ДО ІСТОРІЇ ІНСТИТУТУ

Сектор дослідження кримінально-правових проблем боротьби зі злочинністю: історія становлення та основні результати діяльності

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DEPARTMENT FOR THE STUDY OF CRIMINAL LEGAL ISSUES OF CRIME PREVENTION: HISTORY OF DEVELOPMENT AND ESSENTIAL PRACTICAL RESULTS.

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The essential milestones in the practice of Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Department for the Study of Criminal Legal Issues of Crime Prevention for 20 years of its existence are considered. Fundamental and applied topics being developed by scientists of the Department are listed. The main scientific results, received due to the work done, and particular monographs that reflect the former are shown. The achievements in legislative activities are demonstrated. The topics of PhD theses prepared and defended by PhD students and applicants attached to the Department are mentioned.

Keywords: *department for the study of criminal legal issues of crime prevention, criminal law, law on criminal responsibility, crime, punishment.*

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THE SCIENTIFIC DEVELOPMENTS OF THE CRIMINALITY PROBLEMS PREVENTION RESEARCH SECTOR

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Summary. *The basic scientific achievements of the Criminality problems prevention research sector of the Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences for 1998-2014 years have been lighted up.*

The attention has been paid on the most actual for theory and practice scientific researches in the field of fight against criminality, which are based on the considerable empiric material. The results of scientific research workers of the Sector and their practical embodiment in the modern criminality prevention system have been considered.

The number of scientific conclusions to the normative legal acts of public authorities and local government has been presented.

Keywords: *criminological researches, criminological policy of the state, fight against crime*

НАУКОВІ ДОСЛІДЖЕННЯ

Розширена анотація
статті Борисова Вячеслава Івановича та Фріса Павла Львовича на тему: «Засади сучасної кримінально-правової політики України»

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An extended abstract of a paper on the subject of:

"Foundations for the Modern Criminal Legal Policy of Ukraine"

Problem setting. *Crime fighting as an important element of the internal state policy is devoted to decrease it's level and to ensure the environment that responds the needs for protecting society from crimes. The leading role among the other directions (subsystems) of state policy for crime fighting belongs to the criminal legal policy, as the latter defines it's content through setting the boundaries for misdeeds in the society. The article examines the foundations for criminal legal policy as a part of Ukrainian state policy and it's role in crime fighting.*

Recent research and publications analysis. *Despite the numerous treatises devoted to the issues of state policy in the scope of crime fighting, there was no complex monographic research of it for a long time. Today the state of resolving this issue is unsatisfactory. There still has not been developed nor national doctrine and concept of crime fighting, nor criminal legal doctrine with the corresponding concept in Ukraine. Neither was developed and approved an integrative strategy for criminal legal impact on crime. Actually, in absolute majority only separate questions had been solved, that often led to introducing both necessary changes to the penal law and unjustified ones, which prevailed.*

Paper objective. *The article contains the analysis of the concept, directions, levels, content, subject and goals of Ukrainian criminal legal policy and the ways for it's implementation. While separating directions for the criminal legal policy it has been stated that they are defined on the basis of subjects to criminal legal protection, grouped by types and systematized by the level of their social significance. The doctrinate, programme, legislative, legal-executive, legal-enforcive, implementive and scientific levels have been separated and studied through criminal legal policy level analysis. It has been stated that the essence of criminal legal policy is defined with the objectives for this direction of crime fighting policy. It has been stated that the objectives of criminal legal policy are determined with it's goals that can*

be differentiated on substantative and legal. The content of these goals has been revealed. It has been mentioned that the criminal legal policy is based on methods that are divided into main and private ones and are differentiated by the scope of their action. The types of the mentioned methods have been given. It has been underlined that all the elements of crime fighting policy are constructed on the basis of common constitutional principles that determine their unity.

Conclusions of the research. *On the basis of the outlaid material it has been concluded that criminal legal policy is a cornerstone for all the state policy in the sphere of crime fighting, that develops strategy and tactics, constructs main objectives, principles, directions and goals of criminal legal impact on crime and defines the ways for reaching them.*

Keywords: *state policy, criminal legal policy of Ukraine, crime fighting.*

Розширена анотація
статті Орловського Руслана Семеновича на тему:
«Історія розвитку кримінального законодавства про форми співучасті»

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An extended abstract of a paper on the subject of:
«The history of criminal legislation on forms of complicity»

Problem setting *The used terminology holds only in the scientific literature. In the Criminal Code of Ukraine article about forms of complicity with the appropriate name is missing. This causes difficulties in the investigative and judicial practice in determining the particular form of participation and qualification of acts of persons who have committed crimes together.*

Recent research and publications analysis *Scientific analysis of the problem is carried out by many scientists. Among them F. G. Burchak, P. P. Galiakbarov, L. D. Gaukhman, A. A. Gertsenzon, P. I. Grishaev, A. F. Zelinsky, N. G. Ivanov, M. I. Kovalev, G. A. Krieger, I. P. Malakhov, A. A. Piontkovskii, B. C. Prokhorov, P. F. Tel'nov, A. N. Trainin, M. D. Shargorodskii, M. A. Schneider, etc. Their works are theoretical basis for further study the issue in question.*

Paper objective *Analysis of the used terminology and differentiation of these concepts, referring both to their etymological meaning and the historical genesis, beginning with the Penal Code of criminal and penal August 15, 1845 and studies of pre-revolutionary jurists and finished according to modern scholars.*

Paper main body *In the theory of criminal law question of the forms (species) of complicity today remains debatable. The Criminal Code of Ukraine (hereinafter – CC) does not contain a definition of "forms (species) of complicity" and does not use the term. Not resolved remains a question as about the number of forms of complicity, and their signs and clear criteria for differentiation.*

Discussion on criteria of separation of complicity in the forms or, as some scientists believe, species, began in the 19th century. Central Criminal legal act of this period was the Penal Code on criminal and correctional August 15, 1845. This act determined types of complicity, not the forms, such as committing a crime upon prior conspiracy of all or some accomplices (p. 13). In the special part mentioned a third type of of complicity – a gang. In criminal law doctrine, then we can state the lack of consensus on the allocation of scientists as varieties of forms of complicity and establish their titles and terminology so that would characterize forms (species) of these criminal organizations.

The adoption of the Criminal Law in 1903 showed a change in the legal approach to the division of complicity in the form (species). In particular, the following forms of complicity as "skop" and "conspiracy" were not provided for in this criminal instrument, but the position of the gang, however, have been made both in general and particularly parts of law.

In Soviet criminal law and criminal law doctrine forms (species) of

complicity suffered its further development and change. Fundamentals of Criminal Legislation of the USSR and the Union Republics in 1958 gave the first legal definition of complicity, but the forms (species) of complicity legislator were selected.

The Criminal Code of the Ukrainian SSR in 1960 also called for responsibility for "committing a crime by a group of persons upon prior conspiracy or by an organized group".

***Conclusions of the research** At different periods of criminal law focus on the issue of forms (species) of complicity paid differently, and legislators are not always adhered to the position on the need for regulation forms of complicity and securing their in the criminal law.*

The presence of a number of studies and research papers, which consider the forms (species) of complicity indicates that scientists, unlike the legislators, have recognized the need to address the issue of forms (species) of common crime.

***Keywords:** complicity in the crime, forms of participation, types of participation.*

Розширена анотація
статті Гороха Олексія Петровича на тему:
«Щодо визначення меж перебігу строків давності притягнення до кримінальної відповідальності»

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An extended abstract of a paper on the subject of:
«About determination of expiration statute of the limitations to institute criminal proceedings»

Problem setting. *For the purpose of defining the expiration of the limitation period for the initiation of criminal proceedings the correct fixation of its Initial and final moments has an important applied significance. The rules of calculating these limitation periods are not defined legislatively. The legal literature and judicial practice resolves these issues controversially as well.*

Recent research and publications analysis. *The researches of national criminalists (particularly, Y. Baulin, A. Dudorov, A. Zhytnyi, Y. Pysmenskyi, V. Skybytsky) do not contain a unanimous solution for the problem of calculating limitation periods. A similar situation can be observed too in the researches of Russian colleagues.*

Paper objective. *The objective of this article is to highlight to ways of improving legislative construction on calculating the limitation period for the initiation of criminal proceedings.*

Paper main body. *In order to avoid ambiguous application of criminal law in the judicial practice it is necessary to add the following statement to the article 49 section 1 of the Criminal Code of Ukraine: «The limitation period for the initiation of criminal proceedings are calculated from the moment of actual crime commitment. If the moment of crime commitment was not stated, this limitation period is calculated from the first second of the day that comes after the crime commitment».*

For the purpose of avoiding mistakes in judicial practice we also propose to revise article 74 section 5 of 5 the Criminal Code of Ukraine to read: «The person is free of charges by sentence of court on the ground under basis of article 49 of this Code».

