms or premises, degree of fire resistance, location of lighting and power grid, location of water and gas pipelines, ventilation and air conditioning systems, etc. This information can be established by surveying the owners of the premises or employees of enterprises and organizations. It is also possible to obtain plans of fire-damaged premises from the relevant services.

4. The presence or absence of flammable materials and substances that may have been at the site of the fire and in the burning zone. This information affects the determination of the place of origin, speed and direction of fire spread. Such information can be obtained from victims, witnesses, eyewitnesses or discovered during an inspection of the scene of the incident, found out in the process of questioning the persons responsible for the industrial object, established by studying the documentation characterizing the technological process and other features of the object.

5. Features of the technological process, if the fire occurred at an industrial facility. This information should characterize the location, conditions and nature of operation of the technological equipment present at the object, the possibility of their operation influencing the process of occurrence and nature of the fire.

6. Events and circumstances immediately preceding the fire. These are additional circumstances or events that occurred immediately before the fire, and, together with previously formed circumstances, caused the fire. They represent a more or less long-term local factor [10]. In order to find out the reasons that caused the fire and its consequences, in other words, the entire set of conditions and circumstances that resulted in the fire and that determined the nature and dimensions of its consequences, it is necessary, first of all, to understand with great accuracy the specifics of local conditions, order, conditions, that is, the situation that has developed at the object during the period of its operation. Only then will an objective idea be formed about the actions or inaction of certain persons that led to the creation of fire-hazardous conditions, about the events and circumstances that caused the fire.

7. Amount of damages. When establishing this circumstance, it is advisable to invite specialists of the relevant profile or appoint a forensic economic examination.

8. Information characterizing the identity of the criminal. At the same time, his socio-demographic data, personal characteristics, his relationship with the person of the owner of the destroyed or damaged property, etc. are established. It is also necessary to establish the mental attitude of a person towards his actions and their consequences. To do this, it is necessary to investigate the behavior of the suspect during the period of occurrence and after the elimination of the fire, the purpose and motive of the offense.

In addition, the circumstances affecting the degree and nature of the suspect's responsibility, as well as other circumstances characterizing his personality, are established. For the objectivity and completeness of the investigation in arson proceedings, it is necessary to investigate the presence of circumstances that aggravate or mitigate responsibility.

Mitigating factors: voluntary compensation for the damage caused or elimination of the damage caused; committing a crime as a result of a combination of difficult personal or family circumstances; committing an offense under the influence of threats or coercion or due to material, official or other dependence; commission of a crime by a pregnant woman; sincere remorse or confession, as well as active assistance in the investigation and other circumstances that can be recognized as mitigating responsibility, according to Art. 66 of the Criminal Code of Ukraine. According to Art. 67 of the specified code, the circumstances that aggravate responsibility in the investigation of arson can be: repeated commission of a crime by a person and recidivism of crimes; commission of a criminal offense by a group of persons based on a prior conspiracy; serious consequences caused by the crime; committing a criminal offense against a person who is financially, professionally or otherwise dependent on the offender; committing a crime using conditions of war or state of emergency, other extraordinary events; committing a crime in a generally dangerous way; committing a criminal offense by a person who is in a state of alcohol intoxication or in a state caused by the use of narcotics or other intoxicating agents [6].

Conclusions. Peculiarities of the beginning of the pre-trial investigation and the circumstances to be established, investigated and proven are indispensable elements of the structure of the methodology of the investigation of a particular type of crime. The reasons for starting an investigation in the investigation of arson are: statements and reports of citizens, reports of officials of institutions and organizations, direct detection of signs of a crime by bodies of inquiry and pre-trial investigation. Factual data, which are grounds for initiating criminal proceedings, are directly related to the circumstances to be established, investigated and proven.

After receiving a report on the occurrence of a fire, the following circumstances need to be established immediately: the place of the criminal offense, the time of occurrence and duration of the fire, the immediate cause of the fire, elements of the setting of the arson site after the fire has stopped. Depending on the situational conditions, but, as a rule, at the subsequent stage of the investigation, the following circumstances are also subject to establishment, investigation and proof: the method of commission, purpose and motives of the criminal offense; fire-technical characteristics of the facility where the fire occurred; the presence or absence of flammable materials and substances that may have been at the site of the fire and in the burning zone; features of the technological process, if the fire occurred at an industrial facility; events and circumstances immediately preceding the fire; the amount of damages; information characterizing the identity of the criminal; circumstances aggravating or mitigating responsibility.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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ABSTRACT

The article, based on the analysis of the opinions of scientists and the materials of investigative practice, considers the peculiarities of the initiation of a pre-trial investigation into the intentional destruction or damage of someone else's property committed by arson and the circumstances that make up the subject of proof in this category of proceedings. It is emphasized that the specifics of the beginning of the pre-trial investigation and the circumstances to be established, investigated and proven are indispensable elements of the structure of the methodology of the investigation of a particular type of crime. The reasons for starting an investigation in the investigation of arson are: statements and reports of citizens, reports of officials of institutions and organizations, direct detection of signs of a crime by bodies of inquiry and pre-trial investigation. Factual data, which are grounds for initiating criminal proceedings, are directly related to the circumstances to be established, investigated and proven.

It has been proven that after receiving a report on the occurrence of a fire, the following circumstances need to be established immediately: the place of the criminal offense, the time of occurrence and duration of the fire, the immediate cause of the fire, the elements of the setting of the place of arson after the fire stopped. Depending on the situational conditions, but, as a rule, at the subsequent stage of the investigation, the following circumstances are also subject to establishment, investigation and proof: the method of commission, purpose and motives of the criminal offense; fire-technical characteristics of the facility where the fire occurred; the presence or absence of flammable materials and substances that may have been at the site of the fire and in the burning zone; features of the technological process, if the fire occurred at an industrial facility; events and circumstances immediately preceding the fire; the amount of damages; information characterizing the identity of the criminal; circumstances aggravating or mitigating responsibility.

Keywords: *investigation method, criminal offenses, initiation of criminal proceedings, property, investigator, circumstances to be proven, arson.*

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Larysa MARTSENIUK©
Dr.S., Professor
(Ukrainian State University of Science and Technologies, Dnipro, Ukraine)

Anastasiya BARABASH©
Student
(V. N. Karazin Kharkiv National University)

Biswajit DAS©
Ph.D. (Management), Professor
(Institute of Industrial technologies (KSOM), Odisha, India)

TECHNOLOGIES FOR IMPROVING ANTI-CRISIS COMMUNICATION OF STATE-OWNED ENTERPRISES (on the example of JSC "Ukrzaliznytsia")

Лариса Марценюк, Анастасія Барабаш, Ігор Басовський. ТЕХНОЛОГІЇ УДОСКОНАЛЕННЯ АНТИКРИЗОВОЇ КОМУНІКАЦІЇ ДЕРЖАВНИХ ПІДПРИЄМСТВ (на прикладі АТ «Укрзалізниця»). Стаття присвячена дослідженню типології криз та антикризових комунікацій як невід'ємної складової загальної комунікативної діяльності підприємств на прикладі державного підприємства АТ «Укрзалізниця». У роботі вивчено теоретичні та розроблено практичні рекомендації щодо розвитку сучасних технологій антикризових комунікацій АТ «Укрзалізниця». Об'єктом дослідження виступає процес впровадження сучасних технологій антикризових комунікацій АТ «Укрзалізниця». Предметом – сукупність теоретичних положень щодо формування розвитку сучасних технологій антикризових комунікацій АТ «Укрзалізниця».

Інформаційною базою дослідження слугували дані з відкритих джерел статистичної звітності, наукові дослідження провідних українських вчених, а також провідних міжнародних організацій та іноземних науковців. Практична значущість дослідження полягає в широкому порівняльному аналізі сутності та типології криз, а відповідно і напрямів розвитку антикризових комунікацій та надання дієвих рекомендацій для запровадження на державному підприємстві – АТ «Укрзалізниця». Мета роботи полягає у розробці теоретичних і практичних рекомендацій щодо розвитку сучасних технологій антикризових комунікацій АТ «Укрзалізниця». Аналіз джерельної бази дозволив: 1) надати опорні визначення поняттям «криза», «антикризові комунікації» та 2) типологізувати досліджувані явища. Результатом аналізу також є розробка рекомендацій розвитку сучасних технологій антикризових комунікацій АТ «Укрзалізниця», що відобразилося в Стратегії

© Martseniuk L., 2023
ORCID iD: https://orcid.org/0000-0003-4121-8826
rwinform1@ukr.net

© Barabash A., 2023
ORCID iD: https://orcid.org/0009-0004-2536-9135
nastya.vyhrest@gmail.com

© Das B., 2023
ORCID ID: https://orcid.org/0000-0002-0817-2929
biswajit@ksom.ac.in

антикризових комунікацій АТ «Укрзалізниця». Далі напрацювання зможуть стати у нагоді для подальших досліджень зі вказаної теми. У роботі використовувалися наукові праці вітчизняних та іноземних вчених, власні дослідження, наприклад, проведення SWOT-аналізу. Важливим кроком у повсякденному існуванні Укрзалізниці є формування групи антикризового реагування, це мають бути спеціально підготовлені фахівці, які знатимуть, як правильно відреагувати на той чи інший скандал, пов'язаний з Укрзалізницею, як швидко забезпечити комунікація з людьми з керівництвом, якщо потрібно, які новини швидко завантажувати в мережу, щоб зменшити негативні події. Важливою антикризовою технологією є методика One voice.

Ключові слова: *комунікація, комунікативні стратегії, антикризові комунікації, Укрзалізниця, електронне врядування.*

Relevance of the study. Communications play an important role both in the life of each individual and the country as a whole. Individuals, legal entities and states communicate with each other. They differ in type depending on objective factors, for example, circumstances, orientation, purpose, and others.

Ukraine has all the prerequisites for the development of modern communications both within the state and at the international level. The coronavirus pandemic in the period 2020-2022, and then the full-scale invasion of Russia into Ukraine from February 24, 2022, forced a reorientation of communications to the use of anti-crisis technologies in order to prevent disinformation and not allow the Ukrainian people to be divided. Communications is a tool for the sustainable development of communities, contributes to the democracy of citizen participation and ultimately increases the satisfaction with life and generally improves the quality of life of community residents. One of the leading industries of Ukraine is the transport industry, because it plays an important role in the functioning of the state. Ensuring the mobility of the population and the delivery of goods to different parts of the country. Considering that the railway transport of Ukraine has an extensive network and a long history, and also plays an important role in the transportation of goods and passengers, we believe that this department should apply modern effective anti-crisis communications with stakeholders (from investors to passengers, from consignors to ticket cashiers, etc.).

In the conditions of the modern world, when individuals, legal entities and individual states, and accordingly the whole world as a whole, are forced to exist in rapidly changing conditions and to be able to adapt to these changes. Scientists believe that these changes occur as a result of the onset of certain crises, therefore, in order to live and work effectively, we all need to predict, recognize the crisis in time and take measures to mitigate the consequences of crises.

Recent publications review. There are quite a few definitions of the concept of "crisis" in the scientific literature, but all of them come to the conclusion that a crisis can be called an unplanned, unwanted process or phenomenon, to overcome the consequences of which there is a limited time. The term "crisis" from the Greek krisis is interpreted as a turning point. The academic explanatory dictionary of the Ukrainian language contains the following definition of crisis: it is a sharp change in the usual state of things, breakdowns, aggravation of the situation [1]. Undoubtedly, a crisis is a phenomenon that goes beyond the usual, prompting to make some decisions.

As stated in the interdisciplinary management dictionary, edited by D.M. Chervanov, the crisis is an extreme aggravation of contradictions in the socio-economic system, which threatens its sustainability in the environment [2].

We agree with this definition, especially in the part that it is an extreme aggravation of contradictions, because a crisis is already the most acute phase of crisis signs and a crisis state. At the same time, regarding the fact that the crisis threatens viability, on the one hand, it is true, on the other hand, the crisis gives an impetus to the adoption of quick, sometimes innovative decisions, which in the post-crisis period will bring the economic entity to a leading position. This was also the case during the coronavirus period, when companies were forced to quickly reorient themselves to the conditions that arose. For example, if it concerned the restaurant sector, restaurants began to prepare food to order for take-out, so to speak, with home delivery or offered customers to eat in the fresh air. Or travel agencies started organizing virtual tours. It is clear that the profitability decreased sharply, but the enterprises managed to at least keep the staff. With regard to educational institutions, the issue of setting up distance learning also arose, on the one hand, this revealed huge problems – the lack of gadgets and the Internet for both teachers and students, and on the other hand, they encouraged both of them to study distance technologies. If we talk about universities, then almost all of them switched to

studying with the help of the world-famous, quite popular educational platform moodle. That is, as we can see, a crisis is not always a way to completely end the existence of a particular enterprise, it is often an impetus for development.

Scientists consider the crisis as a turning point in the development of the system, which gives space to a new round of economic changes [3].

A crisis is a certain stage of the functioning and development of the socio-economic system, which determines the objective necessity of its qualitative transformation. As the author rightly points out, the definition of the concept of crisis should be approached, taking into account not only the existing negative consequences, but also positive cause-and-effect relationships [3]. After all, as you know, a crisis does not always lead to the bankruptcy of an enterprise, but often to its renewal, positive transformation.

A crisis is a non-standard situation or a certain turning point, after which vital signs will improve and the patient will live or die, that is, either a sharp interruption or a predicted decline [4].

Crises are classified according to different characteristics. Let's consider the most significant of them. Yes, the causes of the crisis are natural, social and environmental. It is very difficult to fight against nature, because man is only a small economic entity compared to nature, but the fact is that it is man who is the source of all the troubles that occur in nature, because excessive man-made load on nature by mankind, unjustified excessive the use of resources, which leads to their complete exhaustion, eventually signal to humanity about the wrong activity by various kinds of natural crises, it can be floods, earthquakes, acid rain, etc.

According to the scale of manifestation, there are general crises – those that cover the entire socio-economic system, and local ones – they cover only part of it, that is, the crisis can cover both a separate department of the enterprise, and the entire enterprise as a whole, and an entire industry in which this enterprise works, which will ultimately be reflected in the country's GDP. So, as we can see, even a local crisis can threaten the stability of the state's functioning.

According to the structure of relations in a specific socio-economic system and the differentiation of problems related to its development, separate groups of crises are distinguished: economic, social, political, organizational, psychological, technological and others. A structural crisis is one of the most dangerous types of crises, because it is a violation of the law of proportional development of social production. This ultimately manifests itself in serious disproportions between various industries, on the one hand, and the production of the most important types of products in natural terms, necessary for sustainable balanced development, on the other [5]. In terms of predictability or forecasting, crises can be predictable or unpredictable. For example, if we have ten people working in our department and they are all 70 years old, then it is clear that in ten years we can expect a personnel crisis in this department, because most of these employees can retire due to their health. Regarding Ukrzaliznytsia, it is safe to say that now we are witnessing the anticipated crisis of a shortage of rolling stock due to its aging and scrapping (if the state would purchase new wagons for railway transport of Ukraine on time, rhythmically, annually, then the rolling stock fleet would gradually be updated and we would not now observe the lack of new modern rolling stock in Ukrzaliznytsia).

The research paper's objective is to investigate the typology of crises and anti-crisis communications on the example of the state-owned enterprise JSC "Ukrzaliznytsia" and to develop practical recommendations for the development of modern technologies of anti-crisis communications of JSC "Ukrzaliznytsia".

Discussion. The external causes of crises are usually associated with the trends and strategy of macroeconomic development of the state or even the development of the world economy, large-scale competition, and the political situation in the country. Internal – with the degree of riskiness of marketing strategies, as well as internal conflicts, shortcomings in the organization of production, imperfection of management (it depends on the management whether the enterprise will achieve success, because it is the management that forms the development plan, stages of implementation, persons responsible for the implementation of plans, monitors the implementation of plans and harmonizes internal and external policy among themselves so that the enterprise is adapted to changing external economic conditions), innovation and investment policy (this is a very important point, because without innovation there is no development, there is no attractiveness for consumers of goods and services. At the same time, to introduce an innovation, funds are needed for its implementation – from

scientific development to launch to mass production). At the micro level, a crisis can usually be associated with the reduction or capture by competitors of a strategic economic zone; and also due to the discrepancy between the volume and structure of the products of this enterprise and the volume and structure of demand of modern consumers of products; inconsistency of the style, forms and means of management of the enterprise with its existing status, strategic management goals, quality of personnel, etc.; discrepancy between cash income and expenses of the enterprise, general imbalance of the financial mechanism of the enterprise.

