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**INTERNATIONAL LAW HERALD:
ACTUAL PROBLEMS OF THE PRESENT
(THEORY AND PRACTICE)**

2014 .

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4–5 (8–9) 2017

34:33(477)(08)

Міжнародне право

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Теорія та історія держави і права; конституційне право

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Адміністративне право і процес; фінансове право; інформаційне право

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Кримінальне право та кримінологія; кримінально-виконавче право

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341.1/8

The article is devoted to the coverage of the problem of terrorism, which undoubtedly, very realistically and directly affects human rights, depriving people of the right to life, liberty and physical integrity. It is also proved that in addition to these human losses, terrorism can destabilize governments, undermine the functioning of civil society, create a threat to peace, security and socio-economic development. All this affect the possibilities of realizing human rights.

Key words: terrorism, human rights, UN, fight against terrorism.

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In article analyzes the main directions of the legal regulation of the situation of ethnic minorities in the days of the Central Rada and the UNR 1917–1918, reveals the peculiarities of the law-making activity of the leaders of the Central Rada and the General Secretariat (Government of the Ukrainian People’s Republic) regarding ethnic minorities. Separately an attempt is made to determine the factors and circumstances that determined the principles and approaches of the leaders of the Ukrainian revolution to the solution of the national issue during 1917–1918.

Keywords: *Central Rada, ethnic minorities, autonomy, federalism, legal regulation.*

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[3, . 71–74].

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- 1. (1917-1920) /
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- 4. 1917-1921 / . //
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- 8. ,1917-1920. - .:
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- 10. .- ,1902.- .24-31.
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- 13. 1917 / . //
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The article outlines the peculiarities of the constitutional consolidation of freedom in such normative acts as the Constitution of the Ukrainian SSR in 1937, 1978. The main differences in the regulation of freedom at each relevant historical stage are also analyzed. A comparative analysis of the consolidation of freedom in the constitutions of the Ukrainian SSR in 1937 and 1978 was carried out.

Key words: freedom, people's power, people, Constitution of the Ukrainian SSR in 1937, Constitution of the RSFSR of the year.

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3. () (1978 p.). II
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4. / - . : ; , 2014. - 264 .

340.132:341

This article analyzes the main approaches to understanding the nature and essence of electoral law and the formation of a tradition of electoral power in Ukraine.

Key words: state, power, electoral law, subjective electoral law, objective electoral law, electoral law, election obligations.

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..... , B. C. , [4, .23]. « » : (.....); [5, .15]. : 18 21 [2, .187]. :«21 »



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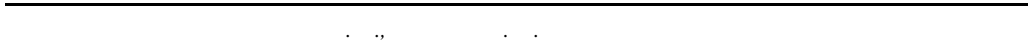
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2. ... II /
3., 2005. - . 24. - . 187-194.
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4. ... () : . . / . . . c .-
2- .- .: , 2008. - 467 .
5. ... : - :
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340.13

The article is devoted to the definition of the concept of improving the legislation of Ukraine as one of the components of the legal system and the conditions for improving its functioning. The main components of the process of improving the legislation of Ukraine as a country of socio-democratic orientation are considered.

Keywords: legislation, the legal system, the quality of legislation, the harmonization of legislation, legislative technique.

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3. : : 18 .2004 . 1629-IV/ // « » []. - : <http://www.zakon2.rada.gov.ua/laws/show/1629-15>
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6. 16.09.2014 1678-VII / // « » []. - : http://zakon3.rada.gov.ua/laws/show/984_011

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The article is devoted to the analysis of modern problems of access to legal education (on the example of the USA, Great Britain and Germany).

Key words: *Law Education, accessibility of law education, educational criteria of the access to law education, social criteria of the law education accessibility.*

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70- XX . 50- [17, .26].

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17. . . // . – 45. – . 25–31.

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342.97

This article describes the governance mechanism of charitable organizations in the US , the ratio of state and municipal bodies in the charitable sector and the social sector in particular. Analyzed the tax arrangements for the activities of charitable organizations of the America and also displaying activating influence of charitable organizations in the civil society.

Keywords: *administrative and legal status of a charitable organization, the forms of philanthropy, public policy, administrative and legal regulation, tax incentives.*

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336.02

In this paper, the question of consolidating the financial autonomy of local self-government bodies as subjects of tax relations and directions of improving the system of local taxation in the process of introducing fiscal decentralization - the reform of tax legal relations. In addition, the author outlines the current problems that accompany the process of fiscal decentralization. Are proposed directions for further reformation of tax legal relations and local taxation in the conditions of regionalization.

Key words: tax relations, fiscal decentralization, local budget, local taxes and fees, local governments, regionalization.

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342.951.006.03 (477)

In the article on the basis of analysis of theoretical developments, the provisions of the current legislation, generalizations of law practice, the essence of the concept of administrative-legal provision of standardization in the field of defense of Ukraine is disclosed.

Key words: administrative-legal support, administrative-legal regulation, standardization in the field of defense.

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- 26. : /- .: « ,2006.-668 .
- 27. . . . : 3 ./ . . .- .: - ,2002.- .1:-2002.-728 .
- 28. . . . -,2 2007 ./ //- .: - ,2007.- .2.- .172-175.
- 29. . . . / . . . // .- 26.- .83-91.
- 30. . . . /- : ,2002.-432 .

343.10

At danyom dosloschenzheny rozglyadayetsya shlyakh vospokonalennya profilaktiki narcotizm in Ukraine.

Key words: *narkotizm, drug trafficking, prevention.*

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8. . . . : : - /
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5. - .59-67.		
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4. // () .-1996.- 30.- .141.		
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6. : :24.04.1992 //		
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' ,1997.- .2.- .68-73.		
7. / //		
.-2013.- 4.(13).- .106-111.		

343.3/7

150

In article provisions of the Criminal code of Ukraine which concerns exploitation of children are in detail investigated. Positive lines and also shortcomings for the purpose of their elimination and improvement of the criminal legislation on exploitation of children are defined. The offered own options of improvement of article 150 of the Criminal code of Ukraine.

Key words: child, exploitation, crime, criminal liability, The Criminal Code, punishment.