Conclusions of the research. *The supposed author's approach requires further scientific analysis and approbation in the judicial practice.*

Розширена анотація
Статті Ус Ольги Володимирівни на тему:
«Особливості кваліфікації діянь співучасників:
аналіз постанов Пленуму Верховного Суду України»

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An extended abstract of a paper on the subject of:
«Features of qualification of acts of accomplices: analysis of resolutions of Ukraine Supreme Court»

Problem setting *Significant changes in the regulation of the institute of participation in a crime have generated a lot of questions in the enforcement of the relevant provisions of the Criminal Code of Ukraine (hereinafter – CC) for the qualification of acts of accomplices, the differentiation of their responsibilities, the individualization of punishment and more. Formed for decades court practice regarding the qualifications of group crimes revalued in accordance with the new provisions of the Criminal Code. However, there is no consistency and consensus in addressing a number of issues of liability for complicity in Ukraine Supreme court.*

Recent research and publications analysis *The fundamental questions of qualification of crimes were investigated in different times by such scholars as L. D. Hauhman, M. J. Korzhanskyy, V. N. Kudryavtsev, B. A. Kurinov, V. O. Navrotsky, O. I. Rarog, S. A. Tararuhin et al. Some aspects of the problems associated with the study qualification of other criminal offenses (minor offenses; socially dangerous acts committed by non compos; acts that result in harm caused by legally protected interests, etc.) looked at E. V. Blagov, V. I. Kolosovskii, V. O. Navrotsky, R. A. Sabitov and other scientists. However, analysis of the nature and concept of training special attention in the literature paid not enough.*

Paper objective *Analysis of resolutions of Ukraine Supreme Court adopted after the entry into force of the Criminal Code of Ukraine, 2001, containing provisions for the qualification of acts of accomplices.*

Paper main body *Errors in the classification of crimes committed in complicity, sometimes arising from unclear understanding of what constitutes a prior conspiracy, lack of attention to establish the role of accomplices and differentiation of roles. Court practice is also facing a number of complex issues related to the subjective signs of complicity in the crime (forms and types of guilt, the objectives and motives of accomplices, subjective connection between them, etc.). In this regard, we consider relevant and appropriate both from theoretical and practical perspectives study the resolutions of Ukraine Supreme Court issued after the enactment of the Criminal Code of Ukraine, 2001, to address issues of qualification of act of accomplices.*

Conclusions of the research *In the resolitions of Ukraine Supreme Court there is no systematic approach to the issue of qualification of acts of accomplices.*

Maintaining the position of scientists who recognize the complicity Institute of the General Part of Criminal Law Ukraine, we note that the use of this institution, and, in fact, the qualification of acts of accomplices must be the same (one) for any offense under the Special Part of the Criminal Code. Based on the research believe that there is no need for Ukraine Supreme Court, devoted to jurisprudence in cases of specific crimes, each time give some rules of conduct training associates. It is reasonable, in our view, to adopt a separate (independent) to Ukraine Supreme Court, devoted to the resolution of issues of responsibility for crimes committed in complicity.

Keywords: *qualification of crimes and accomplices in the crime, the Supreme Court of Ukraine.*

Розширена анотація
статті Євтєєвої Дарини Петрівни на тему:
«До питання виділення злочинів проти сім'ї та неповнолітніх в окремий розділ КК України»

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An extended abstract of a paper on the subject of:
«On the detachment of crimes against family and minors in a separate chapter of the Criminal Code of Ukraine»

Problem setting and paper objectives. *The propositions for creating a separate chapter of the Special Part of the Criminal Code of Ukraine, devoted to crimes against family, guardianship, custody and normal child development have emerged in the context of discussing the need for strengthening family issues in the science of criminal law. The article deals with the problems related to the establishment of the mentioned chapter in the Criminal Code of Ukraine.*

Recent research and publications analysis. *The continuous research of these issues in the national criminal legal literature has been carried out and is currently developed by S. Y. Lykhova, V. O. Navrotsky, L. V. Dorosh, N. S. Yuzikova, O. I. Belova, I. O. Bandurka, V. V. Haltsova, S. M. Morozyuk and others.*

Paper main body. *Considering the basic approaches to the appropriateness of separating crimes against family, guardianship, custody and normal child development in a particular chapter has allowed systemizing those positions in several groups that are examined in the article.*

Conclusions of the research. *Regarding the problems connected with creating a new chapter devoted to crimes against family, guardianship and custody, there has been offered a variety of solutions. In our opinion, the norms provided for in Articles 164-169 of the Criminal Code and the norms of other Criminal Code chapters, which foresee the responsibility for crimes against normal minors development should be grouped in one chapter. However, the issue of the final title, the content and scope of the new section is open.*

Keywords: *crimes against family and minors, chapter of the Special Part of the Criminal Code of Ukraine, the generic object of crime, the specific object of crime.*

Розширена анотація
статті Василевича Віталія Вацлавовича на тему:
«Принципи кримінологічної політики України»

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An extended abstract of a paper on the subject of:
«Principles Criminological Policy of Ukraine»

Problem setting. *The process of updating of a society, formation of new social elements lifestyle in Ukraine envisages the growth of demand in ensuring its stability and controllability, protection of constitutional rights and freedoms, public and state institutions from criminal encroachments, to implement effectively crime deterrent impact factors between social, economic, political and other transformations and the constructions of legal state.*

Recent research and publications analysis. *The study theoretical and practical issues of formation and implementation of criminological policy with respect source of basic principles, was carried out at different levels and formats that their results led to the formation of a large number of interesting and valuable thoughts, separate theories.*

Setting a goal. *Despite the existence of separate scientific works, devoted to consideration of problems, practice testifies to the absence of papers, which would discuss in detail the content of the principles of criminology, policies and mechanisms for their implementation. Therefore, the aim of the article is to clarify concepts and classification principles criminological policy of the state, their content and demands of compliance and enforcement.*

Paper main body. *Revealing the content of the concept and of principles of criminological politicy, the author offers his own vision and definition of this legal category as one of the important components of the tools the formation of a strategic component of the internal anticriminal policy of the state, authoritative definition of which is to identify key doctrinal principles in the field of crime prevention and its practical implementation of the system of authorities and institutions of the anticriminal justice in accordance with the provisions of the criminal law, criminal procedural and criminal executive policy of the nation and national legislation. Criminological policy principles of the state is a system objectively formed the original, basic provisions governing the content and tasks, functions and methods of criminological policy of the nation, legal status, subordination and coordination of the subjects of its development and implementation. Like any other defense, it is classified and based on its inherent fundamental principles that serve as her foundation and reference point in the process of its formation, development and improvement. In our opinion, the principles specified in the sphere of social activity:*

1) objectively formed itself in this activity;

2) contain theoretical-cognitive component of this process;

3) help to distinguish and identify what is the basis of the criminal reality;

4) determine the necessity of deployment of the anticriminal activity as justified and desirable for society the law of motion and as a logical expression of knowledge of direct and reverse connections;

5) define the system of logically interrelated structural components of the anti-criminal justice.

Based on the fact that any theoretical system (including doctrinal model criminological policy) bases on the interconnected principles, as such basic provisions necessary to construct a doctrinal model criminological policy the author identifies follows: 1) dynamic development; 2) scientific and validity; 3) systems approach; 4) unity of theory and practice; 5) humanism; 6) the rule of law.

Conclusions of the research. *The principle of the rule of law without diminishing the importance of other is leading in the formation and implementation of criminological policy of the state and plays the role of a fundamental principle and a unifying element in the system of relations between state and individual, as well as the principles, methods and means the activities of all institutions of the anticriminal justice of Ukraine.*

Key words: *principles, crime, criminology policy, principles criminological policy, humanism, rule of law, systematic approach.*

Розширена анотація
статті Голіни Володимира Васильовича на тему:
«Роль громадськості у здійсненні кримінологічної політики в Україні»

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An extended abstract of a paper on the subject of:
«The Role of the Public in the Implementation of Criminological Policy in Ukraine»

The problem setting. *Successful crime prevention practice is impossible without anti-criminal state policy. In the United Nations Congresses Recommendations on Crime Prevention and Criminal Justice it was emphasized that state policy of crime prevention such as criminal justice system cannot work efficiently without a positive attitude and active support of the public. Thus, research of the role of the public in the crime prevention process is important for efficient implementation of criminological policy in Ukraine.*

Resent research and publication analysis. *Theoretical and practical problems of criminological policy from different points of view have been analyzed by such Ukrainian criminologists as S. S. Boskholov, V. S. Zelenetskiy, O. M. Lytvak, P. L. Fris and others in their scientific works.*

The paper objective *is to research participation of the public in various policy strategies of criminological crime prevention.*

The paper main body. *The direction of strategic crime prevention in Ukraine at present corresponds to the reformative criminological policy which incorporates the state socio-economic policy, its cultural traditions, political regime, prevailing ideology, resource potential etc. into the national system of crime regulation.*

Criminological policy is a part of the state social policy which on the basis of Ukrainian Constitution and knowledge integrated by criminological science and world experience determines methodical grounds and strategies that are fundamental for the state and its institutions in their anti-repressive fight against crime. The Concept of the State Policy on Crime Prevention for the period up to 2015, approved by the Decree of the Cabinet of Ministers of Ukraine on November 30, 2011 points the fact that criminological policy established itself is an integral part of the state crime prevention policy.