It is desirable for the company to have a risk manager or a group of specialists who could periodically forecast the occurrence of certain external and internal risks, as well as give their recommendations to the managers on how to act in a particular situation, and the managers themselves would make decisions depending on your own experience, knowledge and intuition. At the same time, supporters of the classical school consider risk as a mathematical expectation of those costs that arise as a result of the implementation of the chosen decision (J. Mill, N.U. Senior). And the representatives of the classical school insist on the essence of risk and its economic significance as the probability of deviation from the set goals, that is, as the possibility of receiving both an unexpected profit and, unfortunately, a loss (A. Marshall, A. Pigou). As scientists rightly point out in their research, every enterprise in the process of carrying out its own industrial and economic activity faces various kinds of risks, therefore, the fate of the enterprise depends on complete and operational information, whether it will be possible to avoid certain risks and crises [6]. In order for the consequences of crises to be minimal for the enterprise, the management needs to implement anti-crisis measures, which must be developed and approved in advance, and the participants of these anti-crisis measures must know how to act in certain non-standard conditions.

The consequences of the crisis, of course, directly depend on the effectiveness of anti-crisis management, which can either mitigate or exacerbate the crisis. The list of the set of hypothetically possible positive and negative consequences of the onset of various types of crises is quite extensive:

1) renewal, rehabilitation or even reconstruction of the socio-economic system or its complete destruction and the subsequent emergence of a new, larger crisis;

2) aggravation or easing of the crisis and a soft exit of the enterprise from an undesirable situation;

3) sharp changes in the socio-economic system, or on the contrary, a soft exit from the crisis;

4) long-term, short-term, qualitative, quantitative changes (or all together or modification of various characteristics of crisis phenomena);

5) irreversible or reversible changes (irreversible does not mean catastrophic, sometimes on the contrary, it involves development, for example, the transition of accountants from ordinary notebooks to calculating wages in modern programs, for example, 1C).

Thus, the consequence of the onset of the crisis can be both recovery and destruction. Therefore, the exit from the crisis is not always associated with positive consequences. A transition to a new crisis (even deeper and longer) cannot be ruled out. Crises can occur as a chain reaction. There is a possibility of conservation of crisis situations for a rather long period (most often this is due to certain political reasons). Therefore, making decisions of an anti-crisis nature is extremely responsible for management.

Considering that crises happen to every individual, legal entity or the state as a whole, anti-crisis communications are an important tool for reducing the negative consequences of various types of crises. If we are talking about an enterprise, in our case, Ukrzaliznytsia, then it is implied that the management should apply anti-crisis communications of various levels – within the organization and there should be communications with representatives of the external environment.

The crisis, on the one hand, endangers the reputation and, in general, the expediency of the existence of the business entity, and on the other hand, it is an impetus for the search for innovative directions of development in order to update the purpose and goals of the enterprise, for search for new ways of attracting consumers (passengers and freight carriers), which will ultimately have a positive effect on the company's profitability.

Crises almost always have an element of surprise, and the fate of the enterprise as a whole in the future will depend on how quickly the top managers will take certain anti-crisis decisions.

Anti-crisis communications is understood as a set of communicative measures, which

are aimed, first of all, at forecasting, and then at preventing or reducing the magnitude and overcoming of crises, if they occur. Anti-crisis communication should be comprehensive and directed at both the internal and external environment.

It is important to correctly define the type of crisis, because the choice of an anti-crisis strategy depends on it. Joint-stock company "Ukrzaliznytsia" is the national carrier of Ukraine, which has an extensive transport network and carries out transportation of goods and passengers in suburban, national and international connections. The enterprise is a monopolist in the transport sector in the field of railway transport in all areas of service provision.

Analysis of existing anti-crisis communications of Ukrzaliznytsia.

In recent years, with the development of digitalization, Ukrzaliznytsia has significantly improved communication links with passengers and shippers. If earlier those who use the services of the railway could leave their complaints and wishes, or vice versa, kind words addressed to railway workers, they could do so only in writing, writing in the book of complaints and wishes, now the communication of an ordinary passenger with the management of Ukrzaliznytsia has become faster and is possible with the help of modern means and communication channels. Yes, Ukrzaliznytsia has its own channel in the popular Telegram application, there are already 235 thousand subscribers to the news of this channel, there is the possibility of communication in the chat, thousands of photos and videos are posted, and there are useful links. That is, if earlier a passenger who had complaints or suggestions did not convey them to the railway management, because it is not very convenient to look for a book of complaints together with heavy suitcases, now all messages can be sent quickly through messengers, and the most important thing is to get a response.

In 2020, Ukrzaliznytsia also launched a communication channel with passengers through Facebook Messenger, which allows customers to quickly send their message to railway employees.

In addition, Ukrzaliznytsia started to use the popular ChatGPT to process passenger requests – it is an artificial intelligence that allows fast processing of information. This chatbot is popular among customers, because according to Ukrzaliznytsia, the railway receives almost one and a half thousand trip evaluations from passengers every day through this chatbot.

Through the app, the customer can contact the railway employees, in a few seconds using keywords, the artificial intelligence will select one of the 21 topics stored in the app memory, from service quality to delays, and direct to the appropriate department. After that, appeals broken down into categories are loaded into the analysis system, which allows you to monitor the dynamics of complaints by specific trains and routes by days, weeks and months.

High-quality and quick analysis by artificial intelligence allows the management of Ukrzaliznytsia to quickly see problems and promptly respond to them [7].

The official website of Ukrzaliznytsia works rhythmically. On it, clients can find the information they need, and if necessary, the client's communication channels with railway representatives are listed. Hotline telephone numbers can be found on the website. As well as hyperactive links to popular social networks and messengers in which Ukrzaliznytsia is registered, and where you can write a message. Also, a form for filling out is available on the website, where in the window the client can choose which issue he is concerned about – passenger or freight transportation, in suburban or long-distance transportation, the issue of corruption or the purchase of electronic tickets. With the help of a convenient, in our opinion, form, the client can quickly fill in his contact data and send a message [8].

An important step in communication with passengers is the "Barrier Literacy" educational program, which Ukrzaliznytsia recently launched for its employees. 10,000 people have already been trained, and soon other railway workers will also gain useful knowledge about effective communication with passengers, in this case the program is aimed at training personnel (train and station employees) who could work with passengers with disabilities. Taking into account the program of the first lady of Ukraine Olena Zelenska "Barrier-free Ukraine", it is important to do everything possible in all areas, so that all citizens, regardless of their state of health, can comfortably live in our country and use various services, including rail transport. As professors L. Nalivayko and L. Martsenyik rightly note, first of all, there will be broad prospects for barrier-free access only when the Ukrainian legislation provides for appropriate norms for the protection of vulnerable segments of the population [9].

An important aspect is the psychological support of passengers by railway workers, because currently Ukrainians are mentally vulnerable as a result of the war. In this context, as part of the initiative of First Lady Olena Zelenska to create a National Program of Mental

Health and Psychosocial Support, a training was held for Ukrzaliznytsia employees who work with people every day and who must possess psychological techniques to make the passenger feel comfortable both while waiting for the train and both on the way to the destination and after arriving at the destination [10].

Russia's full-scale invasion of Ukraine forced the state as a whole and some of its industries and enterprises to switch to new forms of communication with society. The main thing is to prevent disinformation in order to cause mistrust of society in its leaders. In the Ukrainian infospace during the war, you can find a lot of positive things about Ukrzaliznytsia, because it was this department that courageously performed and continues to perform its work of transporting passengers and cargo in dangerous conditions. Millions of passengers were evacuated from the east of Ukraine to the west or to other countries, hundreds of thousands of tons of cargo were transported by railway (in addition to planned cargo, the railway also carries cargo that can be delivered by water transport, as was planned before the war). At the beginning of the full-scale invasion, brands communicated in different ways. A certain part ceased its activities and simply stopped addressing the audience. Some were silent in the first days because they were engaged in relocation. Some (mostly large international companies) reacted very cautiously, not immediately, as if waiting to see how events would develop, so as not to risk their reputation. And some actively broke into the information space with their support from the first hours of the invasion. The story with Ukrzaliznytsia became a real revolution in the brand's view. It is a national carrier of people and goods and a monopolist of the railway sector in Ukraine. Before the full-scale war, most customers criticized Ukrzaliznytsia for lack of comfort, for low speed, for not quite modern staff, etc. However, since the morning of the terrible February 24, 2022, Ukrzaliznytsia has shown itself to be one of the most reliable structures.

The company expressed itself in the following way: "despite nothing, neither force majeure, nor intimidation from Russia, we do our work and even more." Ukrzaliznytsia has launched free evacuation trains that take people from territories where active hostilities are taking place. It also equipped wagons for the transportation of the wounded and other less mobile population groups. The company's employees risked their lives by going to hot spots to save people. Among the employees there are those who died at the workplace. The main communication brand of Ukrzaliznytsia – from words to actions! The social responsibility of both enterprises and individual citizens has increased. Classically, brand communications aim to raise awareness, increase trust, and change behavior. Since the beginning of the full-scale invasion, Ukrainians have been trying to eradicate everything Russian from their lives. This was also manifested in the pressure on international companies that continued to work in Russia. The effectiveness of marketing communications is the power of appeals to the audience, the degree of its coverage, the formation of consumer attitudes towards the brand and its services or products, and the creation of an image. Ukrzaliznytsia should pay attention to the following indicators as a result of communications: the level of trust (a marker of the successful long-term development of the company, its reputation), the indicator of visibility (this is an indicator of the mention of the enterprise – in our case, Ukrzaliznytsia – in the media), market and competitor analysis – the railway has an extensive network of railways , at the same time, in recent years, with the development of the fleet of own cars, passengers began to choose more often to move around the country by their own transport, rather than by rail; as for shippers, there are currently no real competitors in the railways [11].

We will give examples of anti-crisis communications of Ukrzaliznytsia with clients. For example, on June 8, 2023, on the Lviv-Kyiv train, a passenger in a compartment began to cling to a passenger, the woman asked the conductor to transfer her, but he refused. As a result, the woman complained about the conductor in the Ukrzaliznytsia chat and told about this incident. The railway department reacted quite quickly to the conflict, informed that they would look into the situation and that the conductor would be punished, and also explained that in the case of force majeure events on the train and the conductor does not intervene, it is necessary to call or write to the Ukrzaliznytsia hotline. On June 17, 2023, information was published on news sites that Ukrzaliznytsia will strengthen security measures in trains, in particular, it is about guarding trains [12]. A similar situation happened in 2020, when on July 31, on the Mariupol-Kyiv train, an unknown man attacked and beat a woman. As a result, the man was detained, a criminal case was opened, and the management of Ukrzaliznytsia announced their condolences on their page on August 2 and about negotiations with the insurance company for the payment of compensation to the injured woman. The summer of

2023 was spent by Ukrzaliznytsia in a language scandal, because on the Facebook network on July 25, 2023, the famous Ukrainian director and public figure Kateryna Chepura published a screenshot of her own boarding pass for the Przemyśl-Lviv train, where the information was indicated in two languages – English and Russian. that is, in the language of the aggressor. In addition to ordinary outraged citizens, the Commissioner for the Protection of the State Language Taras Kremin reacted to her message, who noted that indeed Ukrzaliznytsia violated the language law and should immediately eliminate the shortcomings, and the guilty should be punished.

On the same day, July 25, representatives of the railway department announced that an investigation had been launched into this fact. And the next day, on July 26, information appeared in the mass media that Ukrzaliznytsia agreed on the content of the ticket with foreign railways (because in this case it was about tickets for an international train) and published a photo of the ticket with updated data on its page [13].

On July 26, 2023, the same information was provided on social networks by the Commissioner for Human Rights, who published a post with an eloquent headline: "The scandal gave a result: Ukrzaliznytsia showed a new international ticket". In the autumn of 2023, on November 6, the mass media also reported that Ukrzaliznytsia was involved in a scandal. The fact is that the passengers of the Konotop-Fastiv suburban train were sold tickets for carriages that were disconnected from the train due to a malfunction (even before the start of the movement) and the passengers had to ride in the vestibule. Ukrzaliznytsia sincerely apologized to passengers on social networks and assured them that they would be compensated for the cost of tickets [14].

As can be seen from all the listed cases, Ukrzaliznytsia employees communicated competently with passengers who were dissatisfied with the department's work. The railwaymen did not give up, they admitted their guilt and compensated the victims for damages, and also sent messages that they would not allow similar cases in the future. Thus, it can be said that Ukrzaliznytsia correctly uses communication technologies in order not to deteriorate its reputation and not to lose customers.

As for internal communication, the Department of Corporate Social Responsibility works fruitfully at Ukrzaliznytsia. The management tries to apply the best practices of social responsibility of business to people and honest communication with the team. It is with the support of this Department that communication between employees and management is built, and there is an opportunity for colleagues to communicate with each other. One of the most important tasks of this unit is to form an understanding of changes in the team, to ensure communication between the top management and the team, to ensure that people's opinions are heard and taken into account when making management decisions. Establishing communication with employees and integrating the principles of sustainable development.

At any stage of change, it is important to directly, accessible and honestly inform the company's employees about the reforms, the logic of the decisions being made, and the main goal of the reforms – restoring stability and confidence in the future. Therefore, it is the task of the internal communications team to create information channels, attract the right speakers and talk about the difficult. For this, a portal for employees was created, there is a Lotus newsletter, there are information boards in administrative buildings, and the implementation of the digital channel "Buksa. Railwayman's assistant" (this channel communicates with employees via Viber and Telegram. It sends corporate news, explains management decisions and plans, asks the opinion of the railwaymen themselves, entertains, provides social benefits in the form of discounts on goods and services). Brand management of Ukrzaliznytsia and brand communication also require a whole set of systemic measures. The brand is one of the main factors in the formation of the value and stability of the company. For example, the value of the world-famous Coca-Cola brand is about 80 % of the company's tangible assets. Ukrzaliznytsia is a client company, so now the managers of the railway department have begun to transform the UZ brand so that it helps the company earn money and is associated with services and workplaces that are in demand on the market. Ukrzaliznytsia supports its reputation as a reliable partner, planned actions to make the railway an interesting partner for all stakeholders. Each division of the railway must feel like an important link and understand how important its activity is in the overall impression of the railway visas of service users.

Railroads understand that open communications is a two-way street. Therefore, employees should have a free opportunity, accessible to everyone, to express their opinion regarding management decisions, existing problems in the company and propose ways to solve

them. Two-way communication tools are integrated into internal communication channels. One such tool is regular opinion surveys of key stakeholders. Recently, a comprehensive sociological survey was conducted among the Society's employees throughout the country. Based on the results of the survey, recommendations were made to the board regarding the adoption of management decisions to solve the identified problems.

Conclusions. Ukrzaliznytsia's communication strategy with stakeholders should be as follows.

1. It is necessary to minimize the negative consequences of a crisis or scandal.
2. Respond quickly to a scandal, the first hours of communication are important.
3. To treat passengers and freight carriers with maximum respect, because they are the employers of railway workers.
4. Information in the mass media should be provided promptly, fully, accurately, perhaps even to adhere to some schedule of news releases about Ukrzaliznytsia.
5. Involve the public in the analysis of the situation.
6. To show that the crisis situation or scandal in which Ukrzaliznytsia found itself is an accidental, not a systemic phenomenon.
7. Offer victims compensation.
8. To assure the society about the prevention of scandals.

An important step in the day-to-day existence of Ukrzaliznytsia is the formation of an anti-crisis response team, these should be specially trained specialists who will know how to correctly react to one or another scandal related to Ukrzaliznytsia, how to quickly provide communication to people with management, if necessary, what news quickly upload to the network to reduce negative events. An important anti-crisis technology is a technique called One voice. This means that in the event that Ukrzaliznytsia falls into the scandal, together with this state-owned carrier, it is up to the authorities or other influential groups of people to assure ordinary citizens that everything will be fine in the future. It should be noted that you should not use the phrase: "No comments!", because this may reflect even more negatively on the reputation of Ukrzaliznytsia.

In addition to overcoming a quick negative reaction to a specific event among passengers, it is important to shift their attention to the further development of the railway, focus on future innovations, for example, talk about the introduction of high-speed traffic or the introduction of railway tourism.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

The article deals with study of the typology of crises and anti-crisis communications as an integral component of the general communicative activity of enterprises on the example of the state-owned enterprise JSC "Ukrzaliznytsia". The paper studied theoretical and developed practical recommendations for the development of modern anti-crisis communications technologies of JSC "Ukrzaliznytsia". The object of the study is the process of implementing modern anti-crisis communications technologies of JSC "Ukrzaliznytsia". The subject is a set of theoretical provisions regarding the development of modern technologies of anti-crisis communications of JSC "Ukrzaliznytsia".