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1. 20.11.1989 : : 20.11.1959,
: 27.02.91 789-XII.
2. : ,
217 A(III): 10.12.1948.
3. : : 10.12.1971 322-VIII [
]. – : <http://zakon0.rada.gov.ua/laws/show/322-08>
4. : : 05.04.2001 2341-III//
(). – 2001. – 25–26.
5. 150 150-1 : ,
[]/ . . – : http://www.yurincom.com/ua/legal_practice/services/kryminalne_pravo/zminy_do_statei_150_i_150-1_kku_krok_vpered_dva_nazad_publication/
6. : : 26.04.2001 2402-III//
(). – 2001. – 30.

343.97

In article features of prophylaxis of serial crimes are surveyed. The attention to not adjustability of the matter at the legislative level is paid. The directions of improvement of preventive activity of law enforcement agencies in prevention of serial crimes are offered.

Key words: *crime, serial crimes, prophylaxis, prevention, frequency.*

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20 [4, .307-308].

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- .-2001.- 10.- .94-96.
- 2. . / . //
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- 3. . : / . //
- .-1999.- 1.- .189-196.
- 4. . . : - ,2000.-
- 192 . / . . - .:
- 5. . . / . . - .:
- ,1977.- .80.
- 6. . / . .- .: ,1998.-412 .
- 7. . : . / . . . - .:
- ,1997.- .4.
- 8. . , /
- . . .-X.,1990.-432 .

343.9

The article deals with the peculiarities of the subject of a criminal, victimology of the crime of illicit drug trafficking, psychotropic drugs, precursors and their analogues, and proposes the classification of victims of a crime depending on the relation to the subject of the attack.

Key words: *subject of encroachment, illicit trafficking, narcotic substances, psychotropic drugs, precursors, victimology, victim of crime.*

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[2, .93].

[6, . 96].

[4, . 113].

[6, . 196].

[8, . 647].

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[5, .105].

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2. . . . : . ./ . . . , . . . - . : . . , 1985.-93 .
3. : 05.04.2001 2341- []- : <http://zakon3.rada.gov.ua/laws/show/2341-14>
4. / . . . - . : - , 2000.- 590 .
5. . . . : - / . . . , - . : , 2007.-720 .

6. - .1: /:, 2002. - 194 .
7. : 08.07.1999 863-XIV [], - : http:// zakon0.rada.gov.ua/laws/show/863-14
8. , /: « »; , 1998. - . 10. - 397 .

343.9

The article deals with special-criminological measures to prevent acts, the responsibility of which is provided for in article 209 of the Criminal Code of Ukraine. Features of special-criminological measures to prevent the legalization of proceeds from crime are characterized. The specifics, effectiveness and disadvantages of these activities are also analyzed.

Key words: laundering of proceeds from crime, measures to prevent the legalization of “dirty money”.

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[6, c. 155].

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[5, .622].

[2, c. 35].

[2, с. 37].

1. : /- ., 1989.
2. / . . . // .-2001.- 5.- .34-37.

3. « » [] . - : http://www.rada.gov.ua
4. () , , : 14.10.2014 1702-VII/ // « » [] . - : http://zakon1.rada.gov.ua
5. « » . () / . // - . , 2004. - . 612-635.
6. () , : / - - : , 2008. - 231 .



343.9

The main reasons and conditions of juvenile involvement in criminal activity are mentioned.
Key words: juvenile involvement in criminal activity, criminalization of minors' environment, determinants.

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[7, .149].

[1, .202].

[2, c. 254].

[6, c. 212].

[9, c. 113–114].

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2. . . o o o o o o
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3. o o . . o o o o o o
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 2007.- .119-130.
4. . o o 35 / . // o . -
 2012.- 13.- .131-135.

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- 5. o o o - o o
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o »: o .-2015.- 824.- .290-297.- (:
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- 6. o o- o : 2- .- .2/ .
. o ,-3- ., o . o .- .: ,
o o ,2009.-624 .
- 7. . / . //
.-2016.- 4.- .146-154.
- 8. O o . o o o : o o /
. O o// o o .-2015.- 1.- .179-188.
- 9. o o . . o o / . . o o ; . . . o o .-
.: O -89,2001.-704 .
- 10. o . . o o o o / . . ;
. . . o .- .: ,1985.-247 .



345.35

The article criminological characteristics of the person of the offender who accomplishes contraband of narcotic drugs, psychotropic substances and their analogues are investigate. The main three types of criminals smugglers for the purposes of its commission and identify the main features of the persons in question.

Key words: *smuggling, criminal identity, narcotic substances, typology, state security.*

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[4, .39].

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 30 -27 %; 41 50 -6 %; 51 60 -3 %; 60 -0 %; 2) :
 -12 %; -45 %; -31 %;
 5 %; -7 %; 3) : -74 %; -9 %;
 (,) -6 %; -1 %; -3 %; -1 %;
 -5 %; -1 %; 4) : -25 %; -
 75 %; 5) : -8 %; -92 %;
 6) : - 2 %; 7) : -
 2 %.

1. : -
 : .12.00.08/ . . - ,2007.-20 .
 2. / . . // .-2012.- 2 (80).- .40-45.
 3. / . . [].-

: <http://www.stattionline.org.ua/pravo/76/12551-kriminologichna-xarakteristika-osobi-yakavchinila-kontrabandu-narkotichnix-zasobiv-i-psixotropnix-rechovin.html>.

4. / // -2003.- .24.- .39-43.
5. , : / - : 2009.-450 .

343.3/7

The article deals with the problems of crimes in the area of intellectual property, counterfeit products ("pirated products"), the spread of counterfeit computer programs, the current legislation in this area, the nature of preventive measures that enable the protection of intellectual property rights in the state to be ensured on a more qualitative level.

Key words: economic crime; offenses that violate copyright and related, patent rights; counterfeit products; "Pirate products"; counterfeit computer programs; criminogenic situation; audiovisual works.

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2. :
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3. : /
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4. : 5 .2001 .//
2001.- 25-26.- .131 [].- : <http://zakon4.rada.gov.ua/laws/show/2341-14>.
5. : 7 .1984 . 8073-X//
. -1984.- 51.- .1122 [].-
: <http://zakon5.rada.gov.ua/laws/show/80731-10>.
6. : /- .: , 2000.-
.455-456.
7. /-
2001.- .49.
8. :
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« » , 2017.- .173-177.