Ukrainian and world experience in crime prevention indicates that positive results in this sphere can be achieved using a number of strategies, including involvement of the public for crime prevention. Among them we should mention: minimization of opportunities for committing crimes, interference in crisis situations, educational and informational work among population, victimological

prevention etc.

Conclusions of the research. *Public involvement in the state crime prevention activity is an essential component of the criminological policy of Ukraine. For this reason the state should provide ample opportunities for the implementation of this important function of the public.*

Key words: *public, criminological policy, strategy, crime prevention.*

Розширена анотація
статті Батиргареєвої Владислави Станіславівни на тему «Спеціальна конфіскація як засіб запобігання злочинності в Україні»

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An extended abstract of a paper on the subject of:
«Special confiscation as a way to prevent crime in Ukraine»

Problem setting. *Despite the fact that the special confiscation was legislatively stipulated in the Criminal code of Ukraine a shot time ago, but its potential and opportunities as a measure of criminal legal influence for enforcing the crime prevention are very significant. In this scope, special confiscation requires the most thorough analysis.*

Resent research and publications analysis. *Any examples of research on finding out opportunities for special confiscation and evaluating its preventive effect in the system of crime prevention in Ukraine are presently absent. Besides, there hasn't been any differentiation of the special confiscation as another measure of criminal law and the criminal procedural means of influence.*

Paper objective. *The paper's objective is to disclose the essence, features and opportunities of special confiscation as an efficient way in the system of crime prevention.*

Paper main body. *The special confiscation in the system of measures for crime prevention objectifies the following: at first, preventing the future criminal activity continuation particular person (at least for the preventing repeated crimes); at second, restoring social justice, particularly by withdrawing the guilt's money, values and other property which were the subject to a criminal offence or had been converted into any property (in other words, property income obtained in a criminal way); at third, compensating the caused damage or eliminating the harm done to the owner (the legitimate owner). It should be noted that often the application of special confiscation pursues several goals – compensating damage to the victim and restoring social justice, preventing further offending and eliminating the caused damage or all together.*

Conclusion of the research. *It has been determined that the three targets of the mentioned tool are: 1) general and special prevention; 2) restoring social justice and 3) compensating the caused damage or eliminating the damage, caused by the committed crime.*

Key words: *special confiscation; crime prevention, the targets for applying special confiscation.*

Розширена анотація
статті Колодяжного Максима Геннадійовича на тему:
«Міжнародний вимір нормативного забезпечення участі громадськості у запобіганні злочинності»

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An extended abstract of a paper on the subject of:
«International Measuring of the Normative Providing of Public Participation on Crime Prevention»

Legal support for the crime prevention is a very important element of the latter. This legal support has certain characteristics, such as: 1) the law-making; 2) reflection of the character of the subjects that it involved; 3) different status of such entities.

All acts in the field of crime prevention is proposed to classify the criterion of scale : a) international; b) national ; c) regional and d) local.

The international acts include: Resolution 2002/13 of the Economic and Social Council of the UN «Action to promote effective crime prevention»; The UN Convention against Transnational Organized Crime; The UN Convention against Corruption; Recommendations of the Council of Europe № R/96/8 «Policy of combating crime and criminal law in Europe is changing» and others.

The legal of crime prevention in the international context at the national level include the constitutions of certain countries (e.g. USA) and special laws that exist in many EU countries.

At the regional and local levels we can note public comprehensive crime prevention program of the CIS countries, where the public is listed among the major participants. Similar programs are launched in certain American, German and other cities.

Ukrainian law-maker has to pay special attention to the positive experience of western countries in a wide regulatory support of public activity in prevention crime.

Keywords: *public, crime prevention, legal support, international experience on crime prevention.*

Розширена анотація
статті Христич Інни Олександрівни на тему:
«Кримінологічна характеристика кримінальних проваджень, відкритих за ст. 383 КК України»

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An extended abstract of a paper on the subject of:
«Criminological characteristic of criminal proceedings, opened according to Art. 383 of the Criminal Code of Ukraine»

Problem setting*. During the modern stage of development of civil society and law-governed state in Ukraine actual problems of combating crime in the field of justice as an integral prerequisite for political, economic and social stability in the state become particularly important.*

Recent research and publications analysis. *Problems of combatting crime against justice were directly researched by relatively few scientists, as combatting such crimes has mainly been recently regarded in the national criminology in the context of the general combatting crime.*

Paper objective. *Investigation of the status and dynamics of crimes according to Art. 383 of the CC of Ukraine is considered appropriate.*

Paper main body. *The share of the crimes stated in Art. 383 of the CC of Ukraine, in the total number of reported crimes in Ukraine during several years was on average about 0,1%. Percentage of disclosure of this type of crimes was only 39,1 % in 2013.*

The majority of convicts are citizens of our country; women comprise about 30% of the total number of convicts. This type of crime is not usually committed by a group. Level of committing these crimes under alcoholic intoxication (from 15,6% to 24% in different years) is a significant enough. Committing of these crimes under the influence of drugs was not recorded. These crimes are committed by adult persons with low education level. At the same time the majority of people of working were not working and not studying.

The moral and psychological characteristics of people who have committed crimes under this article suggests that they have anti-social focus, a distorted idea of independence from the state legal system, legal nihilism, focus on satisfaction of personal needs and interests by any means, awareness of the wrongfulness of their acts.

Conclusions of the research. *The need for effective implementation of constitutional rights and freedoms of man and citizen, provision of an open, accessible and fair justice, rethinking the place and role of combatting crime in the state mechanism, lack of relevant elaborated theoretical positions, existence of number of organizational and legal issues in law enforcement field determine the relevance of research of crimes against justice, especially such as knowing false*

report of a crime (Art. 383 of the CC of Ukraine).

Study of this type of crime becomes of particular relevance due to increased corruption and other abuses among the law enforcement officials.

Key words: *criminal proceedings, crimes against justice, knowing false report of a crime.*

Розширена анотація
статті Лобойка Леоніда Миколайовича на тему:
«Підстави і момент початку досудового розслідування»

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An extended abstract of a paper on the subject of:
"Grounds and start of prejudicial inquiry"

Problem setting*. With the cancellation of Criminal Procedural Code of 2012 the stages of initiation of criminal case, issues on grounds and time of prejudicial inquiry start acquired features of a problem both in theoretical and practical field. There were a certain perplexity on the part of the practitioners (crime investigators, procurators) during first days and months of operation of the regarding the solution of problems contained therein that was provided by the varying interpretations of the provisions of the Article 214 of the Criminal Procedural Code "Start of prejudicial inquiry".*

Recent research and publications analysis*. In the research investigations the results of which were represented in the publications the authors analyzed grounds and start of prejudicial inquiry on the basis of the provisions of the Criminal Procedural Code of 1960. The issues on the grounds and start of a stage of inquiry without taking into account a stage that precedes it were not a subject for study in the theory of criminal procedure.*

Paper objective*. In order to define issues that are a subject for study in this paper, it is reasonable to consider in a successive order: 1) problem solving procedure concerning the presence of such grounds – circumstances that can witness the study of criminal infraction; 2) actually, the grounds; 3) time when an inquiry can be started.*

Paper main body*. Scientists believe that a stage of prejudicial inquiry in the native criminal procedure is preceded by a separate stage where one states grounds prior to the start of inquiry.*

Procedural activity being implemented prior to the making entries on the criminal infraction into the Unified Register of Prejudicial Inquiries is designed not to state grounds prior to the start of inquiry, but "events advancing" to

substantiate the facts of a criminal infraction by means of prejudicial inquiry since before its registration. Such "advancing" is conditioned by emergency circumstances.

Since to establish grounds prior to the start of prejudicial inquiry by means of material resources of research it is prohibited by the law, so these grounds shall be "looked for" exceptionally in the primary sources on the actions, but not on the

"criminal infraction". Statement of availability of grounds prior to the start of prejudicial inquiry shall immediately involve performance of legal proceedings.