Data from open sources of statistical reporting, scientific studies of leading Ukrainian scientists, as well as leading international organizations and foreign scientists served as the information base of the

study. The practical significance of the study lies in a broad comparative analysis of the essence and typology of crises, and accordingly, the directions of development of anti-crisis communications and the provision of effective recommendations for implementation at the state-owned enterprise – JSC "Ukrzaliznytsia". The purpose of the work is to develop theoretical and practical recommendations for the development of modern anti-crisis communications technologies of JSC "Ukrzaliznytsia". The analysis of the source base allowed: 1) to provide basic definitions of the concepts of "crisis", "anti-crisis communications" and 2) to typologize the studied phenomena. The result of the analysis is also the development of recommendations for the development of modern technologies of anti-crisis communications of JSC "Ukrzaliznytsia", which was reflected in the Strategy of anti-crisis communications of JSC "Ukrzaliznytsia". Further, the findings can be useful for further research on the specified topic. The work used scientific works of domestic and foreign scientists, own research, for example, SWOT analysis. An important step in the daily existence of Ukrzaliznytsia is the formation of an anti-crisis response group, these should be specially trained specialists who will know how to properly react to this or that scandal related to Ukrzaliznytsia, how to quickly ensure communication with people and management, if necessary, which news to be quickly uploaded to the network to reduce negative events. An important anti-crisis technology is the One voice technique.

Keywords: *communication, communication strategies, anti-crisis communications, Ukrzaliznytsia, electronic governance.*

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Yevheniia KOVALENKO-MARCHENKOVA©
Ph.D. (Economics),
Associate Professor

Nataliia PROTOPOPOVA©
Lecturer

(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

ENSURING ECONOMIC SECURITY AT THE LOCAL LEVEL

Євгенія Коваленко-Марченкова, Наталія Протопопова. ЗАБЕЗПЕЧЕННЯ ЕКОНОМІЧНОЇ БЕЗПЕКИ НА МІСЦЕВОМУ РІВНІ. У статті досліджено регіональну економічну безпеку. Авторами визначено, що вона є певною величиною, яка є загальним відображенням стану різних сфер держави. Визначено, що механізм забезпечення економічної безпеки регіону повинен сприяти зміцненню безпеки економіки у різних регіонах може допомогти покращення регулювання зростання економіки з боку держави завдяки виготовленню документації регіонального, а також територіального планування, формування комплексної концепції контролю ризиків, у тому числі активна грошова політика держави.

Проаналізовано та визначено в дослідженні, що комплексний аналіз регіональної економічної безпеки має ґрунтуватися на концепції індикаторів, які показують основні аспекти того, в якому стані знаходиться виробництво, наука, техніка, інвестиції, суспільство, а також демографічна ситуація в регіоні.

Ключові слова: *економічна безпека, місцеве самоврядування, регіон, країна, загрози, індикатори.*

© Kovalenko-Marchenkova Ye., 2023
ORCID iD: https://orcid.org/0000-0001-7350-7740
kovalenko.marchenkova@gmail.com

© Protopopova N., 2023
ORCID iD: https://orcid.org/0000-0002-0207-9301
k_aem@dduvs.in.ua

Relevance of the study. The economic security of the region is manifested in the effective use of natural, labor, material, and even financial resources, and in the acceleration of economic growth, an increase in the quality of products, and services, and the competitiveness of production. The above-mentioned determining factors establish the importance of this problem, which is dedicated to establishing the economic security of the region and revealing the impact of hazards on the economic security of the region. Therefore, the issue of economic security becomes urgent, since each developed region of the state develops the security of the country as a whole.

The research paper's objective is to analyze and evaluate the level of economic security of the region, as well as to develop prospects for its improvement.

Discussion. The definition of economic security at the level of local self-government is that it is a difficult category that requires more detailed study. Nowadays, the general definition of the concept of "economic security" is most often used. In addition, before defining this term at the level of local self-government, it is necessary to understand what is: security in principle, as well as economic security and local self-government [1].

There are a large number of different definitions of economic security in various literature. Let's summarize the most popular definitions given by various authors.

In the first group, the authors believe that economic security should be understood as the protection of the country's interests, sovereignty, and even stability.

In the second group, the authors believe that economic security, first of all, ensures the preservation of the interests of society, and this, in turn, has a positive effect on the economic situation in the state, because certain goals facing the state are pursued.

In the third group, the authors believe that economic security is called the sovereignty of a country, provided that the state can build relations on certain terms among other countries, carry out unhindered activities within the state, make various decisions based on its interests, there is no pressure from parties.

We fully share this point of view, in connection with the fact that one of the approaches is implied in the other. In other words, protecting the country's interests leads to the fact that it becomes sovereign, and sovereignty, in turn, makes it possible for the state's economy to develop according to plans.

Thus, regional security is the security of a homogeneous and heterogeneous geo-sociopolis.

It should be noted that in various scientific literature, as a rule, two terms can be found: regional security and security in regions. In our opinion, these terms are identical. But, as a rule, the term "security in the regions" is used.

There are various security facilities in the regions, which include the following:

1. Standard of living of the population;
2. Threats within the country and abroad;
3. Stability of the economy and society;
4. Stability of politics and society [2].

In addition, there are subjects of economic security to which the economic situation in the region belongs. It must improve, work on the needs of society, and also fight threats outside the country as well as within it.

Regional economic security is a complex of current conditions and factors that indicate a stable state of the economy in the region, interaction with the national economy, and independence of the regional economy.

There is a set of factors that influence the development of economic security in the regions: spheres that carry out their activities in the regions, as well as the location of the region [3].

Security largely depends on the influence of central authorities on regional economic processes.

Socio-economic phenomena can have an impact on security, so its preservation is impossible without the implementation of effective social policy from within the region, as well as at the state level. Social policy solves employment problems, provides for poorly protected sections of the population, and evens out the unified social background of the territory.

In the analysis of economic security, on the one hand, regional socio-economic, ecological, demographic, and other processes that threaten the economic security of the state and have a territorially differentiated form of manifestation are assumed. On the other hand, the

region is an element of local regulation carried out by the center and also extends to actions related to the provision of economic security of the state. And only within the existing circle of possibilities, the region is considered the creator of its independent financial and political activity [4].

The mechanism of guaranteeing regional economic security can be presented in the form of a whole system of elements, as well as interrelationships among them and economic tools, as well as various measures to eliminate and prevent threats in the regions, including economic crime.

In connection with the different potentials of economic development in the regions, difficulties arise in the security of the economy [2].

The main element of regional security is the security of citizens.

The security mechanism is based on a specific classification of threats to the country's economy.

The lack of classification can lead to a lack of specific guidelines in the process of identifying and eliminating these threats.

The results of the operation of the mechanism can be manifested in the following factors:

– formation of a single database;

– the concept of the main threats and the creation of a set of measures to prevent them;

– the process of coordinating and managing the work of the administration of entities, municipal enterprises, as well as various institutions and social organizations in the regions working in the structure of anti-crisis management;

– creation of general standards and methods of anti-crisis management;

– creation of programs aimed at the development of the territories of the region, which have several problems [5].

Strengthening the security of the economy in various regions can be helped by improving the regulation of economic growth by the state due to the creation of regional and territorial planning documentation, and the formation of a comprehensive concept of risk control, including an active monetary policy of the state.

Regional economic security is a certain value that is a general reflection of the state of various spheres of the state: production, technology, investments, science, society, as well as the situation in one or another region.

First of all, regional economic security is a certain value. Its level can be determined by the state of the macroeconomics in various areas of the region: production, science and technology, society, demography, and investments.

Based on this, the analysis and process of eliminating various problems in each area should be considered as a tool that helps to achieve the safest level of the economic situation that exists in the region.

In addition, the connection and dependence among the various components of the security of the economy speak of their joint analysis.

The process of researching the security of the economy in a specific region is based on the main indicators. Their list should be accessible to everyone, and also quite small. These indicators include the following:

– public and demographic. They show the quality as well as the standard of living that exists in the region;

– economic. They indicate the extent to which the economy of the region can carry out its activities under the condition of increased reproduction;

– various indicators that show the food situation in a certain region;

– indicators showing investments;

– financial, showing the results of institutional changes, and even the level of economic management [6].

A comprehensive analysis of regional economic security should be based on the concept of indicators that show the main aspects of the state of production, science, technology, investment, and society, as well as the demographic situation in the region [7]. This approach will make it possible to effectively find the main threats to social and economic development in the region, and the decisions that will be made at the level of regional authorities will aim to eliminate the threats that exist to the economy of the region.

We offer the following as specific ways to solve the problems of ensuring the security

of the region:

– increase of budgetary and municipal jobs for the population;

– reducing the level of costs of enterprises for updating technical equipment through innovative developments;

– creation of conditions for attracting investments in the region's economy;

– issuance of debt securities at the regional level;

– development of an economic strategy for the development of the region based on these reports and the specifics of its activity;

– encouraging the innovative sector of the region's economy by forming scientific and educational clusters;

– creation of a regional trade exchange;

– informational support of social projects by state TV channels [8].

The primary task of the state is the formation of a comfortable environment for the life of citizens, in particular by increasing the consumption opportunities of the residents of the region. Thus, an effective strategy for the economic development of the region will be formed.

Next, we propose to analyze the main threats within the considered problem of economic security of the region, including:

– population impoverishment and the gap between classes and incomes;

– stratification of society according to the degree of accessibility to social services;

– increase in criminal danger and crime [3].

To minimize these risks, it is worth paying attention to these directions of the development of society and pointing out the need for the following measures:

– increased financing of measures to improve the quality of the urban environment, including the repair of road surfaces, buildings, residential and public premises;

– development of socio-cultural and sports spheres in the region by creating specialized spaces for leisure and activities of young people (libraries, sports halls, etc.);

– creation of conditions for financing, support, and development of civil society institutions in the region.

Conclusions. Thus, the following tasks were solved during the research:

1. The concept, essence, and factors influencing the economic security of the region are considered. It was found that security depends on the influence of central authorities on regional economic processes. Socio-economic phenomena can have an impact on security, so its preservation is impossible without the implementation of effective social policy from within the region, as well as at the state level. Social policy solves employment problems, provides for poorly protected sections of the population, and evens out the unified social background of the territory.

When analyzing economic security, on the one hand, regional socio-economic, ecological, demographic, and other processes that threaten the economic security of the state and have a territorially differentiated form of manifestation are envisaged. On the other hand, the region is an element of government regulation that is carried out by the center and also extends to actions related to providing economic security to the state. And only within the existing circle of possibilities, the region is considered the creator of its independent financial and political activity.

2. The mechanism of ensuring the economic security of the region was studied. It was concluded that strengthening the security of the economy in various regions can be helped by improving the regulation of economic growth by the state due to the preparation of regional and territorial planning documentation, the formation of a comprehensive concept of risk control, including an active monetary policy of the state.

3. Methods of assessing the level of economic security of the region were studied. It was concluded that a comprehensive analysis of regional economic security should be based on the concept of indicators that show the main aspects of the state of production, science, technology, investment, and society, as well as the demographic situation in the region. This approach will make it possible to effectively find the main threats to social and economic development in the region, and the decisions that will be made at the level of regional authorities will aim to eliminate the threats that exist to the economy of the region.

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ABSTRACT

The article examines regional economic security. The authors determined that it is a certain value that is a general reflection of the state of various spheres of the state. It was determined that the mechanism for ensuring the economic security of the region should contribute to the strengthening of the security of the economy in various regions, the improvement of the regulation of economic growth by the state can help thanks to the preparation of regional and territorial planning documentation, the formation of a comprehensive concept of risk control, including the active monetary policy of the state.

It was analyzed and determined in the study that a comprehensive analysis of regional economic security should be based on the concept of indicators that show the main aspects of the state of production, science, technology, investment, society, as well as the demographic situation in the region.

Keywords: *economic security, local self-government, region, country, threats, indicators.*

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Olena GALUSHKO ©
M.Sc. (Economics, Computer Sciences), Senior Lecturer
(Prydneprovska State Academy of Civil Engineering and Architecture, Dnipro, Ukraine)

Ghenadie CIOBANU ©
Doctor of Economics
(National Institute for Scientific Research in the field of labor and social protection, Bucuresti Artifex University of Bucharest, Romania)

INFORMATION SYSTEMS IN FINANCE: CHALLENGES AND PERSPECTIVES

Олена Галушко, Геннадій Чобану. ІНФОРМАЦІЙНІ СИСТЕМИ У ФІНАНСАХ: ВИКЛИКИ ТА ПЕРСПЕКТИВИ. Інформаційні системи у фінансах відіграють ключову роль у забезпеченні ефективного управління фінансовими процесами, прийнятті стратегічних рішень та забезпеченні конкурентоспроможності фінансових установ. Вони дозволяють збирати, обробляти, аналізувати та використовувати великі обсяги даних для прийняття обґрунтованих рішень.

З розвитком штучного інтелекту та аналізу великих даних інформаційні системи у фінансах стають все більш потужними і здатними до прогнозування та оптимізації фінансових процесів. Одним із викликів, який стоїть перед інформаційними системами у фінансах, є необхідність забезпечення високого рівня кібербезпеки. Тому інформаційні системи повинні бути надійно захищені від кіберзагроз шляхом використання сучасних методів шифрування та моніторингу безпеки. Іншим важливим аспектом є потреба в постійному оновленні та модернізації інформаційних систем у фінансах для забезпечення їх ефективності та відповідності сучасним технологічним стандартам.

В майбутньому інформаційні системи у фінансах можуть стати ключовим інструментом для побудови цифрових фінансових екосистем, які сприятимуть розвитку нових фінансових послуг та покращенню їх доступності.

Ключові слова: *інформаційні системи, управління фінансами, фінтех, кібербезпека, фінансова екосистема.*

Relevance of the study. Economic and financial processes are closely related to digital solutions, the active development of which began in the 1980^{s} and 1990^{s}. Currently, digital technologies are penetrating all spheres of business and social life, and this has led to the intensification of information and financial flows, increased efficiency, increased competitiveness and the creation of new opportunities for development. The beginning of active digitization of the economy can be attributed to the end of the 20th century, when computers and the Internet became widely available for use. Financial information systems began to develop with the advent of the first computers in the middle of the 20th century. At the beginning of their development, they were focused on automation of accounting and processing of primary accounting information. However, with the development of technology and the emergence of new data processing methods, financial information systems have become increasingly complex and more functional [1].

The development of ERP-systems made it possible to integrate financial management into a full-fledged multifunctional system of automated enterprise management. With the development of the Internet and the emergence of cloud technologies, financial information systems have become more accessible and flexible. They are now widely used in all areas of business to automate financial processes, risk management, data analysis and strategic decision

© Galushko O., 2023
ORCID iD: https://orcid.org/0000-0002-4578-5820
olena_galushko@ukr.net

© Ciobanu G., 2023
ORCID iD: https://orcid.org/ 0000-0003-1415-883X
universitate@artifex.org.ro

making. Thus, the development of financial information systems went from simple automated accounting systems to complex integrated ERP systems that play an important role in modern business. The further direction of the development of financial information systems is the transition to financial ecosystems that combine various financial institutions, technologies and services. Such ecosystems provide effective interaction between financial market participants, contributing to the development of innovations and improving the availability of financial services. Therefore, the development of financial ecosystems is important for ensuring sustainable economic growth of the state, but it is necessary to ensure adequate regulatory control and risk management to prevent possible negative consequences.

Recent publications review. Research on financial information systems was carried out, on the one hand, by economists and financiers, who considered the issue from the point of management and finance [2-5]. And also by scientists in the field of computer sciences, who paid the attention to the technical solutions for management and finance automation [6].

The issues of using software products in the work of a professional financial analyst are considered in the works of V. Sytnyk and N. Yeromin. V. Antonyuk, A. Oliynyk, I. Rogach, N. Kholyavko, V. Shatska and others studied the theoretical and practical aspects of the formation of banking information systems. I. Androschuk, G. Karpenko, V. Krotyuk, S. Naumenkova, I. Shumylo and others made a significant contribution to the development of the theoretical and methodological foundations of financial innovations. The works of S. Ustenko, S. Ramazanov, V. Vovk, P. Hryhoruk and others are devoted to the issue of information technologies and management systems [6]. But interdisciplinary issues that combine financial and managerial and technical components require further consideration.

The article's objective is to discuss the perspectives of financial information systems development, their impact on economy, and related issues of data protection, big data analysis etc.

Discussion. Information systems in finance are becoming increasingly important in today's world, where the speed of data processing and the accuracy of information are crucial for the successful functioning of financial institutions and companies. A financial information system (FIS) is a set of software and hardware that is designed to collect, process, analyze and present financial information about the activities of an organization. FIS includes accounting systems, budgeting, financial analysis, planning, reporting and other tools necessary to effectively manage a company's finances. The main objective of a financial information system is to ensure the accuracy, timeliness and reliability of financial reporting, as well as to assist management in making informed financial decisions [1-3].