343.8

In article analyzes the regime as a means of influencing people who are serving punishment for malicious disobedience to the requirements of the administration of the penitentiary institution. It is proved that its improvement will create conditions for preventing the commission of the convicts of this criminal offense and will make it possible to increase the efficiency of work with the convicted staff of places of deprivation of liberty.

Key words: *regime, punishment, malicious disobedience, administration, institution, personnel, convicted, criminal offense.*

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: 2011 - 245 (-46 %),
2012 186 (44 %); 2013 - 177 (44 %); 2014 - 82 (24 %);
2015 - 112 (35 %). , . 391 ,

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[4, .106].

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- [. - : <http://zakon4.rada.gov.ua/laws/show/1129-15/print1389941640486839>] . -
3. , - .: ,2015.-164 .
4. / :
 -2014.- 2.- .105-107.
5. : -
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 . -2- . - .: « » ,2014.-376 .

343.14

In article the place of institute of parole of the convict from serving sentence in criminal and executive process of Ukraine is opened. Offers in the current legislatio for the purpose of his improvement are made.

Key words: *institute, parole, punishment, criminal and executive process, convict, improvement.*

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- 7. . . . - : . 12.00.08 / - : , 2009. - 20 c. :
- 8. - . 5-42/07
- 2007 .
- 9. . 5-01-02/10
- 2010 .
- 10. - : 8 1997 . 1- ; 18.12.1996 []. - : <http://www.consultant.ru/popular/uikrf/>
- 11. . . . : . 12.00.08 / - : , 2014. - 20 .



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The article is sanctified to the origin, becoming and development of Odessa criminalistics scientific school of problems of methodology of investigation of separate types of crimes. Authors in a chronological order show the dynamics of preparation of dissertations on this range of

problems and expose the role of anchorwomen scientists in forming of this important scientific direction of criminalistics researches in the Odessa region.

Keywords: *dissertation, methodology of investigation of separate types of crimes, scientific school, scientific guidance.*

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(. . .) (. . . [30]);

[31]); (. . . [32]);
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 [35]; (. . . [36]);
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2. : :
.12.00.09/ - ,1962.-48 .
3. : .12.00.09/ - ,
1971.-18 .
4. ():
.12.00.09/ - ,1973.-19 .
5. ():
.12.00.09/ - ,1973.-18 .
6. ():
.12.00.09/ - ,1973.-16 .
7. : .12.00.09/ - ,1983.-18 .
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9. :
.12.00.09/ - ,2003.-34 .
10. : .12.00.09/
. - ,2008.-20 .
11. :
.12.00.09/ - ,2008.-20 .
12. : .12.00.09 /
. - ,2011.-19 .
13. : .12.00.09/ - ,2012.-20 .
14. :12.00.09/ - ,
2013.-20 .
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2013.-20 .
16. , ,
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. - ,2013.-20 .

- 17. : .12.00.09/- ,2013.-
- 20 .
- 18. : .12.00.09/- ,
- 2014.-20 .
- 19. : .12.00.09 /
-- ,2016.-20 .
- 20. : .12.00.09/- ,1999.-20 .
- 21. : .12.00.09/- ,1998.-17 .
- 22. : .12.00.09/- ,
- 2000.-19 .
- 23. : .12.00.09 /
-- ,2002.-17 .
- 24. ,
- : .12.00.09/- ,2002.-19 .
- 25. : .12.00.09/- ,
- .,2004.-20 .
- 26. () ,
- : .12.00.09/- ,2004.-22 .
- 27. : .12.00.09/- ,
- 2004.-20 .
- 28. : .12.00.09/- ,2004.-20 .
- 29. ,
- : .12.00.09/- ,2004.-19 .
- 30. ():
- : .12.00.09/- ,2006.-20 .
- 31. -
- : .12.00.09/- ,2006.-19 .

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	.12.00.09/- .,2006.-18 .	
33.			
		.12.00.09/-
		,2007.-19 .	
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	12.00.09/- .,2008.-20 .	
36.			
		.12.00.09/- .,2009.-20 .
37.			
	.12.00.09/- .,2010.-20 .	
38.			
		.12.00.09 /	
	.- .,2011.-22 .		
39.			
		.12.00.09 /	
	.- .,2013.-20 .		
40.			
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		.12.00.09/- .,2014.-20 .
42.			
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43.			
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	.12.00.09/- .,2016.-20 .	
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	.- .,1997.-50 .		
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		.12.00.09/- .,2011.-40 .

343.11

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The article deals with the features of the prosecutor's participation in criminal proceedings at the stage of legal argument about the cases of evasion of taxes, duties (compulsory payments), as well as it is proposed possible ways to improve the quality of preparation of materials by the prosecutor due to the specification and systematization of evidence in criminal proceedings.

Key words: criminal proceeding, prosecutor, tax evasion.

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343.13

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The article is devoted to the study of the effect of the presumption of innocence and ensure the proof of guilt at the initial stage of the criminal process, its importance for an effective and fair investigation. The article analyzes the national criminal procedure legislation, which defines the stages of the criminal process and the basic provisions of the presumption of innocence and ensuring the proof of guilt.

Key words: *presumption of innocence and assurance of guilt, ambush, stage, criminal proceedings.*

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 5) ;6) ;7) ;8) [2, .27].
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.236 - () .3 .120, .6 .234, .3
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(62) [6].

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2014 8 .387 « 2015 -
21 , 2016-37. » 2017 -
46 [9].

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1. . . . - /
// - .-2015.- 6.- .49-51.
2. . . . : / . . . , . . . ,
. . . . - .: ,2013.-544 .
3. . . . : : 13.04.2012 4651-VI//
().-2013.- 9-10, 11-12, 13.- .88[].-
: <http://zakon2.rada.gov.ua/laws/show/4651-17>
4. . . . / . . . // ,
: - . « ».-
2005.- 46.- .5-9.
5. . . . : /
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6. . . . () .3 .120, .6 .234, .3
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7. . . . : : 05.04.2001//
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8. . . . : - // [].-
: http://zib.com.ua/ua/print/38765-povidomlennya_schodo_rozgoloshennya_danih_dosudovogo_slidstv.html
9. . . . : [].- : <http://www.gp.gov.ua/ua/statinfo.html>

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The article is devoted to the research of the prospects of using scientific and technological means to identify and expose lies in obtaining information from participants in the investigation of a criminal offense. The obstacles of the procedural nature that prevent the use of the appropriate scientific and technical means in full are outlined. The reasons for the need to disseminate the use of technical means for detecting false information during pre-trial investigation are established.