***Conclusions of the research**. The research being implemented within this paper , allows to make such conclusions: 1) check of primary sources of data is performed only by logical (non-material) means of research; 2) grounds for start of prejudicial inquiry are a minimal necessity of cumulative evidence of criminal infraction and features of set of elements of criminal infraction in the action on which the information came; 3) provisions of the Criminal Procedural Code shall "be involved" when there are grounds for prejudicial inquiry; 4) it is reasonable to exclude from the procedural law a prohibition to perform procedural actions prior to making entries on criminal infraction into the Unified Register of Prejudicial Inquiries.*

***Key words:** prejudicial inquiry; criminal infraction; grounds; registration.*

Розширена анотація
статті Глинської Наталії Валеріївни на тему:
«Класифікація кримінальних процесуальних рішень та її значення для визначення специфіки стандартів їх доброякісності»

Glynska N. V., *PhD, Senior Researcher of the Department for the Study of Investigative, Prosecutor's and Judicial Practical Problems, Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv.*

An extended abstract of a paper on the subject of:
«Classification of criminal procedural judgments and their meaning for determent of the specific standards of their high quality»

The article deals with issues of criminal procedural decisions (CPD) classification as a necessary methodological condition for solving the conceptual problem of establishing decision quality standards. The author has offered original criteria – directions for grouping procedural decisions and gives a detailed characteristic of the one - the essence of the discretionary component, implemented in an approved enforcement act.

According to the above-mentioned criterion, all the CPD can be divided into: 1) CPD, which contain discretion in fact assessment; 2) CPD, which contain discretion in selecting an appropriate legal norm; 3) CPD, which contain discretion in selecting the option of legal behavior, as foreseen in the legislation, in case of settling certain facts; 4) CPD that contain discretion in choosing one of the foreseen legislatively options in case of settling certain facts. Besides, a single CPD can aggregate several types of discretionary powers both for issues of facts and law, what expands the discretion field for making such a CPD.

The proposed CPD classification is especially important for individualizing CPD quality standards. This appears, particularly, in the determinative status of the discretionary component in the structure of an act foundation's subject while making certain CPD. Moreover, the boundaries for an act's foundation are directly proportional to the discretion amount, realized in the certain case. For illustration purposes, the author points that the positive solving the question of possible reasoning by analogy in penal justice by the Criminal Procedural Code of Ukraine includes a vast amount of discretion in the process of law enforcement. That is why complete and comprehensive motivation, persuasive in the correct choosing a certain legal norm for a particular legal situation, must be a guarantee of lawful reasoning by analogy. The fore-mentioned must guide the law-enforcers to a differentiated approach for defining the level of CPD reasoning depending on the discretion character, realized during decision-making process.

Розширена анотація
статті Шепітька Валерія Юрійовича
та Авдєєвої Галини Костянтинівни на тему: «Проблеми розроблення інноваційних засад техніко-криміналістичного забезпечення діяльності органів кримінальної юстиції»

Shepitko V.Yu., *Academician of the National Academy of Law Sciences of Ukraine, Doctor of Law Sciences, Professor, Head of laboratory "The usage of modern achievements of science and technology in committing crime" the Research Institute for the Study of Crime Problems named by Academician V.V. Stashis of the National Academy of Legal Sciences of Ukraine, Kharkiv*

Avdeeva G.K., *Candidate of Law Sciences, Senior researcher, Leading research worker of laboratory " The usage of modern achievements of science and technology in committing crime" the Research Institute for the Study of Crime Problems named by Academician V.V. Stashis of the National Academy of Legal Sciences of Ukraine, Kharkiv*

An extended abstract of a paper on the subject of:
«Problems of innovative principles development of technical and criminalistics providing the activities of criminal justice bodies»

Innovations in criminalistics are worked out and introduced in practice of committing crime a new modern methods, receptions, technologies, hardware, devices, apparatus, instruments. Their aim is an optimization of activity of criminal justice bodies.

A level of the usage of modern scientific and technical facilities and information technologies in pre-trial investigation is one of quality criteria of law enforcement bodies' activity.

Innovative bases of the technical and criminalistics providing the activity of criminal justice bodies is the upgrading system of such activity with the usage of the newest technical and criminalistics facilities.

The innovative process of the technical and criminalistics providing the activity of criminal justice bodies consists from such stages: 1) theoretical ground of innovative processes; 2) study and analysis of the modern state and possible ways of introduction the innovations in criminal justice bodies activity; 3) selection of the most perspective directions of innovation activity taking into account the necessities of investigational (judicial) practice and achievements of natural and technical sciences; 4) generation and filtration of ideas; 5) planning the research work on innovational creation; 6) development of innovative products (technologies); 7) approbation of innovations; 8) introduction the innovations in law enforcement activity and estimation of efficiency of their usage. Such action algorithm envisages co-operating the developers of innovative product with its consumers (by the employees of law enforcement bodies).

For period 2012-2013 by the research officers of laboratory "The usage of

modern achievements of science and technology in committing crime" the Research Institute for the Study of Crime Problems named by Academician V.V. Stashis of the National Academy of Legal Sciences of Ukraine is completed development of computer identikit and electronic database "The practice of the investigator", the work of improvement of investigator workstation "Inside" is continued, the work on creation the system to support the adoption of the investigation decisions is begun.

The most essential research and practice job performances are protected by patents. In particular, a patent is got on an useful model "Method of construction of subjective portrait "RAIPS-portrait" and certificate of copyright of registration on work of scientific character "Database "The practice of the investigator".

The further advanced study will allow the new ideas about essence of innovative principles of the technical and criminalistics providing the activity of criminal justice bodies, to work out the algorithm of innovative activity in the technical and criminalistics providing the activity of criminal justice bodies and create the newest technical and criminalistics facilities with the usage of modern information technologies.

Keywords: *innovation foundations, information technology, workstation investigator.*

Розширена анотація
статті Яковець Ірини Station

penalties enforcement. The psychological methods of objective transformations are the ways of impacting the subject of administration that include using social and psychological factors and are devoted to influencing the corporate social and psychological relations in order to reach the objectives of a body or an institution. In fact, they are also called for influencing the corporate constructing and development. Depending on the nature of relations that require regulation, it is necessary to separate the following main types of legal methods, which can be used in optimization purposes: penitentiary methods for ensuring criminal penalty execution and create conditions for correction and resocialization, administrative legal methods for regulating relations of penitentiary bodies and institutions of different levels; civil legal methods for business relations improvement; labor methods, that regulate labor relations of convicts and penitentiary personnel. All of them should be used while optimizing criminal penalties enforcement, as it is determined by the diversity of the described procedure.

Conclusions of the research. *The basic methods for optimizing criminal penalties enforcement are economic, organizational, administrative, social, psychological and legal ones. Their enforcement is proposed to be performed by the means of: (a) comprehensive planning and concretizing the objective and goals of optimizing criminal penalties enforcement, (b) rational selection of means and tools for solving the stated tasks, (c) differentiated and individualized approaches to the convicts and applying to them various criminal penalties, (d) the consistency of resolving the tasks of penalties execution, (e) choosing an appropriate option of constructing the criminal penalties execution procedure, (f) analyzing the results of optimizing this procedure.*

Keywords: *optimization, optimality, efficiency, criminal penalties, imprisonment, penalties execution.*

Розширена анотація
статті Автухова Костянтина Анатолійовича на тему:
«Відомчі нормативно-правові акти у процесі реформування правового регулювання діяльності Державної кримінально-виконавчої служби України»

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An extended abstract of a paper on the subject of:
"Departmental legal acts in the process of reformation of legal adjustment of state criminal executive services' of Ukraine activity"

Problem setting. *Lately the process of active updating of legal base which regulates the process of execution and serving of punishment began. The orders of Ministry of justice of Ukraine affirmed more than 30 «new» legal acts in this sphere. However within-named lawmaking process should be named as "reaffirmation", as actually in the text of these acts old regulations are carried over with single drafting's amendments, and, as their analysis shows, these corrections in no way can be acknowledged humanistic in relation to conviction Therefore there is an urgent necessity to consider the place of departmental legal acts in the process of reformation of the legal adjusting of activity of state criminal executive services of Ukraine.*

Recent research and publications analysis. *To the question of modern departmental rulemaking in to criminal executive law such scientists as A.P. Gel, O.M. Dzhuzha, O.G. Kolb, O. In. Lisoded, M.S. Puzirev, A.Kh. Stepanyuk, M.P. Chernenok, I.S. Yakovec' et al addressed. However, permanent changes in this sphere generate additional questions and put new tasks which need to be decided.*

Paper objective. *The purpose of this publication is to review the influence of departmental legal acts on the process of reformation of criminal-executive systems.*

Paper main body. *In legal science a departmental act is determined as bylaw (decree, instruction, legal order and other), that is made within the limits of capacity of that or other executive (ministry, committee, department) body, that contains secondary (derivative) norms that expose and specify primary norms, that is made on their founding and serve their implementation.*

One of basic characteristics of departmental acts is the interpretation of orders and positions of laws. It is a general and basic criteria which must be considered in correlation between departmental acts of ministries and departments and laws drafted by Parliament. However in the domestic legal system sufficiently often arise acts of violations in the process of rulemaking of both, departmental acts, in particular, and different bylaws. Scientists propose to classify such violations as follows: a) adoption of bylaw in case when this sphere is regulated by

a law; b) adoption of bylaw in case when it is not straightly regulated by a law (in other words, adoption of bylaw not foreseen in general or it should be adopted by other organ); c) adoption of bylaw, which contains norms which contradict a law; d) adoption of bylaw, with the help of which the authority subject gives itself powers, which are not given him by a law.