A financial information system (FIS) plays an important role in managing a company's finances by ensuring the accuracy and reliability of financial reporting, automating accounting and data analysis processes, and increasing the efficiency of management decisions. It helps businesses make informed financial decisions, improve budgeting, optimize capital and risk management, and comply with legal requirements and reporting standards. Financial information systems can be customized to meet a company's specific needs and integrated with other business applications to provide a unified information environment.

Financial information systems have common features underlying the construction and use of automated management systems:

1) FIS are developed in order to ensure effective management of financial resources and optimization of financial processes.

2) FIS combine data from various sources and allow them to be integrated to obtain a complete picture of the financial situation.

3) FIS help to automate many routine financial operations, which allows you to work faster, more efficiently and reduce the likelihood of errors.

4) FIS provide opportunities for financial data analysis, reporting and forecasting of financial results.

5) FIS have a high level of protection of confidential information and ensure compliance with data protection requirements.

6) FIS must be ready to scale so that they can cope with the growth in the volume of financial transactions and user needs.

7) It is important that the FIS interface is convenient and understandable for users, which contributes to quick learning and effective use of the system.

8) FIS need constant updating and improvement to meet modern requirements and technological trends.

Financial information systems typically include components of Controlling, Financial Accounting, Fund management. But it's configuration depends from class it belongs. FIS can be classified according to various criteria, such as [1-4, 6]:

1) By functionality:

– Accounting systems (accounting and tax accounting, financial accounting);

– Management accounting systems (budgeting, planning, analysis);

– Reporting and analytics systems;

– Financial management systems (financial planning, cash management, accounts receivable and payable management);

– Market forecasting systems.

2) By scale of application:

– Corporate financial information systems for big companies;

– Small and medium financial information systems for small businesses;

– Cloud financial information systems for remote work and data sharing.

3) By industry:

– Financial information systems for the banking sector;

– Financial information systems for insurance companies;

– Financial information systems for manufacturing enterprises;

– Financial information systems for retail trade;

– Financial information systems for the stock market.

4) By data type:

– Financial information systems for accounting of funds and transactions;

– Financial information systems for accounting of assets and liabilities;

– Financial information systems for analyzing financial indicators.

5) By data access method:

– Local financial information systems installed and maintained on the organization's computers;

– Cloud financial information systems provided via the Internet and storing data on remote servers;

– Hybrid financial information systems combining local and cloud data storage.

6) On integration with other systems:

– Standard financial information systems operating separately from other systems;

– Integrated financial information systems that interact with other accounting and management systems.

7) By technology platform:

– Financial information systems developed on the basis of certain technologies (for example, ERP systems);

– Financial information systems based on open and free technologies (Linux);

– Financial information systems developed for a specific operating system (Windows, macOS).

The presented classification methods help to understand the diversity of financial information systems.

The key advantage of financial information systems is not only the automation of processes, but the processing and analysis of big data that is stored in finance. Processing big data in financial information systems can be complex and require several specific steps. Big data often requires the use of machine learning algorithms to identify patterns, predict trends, and make management decisions. Financial information systems using big data analysis and artificial intelligence are most developed in the following segments of the financial market [6-8]. Banks and investment companies actively use financial information systems to analyze market data, forecast trends in the stock market, optimize asset portfolios and risk management. Insurance companies use analytical systems to assess risks, determine tariffs, build models of insurance products and detect fraudsters. Stock market exchanges and stock brokers use artificial intelligence algorithms to automate trading, analyze market data and predict price movements. Financial analysts and consultants use big data analysis systems to conduct fundamental and technical analysis, assess the financial stability of companies and forecast their financial results. E-commerce companies use customer data, shopping analytics and other information to personalize services, forecast demand and manage inventory. Funds and other financial institutions that manage clients' assets use information systems to optimize portfolio management, risk management and profitability forecasting. In these segments of the

financial market, artificial intelligence and big data analytics capabilities help improve decision-making, reduce risk, and optimize financial performance.

The transition from financial information systems to financial ecosystems can occur gradually and include several key stages. The first step is the integration of the financial information system with various external services, such as banking systems, payment platforms, fintech startups, etc. This allows you to expand the functionality of the system and gain access to new features. To build a financial ecosystem, it is important to develop an API (Application Programming Interface) to simplify and standardize data exchange between various applications and services. This allows to integrate new applications and services into the ecosystem easily and quickly. Forming partnerships with other companies and service providers can help expand the functionality of the financial ecosystem and empower users.

For a successful transition to financial ecosystems, it is important to adopt new technologies such as artificial intelligence, blockchain, big data analytics, etc. This will help improve the efficiency and security of the ecosystem. The transition to financial ecosystems also involves ensuring a high level of security and privacy of user data. This may include the use of encryption, two-factor authentication, security auditing, and more. For the successful development of the financial ecosystem, it is important to involve users and third-party developers to create new applications and services that will expand the functionality and value of the ecosystem. This process can be complex and sometimes take a certain transition period, but as a result, it allows you to create a powerful and innovative financial ecosystem that meets the needs of users and businesses.

Blockchain-based financial information systems open up new opportunities to ensure security, transparency and efficiency of financial transactions. Blockchain is a distributed database that provides security and immutability for changes to data recorded in blocks. The main advantages of blockchain technology in financial systems are: blockchain provides a high level of data security and protection thanks to cryptographic encryption methods and a distributed structure; all transactions in the blockchain are publicly available and inviolable, allowing for a high level of transparency and trust; blockchain allows to perform financial transactions quickly and efficiently, minimizing the time and costs of conducting transactions.

The following are examples of financial information systems based on blockchain technology.

Ripple (XRP) – Ripple is a payment network that uses blockchain to conduct real-time customs payments. The Ripple system allows banks and financial institutions to efficiently exchange money and make customs payments directly through the blockchain.

Stellar (XLM) – Stellar is a blockchain platform that aims to facilitate international money transfers and currency exchanges. The Stellar system allows users to make money transfers quickly and cost-effectively through the blockchain.

Ethereum (ETH) – Ethereum is a decentralized platform for creating smart contracts and applications on the blockchain. Ethereum uses the technology of "smart contracts", which allows you to automate the execution of agreements and operations without intermediaries.

Financial ecosystems are complex systems that combine various financial institutions, technologies and services. These ecosystems enable effective interaction between financial market participants, contributing to the development of innovations and improving the availability of financial services.

Financial ecosystems can significantly influence the economy of the state, providing quick access to financial services for businesses and citizens. For example, the introduction of digital payment systems and online banking helps to reduce transaction costs and accelerate the circulation of funds, which contributes to the growth of the economy. One example of a successful financial ecosystem is the Chinese payment system Alipay, which combines an electronic wallet, payment services, lending and other financial services. Alipay has become an integral part of Chinese people’s lives, promoting the development of e-commerce and providing convenient access to financial services.

Financial ecosystems can also facilitate the development of small and medium-sized enterprises by providing access to financing through alternative sources such as crowdfunding or capital exchange platforms. This helps support innovation and drive economic growth. On the other hand, insufficient regulation of financial ecosystems can lead to risks for the financial stability of the state. For example, insufficient cyber security can lead to the theft of funds or the leakage of confidential information, which threatens the functioning of financial institutions and trust in them.

Financial information systems are often a target for various types of cyber threats because they contain a large amount of confidential and financial information. To protect financial information systems, it is important to use a comprehensive approach to cyber security, which includes the application of protection measures at various levels (network, additional, physical), regular training of personnel on cyber security and the use of modern data protection technologies.

The main types of cyber threats to financial information systems may include the following [6, 7]. Cyberattacks on the network layer (Network Layer Attacks) – this is a type of attack that targets network layer vulnerabilities, such as DDoS attacks (network flooding attacks), interception of data packets, and hacking of network devices. These attacks can lead to denial of service, data loss, and system security breaches. Application Layer Attacks – these are attacks that target software vulnerabilities, such as SQL injection, cross-site scripting, and buffer overflows. These attacks can lead to the leakage of confidential information, loss of access to systems and breach of data integrity. Fishing – this is a social type of attack where an attacker tries to obtain sensitive information, such as passwords or credit card details, by misleading the user through an email or fake web page. Data Breaches – this is when hackers gain unauthorized access to a system and steal confidential information such as customer personal data, financial information, or bank details. Malware – this is malicious software that can damage the system, steal data, or load additional malicious code. Examples of malware are viruses, worms, Trojans, and spyware. Social Engineering – this is an attack method where attackers use manipulation and deception to gain access to sensitive information by manipulating people.

Cyber threats to the financial ecosystem and financial information system vary in scope, scale and impact on the financial sector. The financial ecosystem covers all financial market participants, such as banks, insurance companies, stock exchanges, payment systems and other financial institutions. Cyber threats to the financial ecosystem can be aimed at disrupting financial stability, disrupting the functioning of the market, or causing damage to the entire sector.

The financial information system includes specific information technologies and systems used by financial institutions to process, store and transmit financial data. Cyber threats to a financial information system can be aimed at stealing confidential information, interfering with operations, or exploiting vulnerabilities to gain access to financial resources. Cyber threats to the financial ecosystem can be global in scope and lead to significant financial losses for the entire sector. While cyber-threats to a financial information system can be targeted at a single institution or system, they are usually smaller in scope but can lead to serious consequences for a specific organization. For the financial ecosystem, it is necessary to develop specialized monitoring mechanisms, cooperate with regulators and other market participants to prevent and respond to crisis situations. It is important for a financial information system to use technological protection measures such as data encryption, intrusion detection systems and strict access control. In any case, if cyber threat affects the financial sector, it can have serious consequences both for the functioning of individual institutions and for the entire global financial market.

In our opinion, the further development of financial ecosystems will be influenced by two important factors: artificial intelligence (software) and quantum processors (hardware).

Quantum processors could pose cyber threats to financial ecosystems due to their potential ability to break the cryptographic algorithms used to protect blockchain technology and cryptocurrencies. In particular, quantum computers can be used to quickly reveal the private keys used to sign transactions in blockchain networks. This can lead to fake transactions and loss of trust in the system. Also, quantum processors can be used to perform attacks on consensus protocols of blockchain networks, such as Proof of Work or Proof of Stake. This can lead to the loss of control over the network and the alteration of transaction history. Quantum computing can be used to reveal sensitive information in blockchain networks, such as wallet addresses or transaction details. This may violate user privacy and lead to leakage of personal information. Attackers can also use quantum processors to create new types of cryptographic attacks that can be difficult to detect and prevent.

Artificial intelligence can be used both to create cyber threats to financial ecosystems and to protect them. For example, artificial intelligence can be used by attackers to automate attacks on financial systems. Machine learning algorithms can be used to develop malware that quickly adapts to security measures and finds vulnerabilities in systems. Also, artificial

intelligence can be used to improve the security systems of financial institutions by automating the process of detecting and responding to threats. For example, machine learning systems can analyze intrusion data and learn to recognize new types of attacks. Artificial intelligence can help financial institutions predict potential cyber threats and risks, helping to prepare for and prevent them from occurring. So, while AI can be used to create cyber threats to financial ecosystems, it can also be a powerful tool in combating these threats and improving the security of financial systems.

Conclusions. Development of financial ecosystems is important for ensuring sustainable economic growth of the state, but it is necessary to ensure adequate regulatory control and risk management to prevent possible negative consequences.

The transformation of financial information systems into financial ecosystems reflects modern trends in the field of financial technologies. This transformation means a transition from isolated systems to integrated network structures that unite various financial market participants.

This opens up new opportunities for the convenience and speed of financial transactions, promotes innovations in the field of payments, lending, investment and other financial services. Financial ecosystems make it possible to reduce costs, improve the availability of financial services and ensure a faster response to changes in the market.

However, along with these opportunities, financial ecosystems also carry certain threats, such as cybercrime, loss of data privacy, and the risk of financial fraud. Therefore, it is important to develop effective cyber security measures and monitor new threats emerging in financial ecosystems.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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ABSTRACT

Information systems in finance play a key role in ensuring effective management of financial processes, making strategic decisions and ensuring the competitiveness of financial institutions. They allow you to collect, process, analyze and use large amounts of data to make informed decisions.

With the development of artificial intelligence and big data analysis, information systems in finance are becoming increasingly powerful and capable of forecasting and optimizing financial processes. One of the challenges facing information systems in finance is the need to ensure a high level of cyber security. Therefore, information systems must be reliably protected from cyber threats by using modern methods of encryption and security monitoring. Another important aspect is the need for constant updating and modernization of information systems in finance to ensure their efficiency and compliance with modern technological standards.

In the future, information systems in finance can become a key tool for building digital financial ecosystems that will promote the development of new financial services and improve their accessibility.

Keywords: *information systems, financial management, fintech, cyber security, financial ecosystem.*

PSYCHOLOGICAL AND EDUCATIONAL ASPECTS OF MODERN PROFESSIONAL ACTIVITIES

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Vitaly OSMOLIAN©
Ph.D. (Law)
(Khmelnytsky Institute of Interrigeonal Academy of Pessonal Management, Khmelnytsky, Ukraine)

Olena DOMBROVSKA
Lecturer
(Khmelnitsky Cooperative Trade and Economic Institute, Khmelnytsky, Ukraine)

THE INFLUENCE OF THE SCIENTIFIC AND PEDAGOGICAL WORKER ON THE FORMATION OF THE STUDENT'S LEGAL AWARENESS DURING THE TEACHING OF THE DISCIPLINES OF THE LEGAL CYCLE

Віталій Осмолян, Олена Домбровська. ВПЛИВ НАУКОВО-ПЕДАГОГІЧНОГО ПРАЦІВНИКА НА ФОРМУВАННЯ ПРАВОСВІДОМОСТІ СТУДЕНТА ПІД ЧАС ВИКЛАДАННЯ ДИСЦИПЛІН ПРАВОВОГО ЦИКЛУ. Розкрито вплив науково-педагогічного працівника на формування правосвідомості студента під час викладання дисциплін правового циклу, зокрема: «Конституційного права», «Трудового права», «Адміністративного права» та «Кримінального права та процесу». Надано на розгляд та обговорення загалу власне (авторське) бачення формування принципів правосвідомості у студентської молоді під час опанування правових дисциплін спеціальності «Право».

Зокрема, наголошено, що науково-педагогічний працівник повинен індивідуально у кожному конкретному випадку обирати систему наукових методів, які йому слід використовувати при право виховній «роботі» із здобувачами освіти, а від яких у даному випадку слід відмовитися; щоразу вирішувати який зміст та обсяг дисциплін правового циклу слід переглянути під час викладання, а що зберегти і вдосконалювати для формування міцної правової позиції та правосвідомості у студентів коледжу та інституту. Автори статті наголошують, що організовуючи правову «виховну» роботу із здобувачами освіти, на всіх її етапах викладач має творчо використовувати будь-які правові поради та рекомендації Міністерства освіти і науки України, оскільки діяльність та успіх цієї роботи багато в чому залежить і від правової зрілості самого педагога, його суспільно-правової активності, педагогічної майстерності, від підвищення ефективності та якості роботи у відношенні до процесу правового «виховання», і, звичайно ж, від особистого прикладу викладача.

Розкривається значення, надається оцінка цим новелам та новітнім підходам у реалізації науково-педагогічної діяльності щодо формування патріотичної правосвідомості молоді в системі педагогіки та права. Обґрунтовано необхідність подальших досліджень відповідної спрямованості, оскільки останні створюватимуть перспективи теоретичних та практичних напрацювань, а також сприятимуть розв'язанню проблемних питань у цьому напрямку права та педагогіки. Привернуто увагу на необхідність подальшої наукової співпраці вчених, науковців, спеціалістів у галузі матеріального права та педагогіки.

Ключові слова: *адміністративне право, здобувач освіти, Конституція України, кримінальне право, науково-педагогічний працівник, педагогіка, правосвідомість, норми права, теорія, трудове право.*

© Osmolian V., 2023
ORCID iD: : https://orcid.org/0000-0002-9389-5581
don.sahalin@meta.ua

© Dombrovska O., 2023
ORCID iD: : https://orcid.org/0000-0002-7258-5728
lena_dombrovska@ukr.net

Relevance of the study. The development of innovative and legal policy of Ukraine is gaining rapid pace, approaching the moment of Ukraine's accession to the European Union, as a result of which – bringing its own legal system in line with the level of European states, reducing the level of crime, improving and modernizing the norms of existing state legislation, and therefore also increasing the level of legal education and awareness among the population of Ukraine, in particular the youth.

However, often teachers of colleges and institutes, striving to use the educational possibilities of educational subjects, focus their attention on some one direction of education: on moral, aesthetic, physical or labor. Thus, imperceptibly for themselves, such teachers replace the integral education of the student's personality with the education of its individual qualities.