Key words: detecting lies, false information, lie detection, scientific and technical tools, information verification questioning, polygraph, kontrolohraf, voice stress analyzer.

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1. . . . [].- : <http://www.spilnota.net.ua/ua/article/id-1197/>
2. . . . : / . . . ; . . . ,2000.-124 .
3. . . . / . . . // .-2009.- 114.- .276-281.
4. . . . () / . . . // .-2014.- 2.- .294-298.
5. . . . : / . . . , . . . // « . . . ».-2015.- 825.- .341-346.- (:).
6. . . . / . . . // .-2008.- 1, 21 (60).- .223-239.- (« . . . »).
7. / . . . , . . . // : .-2000.- 1.- .153-158.

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The article outlines directions for improving e-justice in Ukraine. The bills registered in the parliament on this issue are analyzed.

Key words: the Constitution of Ukraine, electronic court, electronic justice, electronic digital signature, information technologies, bill number 6232 dated 23.03.2017.

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1. : 28.06.1996 254 /96- / // « » []. – : <http://zakon2.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>
2. : 08.06.2017 : 23.03.2017 6232 / // « » []. – : <http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=61415&pf35401=425925>
3. : []. – : http://yurincom.com/ua/yuridichniy_visnyk_ukrayiny/overview/?id=5533
4. . .« » / . . // . – 2013. – 3. – . 52–60.
5. - . . : / . . - // . – 2013. – 1. – . 103–109.
6. : 23.03.2017 6232 / // « » []. – : http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=61415
7. / . . // . – 2016. – 1. – . 107–112.
8. . . (,)/ . . , 2012. – 238 .

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The article is devoted to the definition of problems of legal regulation of forensic expert activity in the context of judicial reform in order to find ways to improve it. The Institute of Forensic Expertise is characterized as one of the guarantors of the effective establishment of the truth in cases not only of the criminal sphere, but also of civil, economic, administrative and a number of other branches of law.

Key words: forensic examination, criminal process, expert, special knowledge.

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1. : 13.04.2012 4651-VI/ //
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2. : []/ . . -2017. -
 : http://protokol.com.ua/ua/reforma_sudebno_ekspertnoy_deyatelnosti_v_ukraine_kak_sostavlyayushchaya_sudebnoy_sistemi_tendentsii_i_perspektivi/
3. . - 2014 [()]. - : <http://www.sudexpert.in.ua/>
4. []/ . // . - 2017. - :

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http://protokol.com.ua/ua/shansi_zberegiti_privatnu_sudovu_ekspertizu_visoki_popri_zmini_v_zakonodavstvi/

5. : :
 . – , 2017 [] . – : <http://jurliga.ligazakon.ua/news/2017/10/3/165099.htm>

6. : : 25.02.1994 4038-12 / //
 « » [] . – : <http://zakon3.rada.gov.ua/laws/show/4038-12>

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8. / . . , . . //
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343.13

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In the context of this article, the notion of «form» of law and the «source» of law are defined. There is a distinction between the phenomena of «judicial practice» and «judicial precedent», as well as proposals for extending the powers of judicial authorities in the field of law-making.

Key words: legal opinion of the court, the judiciary, the source, right.

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343.132

The article deals with the problem of regulation of procedural legislation by the peculiarities of the state and international search of the suspect, accused during the pre-trial investigation.
Key words: public prosecution, international search, international cooperation, Interpol, pre-trial investigation.

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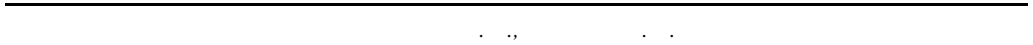
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- 2. // « » [], - 4651VI / :
<http://zakon3.rada.gov.ua>
- 3. : /
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- 4. / // ,
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- 5. ,
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 2015.- .79-82; .80.
- 6. / . , .- ,2016.-277 . :
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- 7. : : 07.07.2017 575 / //
 « » [], - : <http://zakon3.rada.gov.ua/laws/show/z0937-17>
- 8. , ,
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- 9. : : 20 2015 //
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- 10. /
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 .158-164.



343.1

The article explores the problem of providing security to various categories of persons involved in criminal proceedings. In particular, special attention is paid to the protection of witnesses in criminal proceedings. The necessity of introducing the institution of witness protection and creating the necessary protection programs in Ukraine.

Key words: *persons who participate in criminal proceedings, victim, witness, the suspect, the accused, security, witness protection program.*

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2. . . . /
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3. : 10 1948 // . -
2008. - 93. - . 3103.
4. . . . « ,
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- 2015 .(.).- .: . .,2015.-64 .
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- http://zakon3.rada.gov.ua
- 7. , :
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- 8. R (97) 13 - : http://
scourt.gov.ua/clients/vsu/vsu.nsf/(documents)/7442A47EB0B374B9C2257D8700495F8B
- 9. Rec (2005) 9 - [].-
: http://scourt.gov.ua/clients/vsu/vsu.nsf/(documents)/
7442A47EB0B374B9C2257D8700495F8B
- 10. , .-
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- 2017.- 3(15).- .119-128.
- 11. ,
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- .-2015.- 6, 3.- .117-119.
- 12. , :
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- .-1999.- 3(6).- .146-148.

343.9

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The article is devoted to the conditions for the transfer of criminal proceedings. International and national legislation in this sphere are analyzed. The concept and classification of such conditions are formulated.

Key words: *criminal prosecution, international cooperation, transfer of proceedings in criminal matters, conditions for the transfer of criminal proceedings.*

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[6, .192].

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[1, .302].