Unfortunately the majority of aforementioned violations are met in the sphere of a regulation of process of execution of criminal punishments. In the conditions of attempts of reformation of criminal executive system these negative displays considerable harm to stability of functioning of this system. Unfortunately, practice shows that most departmental acts in the sphere of execution of punishments are accepted in the first developed variant, without consideration of remarks made by public or other establishments.

***Conclusions of the research**. Lately higher public authorities show political will to reform criminal executive system and actively work in this direction. Due to this process the practical realization of basic transformations has the special important value, and it must be carried out with legal support of Ministry of justice of Ukraine, however the conducted research and other publications enables to assert, that activity of the indicated ministry in direction of regulation of process of criminal punishments execution is hard to consider as satisfactory, and in the modern terms of attempts of optimization of process of criminal punishments execution departmental acts in a greater measure slow down such process.*

***Key words:** sources of penal law, penal institutions, Internal regulations.*

ПИТАННЯ БОРОТЬБИ З КОРУПЦІЙНИМИ ПРАВОПОРУШЕННЯМИ

Розширена анотація статті Настюка Василя Яковича, Бєлєвцевої Вікторії Вікторівни на тему: «Сутність і причини корупційних проявів в Україні»

Nastyuk Vasily Yakovlevich *- Doctor of Law, Professor, Head of Laboratory research of legal issues preventing and combating corruption ACT Research Institute named after academician V.Stashys NALS of Ukraine,*

Byelyevtseva V. V. *- PhD in Law, Senior Researcher of Laboratory research of legal issues preventing and combating corruption ACT Research Institute named after academician V.Stashys NALS of Ukraine.*

An extended abstract of a paper on the subject of:
«Nature and causes of corruption in Ukraine»

Problem setting*: The phenomenon of corruption is known for a long time and taken for granted in many states. The nature of corruption, its causes and consequences, anti-corruption measures is the subject of scientific discussions and research. The theme of corruption phenomena in Ukraine draws the attention of many scholars and researches, which indicates not only the existence of the phenomenon but also proves its development and lack of counter measures.*

Recent research and publication analysis*. Scientific works of outstanding domestic and foreign authors are devoted to the problematic issue of various corruption aspects and categorial conceptual apparatus .They are Baulin U., Borisov V., Garashuk V., Golina V., Kuznetsova N., Lemeshko O., Lukomskij V., Luneev V., Melnik M., Mizerij A., Mukhataev A., Nevmerdgytskij E., Khavronuk M., Chubenko I. and others.*

The statement of problem*. Despite the obvious relevance of the topic, there are a plenty of unresolved issues both in theory and practice, particularly including the term corruption, its features, reasons of corruption and effective anticorruption measures .*

Corruption is the result of a big number of factors. The major ones are the complexity of the government authority structure, the existence of many bureaucratic procedures, lack of control over government authority operation as well as clear division of competence . Corruption is evoked by unreasonably large number of prohibitions, licensing procedures, lack of legal basis and mechanism of protecting the interests of citizens involved into government authorities operations. The imbalance of civil servants rights, the instability of official position, distribution of administrative discretion, the potential irresponsibility of property redistribution and low money government officials' allowances are the reasons for corruption.

The next reason for corruption is the irresponsibility of executive power .

This situation is caused by the fact that executive power is out of control within other branches of the government and disadvantages of the current legal system . Another reason of corruption is the weakness of the civil society, and the separation of society from the government. Corruption affects all walks of life ang brings negative consequences both for society and the country .

Regarding the social sphere one should note that the results of corruption are the prevention of funds from the social development, the growth of income inequality, increase of social tension, and the political instability.

***Conclusion of the research**. In conclusion, it should be noted that the specificity of the corruption phenomenon as a systemic phenomenon primarily requires legislative adjutancy complex of mutually concerted system of coercive measures that should be developed in different branches of law. Today it is reasonable to distinguish several anticorruption strategies, like public apprehension of the corruption perils and its consequences, prevention and anticorruption manifestations; rule of law, and human rights protection.*

***Key words:** corruption, anti-corruption legislation, manifestations of corruption, offenses concerning corruption.*

Розширена анотація
статті Крайника Григорія Сергійовича на тему:
«Неправомірна вигода як предмет корупційних злочинів в Україні»

Krynik G.S., *candidate of legal sciences, assistant of the Department of Criminal Law №1, Yaroslav Mudryi National Law University, research officer of the anti-corruption research laboratory, V.V. Stashis Scientific Research Institute for Study of Crime Problems NALS of Ukraine, Kharkiv*

An extended annotation of the article:
"Undue advantage as an object of corruption offence in Ukraine"

Problem setting. *At the moment there are several different definitions of undue advantage in Ukraine which are set forth in the Law of Ukraine "On principles of prevention of and counteraction to corruption" of April 7, 2011 №3206-VI, in the articles 354 and 364^1 of the Criminal Code of Ukraine of April 5, 2001 №2341-III.*

At the same time, the official translation of the Articles 15, 16, 18, 21, 25 of the United Nations Convention against Corruption (entered into force in Ukraine in January 1, 2010) contains the phrase "undue preference"; in the articles 17, 31, 53 of the translation of this Convention the term "benefit" is used and the term "undue benefit" is contained only in the article 19 of the Convention.

Awareness of signs and features of undue advantage is of great theoretical and practical importance in Ukraine.

Analysis of recent researches and publications. *Among the recent studies the works of P.P. Andrushko, V.I. Borysov, Ju.V. Hrodetsyi, V.N. Kyrychko. V.I. Tiutiuhyn and researches of other scientist where the authors analyzed the term "undue advantage" and offences related to corruption as a whole are worth mentioning.*

Nowadays studying of corrupt offences and undue advantage as an object of these crimes continues in Ukraine. The important part of this investigation is comparative analysis of the term "undue advantage" in Ukraine and other countries.

Purposes and objectives. *Proper use of the term "undue advantage" is important to prevent violations of Ukrainian legislation, in particular the Criminal Code of Ukraine, the Criminal Procedural Code of Ukraine, etc. Moreover, one should not forget that the accuracy of law enforcement to a great extent depends on the terminology.*

The main body. *In this article the author analyzed the concept and characteristics of undue advantage in Ukraine and proposed changes to the article 361^1 of the Criminal Code of Ukraine.*

Conclusions of the research. *In the article the author carried out analysis of one change to the Criminal Code of Ukraine of 2013 where the term "undue advantage" appeared instead of "bribe" to designate an object of corrupt offences. It is suggested in the article that the term "undue advantage" should be*

understood as money and other property, benefits, privileges, services exceeding 0,5 of the tax exemption limit of incomes and intangible assets of citizens which are offered, promised, given or received without legal causes.

There is a need for the guiding instructions as to the usage of the new terms which should be issued in the form of a regulation or a letter by a Plenary session of the Supreme Specialized Court of Ukraine in Civil and Criminal Cases.

In this article the author analyzed one of the innovations in the Criminal Code of Ukraine of 2013 – undue advantage as an object of corrupt offences.

Key words: *undue advantage, notion of undue advantage, object of corrupt offences, corrupt offences.*

Розширена анотація
статті Шило О. Г., Глинської Н. В., Москвич Л. М. на тему:
«Корупційні ризики чинного кримінального процесуального законодавства України: окремі питання»

Shylo O. G., *Doctor of Law, Associate Professor, Head of the Department for the Study of Investigative, Prosecutor's and Judicial Practical Problems, Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv.*

Glynska N. V., *PhD, Senior Researcher of the Department for the Study of Investigative, Prosecutor's and Judicial Practical Problems, Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv.*

Moskvych L. M., *Doctor of Law, Associate Professor, Principal Researcher of the Department for the Study of Investigative, Prosecutor's and Judicial Practical Problems, Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv.*

An extended extract of a paper on the subject of:
"The Corruption Risks of the Existing Criminal Procedural Legislation of Ukraine: Some Questions"

Problem setting. *The corruption in the scope of criminal justice is assumed to present specific danger, as this sphere of state activity contains the application of coercive measures, what significantly restraints constitutionally stipulated human rights, freedoms and legal interests. In this connection the issue of working out a system of measures for preventing and maximal excluding corruption risks in the indicated sphere is highly relevant.*

Recent research and publications analysis. *The essence of the above-mentioned problem has been recently examined by such researchers as L. M. Loboyko, V. Y. Nastyuk, N. V. Sybylyova, O. Y. Shostko and others.*

Paper objective. *The article gives a fragmental analysis of Ukrainian criminal procedural legislation and its particular gaps that facilitate various corruption activities for unfair law-enforcers.*

Paper main body. *The determining factors of corruption activity in the sphere of criminal justice have been defined, together with detaching and analyzing among them subjective and objective causes. The former are connected with the level of professional culture in general and the legal one in particular, apart, the legal conscience of main authorities in the criminal proceeding, the latter – emerge from the imperfection of the law governing criminal justice.*

The article shows that the shortcoming of modern legislation and a range of other factors in the scope of criminal justice creates real corruption risks. The existing corruption activities can possibly be divided by the form of embodiment into two types: (a) illegal actions and inactivity of corruption subjects in the criminal proceeding and (b) approving procedural decisions in breach of the

requirements of the law of criminal procedure. By content corruptive activities are divided into (a) violations of requirements of the law and (b) misuse of discretional powers given to officials contrary to their sense and purposes.