When the educational tasks are determined, in our opinion, it is very important to correctly select from a significant number of exemplary types of activities recommended for education seekers by a certain program, approximately those that will most contribute to the practical implementation of the tasks set by the Ministry of Education and Science of Ukraine, will become a legal vector in the education of life principles and improving the legal awareness of a young person of a future legal scholar. Consideration of the moral and ethical and legal positions from which the teacher should proceed when revealing the content of legal disciplines, in particular: "Constitutional law", "Labor law", "Administrative law", "Criminal law and process" to form not only the baggage of knowledge, but and legal awareness among young people is not possible without deep knowledge and understanding of their own participation. This is the urgency of the problem.

Recent publications review. The conducted analysis [1–6] showed that scientists and practitioners have repeatedly studied the issue of formation, development and improvement of the legal awareness of the population of the state as a whole, and its individual aspects in particular. However, consideration of the impact of a scientific and pedagogical worker on the formation of a student's legal awareness during the teaching of the disciplines of the legal cycle requires its own detailed research and analysis.

The article's objective is on the basis of the conducted theoretical analysis and own practical experience, to consider conceptual positions regarding the influence of a scientific and pedagogical worker on the formation of legal awareness of a student during the teaching of a number of disciplines of the legal cycle, in particular: "Constitutional law", "Labor law", "Administrative law" and of "Criminal Law and Process", as well as justify the need for further research in the relevant direction, because the latter will create prospects for theoretical and practical studies and contribute to the improvement of the domestic methodology of teaching legal disciplines, will form a motivated and stable legal position among the population of Ukraine, in particular – the youth, and as a result – will improve the innovative legal policy of Ukraine in general.

Discussion. When studying subjects, students are armed mainly with knowledge of the basics of science, and in extracurricular time, group curators, pedagogical and scientific-pedagogical employees of the college (institute) try to include students in such activities that would expand and consolidate the knowledge acquired in classes, teach young people to use in practice, in life, they form the necessary skills and abilities in her. Through the entire content of the plan of educational work runs the thought of the organic connection of the planned affairs with the life of our people, with the most important social and political events taking place in the twenties of the second millennium in our country and abroad.

We believe that when planning for one or another period of life of the student body of a college (institute), the teacher should strive to make it rich, multifaceted, versatile, focusing on the comprehensive development of the student's legal personality. And here it is expedient to turn to the system of legal disciplines that offer different directions and types of legal activity, for example, cases related to the development of legal cognitive activity of students of education, with increasing their legal awareness and social activity in this field, with involvement in practical legal activity, with the cultivation of high moral and legal qualities, which are "Constitutional law", "Labor law", "Administrative law" and "Criminal law and process". Of course, the system of legal disciplines does not exhaust all possible cases. In our opinion, it only focuses on the manifestation of independent initiative in the selection and development of practical activities, ideas, and affairs both on the part of the teacher himself and his students. Therefore, in order to effectively cultivate a young "legal personality", there is a need periodically not only to consistently plan the development of legal culture through the

implementation of the teacher's pedagogical function (from the simplest tasks to more complex ones) and to strictly take into account the capabilities of individual students, but also to rethink the feasibility of using certain forms and methods of pedagogical activity. Depending on the age of students, the same types of legal and educational activities and forms of classes can be used to solve various pedagogical tasks and areas of educational work, while different tasks of legal education can be solved by the same types of activities.

In addition, a significant place in the work of teachers is occupied by issues related to ensuring the unity of the educational efforts of the college, institute, family, work groups, and the public. It is here, as practice shows, that the secret of success in legal education lies. Exemplary content and main forms of interaction of various educational forces allow the teacher in his legal work to widely use the opportunities of the labor groups that led the patronage of colleges and institutions of higher education: with enterprises, organizations and institutions of all forms of ownership – with which relevant contracts and agreements have been signed. At the same time, the curator of the group, the organizer of extracurricular work, the director of the college, the educational department or the dean's office should creatively use such forms and methods of legal influence as parent meetings, meetings of education seekers with innovators and rationalizers in the field of law and state construction, with current practicing lawyers, involvement of parents in the management of various associations, sections, forums for the elimination of legal nihilism both among students and among other sections of our population (in particular, socially vulnerable). At the same time, the most important task that a teacher sets before himself, organizing such interaction, is to educate the generation on the legal basis of the Constitution of Ukraine [1], the Labor Code of Ukraine [2], the Criminal Code of Ukraine [3], the Criminal Procedure Code of Ukraine [4] and the Code of Ukraine on Administrative Offenses [5] in preparing students for an independent working life, with strict adherence to the norms of the law, for further active public work in the field of jurisprudence.

In this regard, both at all stages of legal educational work and when organizing its accounting, we draw the special attention of the curator of the student group of the college (institute) and the scientific and pedagogical team of the institution to the need to decisively overcome the superficial approach, formalism and template in legal education of education seekers. It is about accounting not only and not so much the number of conversations held on legal topics, disputes, meetings with practicing legal practitioners, tours of museums of the National Police and the Prosecutor's Office of Ukraine, attendance at open court sessions and other legal events, not so much about accounting of individual illegal acts of boys and girls – student youth, how much, first of all, to identify those changes in their legal consciousness and behavior, which appeared in them in the process of conducting legal "educational" work during the teaching of the disciplines of the legal cycle.

Systematic and consistent improvement of the "legal" personality of the student of education is the most important criterion in evaluating the effectiveness of the legal "educational" activity carried out by the scientific and pedagogical worker, the quality of the legal disciplines taught by him. His attention should be drawn not only by the fact of the implementation of the intended educational plans, the completeness of the disclosure of the subject of the legal discipline, but the extent to which these plans really contributed to the more effective formation of legal views and beliefs among young people, the development of their interests, noble feelings and aspirations, needs and abilities, skills and skills, habits and character traits.

Summarizing the results of his "legal work" in the pedagogical field, from our point of view, a scientific and pedagogical worker should be interested in the degree of independence, initiative and activity of his pupils in various life situations, the level of legal awareness formed in them and the desire not to evade the observance and unquestionable fulfillment of legal obligations. norms, especially when there are no adults around. In a word, the readiness of the student of education to make a legal assessment of the existing situation, the ability to make the right choice, his readiness to work, to live, to fulfill the legal requirements of society and the state – this is the most important thing when taking into account the results of the legal "educational" work of a scientific and pedagogical worker college and institute.

Of course, identifying and assessing the level of legal education is a difficult matter. This work formulates moral requirements for the student's legal behavior, which can be a criterion for evaluating his activity. However, it is not enough for a scientific and pedagogical worker to know only the legal requirements of the Ukrainian state and European society for the younger generation, but it is also advisable to understand what the readiness of a graduate of a

college (institute) majoring in "Law" is to fulfill them.

In our opinion, summarizing the results of the work done, the teacher should clearly imagine what means, forms and methods this readiness should be produced. And here he is obliged to fully rely on the content and scope of the disciplines "Constitutional law", "Labor law", "Administrative law" and "Criminal law and process" recommended by the Ministry of Education and Science of Ukraine [6], during the teaching of which the system of work is disclosed and continuity in the formation of the legal qualities of a young person at each of his age stages, the main and defining thing in the legal "educational" work is highlighted, the ways of holistic influence on the legal personality of the person seeking education are outlined.

Conclusions. Summarizing the results of legal "educational" work involves a critical analysis by a scientific and pedagogical worker of the forms and methods of legal education used by him. It is the teacher in each specific case who decides which methods he should abandon, what should be revised when teaching the disciplines of the legal cycle, and what should be preserved and improved in order to form a strong legal position and legal awareness in the student.

Therefore, organizing legal "educational" work with students, at all its stages, the teacher should creatively use any legal advice and recommendations. The activity and success of this work largely depends on the legal maturity of the teacher himself, his socio-legal activity, pedagogical skill, on increasing the efficiency and quality of work in relation to the process of legal "education", and, of course, on the personal example of the teacher.

Taking into account the presence of shortcomings in this area of scientific, pedagogical and legal activity, we consider further research of the appropriate orientation to be relevant, because the latter will create prospects for theoretical and practical work and contribute to solving problematic issues in this direction.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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ABSTRACT

The authors of the article reveal the influence of a scientific and pedagogical worker on the formation of a student's legal awareness during the teaching of the disciplines of the legal cycle, in particular: "Constitutional law", "Labor law", "Administrative law" and "Criminal law and process". The author's own (author's) vision of the formation of the principles of legal awareness among student youth during the mastery of legal disciplines of the "Law" specialty is presented for consideration and discussion. In particular, it is emphasized that a scientific-pedagogical worker should individually choose a system of scientific methods in each specific case, which he should use during educational "work" with students, and which should be abandoned in this case; each time to decide which content and volume of legal cycle disciplines should be revised during teaching, and which should be preserved and improved for the formation of a strong legal position and legal awareness among college and institute students. The authors of the article emphasize that when organizing legal "educational" work with students, at all its stages, the teacher should creatively use any legal advice and recommendations of the Ministry of Education and Science of Ukraine, since the activity and success of this work largely depends on legal maturity the teacher himself, his socio-legal activity, pedagogical skill, from the improvement of efficiency and quality of work in relation to the process of legal "education", and, of course, from the teacher's personal example. The significance of these novels and the latest approaches in the implementation of scientific and pedagogical activities regarding the formation of patriotic legal awareness of young people in the system of pedagogy and law is revealed, and an assessment is given. The need for further research in the appropriate direction is substantiated, as the latter will create prospects for theoretical and practical studies, as well as contribute to solving problematic issues in this area of law and pedagogy. Attention was drawn to the need for further scientific cooperation of scientists, scientists, specialists in the field of material law and pedagogy.

Keywords: *administrative law, student of education, Constitution of Ukraine, criminal law, scientific and pedagogical worker, pedagogy, legal awareness, legal norms, theory, labor law.*

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Dmytro PETRUSHYN©
Cand. of Sciences of Physical Education and Sports
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine

Karyna LAHUN©
Cadet
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

FEATURES OF PHYSICAL TRAINING OF POLICE OFFICERS UNDER MARTIAL LAW: CHALLENGES AND TASKS

Петрушин Дмитро, Карина Лагун. ОСОБЛИВОСТІ ФІЗИЧНОЇ ПІДГОТОВКИ ПОЛІЦЕЙСЬКИХ В УМОВАХ ВОЄННОГО СТАНУ: ВИКЛИКИ ТА ЗАВДАННЯ. У статті розглядається актуальна проблема фізичної підготовки поліцейських під час воєнного стану. В умовах конфліктів та загроз національній безпеці, поліцейські мають виконувати важливі функції з підтримання громадського порядку та забезпечення безпеки громадян. Однак воєнний стан ставить перед ними ряд складних викликів та завдань, пов'язаних із збільшеною загрозою та вимагає підвищеної готовності.

Досліджуються особливості фізичної підготовки поліцейських в умовах воєнного стану, а також аналізує ключові аспекти цього процесу, включаючи вимоги до фізичної готовності, методи навчання та тренування, а також оцінку ефективності цього підходу. Автори висвітлюють важливість системного підходу до фізичної підготовки поліцейських, враховуючи специфічні

© Petrushyn D., 2023
ORCID iD: https://orcid.org/0000-0001-9207-0804
k_sfp@dduvs.in.ua

© Lahun K., 2023
lagun19956@gmail.com

потреби та обставини воєнного стану.

Дослідження також висвітлює можливі стратегії та рекомендації для поліцейських у плані підготовки до дій у воєнних умовах, сприяючи підвищенню їхньої ефективності та забезпеченню безпеки громадян. Результати цієї статті можуть бути корисними для поліцейських організацій, а також для розробників стратегій та політики з питань підготовки силових структур в умовах воєнного стану.

Ключові слова: *фізична підготовка, поліцейські, воєнний стан, національна безпека, тренування*

Relevance of the study. The conditions of martial law are undoubtedly extremely difficult and dangerous for society. This period is characterized by an aggravation of the conflict, an increased risk of terrorist attacks, a threat to national security and the possibility of large-scale military operations. In such conditions, ensuring public safety and fulfilling national defense tasks is a critical task.

The police are one of the key links in ensuring public safety and performing national defense tasks under martial law. It is responsible for maintaining order, preventing crimes, detecting and stopping terrorist acts, as well as ensuring the protection of citizens. The police should provide support to troops and other military structures in large-scale conflicts.

Recent publications review. The research on the issues of modernizing the special physical training system under extreme conditions was conducted by such scientists as Ye. S. Hidenko, I. P. Zakorko, Yu. M. Kolomiets, A. Z. Pashaev, O. Yu. Uvarova, Yu. M. Korniychuk, O. O. Sushkov and S.M. Bortnik. Their studies indicate that a crucial aspect of police professionalism is indeed the level of physical fitness and self-defense skills.

The article's objective is to examine and analyze the unique challenges and responsibilities faced by law enforcement officers in maintaining physical readiness during periods of martial law.

Discussion. The physical training of police officers is an important component of their professional training and is of great importance for several reasons.

Police officers must be able to overcome the physical challenges they may encounter in the course of their duties. This may include chasing criminals, physical confrontations, and other situations where physical strength and endurance are required to ensure the safety of oneself and citizens.

Physical training of police officers helps to increase their productivity and efficiency in the performance of official tasks. Increased physical readiness helps police officers to be more durable, more agile and faster, which can be an important attribute in various situations. It can also have a positive effect on the psychological stability of police officers. Sports and physical activity help to reduce stress, improve well-being and increase the feeling of confidence. The opportunity to rest and relax after a hard day's work is also important [1, p.85].

Physically trained police officers can be an example of a healthy lifestyle for citizens. This can help improve police-community relations and foster greater trust in law enforcement. Also, strength training helps to maintain health and physical fitness throughout the entire career of a police officer, which is important for ensuring the reliable functioning of the law enforcement system.

Physical training for police officers includes various aspects such as running, pull-ups, jumping and other exercises that help develop various physical skills. It can also be used to assess and maintain the physical fitness of police officers through regular physical testing [1, p. 87].

For the successful functioning of the police under martial law, proper physical training is necessary. This is due to the following factors:

1. High risk. Martial law conditions are usually accompanied by a great risk to the life and health of police officers. They may encounter armed groups, hostilities and dangerous situations.
2. Physical requirements. Martial law police work may involve physical activity such as lifting weights, running, jumping, and other efforts that require physical strength and endurance.
3. Stress and emotional load. Police officers are also exposed to significant psychological stress under martial law. Physical fitness can help support mental health.

Therefore, proper physical training becomes a critical aspect for police officers working under martial law. It helps to increase their efficiency, survival and ability to cope with emergency situations that can arise in such difficult conditions.

Martial law actually poses multiple challenges to the police, each of which is critical to ensuring security and fulfilling national defense missions. These challenges are described in more detail below:

- Ensuring the safety of citizens. Martial law conditions often include threats to the safety of citizens, such as terrorist attacks, aggression by neighboring states, or other forms of violence. The police are tasked with taking all possible measures to protect the civilian population. This includes deploying patrols, organizing evacuations, controlling access to dangerous areas and providing assistance to victims.

- Participation in military operations. In some situations where the threat to national security is extreme, the police may be mobilized to participate in nationwide or international military operations. In such cases, police officers may receive military training and participate in combat operations alongside the armed forces.

- Maintenance of law and order. Even under martial law, it is important to maintain law and order wherever possible. This helps to avoid chaos and violence in the society. The police may be involved in the performance of official duties related to the investigation of crimes, arrests and maintenance of order in dangerous situations [2, p.17].

These tasks pose serious challenges to the police, as they must be prepared to work in dangerous and high-risk environments. Physical, psychological training and special skills are critical to successfully perform these tasks under martial law, and police must be as prepared as possible to respond to various scenarios and threats.

Physical training of police officers under martial law requires specific approaches and skills. Police officers need to have a high level of physical endurance as they may be involved in long operations or long periods of work without rest. Martial law conditions may require police officers to work all day and night, without a break for rest. This is especially important in cases where it is necessary to maintain constant surveillance and safety of citizens.

Physical endurance allows police officers to be more effective and withstand the physical and psychological stress that accompanies their work in the conditions of a military conflict.

In martial law situations, where there may be distractions such as ruins, uneven ground or other obstacles, physical endurance helps police officers to be more adaptable and respond more quickly to the situation.

Having sufficient physical strength is an important aspect for police officers, especially in martial law. In such situations, a variety of physical tasks may arise that require strength. Here are some of them:

- Lifting heavy equipment. Martial law conditions may include the need to lift or move heavy military equipment, including weapons, armored vehicles, communications equipment, and more. Police officers must be strong enough to handle these tasks and ensure its effective use.

- Transfer of injured persons. Martial law conditions are often accompanied by wounds and injuries. Police officers can be part of rescue teams and take part in transporting the injured from the scene to medical centers. This requires physical strength and endurance, especially when carrying heavy or immobile persons.