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3. - .301-311. -(.).
2. : 15.05.1972 ETS 73 / // « : »
[.]- : http://zakon2.rada.gov.ua/laws/show/994_008
3. : : 22.01.1993 / // « : »
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 - 6. . . . / . . . // ; , « ».- :
 - . - ,2012. – .66. – .483–488.
 - 7. / [].- : <http://www.gp.gov.ua/ua/stat.html>
 - 8. , (')/ ,2012. – 238 .
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The article is devoted to the study of the main provisions of the legislation of foreign countries, which determine the legal status and regulate the activities of the prosecutor’s office. The attention was paid to the powers of the prosecutor in the criminal proceedings, the structure, functions, powers and functional and organizational peculiarities of the prosecutor’s offices in foreign countries were considered. A comparative legal analysis of the organization of the Prosecutor’s Office of the Anglo-Saxon and Romano-Germanic legal systems was carried out.

Key words: prosecutor, criminal proceedings, criminal justice, prosecution, investigative bodies.

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2. : 04.10.1958 [].- : www.megabook.ru
3. : - / . . 2012.-1224 .
4. : 22.12.1958 58-1270// .-2005.-120 .
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- www.diplay.ru
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7. Jean Gicquel, Droit constitutionnel et instituons politiques. Montchresten Paris, 1999. – 344 .

343.13

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The article is devoted to the research of the implementation of the basis of competition in the criminal process at the stage of pre-trial investigation. The legislative approaches to the settlement of relations in the field of evidence between the subjects of the criminal process on the prosecution and defense side are studied.

Key words: *adversarial parties, pre-trial investigation, party prosecution, party protection, equality of parties, evidence.*

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1. – 2013. – 2. – . 166–171. – : //www.nbuu.gov.ua/j-pdf/aymvs_2013_2_31.pdf
2. . . . : / – X. : , 2012. – 448 .
3. . . . []/ – : http://www.spho.ru/media/pdf/_original/1/17_kirillova_myisl6pdf.pdf.
4. : : 13 2012 4651-VI[].– : http://zakon2.rada.gov.ua/laws/show/4651-17/page
5. . . . / //
6. . – 2012. – 1. . . . : : . . . / – . : , 2005. – 456 .
7. . . . : :
8. . . . : . 12.00.09/ , 2005. – 210 .
9. . . . : , 2007. – 208 .
10. []/ // . – 2012. – 1. – . 883–887. – : //www.nbuu.gov.ua/e-journals/2012-1/12cgvvvp.pdf.
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12. . . . / // (, 26 2013) : . – . : , 2013. – 8–12.
13. . . . / // . – 2013. – 19(2). – 1–6. . . . : // . – , 2004. – 3(28). – 209–218.

343.11

The article focuses on separate approaches to the classification of court mistakes allowed during criminal proceedings. There are generalized separate classifications of court mistakes and their characteristics are presented taking into account the provisions of the current Criminal Procedure Code of Ukraine. Attention is drawn to the types of court errors that are significant in terms of enforcement.

Key words: *mistake, miscarriage, classification, criminal proceedings, law enforcement.*

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[5, . 90].

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[2, . 19, 20],

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;5) i (.188-192, 207-213

;6) i (.183) [1].

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343.131.5

In the article author analyzed genesis of the formation and development of law enforcement authorities that carry out pre-trial investigation of tax offenses. The historical and legal justification for the expediency of creating these authorities is given. It is proved that the creation of law enforcement authorities that carry out pre-trial investigation of tax offenses was caused by the complication of the criminal situation, the growth of the level of economic crime in the country and the spread of legal nihilism among the population.

Key words: *genesis, legal status, law enforcement authorities, economic crime, Criminal Procedure Code of Ukraine.*

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[10, .91].
[1, .17-19]. . .
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[9, .84].
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3. . . . : 2- ./- .1.- .: ,
1991.-238 .
4. : : 30
1996 .[.- : <http://zakon2.rada.gov.ua/laws/show/1013/96>
5. , ()/ ,
- : ,1990.- 558 .
6. « »: : 28
1922 .[.- : <http://textbooks.net.ua/content/view/1042/17/>
7. : : 19 1919 .[
]- : <http://irbis-nbuv.gov.ua/dlib/item/0000180>
8. 7 5 / - .: -
,1935.-193 .
9. . . . / - .:
,2000.-120 .
10. : 3- ./ , ,
. - . . . : 1588 : 2- .- .1.-
: ,2002.-672 .
11. . . . 1649 / , -
.: - ,1961.-346 .
12. . . . // :
.- ,1997.- .1.- .83-85.

349.98

The article is devoted to the peculiarities of the forensic character of the investigation of crimes committed against the accumulation of cash through robbery, as well as the use of various methods in the investigation of crimes of this type.

Key words: *forensic characteristic, crime, investigation, collection of money, robbery.*

[2, .9-17].

[13, .71].

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[6, .81].

[11, .50].

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[13, .76].

[1, .687; 5, .122];

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[9, .6].

[3, .11].

[13, .78].

[3, .13].

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[13, . 82].

[13, . 83].

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- 3. : / - ,1999.-18 .
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- 5. / //
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- 6. // -
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- 7. // -1987.- 2.- .67. :
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The article is intended to investigate the legal essence of the wisdom of time as a basis of criminal procedural law of Ukraine, in order to carry out the analytical identification of the principle and the prudence of the terms of pre-trial investigation. National law regulation of the article definitions base applies to the lexical and philosophical conception of reasonableness.

Key words: reasonable terms, reason, wisdom, ambush, human rights violations, criminal procedural deadlines.

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343.1

The article deals with forms of international cooperation in the investigation of tax evasion in the transnational nature. It is stressed that not all forms of international cooperation, as defined by the criminal procedural legislation of Ukraine, can be applied to such criminal acts. The exchange of tax information as a form of international cooperation in the investigation of transnational tax crimes is singled out.

Key words: *international cooperation, tax evasion, transnational nature, investigation, crime.*

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The article reveals the general provisions of interaction of the investigator with operational units and focuses attention on the peculiarities that arise in the investigation of premeditated murders when the limits of the necessary defense are exceeded.

Key words: crime, intentional homicide, necessary defense, interaction, investigator, operational units.