Conclusions of the research. *The conclusion is made that in all the stages of criminal proceeding, criminal procedural decisions, approved with law violations, are the main subject to corruption exchange. Making legitimate, reasoned and just CPD in the criminal proceeding is an indicator for good-quality of all the criminal procedural activity, thus also its fairness. That is why the analysis of the regulatory technology of making criminal procedural decisions from the angle of existing legislative means and ways for persuasion in the approved acts' legality and reasonableness is highly emphasized in the article.*

Keywords: *corruption activities, corruption risks of criminal procedural legislation.*

ТРИБУНА ДОКТОРАНТА, АСПІРАНТА І ЗДОБУВАЧА

Розширена анотація
статті Дзюби Анастасії Юріївни на тему:
«Проблеми взаємодії державних органів влади з громадськістю у запобіганні злочинності неповнолітніх в Україні»

Dzyuba A. Y. *PhD student of Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv*

An extended abstract of paper on the subject of:
«Problems of public authorities and non-governmental organizations cooperation in preventing juvenile delinquency in Ukraine»

Problem setting. *Today modern Ukrainian authorities are trying their best to bring the country out of crisis. The significant role in this belongs to establishing connections with non-governmental youth organizations. That is why it is crucial to expand the legal framework for interacting with public authorities, constructing a social dialogue.*

Recent research and publications analysis. *Recently, the problem of minors' illegal behavior has attracted the attention of a wide range of scientists. Various aspects of studying juvenile delinquency were the subjects of researches by Y. Antonyan, V. Batyrhareyeva, M. Vyetrov, V. Golina, I. Danshyn, A. Zakalyuk, A. Zelinsky, K. Ihoshev, I. Karpets, M. Korzhansky, S. Lyhova, G. Minkovsky, V. Tulyakov, M. Shevchenko, O. Shostko and other scientists. However, criminologists have been studying mainly social crime prevention system that existed in the past and has recently undergone significant changes. These changes require overthinking in order to optimize the system of juvenile delinquency prevention.*

Paper objective. *The article is devoted to the problems of public authorities and non-governmental organizations cooperation in preventing juvenile delinquency in Ukraine.*

Paper main body. *It is necessary to understand the interaction of state and non-government organizations as their stable contacts that emerge and develop basing on common interests for the purpose of crime prevention, strengthening public order and public safety.*

The activity of local educational authorities, health establishments, internal affairs organizations, special institutions for children, juvenile services, non-governmental organizations should be cared out in the scope of working out effective mechanisms of state and public organs interaction, wider involving the public for fighting juvenile crime. Collaboration of this kind will allow providing more efficient preventive work in teenage communities, carrying out legal behavior

propaganda, involving the youth to volunteering, social and upbringing work with misbehaving teens.

Conclusions. *Having examined the interaction of the state authorities and the public in preventing juvenile crimes in Ukraine, we shall note that in order to eliminate the mentioned crime category governmental activities are not appropriate enough. It seems necessary to expand the number of preventive subjects by the means of civil society organizations and other non-governmental agencies wider involvement in order to optimize juvenile delinquency prevention.*

Key words: *juvenile delinquency, special public and non-governmental organizations and institutions, juvenile crime prevention, social prevention.*

Розширена анотація
статті Калініної Аліни Владиславівни на тему:
«Вплив імміграційних процесів на стан злочинності в Україні
на початку XXI ст.»

Kalinina A. V., *Postgraduate student, Postgraduate student of Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv*

An extended abstract of a paper on the subject of:
«The Impact of Immigration Processes on the Crime in Ukraine at the Beginning of the 21th Century»

The problem setting. *People's high mobility almost all around the world is one of the main peculiarities of modern society. Nowadays migration processes are the natural phenomenon of the world global trends. Among these trends international migration (or immigration, when we are talking about host states) has become particularly widespread. But the reasons of person's migration as well as his residence in the host country are not always completely legal. Thus, immigrants exert specific influence on the crime rate in the host country.*

Resent research and publication analysis. *No comprehensive criminological research of foreigner's and noncitizen's crime has been concluded in independent Ukraine. The problems caused by illegal migration were mostly in the focus of Ukrainian criminologists. A. P. Mozol's thesis for candidate degree in juridical sciences «Criminological problems of illegal migration in Ukraine» (2002) became in-depth research in this sphere. Also different aspects of this problem were analyzed in scientific works of O. M. Dzhuzha, O. F. Dolzhenkov, D. S. Melnyk, V. I. Shakun and others. Important results in foreigner's and noncitizen's crime research have been achieved recently by Russian criminologists (G. V. Antonov-Romanovskyi, V. M. Balykov, K. I. Bogomolova, O. A. Vasylkin and others). But these scientific researches reflect the specificity of Russian legislative and practice while Ukrainian crime situation has its own peculiarities.*

The paper objective *is to analyze the main tendencies of contemporary immigration processes in Ukraine and their influence on the criminal situation of the state.*

The paper main body. *According to the official statistics during 2008-2013 the population of Ukraine increased on 155 312 people as a result of the positive migration balance. This number doesn't include illegal immigrants. All of these people have their own purposes and reasons for moving to Ukraine. In some cases such purposes are not only illegal, but even criminal (criminal migration). Immigrants committed about 1 % of crimes annually in this period in the territory of Ukraine.*

There are the following types of influence, exerted by foreigners on the state security: demographic, economical, criminological etc. In the sphere of Ukrainian criminological security immigrants' threat is in increasing domestic crime rate by

newcomers.

In Ukraine the foreigners' crime statistics also covers crimes committed by noncitizens – a special kind of people who doesn't have any citizenship and who can be both as immigrants from other countries and Ukrainian residents.

Immigration can be viewed as a background phenomenon for domestic crime: it influences the host state's crime situation by their behavior during the adaptation period.

Conclusions of the research. *Immigration processes influence the crime situation of Ukraine in two aspects: on the one hand, immigration (as a demographic process in general) can be viewed as a background phenomenon for domestic crime and on the other hand – immigrant's crime is a specific criminal reality which has certain common features with domestic crime but at the same time is different from it. This type of crime requires more concrete, in-depth scientific research for prevention of its malignant consequences in the future.*

Key words: *immigration, foreigner, noncitizen person, background phenomena of crime, criminological security.*

Расширенная аннотация
статьи Маршубы Маралджан Оразнепесовны на тему:
«Относительно криминологической характеристики личности несовершеннолетнего корыстно-насильственного преступника»

Marshuba M. O., *competitor for the Department of Criminology and Penitentiary Law of the Yaroslav the Wise National Law University, Kharkiv*

An extended abstract of a paper on the subject of:
«On the criminological characteristics of the juvenile mercenary violent criminal's personality»

Problem setting. *The information about the juvenile mercenary violent criminal personality is revealed through defining criminological characteristics. A complex of social and psychological characteristics of a person, who has violated the criminal law, is examined within this one. The most typical criminal legal, socio-demographic, role-playing and other signs of such persons are considered as well. In this scope, criminological characteristics of the juvenile mercenary violent criminal personality require the most thorough analysis.*

Resent research and publications analysis. *Any separate research on creating complex criminological personal characteristics of a juvenile criminal has not been provided lately in Ukraine. Anyhow, receiving a full picture of such a criminal's personality is a must for constructing an efficient system for preventing violent mercenary crime among the minors.*

Paper objective. *The objective of a paper is to examine socio-demographic, criminal legal and moral personal features of a mercenary violent juvenile criminal.*

Paper main body. *Among the teenagers who have committed mercenary violent crimes, male ones make up 92, 3%. Mercenary violent crimes in the age of 14-15 are committed by 13,2% teenagers, in the age of 15-16 – 18,9%; from 16 to 17 – 27,4% and in the age of 17-18 лет – 40,5%. 37,5% of minor criminals were brought up in incomplete families. Over one third of teenagers systematically use alcohol, more than 7% – drugs. Besides, 66,7% have committed mercenary violent crime in a group. The intent for committing a mercenary violent crime emerges spontaneously. Moral deformation of delinquent teenagers is possible in the following elements of moral and psychological sphere: a) needs and social objectives; b) social values; c) normative component; d) social and behavioral roles; e) emotions and will.*

Conclusion of the research. *The moral deformation of moral and psychological sphere's various elements results in social disadaptation of juvenile criminal's personality.*

Keywords: *the juvenile mercenary violent criminal personality, criminological characteristics.*

Розширена анотація
статті Новікової Катерини Андріївни на тему:
«Місце обмеження волі в системі покарань»