- Defense of one's own life. In military conflicts, police officers may find themselves in situations where their own lives or the lives of others depend on their ability to protect themselves or others. Physical strength can be a decisive factor in such moments [3, p. 75].

In order to perform these tasks, policemen need to have an appropriate level of physical strength and muscular readiness. Physical training, which includes strength training and increasing muscle mass, helps police officers to be more competent and cope with different situations in martial law. Thus, proper physical training becomes an important element for the effective work of police officers in the conditions of a military conflict.

Physical training of police officers in martial law should be more diverse and specialized, as they need to possess special skills and knowledge to perform various tasks in difficult military conditions. Police officers must learn how to effectively use fire support, including shooting and weapon handling. This includes the skills of shooting from various positions, the use of aimed and automatic weapons, as well as the techniques of camouflage and concealment [4, p.242].

General physical training, such as running, lifting weights and endurance, maintains a general level of physical fitness. However, specialized skills and training allow police officers

to effectively perform specific tasks under martial law and ensure the safety of citizens.

The tasks of physical training of police officers in martial law are aimed at preparing them to perform complex and high-risk tasks. Let us describe these tasks in more detail:

1. Increasing general physical endurance. Physical endurance is key, as police officers may find themselves in situations where they must work long hours without the opportunity to rest. Military conflict or extreme events can lead to long and grueling operations, and physical endurance becomes a critical factor in ensuring police officers perform productively. Training on treadmills, swimming and other types of aerobic activity contribute to the improvement of the cardiorespiratory system. This increases the volume of oxygen that the body can use and provides better resistance to physical exertion. Police officers are able to overcome fatigue and maintain clarity of mind in stressful and emergency situations.

In martial law, where there can be long operations and unexpected situations, physical endurance allows police officers to continue to function at their maximum level of functionality for long periods of time. This can be critical for their own safety and the safety of citizens [5, p.15].

Physical endurance also contributes to rapid recovery after physical exertion. Police officers who have good physical endurance can recover more quickly after a hard day's work or physical operations, allowing them to be ready for the next tasks.

2. Development of strength characteristics. In situations of military conflict or emergency situations, police officers may be assigned tasks that require physical force. This may include lifting heavy objects such as barriers or equipment, carrying injured persons or interacting with heavy special equipment. Physical strength allows police officers to perform these tasks without losing productivity and ensure the safety of citizens. Under martial law, police officers may find themselves in dangerous situations where their physical strength can save lives. For example, the ability to quickly remove a wounded comrade from a danger zone can be decisive.

Even under martial law, police officers have to ensure compliance with law and order. Making arrests, controlling mass events or preventing illegal activities can require physical strength and efficiency [6, p.217].

The development of physical strength contributes to the general physical readiness of police officers. This helps to maintain energy and stamina during long operations or activities under high stress conditions. Regular strength training also helps strengthen muscles and bones, which can reduce the risk of injury during physical operations.

3. Tactical training. Police officers must be trained in the effective use of special equipment such as body armor, gas masks, communication devices and other equipment that help ensure their safety and effectiveness in the performance of their duties. It is important to train police officers in concealment and camouflage skills to maintain their privacy and safety in a military conflict environment. They must know how to use natural or man-made objects to hide from the enemy's view [7].

In wartime, teamwork becomes extremely important. Police officers must be trained to cooperate, coordinate and interact with other team members, including the military, to achieve common goals.

Tactical training helps police officers ensure the safety of citizens, their own safety and effectiveness in performing tasks in the conditions of a military conflict. It develops their skills and ability to make decisions in stressful situations, which are critical for ensuring national defense and public safety.

4. Simulation of situations. Simulations should be as realistic as possible and reproduce various scenarios that police officers may encounter in real conditions of a military conflict. This helps them adapt to different situations and realistically assess threats. Police officers have the opportunity to practice and improve their tactical skills in a simulated environment, including movement tactics, concealment, communication and the use of equipment and weapons [8].

Simulations can create a stressful environment similar to real combat conditions. It helps police officers learn to work effectively in stressful situations and make decisions in extreme circumstances. After completing the simulations, police officers can carefully analyze their reactions and actions during the scenarios. This allows them to identify weaknesses, improve strategies and avoid mistakes in real situations.

The general purpose of the simulation of situations is to prepare police officers for the real conditions of a military conflict and provide them with the ability to respond effectively to

the most difficult situations and make the right decisions in extreme circumstances. It is an important stage of physical training that helps to increase the readiness and competence of police officers in the conditions of martial law [9, p.145].

General physical training, specialized tactical skills, and simulation training help police officers be as ready as possible to perform tasks in martial law and ensure their effectiveness in maintaining public safety and national defense.

Conclusions. In the conclusions of a scientific article, it is important to emphasize the key aspects of the research and their significance.

The first important observation is that the physical training of police officers in martial law is crucial. Military conflicts and internal conflicts can create extraordinary circumstances where police officers must operate at the limit of their physical capabilities. Therefore, ensuring their physical readiness is a critical aspect of ensuring public safety during martial law.

The second conclusion concerns the challenges facing police officers under martial law. The specificity of such situations includes not only the response to criminal acts, but also possible confrontation with armed groups, explosions and other dangerous scenarios. This requires police officers to have a higher level of physical fitness, as well as survival and medical aid skills in a combat environment.

In addition, it is important to note that the physical training of police officers requires systematic and constant maintenance. Martial law conditions can last for a long time and police officers must be able to maintain their physical fitness for long periods. This involves regular training and assessment of physical abilities.

In general, the physical training of police officers in martial law is an extremely important aspect for ensuring the safety of citizens and maintaining law and order in dangerous conditions. It requires a serious approach and investment in training and equipment to ensure that police officers are prepared to meet any challenges that may arise in martial law.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

The article addresses the pressing issue of police physical training during times of martial law. In the midst of conflicts and threats to national security, police officers are tasked with crucial responsibilities in maintaining public order and ensuring citizen safety. However, martial law presents them with a series of complex challenges and tasks, heightened threats, and demands increased readiness.

The article explores the specifics of police physical training in martial law conditions and analyzes key aspects of this process, including physical fitness requirements, training methods, and effectiveness assessment. The authors emphasize the importance of a systematic approach to police physical training, taking into account the specific needs and circumstances of martial law.

Additionally, the research sheds light on potential strategies and recommendations for police officers in preparing for actions in wartime conditions, enhancing their effectiveness, and ensuring citizen safety. The findings of this article may be valuable for police organizations and policymakers involved in developing strategies and policies related to the training of law enforcement personnel during martial law.

Keywords: *physical training, police officers, martial law, national security, training.*

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Inna SHINKARENKO ©
Ph.D (Psychology), Assist. Prof.
(Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

FEATURES OF INFLUENCE OF JEALOUSY ON CONFLICTS IN THE FAMILY

Інна Шинкаренко. ОСОБЛИВОСТІ ВПЛИВУ РЕВНОЩІВ НА КОНФЛІКТИ В СІМ'Ї. Проблема розпаду сімей та виникнення конфліктних ситуацій у родині на підґрунті ревнощів є наразі актуальною. Переживання ревнощів особистістю є сильним афективним почуттям, яке глобально дезорганізує людські відносини, викликає стресові стани, породжує важкі як міжособистісні, так і внутрішньоособистісні конфлікти. Ревнощі виникають у ситуаціях соціальної взаємодії, і можуть посилюватись в результаті подій, пов'язаних з втратою престижу, при невдачах, загрозі гідності особистості. Тому важливою здатністю для людини виступає набуття нею конструктивних моделей поведінки при реагуванні на конфліктні ситуації, що дає необхідний психологічний ресурс для подолання ревнощів. Дослідження свідчать, що до ревнощів більше схильні люди підозрілі, вибухові, з нестійким характером, невпевнені у собі, які мають психологічні комплекси. Значна роль належить об'єкту ревнощів, його поведінці, діям, якими він може викликати дане явище. Зважаючи на причини ревнощів, доречним буде відмітити важливість думки оточуючих людей, як своїми плітками, заздрістю намагаються влізти в чиєсь життя.

Сімейні конфлікти – поширене явище у будь – якій родині, адже причиною цьому є багато факторів. Не менш негативним фактором впливу на формування є ревнощі з боку одного з подружжя. Конфлікти у родині можуть спричиняти психотравмуючу ситуацію, у результаті чого подружжя набуває негативних особистісних властивостей, зневіра в можливість існування дружніх і ніжних взаємин між людьми, накопичення негативних емоцій та поява психотравм. Ревнощі є хоч і негативним, але дуже поширеним проявом у відносинах між закоханими. Принаймні вони бувають дох видів: конструктивні та деструктивні, що являють собою психічний розлад, який повинен бути підданий лікуванню. Отже, вважається за необхідне проведення психологічної роботи з ревнощами і психологів, і працівників Національної поліції, щоб уникнути та запобігти таких негативних явищ як сімейне насильство.

Ключові слова: *ревнощі, конфлікт, деструктивне явище, психологічний стан, сімейні стосунки.*

Problem statement. of this work is connected with increasing the problem of the breakdown of love relationships, in particular, the breakup of families, as well as the occurrence of conflict situations between lovers on the basis of the jealousy of one of the partners. Jealousy has the greatest impact on the critical situation in love relationships, which has a rather negative effect on mutual understanding between lovers, destroying trust and generally leading to a break between a woman and a man.

The urgency of the question lies in consideration of jealousy as one of the problems of the destruction of the most important structural unit of society – the family.

"Jealousy is one of the strongest, most harmful and painful emotions. They cause stress, feelings of fear, suffering, nervous breakdowns, provoke another person to lie, take revenge, betray. A life poisoned by excessive jealousy becomes unbearable for the whole family" [1, c. 178].

In particular, jealousy can be defined as a destructive phenomenon that not only negatively affects love relationships, but also the mental state of a person.

A very excessive, unreasonable manifestation of jealousy towards a loved one leads to

ORCID iD: https://orcid.org/0000-0003-0040-2010
k_fp@dduvs.in.ua

the most severe degree – a pathological level of the development of jealousy, which is a mental deviation.

Analysis of publications that started solving this problem. where the solution to this problem has been initiated. Among the scientists who considered certain problematic issues or in a certain way touched on their consideration, we can mention such as: A. Adler, D.D. Alekseenko, S.U. Honcharenko, Z. Freud, O. Lesechko, S.V. Otchych, Rybalka V., Kornienko V.V., Kotlova L.O., Fedorenko R.P. and others who devoted their scientific work to the mentioned questions.

The research paper's objective is a detailed consideration of the influence of jealousy as one of the mental manifestations on the formation of interpersonal relations between lovers.

Basic content. Human life is characterized by the presence of a number of individual mental states. Such states include, for example, emotional states, including: mood, anxiety, inspiration. Some of these states also have a volitional element.

In general, a person's mental state can be defined as a psychological category that characterizes the individual and indicates relatively static and permanent moments of the individual's experiences.

Jealousy can be singled out among such static mental states of a person, which gradually acquire signs of pathology.

It spoils physical and mental health, and is reflected in the upbringing of children. Criminal statistics show the most dangerous consequences: in Ukraine, among domestic crimes, the motive of jealousy becomes their cause in almost 55%.

Criminogenicity is one of the actual and practically important aspects of studying the problem of jealousy" [2].

Jealousy in an unexpressed form is perceived in society as a norm, however, when the limit is violated, jealousy turns into a pathology (mental illness). Most often, jealousy manifests itself in youth. Such a situation is connected with 3 certain imperfections, more precisely with the perception of oneself as imperfect, immature or incomplete person. However, with the passage of years, when a person begins to improve himself, jealousy starts to creep in. But in some individuals, such a phenomenon remains throughout life. This only indicates that a person has remained with his youthful experiences.

"Psychologists clearly distinguish the concepts of male and female jealousy, as it has different causes and methods of manifestation in different sexes. Of course, each person must cope with the attacks of jealousy, but in marriage, women often have to fight with such a negative feeling of a loved one, which takes a lot of time and energy. The method of combating it will often depend on what type of jealousy a man suffers from. A woman's desire to help her husband get rid of such a negative feeling also plays a big role. In order to find out the best way to deal with jealousy, it is necessary to observe the man's behavior from the outside and analyze his words and actions" [3, c. 237].

"A special manifestation in the course of pathological jealousy is the delusion of jealousy – an irrational and illogical (delusional) idea of the partner's infidelity. This condition is combined with special suspicion. Delusional ideas about the infidelity of a partner can be an indicator of the initial stages of a more severe disease of schizophrenia.

Here the symptoms of jealousy are manifested in a "pure" form. They are logically, neatly and consistently, from the point of view of the patient, reasoned, although they look more or less justified to others. Even memories are reviewed in this situation: confirming facts from the past are found, the jealous person's eyes "open".

Affective disorders and depressive states with thoughts of inferiority and suicide are also observed.

In general, the content of delusional jealousy has the following indicators:

- authenticity (belonging to the subject himself) of thoughts;
- egocentricity (setting one's own standards in thoughts and logic);
- the truth of beliefs and conclusions;
- lack of internal resistance to delusional ideas" [4].

From the point of view of psychology, the strength and intensity of jealousy will depend on the character of a person, his willpower, the complexes with which he lives. Jealousy is inherent in absolutely all people who love: it is unpleasant for everyone when your loved one smiles at another woman with the same smile that he used to smile only at you. However, some people can get a hold of themselves and prevent this unpleasant feeling from

developing, but the majority grabs hold of this thought, begins to develop it, fantasizing and exaggerating the situation to catastrophic proportions. The main thing is to find out the origins of your jealousy. Only this can help you understand: jealousy is good or bad [5].

Therefore, jealousy can be defined as a certain pathological condition of one of the spouses or simply a couple of lovers. In particular, one should look deeper into the problem, because jealousy does not appear just like that, most likely the deformation processes of the psyche that occurred in childhood did not pass with the passage of time.

Probably, everyone knows such a folk saying like: " if a husband hits, it means he loves" or, for example, "jealousy is a manifestation of love." However, are such sayings really true and have any weight in real love relationships?

It is very important to find an answer to the above-mentioned question by comparing the concepts of love and jealousy and understanding the general influence of jealousy on the relationship of lovers and the role of such a phenomenon in the life of spouses.

"In explanatory, encyclopedic, philosophical and psychological dictionaries, "love" is defined through such concepts as "feeling", "attitude", "state of mind", "desire", "drive", "emotion", "inclination". In all definitions of love, such a characteristic as directionality is emphasized: some concepts through which love is defined, by themselves assume the presence of a subject and an object, in a number of definitions, directionality is emphasized by subordinating constructions. Many definitions include the factors that lead to the emergence of love: sexual instincts, sexual desire, gratitude for care, the habit of common life, mutual location, sympathy, intimacy. Some definitions emphasize such characteristics of love as intensity and stability" [6, c. 58].

Another interesting characteristic of love can be found in S. Honcharenko's "Ukrainian Pedagogical Dictionary". He says that love is "a high moral feeling, which consists in a stable, selfless and conscious commitment of a person to someone or something, conditioned by the recognition of the positive qualities of the object of love, or shared beliefs, life goals and interests of people. The object of love can be specific and generalized objects. In the narrow sense of the word love, or love is a stable, selfless and conscious attachment to a person of the opposite sex" [7, p. 196].

So, for a wider range of consideration of the question, it is necessary to consider the concept of jealousy. A number of researchers claim that "jealousy is a multifaceted phenomenon of the sensory sphere, which can be considered both as an emotion, as a short-term and acute experience, and as a feeling, as a long-term attitude, and as a passion that completely absorbs the human mind, and as a affect, when the intellectual functions and the adequacy of the behavior are lost" [8]. In turn, some scientists have the opinion that they reflect the emotional expression of a woman's (man's) need to maintain loyalty and, at the same time, in sole ownership, as well as envy, irritation due to the greater success of another [1]. Other researchers also consider jealousy as a certain emotional state of a person's anxiety, which is a consequence of his uncertainty about the real commitment of the person to whom attention is paid, which also manifests itself as hostility to a real or imagined competitor.

"According to 3 explanatory, terminological and encyclopedic dictionaries, jealousy is understood as an emotional state, classified as a specific form of anxiety, which originates from a lack of confidence in affection, directed at a competitor who is perceived as attracting the affection of the object of love" [7].

Comparing the concepts of love and jealousy, you can see that they are fundamentally different, because jealousy refers to a mental disorder rather than a high feeling. However, this refers rather to jealousy that has become pathological.

"Jealousy is very social in nature. At the marriage fair, they are the normal driving force of natural selection. Healthy rivalry forces us to compete, fight for love, try to be better and, as a result,to be improved. Finally, jealousy is always a test for us, which we will also put in the treasury of our life experience. "Healthy" jealousy brings some variety to family life, reminding each of us how much we value our "half". But if jealousy crosses the permissible limits or borders, they turn the relationship into a nightmare. And not only for the suspected "victim", but also for the jealous person himself" [9]. That is, reasonable display is sometimes useful, because it shows a person's concern for another.