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In the article analyzes the procedural status and the basic tasks of the activity of the prosecutor and investigator at the pre-trial investigation. Determine the types and forms of interaction between the investigator and the prosecutor in the investigation of criminal offenses. Set the scope of the existing problems in this sphere, the ways of their solution. Formulate proposals for improving the legislation and investigative and prosecutorial practices.

Key words: *Interaction, investigator, prosecutor, procedural status.*

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343.285

The article analyses the scientific approaches to establishing the peculiarities of the initial stage of the investigation of criminal offenses connected with terrorism. Attention is paid to investigating situations that arise at the initial stage. The necessity of interaction of security services with other law enforcement agencies, the importance of an effective investigation at an early stage in criminal proceedings, and the investigation of crimes against terrorist manifestations was noted.

Key words: pre-trial investigation, initial stage, investigative situations, terrorism, criminal process.

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The article focuses on the offender of knowingly untrue reports about the threat the security of citizens, destruction or damage of property objects and its criminalistics characteristics. The main attribute's groups of these personalities are analysed, these features and characteristics are established.

Key words: *offender, criminalistics description, public safety, crime, communication, explosion.*

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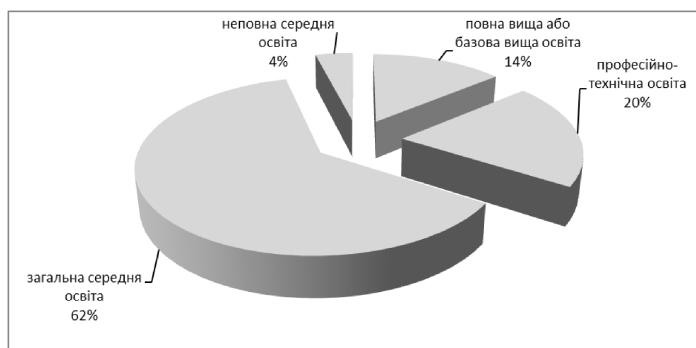
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343.98

The article is devoted to non-procedural forms of interaction between law enforcement agencies in the investigation of criminal offenses related to raider hijackings, as well as the problems of inadequate level of investigation of this type of crime.

Key words: forms of interaction, criminal offenses, raider hijacking, investigation, law enforcement agencies.

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The article examines the role of forensic expertise in the investigation of evasion from avoidance of military service and mobilization. The attention is focused on the examinations, the results of which allow to properly qualify the acts, as well as to establish essential the crime of crime. A religious expertise as a way to verify the simulation reason to alternative (non-military) service, and Indeed religion in recruits.

Key words: *forensics, expertise, avoiding conscription, conscript, military duty.*

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P. V. Tsymbal,

*Doctor of Law, Professor of
department of criminal process
and criminalistics,*

M. V. Kyhta,

*Student University of the State
Fiscal Service of Ukraine*

PROBLEMS OF INTERNAL BELIEF EXPERT IN THE EXPERT STUDY

The article investigates the contents of internal belief expert in the expert study. Analyzed scientific approaches to the definition of «internal persuasion expert». Studied social, psychological and logical-epistemological beliefs aspects of internal experts during the expert study. Particular attention is paid to the role of intuition in the process of internal persuasion expert.

Key words: *inner conviction, expert, cognitive activity, thinking, consciousness, intuition.*

Expert research: at first, it is a difficult process in which his separate stages interconnected and interdependent; secondly, it is cognition of facts and circumstances (in a gnosiological value) which, in same queue, for an investigator and court also is the objects (by fact sheets in the procedural value of this word) of cognitive activity. A cognitive process can not be examined in tearing away from a social factor. Thus consideration of cognitive process from a active side foresees the account of both social and psychological, factors of cognitive activity.

Taking into account, that criminal procedure cognition part of which is expert research has a identity side also which shows up in a procedural form and, it is necessary to examine cognitive activity of expert as unity logical-epistemological, social, psychological and procedural factors [18, a. 6].

The process of cognition and logical proof to carried out an expert is in the process of expert research from point of in-use argumentation, intellectual activity, psychological processes does not differ from the process of search of truth in other spheres of establishment of truth, in a that number from activity of investigator and judge from a search verifications and estimations of proofs (in a criminal procedure value).

Problems of internal belief of expert during the conduct of expert research was the object of scientific searches of domestic and foreign scientists, such, as: A. Ya. Vishinskogo, M. V. Zhogina, G. O. Zorina, V. P. Kolmakova, Yu. K. Orlova, O. R. Ratinova, M. S. Strogovicha, I. Ya. Foynickogo, Ya. M. Yakovleva and others like that.

In literature the unique point of view absents in relation to nature and concept of internal belief, and also factors which influence on him. The problem of internal belief was probed known proceduralists of I. Ya. Foynickim and V. K. Sluchevskim [17, a. 188]. They examined internal belief not as lighting up of subject of estimation of proofs, but as mental act which was bound to consciousness and circumstances of case, as by the basic criterion of forming of internal belief.

M. S. Strogovich examined internal belief in relation to judges as subjective expression of objective truth, as a criterion, process, method and result of estimation of proofs [16, a. 67].

In opinion of A. Ya. Vishinskogo in quality of factors which influence on internal belief, selects a world view and legal consciousness as establishment of financial truth which makes one of basic tasks of soviet litigation is the result of difficult psychical activity which ends with the formation of the confidence of judge in the correctness of the decision he look in this case, that is the formation of the so-called internal belief of judge [7, a. 177–178].

This process of forming of internal belief of judge takes place on the basis of perception and estimation of court facts (proofs), which take place, the estimation of these facts (proofs) depends a decision measure, from such leading principles, as dominating in this society justice – from one side, and degree scientifically methodological preparedness or qualification of judge – from other.

Internal belief of judge is always organically related to his world view, with his legal consciousness, which dominate in this society. Near understanding of nature and essence of internal belief we find the most rational going in O. R. Ratinova and M. S. Strogovicha. They examine internal belief as pre-condition, process and result of cognitive activity of subject of proof. On this basis they select the gnosiological, logical and psychological aspects of internal belief [14, a. 474–478].

In literature an idea, in accordance with which it follows to examine internal belief as beginning, principle, speaks out also, as a method of estimation of proofs and as a result of such estimation.