Novikova K. A., *Postgraduate student of Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv*

An extended abstract of a paper on the subject of:
«The place of restraint of liberty in the system of punishments»

Problem setting*.A restraint of liberty is very specific punishment in the system of punishment by the Criminal Code of Ukraine. There are many theoretical and practice problems of use it. Thus, if the period from 2002 to 2008 the percentage of prisoners, who were appointed this punishment, was gradually increased, in subsequent years it was decrease. Analysis of sentences and resolutions of courts shows that this type of punishment is not unproblematic.*

Recent research and publications analysis*. There are no complex works about restraint of liberty in criminal law science. Some aspects of this type of punishment were researched by M. I. Bajanov, U. V. Baulin, I. G. Bogatirev, T. V. Kamyanec, B.O. Kiris, P. G.Kushnir, U. A. Ponomarenko, V. V. Stashis, V. I. Tutugin, O. I.Shinalskiy, I. S. Yakovec and another.*

Paper objective *is solve problem about place of restraint of liberty in the system of punishments by the Criminal Code of Ukraine.*

Conclusions of the research. *A restraint of liberty is self-dependent specific punishment, what have specific complex of right restrictions which inheres to it that distinguish it from another type of punishment. The degree of severity right restrictions measures of restrain of liberty is generally less than inherent the imprisonment and it variants (such as arrest) that allows to ask questions about the need to transfer a restraint of liberty of the system of punishment from ninth to seventh position. Obviously, this proposal indicates the need for further reform of certain articles of the General Part of the Criminal Code of Ukraine.*

Key words: *type of punishment, restraint of liberty, system of punishments, content of punishment, degree of severity of punishment.*

Розширена анотація
статті Опанасенкова Олександра Івановича на тему:
«Правове регулювання праці засуджених до позбавлення волі як засіб їх виправлення: сучасність і перспективи»

Opanasenkov A.I., *competition of the Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv.*

An extended abstract of a paper on the subject of:
«Legal regulation of penal labor as a correction method: modernity and prospects»

Problem setting. *At the present time the critical state of penal institution enterprises makes it impossible to ensure the involvement of all those sentenced to labor. Notwithstanding it is a means of correcting and re-socialization. The principles of such enterprises do not meet current market conditions, because they are unable to function effectively. As you can see, not all prisoners have the opportunity to use their right to work, which is guaranteed by the Constitution of Ukraine.*

Recent research and publications analysis. *The issue of labor of convicted persons attracted the attention of scientists from different disciplines at various times: V.A. Badyra, O.M. Dzhuzha, T.V. Duyunova, I.A. Zhuk, A.I. Zubkov, O.G. Kolb, V.O. Korchynskyj, L.G. Krahmalnyk, M.S. Rybak, V.M.Romanov, F.R. Sandurov, A.K. Stepanjuk, S.O. Stefanov, M.O. Struchkov, V.M. Trubnikov, G.F. Hohriakova, M.P. Chernenok, I.S. Yakovets, etc. However analysis of scientific publications shows that the investigation of the legal regulation of labor sentenced to imprisonment in Ukraine has not been studied enough.*

Paper objective. *The aim of the paper is to analyze the modern legal norms of penal legislation which regulate labor of convicts.*

Paper main body. *A specific feature of labor of prisoners has great difference from the free citizens' labor, and this difference is related to regulation of the legal penal law. Working conditions, which have no difference from the conditions of free citizens, are acting as general and regulated by labor legislation.*

However, in the formation of market economies a significant number of people serving a criminal sentence of imprisonment in socially useful work are not involved. In our opinion, one of the measures to protect the rights of prisoners who are not engaged in socially useful work due to administration of penal institutions is the payment of unemployment benefits.

Conclusions of the research. *The smaller the difference between the principal approaches to the regulation of the right to work sentenced to imprisonment and free citizens in the national legislation, the more reliable is the conservation and protection of rights and legitimate interests of labor relations in the penitentiary institutions.*

***Keywords**: labor, convicts, legal regulations, Criminal Executive Code of Ukraine, Labor Code of Ukraine.*

Розширена анотація
статті Панової Світлани Василівни на тему:
«Крадіжка, поєднана із проникненням у житло,
як явище соціальної дійсності»

Panova S.V., *post-graduate of the sector of researching of crime problems and their reasons of the Research Institute for the Study of Crime Problems named by academician V. V. Stashis NALS of Ukraine*

An extended abstract of a paper on the subject of:
«House –breaking as a phenomenon of social reality»

Problem setting. *Crimes against property is the main layer of the registered crimes in Ukraine. Among crimes against property house- breaking is the widespread one. Almost all of the fourth house- breaking combined with the entry into the dwelling. This way of burglary has the highest level of social danger, because of the infringe on the property relations and inviolability of dwelling.*

Analysis of the researches. *Such domestic and foreign scientists as M.I. Bazhanov, V.O. Emrlyanov, L.M. Krivochenko, V.I. Litvinov, Y.I. Lyanynov, P.C. Matishevskiy, A.A. P inaev and others researched burglaries as a form of theft in criminal law. Separate question of prevention of burglaries including entry into the dwelling are explained in the works of M.M. Baranova, Y.I. Bitko, G.M. Borzenkova, Y.V. Bushevsky, V.I.Gladkih, B.M. Folovkin and others.*

The main aim of the research is to canalize burglaries combined with the entry into the dwelling as a systemic phenomenon of social reality.

The main material. *Studying the nature of burglaries, combined with entry into the dwelling as a phenomenon of social activity foresees the research of its role and place in the system of crimes. Burglaries as a social and legal phenomenon, figuratively speaking, has no boundaries. In the plan of criminal geography it exists everywhere. Analysis of today's regulatory and legal framework of any country, it's past times shows the necessary attention of the lawmakers to illegal occupation of property, which is in someone's possession. Those observations can be spread on the accidental burglaries combined with the entry into the dwelling. In the structure of the theft, which is a huge phenomenon, prevails the last one.*

Next to the robbery, plunder, fraud and panel game, house-breaking traditionally is in the system of so called acquisitive crime. As the dangerous one, it is necessary to admit the fact that today the base of acquisitive criminality is being expanded.

In a special literature it is noted that the basic unified feature of burglaries is an acquisitive direction desire of criminal to get unlawful material benefit, beneficiary from committing a crime.

Meaning of the house-breaking in the system of criminal activity is also in the fact that this variety of criminal activity tightly connected with the professional criminality. For those who commit burglaries peculiar is the criminal

professionalism, stable criminal direction oriented on possession of considerable material value and so on.

Nowadays, burglaries determine the structure of all the criminality.

Conclusion. *Studying house-breaking as a phenomenon of social reality allows to make a conclusion about the existence in it sign in the system. Those crimes are united by the same forms of theft of smb's property through the criminal activity of acquisitive direction and also a preliminary stage in the career of repeater. Theft from the dwellings actually became the institution of illegal enrichment for a wide circle of people.*

Keywords: *burglary, dwelling, systematic.*

Розширена анотація
статті Резнікової Ганни Ігорівни на тему:
«Обстановка розголошення професійних таємниць як елемент криміналістичної характеристики злочинів»

Reznikova H.I., *post-graduate in the V. Stashys Institute of Crime Research of the National Academy of Legal Sciences of Ukraine*

An extended abstract of a paper on the subject of:
«The circumstances of the divulgation of the professonal secrets as the separate structure elements of the criminalistic characteristic»

Problem setting. *The scientific article deals with the problems of the establishing of the circumstances, time and place of the committing of the divulgation of the office secrets as the separate structure elements of the criminalistic characteristic of this group of the crimes.*

Recent research and publications analysis. *After analyzing the current state of the criminalistic investigations of the problems concerning the circumstance of the divulgation of the separate professional secrets, it is possible to state the absence of the complex research of the outlined problems.*

Paper objective. *In connection with this, the urgent problem is the formation of approache to the research of the circumstance of the committing of the crimes as to the divulgation of the professional secrets.*

Paper main body. *Being the special phenomenon, the professional secret is divulgated at the specific situation of the committing of the crime which is advisable to investigate from the point of view of the violation of the state of information security of the separate social relations created in the connection with the implementation of the certain professional activity.*

Conclusions of the research. *The crimes as to the divulgation of the professional secrets are committed as the result of the shortcomings concerning ensuring of the information security of the particular profession. Considering that, it is quite possible to investigate the circumstance of the committing of the crimes as to the divulgation of the professional secrets at three levels, at the level of the information resources, information infrastructure and «information field». So these crimes, connected with the divulgation of the professional secrets, the state of the information security of the certain professional activity of the separate worker or an enterprise or an organization has been violated by.*

Key words: *professional secrets; the circumstances of the committing of the crimes; time of the committing of the crimes; place of the committing of the crimes.*

Розширена анотація
статті Резнікової Олени Ігорівни на тему:
«Проблеми використання віктимологічних даних у криміналістичній характеристики злочинів»