Therefore, love and jealousy should not be equated, because they are opposite phenomena. Pathological jealousy is a negative manifestation in the relationship between lovers and leads to the destruction of relationships and the deterioration of mutual relations. However, a reasonable manifestation of jealousy is a rather positive manifestation, because it

indicates concern for a loved one.

Family conflicts are a fairly common phenomenon in any family, because there are many factors that cause them. An equally negative factor influencing the formation of a conflict situation is jealousy on the part of one of the spouses.

"The psychological health of the family is an integral indicator of the dynamics of marital relations, which determines the qualitative aspect of the socio-psychological processes taking place in marriage. The causes of individual family problems often can be seen either in the peculiarities of marital communication or in the individual psychological characteristics of the partners, the main content of which is connected with interpersonal relationships, the nature of which depends on the degree of satisfaction with the marriage. A low degree of marital satisfaction leads to marital conflicts and divorces. Conflicts in the family can cause a psychotraumatic situation, as a result of which the spouse acquires negative personal characteristics, such as a negative experience of communication, disbelief in the possibility of the existence of friendly and tender relationships between people, the accumulation of negative emotions and the appearance of psychotrauma. Conflicts in the family reflect not only on the mental, but also on the physical health of the spouses and have significant psychotraumatic consequences in the form of experiences that, in case of duration or repetition, negatively affect the personality and lead to an increase in the number of psychogenic disorders and reactions" [10, p. 155].

"Conflict is a signal that there may be a contradiction in views, interests and needs. Dysfunctional families are characterized by the fact that between the partners there are constant spheres where their needs, interests and intentions collide, causes long and strong negative emotional experiences" [11, p. 71].

There are various factors that have a direct influence on the formation of family conflicts, among which we give one of the leading roles to jealousy.

Jealousy, as already noted in the work, is a negative emotional manifestation. It manifests itself in an excessive negative influence on the formation of interpersonal relations between lovers. The parties, showing excessive attention to their spouse, only make the life of such a person more stressful, force them to constantly find a way out of a difficult situation, put them in certain limits, people are forced to turn to certain excuses, etc. Moreover, jealousy can also manifest itself in bouts of intolerable aggression, thereby leading to bodily harm, sometimes even to murder in a state of affect.

when experiencing constant tension, accumulating a large number of negative emotions, a person tries to release them, which leads to conflict within the family, sometimes to a breakup.

Thus, the well-being of family life depends on the relationship of spouses to each other, a high level of trust and the possibility of resolving a conflict situation at the stage of its development.

Jealousy, although negative, is a very common manifestation in relationships between lovers. The features of this phenomenon and how it affects married life were described above. However, it should be noted that there are at least two main types of jealousy: constructive and destructive.

"Constructive jealousies are those that were produced in the course of evolution. They start with the behavior of archaic people who created behavioral strategies for survival. We can say that jealousy was also a survival strategy then. The most important thing is that they are not destructive, but at the same time it is impossible to get rid of them. They are something like an innate reflex. It is interesting that quite often people even specifically provoke their partner and are very happy when they manage to achieve a result, that is, to make them a little jealous. They say that “a light appears" [4]. Constructive jealousy does not pose a threat to love relationships, rather, they carry a certain motivation, bringing that in this way the relationship becomes better, more perfect, more developed.

Another type of jealousy, which is radically different from the previous ones, is destructive jealousy. "These jealousies have a different origin, they are complexes and traumas acquired during life. They are based on comparing oneself with others and are closely related to self-esteem, self-respect and the vision of oneself in society. In childhood, self-esteem is quite strongly, if not completely, dependent on the assessment of the external environment, that is why parents should be very careful about what they say to the child and how. In adolescence, this is also very important and is often one of the most painful topics. Therefore, it is destructive jealousy that leads to sad consequences, and it is precisely these one are completely

within the competence of a person. With the help of development and work on self-esteem, you can completely get rid of them" [11].

At the same time, it is also possible to distinguish such types of jealousy as: domestic, hypertrophied and pathological.

Domestic jealousy is not such a negative phenomenon as all other deformed types. They are manifested in the form of increased interest of one of the spouses in the life of the other and nothing more.

"Feeling hypertrophied jealousy, a person seeks to constantly control his loved one, which is accompanied by attacks of rage, aggression, anger, and conversations between spouses take place in raised tones and have clear signs of interrogation" [12].

Another type is pathological jealousy, which is a mental disorder that could be caused by the behavior of one of the spouses or the characteristics of the jealous person's psyche. In the case of pathological jealousy, the behavior is not controlled at all, manifestations of jealousy begin with unfounded accusations, and most often end with violence.

Therefore, destructive manifestations of jealousy are a very negative phenomenon for the development of normal relations between a couple in love. Such jealousy is completely unhealthy, it is built on different complexes and represents a mental disorder that must be treated. Having conducted a survey two-year students of the Dnipropetrovsk State University of Internal Affairs, namely 50 women and 50 men aged 18 to 20 years we investigated their attitude to such a feeling as "jealousy" and got the results.

A woman who was betrayed by her husband feels humiliated, offended, unhappy, but despite all this, she will not hate herself. Why? Because a man's betrayal does not traumatize a woman's psyche to such an extent as it does with a man. This is evidenced by the following answers of women to the question "How do you feel about jealousy?" their answers were the following :very bad – 10%; I'm very jealous, but I don't see anything bad in it – they were 15%, and 75% was taken with the answer "sometimes it's not bad, you feel it from the beloved a person's indifference to himself". The woman's logic in this case were the following : the man was seduced by another woman, but he is the father of her children, and in the end he returns to her. Now he is filled with remorse, tenderness and gratitude for her generosity, and he will reward her for all that she has been through. A woman reassures herself like this: "However, my husband came back to me, he did not stay with that other woman. She was defeated, so you can say that I am better...". According to our respondents, "Jealousy is necessary to maintain balance in a relationship," 80% of our women answered that way.

Summarizing the above, we can conclude that a woman whose husband had many women before her often thinks like this: I am better than my predecessors, if only because, as they say, he was with everyone and no one, and as a result, among the majority other women my husband chose me.

Male jealousy manifests itself not as easily and quickly as female jealousy. But even if it appeared, its consequences turn out to be much more difficult and dramatic.

Male jealousy captivates, enslaves a man completely, sometimes overshadowing everything else.

A man whose wife cheats on him feels not only humiliated and disgraced, but also ridiculous and pathetic in the eyes of those who are around him, as well as his own. After all, the pitiful image of a "cuckold" has been the object of ridicule since ancient times. Almost every man is associated with the loss of his male honor with this word. We can say that jealousy is a man's Achilles heel. Even when men were asked whether jealousy could be a motive for crimes, most of them (67%) answered positively [13].

A man is jealous of his beloved not only for the present (mostly fictional), but also for the past. This feeling is quite common among young men and women. Many men would like to be the first to open the world of love to their beloved. How to understand this paradox? The fact is that a man who is jealous always tends to assume the worst. He convinces himself that those others were more attractive to her. When men were asked whether they read their partners' private messages, 92% of men answered yes, the other 8% answered from time to time, but those who do not read were not identified among our respondents [14].

Analyzing court statistics in cases with such a motive as jealousy, it was found that men who committed such crimes, namely, encroaching on the life and health of a woman or her lover, were much more than women. Even the results of our survey showed that 77% of male respondents believe that jealousy can be a motive for a crime, as opposed to only 43% of women.

Conclusions. So, after conducting a small empirical study, we managed to find out that men are more prone to jealousy than women, because they cannot calmly survive the fact that other men are staring at their women, they immediately calculate the possible consequences of random meetings, unexpected calls and just interested views of their rivals. They constantly control their partners: they check their phones, do not allow them to communicate with friends, call their work to find out their location and in any other way limit their communication. It is worth noting that a person's jealousy can be caused not only by the peculiarities of his character. A significant role belongs to the object of jealousy, his behavior, actions by which he can cause this phenomenon. No less important there are the opinions of the surrounding people who try to get into other people's lives with their gossip and envy. In this way, it was found that the most common causes of jealousy can be: an inferiority complex, which is consciously or unconsciously felt by one of the partners due to self-doubt; previous contacts; rumors, talk of envious people; frivolous behavior of one of the couple; constant flirting, long separations.

Therefore, psychologists and national police officers need to conduct psychological work with jealous people, since jealousy not only causes conflict situations, but also turns feelings of love into hatred, causes constant anxiety and can even lead to murder.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The article provides a theoretical study and a new perspective on the phenomenon of jealousy in love relationships and its impact on the occurrence of conflict situations between a couple regarding the understanding of relationships, jealousy and love. Investigated manifestations of jealousy in a deformed form have been studied.

It is emphasized that experiencing personal jealousy is a strong affective feeling that globally disorganizes human relations, causes stressful situations, and generates both interpersonal and intrapersonal conflicts.

It was determined that destructive manifestations of jealousy are an extremely negative phenomenon, because they are built on different complexes and represent a mental disorder that must be treated.

The relevance of the existing problems and the uncertainty regarding the classification of jealousy and the subsequent correlation of its indicators with certain models of personality behavior in conflict situations became the reason for the appearance of this article.

***Keywords**: jealousy, conflict, destructive phenomenon, family relations, mental state.*

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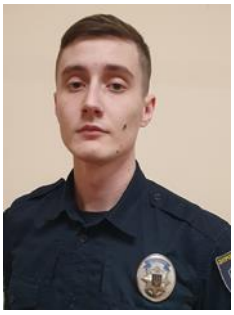
Lecturer



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Cadet

*(Dnipropetrovs'k State University of Internal Affairs,
Dnipro, Ukraine)*

THE USE OF MODERN TECHNOLOGIES IN THE TACTICAL AND SPECIALISED TRAINING OF POLICE OFFICERS UNDER MARTIAL LAW

Олена Бойко, Андрій Мельник. ЗАСТОСУВАННЯ СУЧАСНИХ ТЕХНОЛОГІЙ У ТАКТИКО-СПЕЦІАЛЬНІЙ ПІДГОТОВЦІ ПОЛІЦЕЙСЬКИХ В УМОВАХ ВОЄННОГО СТАНУ. У статті проаналізовано можливості застосування сучасних технологій у тактико-спеціальній підготовці поліцейських в умовах воєнного стану. Воєнний стан створює надзвичайні ситуації, коли поліцейським доводиться працювати в умовах підвищеної небезпеки й нестабільності. У таких обставинах застосування сучасних технологій у тактико-спеціальній підготовці поліцейських стає надзвичайно важливим для забезпечення їхньої безпеки, ефективності та успішності виконання завдань.

Обґрунтовано переваги використання таких технологій, як віртуальна реальність, доповнена реальність, безпілотні літальні апарати, роботизовані системи та штучний інтелект. Так, основними напрями застосування сучасних технологій у тактико-спеціальній підготовці поліцейських є: використання віртуальної реальності та доповненої реальності для відпрацювання практичних навичок, зокрема для відпрацювання бойових дій, що забезпечує більш ефективне навчання поліцейських; використання безпілотних літальних апаратів для спостереження та отримання інформації про обстановку на місцевості без ризику для життя поліцейських; використання роботизованих систем для виконання небезпечних або важких завдань, зокрема завдань з розмінування чи завдань з огляду місць масових захоронень з можливими мінами-пастками; використання штучного інтелекту для оптимізації роботи поліції у складних ситуаціях.

Встановлено, що застосування сучасних технологій дозволяє підвищити ефективність навчання поліцейських, зменшити ризик для їхнього життя та покращити безпеку громадян.

У зроблено висновок, що застосування сучасних технологій є невід'ємною складовою тактико-спеціальної підготовки поліцейських в умовах воєнного стану. Технології допомагають поліцейським ефективно протистояти загрозам, забезпечують безпеку та допомагають досягати успіху виконання завдань. Розвиток і вдосконалення цих технологій є важливим напрямом для підвищення ефективності поліцейської роботи в умовах воєнного стану.

Впровадження сучасних технологій у тактико-спеціальній підготовці поліцейських є важливим завданням, яке дозволить підвищити ефективність діяльності поліції в умовах воєнного стану.

Ключові слова: *тактико-спеціальна підготовка, поліцейські, воєнний стан, сучасні технології, віртуальна реальність, доповнена реальність, безпілотні літальні апарати, роботизовані системи.*

© Boiko O., 2023
ORCID iD: https://orcid.org/0000-0002-1030-5997
k_tsp@dduvs.in.ua

© Мельник А., 2023
nnipfpnp@dduvs.in.ua

Problem statement. The introduction of modern technologies into the tactical and specialised training of police officers is an important task that will increase the effectiveness of police activities under martial law.

The conditions of martial law require special training and skills of police officers to act quickly and effectively in complex and dangerous situations. Modern technologies have become an integral part of tactical and specialised police training, helping to increase their efficiency, safety and ability to respond quickly to threats.

Recent publication's review. Some problematic issues of police training have been discussed in the works of S. I. Apukhtin, O. M. Bandurka, O. M. Baranovska, V. V. Bachal, V. O. Holubev, V. Ye. Kudinov, G. Maklakov, A. Ovchynsky, Yu. Orlov, V. Ortynsky, V. Polivaniuk, E. Ryzhkov, O. Chernyshenko, O. Fedorenko, V. Khakhanovsky and others.

The research paper's objective. However, despite the large number of works, the issue of using modern technologies in police training is still relevant in view of martial law and hostilities on the territory of Ukraine.

Discussion. It is well known that police officers need appropriate training in order to perform their duties effectively. The Order of the Ministry of Internal Affairs of Ukraine No. 50 of 26 January 2016 defines the following types of training: functional training, general training, tactical training, firearms training and physical training[9]. In the context of martial law, this training should be aimed at developing skills and abilities necessary for conducting combat operations and ensuring the safety of citizens.

The use of modern technologies in police training can increase its efficiency and effectiveness.

The main areas of application of modern technologies in tactical and specialised training of police officers under martial law are as follows:

- Using virtual reality and augmented reality to develop practical skills. Virtual reality allows the creation of realistic environments for combat training, which can be used to train police officers more effectively. Augmented reality allows additional information to be added to the real world, which can be useful for training police officers in counter-terrorism tactics and techniques.

- The use of unmanned aerial vehicles for surveillance and combat operations. Unmanned aerial vehicles provide information about the situation on the ground without risking the lives of police officers. They can also be used for combat operations, such as destroying targets or delivering cargo.

- Use of robotic systems to perform dangerous or difficult tasks. Robotic systems can be used for mine clearance, defusing or destroying explosive devices, or special operations.

- Use of artificial intelligence to improve policing in difficult situations. Artificial intelligence can be used to analyse information, predict events and make decisions in difficult situations, such as during hostilities or mass disturbances.

The use of modern technologies in tactical and specialised police training under martial law has a number of advantages:

- Increasing the effectiveness of police training. Modern technologies allow for more realistic training conditions, which contributes to the effectiveness of police training.

- Reducing the risk to the lives of police officers. Unmanned aerial vehicles and robotic systems allow police officers to perform their duties without risking their lives.

- Improving citizen safety. Modern technology enables police officers to effectively counter terrorism and other threats to public safety [5].

Pattern recognition and biometric systems are important technologies that can be used in the tactical and specialised training of law enforcement officers. These allow large amounts of data, including video and photographic images, to be automatically analysed to identify suspicious people or objects. This helps officers respond quickly to potential threats and conduct effective investigations.

Another modern method increasingly used in tactical and specialist police training is the use of virtual reality (VR). It allows you to simulate real-life situations, interact with virtual characters and environments, and train skills and responses in realistic conditions. The use of VR provides a powerful tool for improving police officers' skills and readiness to act in real-world environments.

Virtual reality (VR) and augmented reality (AR) allow police officers to train their skills in realistic scenarios that simulate military conflict situations. They can be used to train tactical manoeuvring, marksmanship, communication and teamwork. This allows officers to

gain valuable experience and improve their response to difficult situations, reducing the risk to themselves and others [2;3].

For example, there is a US pilot training programme called Air Force Pilot Training Next (PTN) and Undergraduate Pilot Training 2.5 (UPT 2.5). They use virtual and augmented reality technologies to teach cadets the fundamentals of flying. In 2018, San Antonio-Randolph (Texas) introduced the PTN programme for the first time, which assesses students' skills in an augmented reality space that simulates real flight. PTN allows students to learn and self-correct in realistic scenarios before getting behind the controls of a T-6 Texan II trainer aircraft. In July 2020, the UPT 2.5 programme will be introduced, which is an extension of the PTN. The main part of the training involves flying a T-6 aircraft, but then moves on to the use of virtual reality and simulators[10].