Internal belief as a moral, ethics category is related to other ethics category – conscience. A conscience shows up in form clever awareness of moral value of the accomplished actions. A person judges about the acts as though in one's capacity, coming from the own ideas of justice, duty, about correct or wrong [15, a. 1242].

In literature attention applies yet on one aspect of internal belief – on obligatoriness of him external expression in the argumentation ground of the accepted decision in relation to the estimation of proofs [14, a. 476].

In procedural literature scientists mark indissoluble connection of internal belief and legal consciousness. Debatable is a question about character of connection of internal belief and legal consciousness. So, for example, A. Ya. Vishinskiy, examining correlation of legal consciousness and internal belief, marks that a “dialectical method lies at the heart of legal consciousness as a general system of legal, philosophical and political looks and internal belief as a method of decision of private, concrete questions of judicial order” [7, a. 182]. O. R. Ratinov, criticizing this position A. Ya. Vyshinsky pointed out that if “the assessment of evidence based on internal belief is directly based on the consideration of the particular circumstances of the case, then the necessary prerequisite for the possibility and correctness of this assessment is the content of the consciousness of the evaluating entity, that is, the judge, investigator, prosecutor” [14, a. 487]. We fully agree with the opinion of O. R. Ratinov and believe that consciousness is the basic value when applying the subjects of the assessment of evidence of internal conviction. Only with the help of consciousness is a qualitative subjective reflection of objective reality (in our case, of evidence) in the form of subjective qualities (their perception of a separate subject).

In a theory right legal consciousness is determined as a form or sphere of consciousness, which represents legal reality in form legal knowledges and evaluation attitudes toward a right and practice of his realization, legal settings and valued orientations which regulate the conduct (activity) of people in legally meaningful situations. It is absolutely right to note that legal consciousness is a subjective phenomenon, and consists of representations of people about the right, from the subjective attitude to the very phenomenon of law, its values, from legal psychology and even individual or emotional mass reaction to the right, sometimes intuitive, subconscious [2, a. 264]. Of all the characteristics of the properties and parties of legal consciousness, we are interested in those who contribute to the formation of an inner conviction or is an adjacent zone. Of course, to these aspects of legal consciousness is a set of knowledge and relations to law, as well as those experiences that the subject of assessment feels at the moment of evaluative mental activity. The literature expresses the idea of criminal procedural legal consciousness, which, along with general ideas and principles, includes a set of specific views and assessments relating to phenomena and institutions only procedural law [14, a. 484]. It must be accepted that the subjects of criminal procedural activity have a special specific legal consciousness, especially this applies to the subjects of appraisal of evidence, persons possessing legal knowledge. This, in our opinion, can be attributed to experts who work in expert institutions, even if they do not have legal education.

Professional legal consciousness in the literature is defined as the legal consciousness of lawyers. Its contents are accepted to include qualified scientifically substantiated judgments, conclusions, patterns, ability to apply the right [14, a. 484]. The content of professional legal experts can include special knowledge, knowledge of their rights and responsibilities as an expert, the relation to special knowledge and its professional and procedural status, knowledge of the procedural basis of appointment and conduct of expertise, as well as expert psychology.

Given out, that exactly in this plane there are difficulties of proof to and conduct of examination from the so-called “medical cases” or in cases of incorrect treatment which entailed heavy consequences.

Internal belief, as justly marks Yu. K. Orlov, serves one of methods of achievement of objective truth. Not repeating the analysis of discussions in science of criminal process about maintenance and character of truth, we will be stopped for that count truth which is set in case, relative and concrete [12, a. 8–13]. Difference of internal belief, which is formed for the subjects of estimation of

proofs, and internal belief, for an expert lies in plan different maintenance of truth which is set an investigator and court in criminal proceeding, and truth which is set an expert during expert research. The problem of internal belief of expert is examined criminal scientists-lawyers from 50th of XX of age. In particular, according to the expert's internal belief, a conscious and freely formed conviction, which has objective reasons, allows one only to draw a true conclusion [10, a. 30]. By factors which influence on the conclusion of expert, in opinion of V. P. Kolmakova, the followings come forward: 1) high readiness in the specialty and practical experience of an expert; 2) the reasoning and logic of expert judgments set forth in the general (synthetic) part of the examination act in such a way that the investigator and the court can trace the course of his thought; 3) sufficient volume and adequate quantity of material provided for research; credible circumstances established in the case [10, a. 31].

B. I. Yakovlev under internal belief understands consisting of confidence of expert of that his conclusions are represented by indeed existent facts. Internal belief, according to his opinion, is the result of activity of expert [19, a. 6–7]. Examining the structure of internal belief of expert, he marks unity of gnosiological, logical and psychological aspect of internal belief. A gnosiological aspect means that belief of expert must correctly represent found out as a result of research properties and signs of object of examination. The absolute merit of Ya. M. Yakovleva is a selection and consideration of the stages of forming of internal belief of expert. It is a very important moment from point of influence of the different stages of research on forming of expert internal belief [19, a. 8–9]. P. C. Belkin in quality of objective grounds of internal belief of expert examined, next to professional knowledges of expert, also ideological principles and settings [6, a. 331].

To our opinion, it is necessary to divide the concept of pre-condition of origin of internal belief, grounds of internal belief and result of internal belief of expert. We already talked that one of pre-conditions of forming of internal belief of expert there is his legal consciousness, component part of which is his world view. In this connection for us very valuable is a remark of O.R. Ratinova, in accordance with which the “estimation of any meaningful fact which violates interests of people is always given from positions of certain ideology, certain world view” [14, a. 491].

To the sense of expert judgment, in our opinion, should also include the special knowledge that the expert possesses. It is obvious that the nature of special knowledge applied in the field of law, criminal and civil proceedings is such that these knowledge with a certain degree of conditionality for their inclusion in the content of justice can be considered juridical (legal) to the extent that they serve to resolve the tasks of the criminal and civil justice [8, a. 214].

We name legal consciousness of expert not foundation, but pre-condition of origin of internal belief. Pre-condition – it that which is preceded internal belief, being the necessary condition of origin of internal belief, but pre-condition does not generate internal belief. It is possible to consider his noninteraction (independence) pre-condition of forming of internal belief of expert in the process of leadthrough of research from the leader of expert establishment and from an investigator and court, and also freedom from prejudice.