Reznikova H.I., *post-graduate in the V. Stashys Institute of Crime Research of the National Academy of Legal Sciences of Ukraine*

An extended abstract of a paper on the subject of:
«Problems of the use of the victimological data in the criminalistic characteristic of the crime»

Problem setting. *Study of practice of solution and investigation of the grave and especially grave crimes testifies that criminal proceedings in connection with the committing of murder, rape, causing grievous body injuries and also solution and investigation of thefts, plunders and robberies also cause significant difficulties of the law enforcement officers. Besides, that this category of crimes cause substantial harm that indicates to their increased social danger, investigation of these crimes , as a rule, occurs in the conditions of the considerable deficiency of information. That`s why, scientists- criminalists constantly try to find the means, ways and methods of the effective solution and investigation of these crimes. One of the most effective and scientifically grounded instruments of establishing the truth in criminal proceedings is the conception of the criminalistic characteristic of the crimes. Taking into account, the current tendencies of the criminalistic science, practice of solutions and investigation of the crimes, one of the actual direction of the victimological data use is their involvement to the work of the criminalistic characteristic of the crimes.*

Recent research and publications analysis. *Actively investigating, the criminalistic characteristic of the crimes, to our great regret, the scientists-criminalists had given little attention to the independent research of such its separate element as the «personality of the victim». That`s why, it is considered actual the clarification of the peculiarities of the victimological data use in the structure of the criminalistic characteristics of the crimes.*

Paper objective. *The objective of the article is to find the essence of the concept «victimological date » and peculiarities of their use in the structure of the criminalistic characteristic of the crime.*

Paper main body. *In the article the modern approaches to the definition and understanding of the «victimmological data» and «criminalistics characteristic of crime» categories have been analyzed. The author gives his own definition of the «victimological data» category and arguments in its favor. The main problems having the direct influence on the amount variety of the latest have been outlined.*

Conclusions of the research. *The important direction of the victimological data use with the criminalistic purpose is involvement of the latest to the work concerning of the criminalistic characteristic of the crimes. The amount of the victimological data in the structure of the criminalistic characteristic of the crimes,*

in our opinion, depends on the level of such a characteristic of the chosen by the scientists approach to its formation and specific peculiarities of certain crimes.

Key words: *victimological data,the victim, criminalistic characteristics of the crimes.*

Розширена анотація
статті Шуміло Ольги Олексіївни:
«Щодо визначення видів насильства серед учнівської молоді»

Shumilo O. O., *employee of Academician V. V. Stashis Scientific Research Institute for the Study of Crime Problems National Academy of Law Sciences of Ukraine, Kharkiv*

An extended abstract of article:
«On defining types of school violence»

Problem setting. *The problem of cruelty in schools has always been an object of thorough research for press, art and specialized literature. Moreover, school violence is a special concern for lawyers, as the state is obliged to guarantee children's rights for healthy and safe being as well as to punish those who violate these principles. Grounding on theoretical data and empiric material, criminologists together with psychologists and teachers supply parents of school-children with practical advices for preventing cruelty among minors.*

Recent research and publications analysis. *Recently, issues of juvenile delinquency research were highlighted in the works of numerous criminologists, particularly, Y. Antonyan, Y. Bluvshtein, T. Barylo, M. Vyetrov, A. Dolgova, A. Zakalyuk, A. Zelinsky, K. Ihoshev, S. Lyhova, G. Minkovskiy, and others. They have defined certain reasons and terms of juvenile crime emergence, but, however, criminological aspect of school violence remains unexplored.*

Paper objective *is clearing up the essence and type of violence committed by the minors in schools, drawing it's general features and motivations in the scope of personal criminal transformations determination of the minor.*

Paper main body. *Today one of the most popular notion for defining school violence is bullying – an aggressive behavior, committed repeatedly, the prolonged process of conscious violent treatment, physical and/or psychological. Motivation for school bullying differs from revenge, restoring justice, instrument of leader's power to personal antipathy and others. An approximate classification system is a result of thorough studying the materials of questioning and interviews with educational system representatives. Hereby, bullying is divided into individual and common (mobbing); direct and indirect; general bullying and hazing (committed for the purpose of initiation); physical, psychological, sexual and economic. Certainly, school bullying causes continuous irretrievable consequences that hardly impact almost all the important life spheres, particularly, increasing the chances for turning to deviant behavior.*

Conclusions. *Summing up, the author concludes that bullying is a systematic social psychological phenomenon of educational environment, which causes complex psychological transformations both for aggressors, their victims and witnesses of this trouble.*

Key words: *school violence, boulling, types of violence.*

НАУКОВЕ ЖИТТЯ

Огляд **«круглого столу»**: «Вплив практики Європейського Суду з прав людини на вітчизняну судову практику»

Moskvych L. M.

THE IMPACT OF EUROPEAN COURT OF HUMAN RIGHTS PRACTICE ON NATIONAL JUDICIAL PRACTICE

Moskvych L. M., *Doctor of Law, Associate Professor, Principal Researcher of the Department for the Study of Investigative, Prosecutor's and Judicial Practical Problems, Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv.*

Problem setting: *Since Ukraine has ratified the European Convention on Human Rights this act has become a part of national legislation, and from 2006 the European Court of Human Rights practice was approved as a source of law in Ukraine. At the same time, there still remains a range of controversial issues considering the place of this Court's practice in the system of legal sources and its impact on national judicial practice.*

Recent research and publication analysis. *The significant attention to the research of European Court of Human Rights decisions legal nature, their validity for the law-enforcers and the impact on national courts practice was given by leading national and foreign experts, particularly, V. M. Vatamanyuk, V. Y. Marmazov, S. V. Shevchuk, A. B. Vengerov, Y. Vrublevsky, Y. D. Ilyin, V. O. Tumanov, L. G. Guseynov, J. L. Bergele, V. Bertam, F. Tatcher and others.*

Paper main body. *The study of higher courts practice allows defining the continuously up-growing impact of international legal standards on the court system of Ukraine. But the monitoring of judicial practice of local and appellate courts for their implementing the ECHR legal positions permits to resume, that the quality of referring to the ECHR decisions remains rather low. The latter is able to slow down not only the process of integrating Ukraine into the European Community, but the development of national legal system as well. In fact, today there are two opposite points of view: (a) the ECHR is the "supreme" court for national courts, though is capable of changing or canceling their decisions, and (b) the ECHR is only a "subsidiary" institution, so its decisions should have merely recommendatory (not obligatory) nature. The analysis of the current legislation results in conclusion that a decision of the ECHR in Ukraine is a basis for revising the corresponding decision of the Supreme Court of Ukraine, but the legal positions, contained in the decision of the ECHR are not unconditionally mandatory for the corresponding revision. Anyhow, a part of ECHR decision - ratio decidendi, that contains a legal interpretation of a European Convention on Human Rights norm, is a legal source for Ukrainian courts.*

Conclusion of the research. *To resume the given analysis, the practice of*

ECHR relatively to Ukrainian courts practice is a persuasive precedent, the legal decision's (legal position) essence of which is obligatory to be considered by the Supreme Court of Ukraine and the High specialized courts, without violating the national legal norms. As for the practice of other courts, they are bound to consider the legal positions of ECHR, outlaid in its decisions, as in fact they're an interpretation of the European Convention on Human Rights. Besides, an official interpretation of article 9 of the Constitution of Ukraine by the Constitutional Court of Ukraine will contribute to stabilizing the situation.

Keywords: *judicial precedent, judicial practice, the sources of Court Law.*

Огляд **науково-практичного семінару** «Взаємодія державних органів і громадськості у запобіганні та протидії корупції»

V. Golina, S. Shramko

Scientific and practical seminar

COOPERATION OF GOVERNMENT BODIES AND PUBLIC IN PREVENTION AND COUNTERACTION OF THE CORRUPTION

Golina V., *Doctor of legal sciences, Professor, Associate member of the National Ukrainian Academy of Law Sciences, head of the Section for the study of prevention crime's problems Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv*

Shramko S., *junior researcher of the Section for the study of prevention crime's problems of the Academician Stashis Scientific Research Institute for the Study of Crime Problems National Ukrainian Academy of Law Sciences, Kharkiv.*

Summary. *A review is devoted to the scientific and practical seminar within the framework VIII of the Allukrainian festival of science "Cooperation of government bodies and public in prevention and counteraction of the corruption" conducted on April, 24, 2014. Over 30 participants took part in the discussion of the issues of the day, related to the topic of scientific and practical seminar. There were leading scientists of the Yaroslav the Wise National Law University, Academician Stashis Scientific Research Institute for the Study of Crime Problems and National University of internal affairs among them.*

Speakers note that the questions of cooperation of government bodies and public in prevention and counteraction of the corruption are of special significance in the light of the last events, connected with the exposure of corruption schemes in the highest echelons of power. The attention was paid on the fact that the success of the fight against corruption consists on the way of political will updating, co-ordination and cooperation of government bodies of all power branches, and also broad public involvement to the fight against corruption.