Augmented and virtual reality technologies are also used in Ukraine because they are effective and relatively inexpensive. For example, the Desna Training Centre of the Ukrainian Armed Forces has deployed a set of augmented reality simulators using Virtual Battlespace 3 (VBS3). These simulators have the same controls as their real-world counterparts, as well as monitoring equipment that directly transmits the sensations of movement and shooting through special platforms[11].

UAVs and quadcopters are another important technology that has found wide application in tactical and specialist police training. Drones can be used for surveillance, intelligence gathering, search and rescue, threat detection and much more. They allow police officers to get an aerial view, move quickly over a large area and collect important data for real-time decision making (add technical specifications – thermal imagers, etc.).

Intelligent analysis and data processing is another aspect of the use of modern technology in tactical and specialised police training. Thanks to advanced data processing, police officers can quickly and accurately analyse information on potential threats, enemy movements, intelligence links and other factors affecting the situation of a military conflict. This helps police officers make informed decisions and plan their actions based on the most up-to-date data.

In addition, communications technologies play an important role in the tactical and specialised training of police officers during martial law. Wireless communication systems, message encryption and other technologies ensure effective communication between police officers on the battlefield. This enables rapid information exchange, coordination and interaction between different police units [7].

Artificial intelligence (AI)-based training systems have also found their way into tactical and specialised police training. These systems can analyse the behaviour and reactions of police officers in simulated scenarios, identify weaknesses and recommend improvements. They can also generate personalised training programmes based on the individual needs and abilities of each police officer.

In view of the above, practical training using an Interactive Multimedia Laser Range (IMLR) can be considered as a special type of training. During these exercises, cadets acquire interdisciplinary knowledge and skills in responding to crimes and offences and in applying police measures. This approach is based on an integrated teaching method and provides an opportunity to highlight the main elements of education and to establish links between academic disciplines[8, p. 5].

There are many advantages to using this technology, the first of which is safety:

Laser ranges offer a high level of safety compared to traditional ranges. The absence of real ammunition helps to avoid possible accidents and injuries during training.

Training efficiency:

Trainees can improve their accuracy and shooting skills on a laser range without having to travel to a traditional shooting range.

Ammunition savings:

Using a laser range saves ammunition because you don't need to use real ammunition for training. This reduces costs and contributes to a more efficient use of resources.

Realistic scenario capabilities:

Laser ranges often simulate real-life shooting scenarios and can include a variety of options such as firing at moving targets, cutting through encounters, etc., allowing cadets to train in a variety of situations.

Analysis of results:

Laser ranges are often equipped with systems for analysing shooting results. Cadets can receive reports on their accuracy, reaction time and other metrics, allowing them to

effectively improve their skills.

Today's urgent and growing security threats require a high level of police training and the effective use of tactical and specialist skills. The use of modern methods and technologies in tactical and specialised training is becoming a key aspect in facilitating the performance of police officers' professional duties. In this paper we have analysed modern methods and technologies used in tactical and specialised police training, their advantages and results.

One of the modern methods widely used in tactical and specialised police training is simulation training. These computer systems make it possible to recreate various scenarios and situations that police officers may encounter in real life. By simulating realism and interacting with virtual objects and characters, simulators enable police officers to improve their shooting skills, tactics for responding to dangerous situations and decision-making in a fast-paced environment.

Thus, one of the simulation technologies is the use of the online modelling system "OpenLabyrinth". With the help of this system, cadets would be able to practice algorithms of real-life situations many times during tactical and specialised training, which would have a positive impact on the memorisation of training material. And since the labyrinth system has the ability to branch out into multiple options and different scenarios, the situations become as close as possible to the operational and combat activities of a police officer[12].

In addition to drones, video surveillance systems are another important technology for police officers during martial law. They allow for continuous monitoring of important facilities, control of public places and response to dangerous situations. Video surveillance systems allow police officers to have a constant overview of the area and to better respond to hostile actions.

Despite the fact that working with electronic simulators has both positive and negative aspects, constant supervision by the instructor remains one of the key elements of teaching practical disciplines.

Martial law creates emergency situations in which police officers have to work in conditions of increased danger and instability. In such circumstances, the use of modern technologies in the tactical and specialised training of police officers becomes extremely important in order to ensure their safety, efficiency and success in the performance of their duties.

Conclusions. In conclusion, the use of modern technologies is an integral part of the tactical and specialised training of police officers under martial law. They help police officers to effectively counter threats, provide security and achieve success in their duties. The development and improvement of these technologies is an important area for increasing the effectiveness of martial law policing. In particular, the further development of drones can include improving their reconnaissance and surveillance capabilities, installing advanced sensors and high-resolution cameras, and extending their autonomous functionality. This will provide police officers with more detailed and objective information about the situation on the ground, helping them to make better decisions and ensure safety.

In the area of video surveillance, there is potential for the further development of artificial intelligence systems that can automatically detect suspicious activity, recognise objects and analyse images in real time. This will help police officers identify threats and potential criminals faster and reduce the burden on CCTV operators.

In the area of communications technologies, further improvements in radio communications are possible, including extending the range of signal transmission, improving the quality of communications and ensuring resistance to interference. Specialised communication systems can also be developed to allow police officers to exchange information quickly and coordinate their actions in real time.

The development of simulation technologies also has great potential for tactical and specialised police training. Improving virtual environments, increasing the realism and interactivity of training simulations will help police officers to receive even more realistic training, bringing them closer to real working conditions. In addition, the development of virtual simulators for specific law enforcement situations will allow police officers to effectively improve their skills and respond to different scenarios.

In general, the use of modern technologies in the tactical and specialised training of police officers under martial law can significantly improve their capabilities and effectiveness. Further development of these technologies will contribute to ensuring the safety of citizens and police officers in difficult conditions.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

The article analyses the possibilities of using modern technologies in the tactical and specialised training of police officers under martial law. Martial law creates emergency situations when police officers have to work in conditions of increased danger and instability. In such circumstances, the use of modern technologies in tactical and specialised training of police officers becomes extremely important in order to ensure their safety, efficiency and success in performing their tasks.

The article outlines the benefits of using technologies such as virtual reality, augmented reality, unmanned aerial vehicles, robotic systems and artificial intelligence. Thus, the main areas of application of modern technologies in the tactical and special training of police officers are: the use of virtual reality and augmented reality to develop practical skills, in particular for training in combat operations, which ensures more effective training of police officers; the use of unmanned aerial vehicles to monitor and obtain information about the situation on the ground without risking the lives of police officers; the use of robotic systems to perform dangerous or difficult tasks, in particular tasks of search and rescue; the use of virtual reality and augmented reality to develop practical skills, in particular for training in combat operations, which ensures more effective training of police officers; the use of virtual reality and augmented reality to develop practical skills, in particular for training in combat operations, which ensures more effective training of police officers.

It is noted that the use of modern technologies can increase the effectiveness of police training, reduce the risk to their lives and improve the safety of citizens.

The author concludes that the use of modern technologies is an integral part of the tactical and specialised training of police officers under martial law. Technology helps police officers to effectively counter threats, provide security and be successful in their work. The development and improvement of these technologies is an important area for improving the effectiveness of police work under martial law.

The introduction of modern technologies in tactical and specialised training of police officers is an important task that will increase the effectiveness of police activities under martial law.

Keywords: *tactical and specialised training, police officers, martial law, modern technologies, virtual reality, augmented reality, unmanned aerial vehicles, robotic systems.*

A U T H O R S

Alla AVSIYEVYCH – Postgraduate of Educational and Scientific Institute of Law named after Volodymyr the Great, Private Joint-Stock Company «Interregional Academy of Personnel Management» (Kyiv, Ukraine)

Anastasiya BARABASH – Bachelor Student of the V. N. Karazin Kharkiv National University (Kharkiv, Ukraine)

Oleksii BOIKO – Associate Professor of the Department of Criminal Procedure and Strategic Investigations of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Ph.D. (Law)

Olena BOIKO – Senior Lecturer of the Department of Tactical Special Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Kateryna BURIAK – Associate Professor of the Department of Entrepreneurship, Organization of Production and Theoretical and Applied Economics of the Ukrainian State University of Chemical Technology, Ph.D. (Law)

Denys CHYZHOV – Associate Professor of the Department of Constitutional Law and Human Rights of the National Academy of Internal Affairs (Kyiv, Ukraine), Research Fellow of the Institute of State Building and Local Self-Government of the National Academy of Legal Sciences of Ukraine, Kharkiv, Ukraine), Ph.D. (Law), Associate Professor

Ghenadie CIOBANU – Doctor of Economics (National Institute for Scientific Research in the field of labor and social protection, Bucuresti Artifex University of Bucharest, Romania)

Cosmin DARIESCU – Associate Professor of the Aleksandru Ioan Cuza University of Iasi (Romania), Ph.D. (Law)

Biswajit DAS – Professor of the Institute of Industrial Technologies (KSOM), (Odisha, India), Ph.D. (Management)

Alina DISHLYOVA – Adjunct of the Department of Forensics and Premedical Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Olena DOMBROVSKA – Senior Lecturer of the Department of Law and Public Administration of Khmelnitsky Cooperative Trade and Economic Institute (Khmelnytsky, Ukraine)

Ricardo FURFARO – Professor of the University of Business and Social Sciences (Buenos Aires, Argentina), Dr. of Private Law, MA (Constitutional Law and Politics)

Olena GALUSHKO – Senior Lecturer of the Department of Real Estate Development, Finance, Accounting and Marketing of Prydneprovska State Academy of Civil Engineering and Architecture (Dnipro, Ukraine), M.Sc. (Economics, Computer Sciences)

Diana HARASHCHUK – Adjunct of the Department of Forensics and Pre-Medical Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Kateryna KHMELENKO – Bachelor Student of the Educational and Scientific Institute of Law and Innovative education of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Volodymyr KIYANITSA – Senior Lecturer of the Department of Criminal Procedure and Strategic Investigations of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Volodymyr KOPANCHUK – Professor of the Department of Criminal Law and Procedure of Khmelnytskyi University of Management and Law named after Leonid Yuzkov (Khmelnytskyi, Ukraine), Dr. of Public Administration, Ph.D. (Law), Associate Professor

Kateryna KOROL – Senior Lecturer of the Department of Tactical Special Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Yevheniya KOVALENKO-MARCHENKOVA – Chief of Scientific Editorial Department of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Ph.D. (Economics), Associate Professor

Oleg KRAVCHUK – Professor of the Department of Criminal Law and Procedure of Khmelnytskyi University of Management and Law named after Leonid Yuzkov (Khmelnytskyi, Ukraine), Dr. of Public Administration, Ph.D. (Law), Professor

Ihor KRUSHENYTSKYI – Cadet of the Educational and Scientific Institute of Law and Training of Specialists for National Police Units of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Oleksandr KRYVOPUSK – Lecturer of the Department of Forensics and Pre-Medical Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Andrii KUCHUK – Professor of the Department of Law and Methodology of Teaching Legal Studies of Sumy State Pedagogical University named after A. S. Makarenko (Sumy, Ukraine), Dr. of Law, Professor

Karyna LAHUN – Cadet of the Educational and Scientific Institute of Law and Training of Specialists for National Police Units of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Valentyn LIUDVIK – Associate Professor of the Department of Criminal Law and Criminology of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Ph.D. (Law), Associate Professor

Olena MARCHENKO – Professor of the Department of Theory and History of State and Law of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), D.Sc. (Philosophy), Associate Professor

Larysa MARTSENIUK – Professor of the Department of Economics and Management of Ukrainian State University of Science and Technologies (Dnipro, Ukraine), Dr.S. (Economics), Professor

Andrii MELNYK – Cadet of the Educational and Scientific Institute of Law and Training of Specialists for National Police Units of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Olena NAHORNA – Senior Lecturer of the Department of Civil Law and Procedure of Dnipropetrovk's State University if Internal Affairs (Dnipro, Ukraine)

Ihor NALYVAIKO – Assistant of the Department of Public Law of the National Technical University «Dnipro Polytechnic» (Dnipro, Ukraine)

Larysa NALYVAIKO – Dr.S. (Law), Professor, Honored Lawyer of Ukraine (Dnipropetrovk's State University if Internal Affairs, Dnipro, Ukraine)

Oleksandra NESTERTSOVA-SOBAKAR' – Associate Professor of the Department of Civil Law and Procedure of Dnipropetrovk's State University if Internal Affairs (Dnipro, Ukraine), Ph.D. (Law), Associate Professor

Oleksandr NOVAK – Senior Investigator of the Second Investigative Department (located in Zhytomyr) of the Territorial Administration of the State Bureau of Investigation, located in Khmelnytskyi (Khmelnytskyi, Ukraine)

Olga S. OLEYNIK (KHLYNTSEVA) – Senior Lecturer of Ukrainian studies and Foreign Languages Department of Dnipropetrovk's State University if Internal Affairs (Dnipro, Ukraine)

Vitaly OSMOLIAN – Dean of the Faculty of Humanities and Economics, Associate Professor of the Department of Law and Law Enforcement of Khmelnytskyi Institute of the Interregional Academy of Personnel Management (Khmelnytskyi, Ukraine) Ph.D. (Law)

Olena OSTAPENKO – Associate Professor at the Department of Legal Regulation of Economics at the Simon Kuznets Kharkiv National University of Economics (Kharkiv, Ukraine), Ph.D. (Law), Associate Professor

Natalia PAVLOVA – Associate Professor of the Department of Forensics and Pre-Medical Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Ph.D. (Law), Associate Professor

Dmytro PETRUSHIN – Associate Professor of the Department of Special Physical Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Cand. of Sciences of Physical Education and Sports

Karina PISOTSKA – Associate Professor of the Department of Administrative Law, Procedure and Administrative Activities of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Ph.D. (Law)

Artem PLAKHOTNYI – Senior Lecturer of the Department of Tactical Special Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Viktor PLETENETS – Professor of the Department of Forensics and Pre-Medical Training of

Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Dr. of Law, Professor

Kateryna POKRASA – Postgraduate of the Department of Forensics and Pre-Medical Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Serhiy PROKOPOV – Senior Lecturer of the Department of Economic and Information Security of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Nataliya PROTOPOPOVA – Senior Lecturer of the Department of Analytical Economics and Management of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Kamil PRYMAKOV – Ph.D. (Law), (Dnipropetrovsk State University of Internal Affairs, Dnipro, Ukraine)

Viktoria PYLYP – Associate Professor of the Department of Administrative, Financial and Information Law of Uzhgorod National University (Uzhgorod, Ukraine), Ph.D. (Law)

Ihor PYRIH – Professor of the Department of Forensics and Pre-Medical Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Dr. of Law, Professor

Serhii ROZUMNY – Director of Dnipropetrovsk Scientific Research Institute of Forensic Examinations of the Ministry of Justice of Ukraine (Dnipro, Ukraine)

Andriy SAMOTUHA – Deputy Chief of Scientific Editorial Department of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Ph.D. (Law), Associate Professor

Vitalina SHEBELA – Cadet of the Educational and Scientific Institute of Law and Training of Specialists for National Police Units of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Kateryna SHENDAKOVA – Lecturer of the Department of Administrative Law, Procedure and Administrative Activities of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Inna SHINKARENKO – Associate Professor of the Department of Humanities and Psychology of Policing of of Dnipropetrovsk State University of Internal Affairs, Ph.D. (Psychology), Associate Professor

Yuliia SIHALOVA – Student of Sumy State Pedagogical University named after A. S. Makarenko (Sumy, Ukraine)

Andriy SIRKO – Adjunct of the Department of Administrative Law, Procedure and Administrative Activities of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Andriy SOBAKAR' – Head of the Department of Administrative Law, Procedure and Administrative Activities of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Dr. of Law, Professor

Yuliya SUKHOMLYN – Professor of the Department of Criminal Procedure of the National Academy of Internal Affairs (Kyiv, Ukraine), Ph.D. (Law), Associate Professor

Liliia TIMOFIEIEVA – Associate Professor of Criminal Law Department of the National University «Odesa Law Academy», Ph.D. (Law)

Iryna TSYB – Postgraduate of the Department of Criminal Law and Criminology of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Hanna TURCHANIKOVA – Lecturer of the Department of Tactical Special Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine)

Yurii TUROVETS – Associate Professor of the Department of Criminal Law and Procedure of Khmelnytskyi University of Management and Law named after Leonid Yuzkov (Khmelnytskyi, Ukraine), Ph.D. (Law), Associate Professor

Taras VOLIKOV – Doctoral Student of the Department of Forensics and Pre-Medical Training of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Ph.D. (Law)

Oleksandr YUNIN – Vice-Rector of Dnipropetrovsk State University of Internal Affairs (Dnipro, Ukraine), Dr. of Law, Professor, Honored Worker of Science and Technology of Ukraine

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49005, м. Дніпро, просп. Гагаріна, 26, rvv_vonr@dduvs.in.ua
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