R.S. Belkin applied to the objective grounds of internal belief an expert also professional qualities of expert: observation, attention, depth, flexibility, logic, criticism of mind, independence of thought, the ability to overcome bias or prejudice [6, a. 331]. All these psychological qualities of expert are taken in such constituent of legal consciousness, as legal psychology, if pre-condition of internal belief of expert is legal consciousness as the phenomenon is not only individual but also group. Intuition in the theory of cognition is examined as one of varieties of cognition next to

cognition logical [3, a. 98]. In a theory cognitions are examined three methods of reflection and cognition of the objective world: vivid, concept and intuitional.

Intuition is basically a thinking experience, which includes both elements of the concept and concept, but not reduced to them [3, a. 99]. We can bring arguments of another kind, which lead to the same understanding of the psychological nature of intuition. Philosophers, examining the gnosiological and psychological aspect of intuition, come to the conclusion about that, which is «automated» convolute inference in a gnosiological relation differs nothing substantial from the complete unfolded deduction [9, a. 114]. Consequently, intuition is the psychological, but not gnosiological phenomenon. Thus in philosophy distinguish intuition “perceptible” and “intellectual”.

The supporters of dialectical approach in the theory of cognition select the followings ways of forming of perceptible appearances and concepts in human consciousness: 1) sensory-perceptual process which results in sensory images; 2) sensory-associative process in which a transition is from one perceptible appearances to other; 3) a transition process is from perceptible appearances to the concepts; 4) a transition process is from concepts to perceptible appearances; 5) process of logical conclusion, by which a transition is from one concepts to other.

In the theory of cognition to intuition as special method of cognition of the world take conceptual intuition essence of which consists in generalization of perceptible appearances and transition from perceptible appearances to the concepts, a right to attribute him to intuition gives unrealizedness of this process a subject. To *eydetichnoy* intuition take a transition from concepts to perceptible appearances, exactly this way of forming of knowledge in human consciousness is characteristic for expert research by a modeling [9, a. 120–121].

Somewhat different approach to intuition, we meet in forensic and procedural literature. Most of the work of criminologists is devoted to intuition in the process of investigation of crimes. M. S. Strogovich examines the problem of intuition in forming of judge persuasion and comes to the conclusion, that enlightenment has nothing general with acceptance correct decision in case [16, a. 345].

O. R. Ratinov in the first time considered the problem of intuition in the process of investigation. He cast aside mystic character of intuition and rotined its role in the process of investigation. In particular, he marked that in judicial sense intuition, certainly, has no value. The hundred most witty assumptions, unverified and unconfirmed the real facts, will remain the vain game of mind and, certainly, can not serve as foundation for the least limitation of rights for citizens and decision of tasks of the criminal legal proceeding [13, s. 198].

Ya. Peschak, examining the role of intuition in forming of consequence versions, marks that intuitional guess-work are more successful for a that investigator in which more rich experience of investigation in general and developments of consequence versions in particular. In other words, for intuition of Ya. Peschak considers information foundation as knowledges in the field of criminalistics and knowledges, got during experience.

Thus, acknowledging that expert intuition plays a certain role in the process of expert research, especially at the decision of the so-called heuristic tasks, it follows to acknowledge that any expert hypothesis or version must be grounded scientific researches, professional estimation of fact sheets, logical conclusions.

Yu. K. Orlov, examining the problem of internal belief, marks that on the nature internal belief is sense which is formed at subconscious level. He talks that sense of internal belief, equal as and

about other subjective states of person, it is possible to judge only from some external displays» [11, a. 73–74]. Serve as such external displays of internal belief of expert him the grounded conclusions, set out in the expert's opinion. But unright to equate internal belief with a subconsciousness. Subconsciousness as memory of brain, vital and professional experience is pressed, basis of the intuitive illumination at the unexpected decision of necessary expert task [8, a. 556]. A subconsciousness in criminalistics literature is used as a concept, identical intuition. G. O. Zorin determines investigation intuition as heuristic game with an own subconsciousness [8, a. 558]. In other words, the role of intuition as an unconscious solution to this problem plays a role in shaping the expert's internal conviction in solving creative, heuristic expert tasks.

However, intuition requires its justification, logically detailed reasoning. Note that as elements of the mechanism of expert intuition, applying the provisions put forward by G. O. Zorinim, one can distinguish: careful study of all the initial data needed to solve an expert task; prolonged domination (retention) in the consciousness of elements of the solvable problem; accumulation of interest, increased excitement when considering the problem being solved; multiple recoding of inoffensive information in visual images (expert modeling); accentuating the goals to which the expert seeks to solve an expert task; filtering all information through a dominant, that is, through the focus of excitation, caused by the unresolved problem; emotional immersion in the situation that created the problem [8, a. 560].

Thus, it is possible to draw conclusion that in itself intuitional conjecture is one of methods of decision of heuristic tasks during realization of expert researches. However grounded any idea, decision of creative task on the basis of the conducted researches, must be and argued by virtue of requirements of procedural law to the conclusion of expert as source of proofs. Intuition as one of forms of cognition plays an important role in forming of internal belief of expert.

Summarizing, will mark that internal belief of expert (as a result and criterion of expert research) – it psychological emotionally intellectual the state of expert, which consists in sense of confidence in the rightness of the applied knowledges, expert methods, methods, in the correct estimation of properties and features of expert objects and in the correctness of the conclusions made. In the light of expert legal consciousness it is possible to select the procedural aspect of internal belief: it is sense of confidence, that during the conduct of examination and forming of expert conclusion rules, set a penal procedural law, were not broken. Pre-condition of forming of internal belief is legal consciousness of expert (as a human factor) and independence (autonomy) of expert (as an objective factor) in the process of expert research. Foundation for internal belief is information, which turns out an expert in the process of study of expert objects and materials of criminal proceeding, given in his order.

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A. B. Antoniuk,

*candidate of juridical sciences
(Ph.D), Associate Professor of
Department of criminal process
and criminalistics,*

T. V. Loza,

*student University of the State
Fiscal Service of Ukraine*

PRINCIPLES AND CONDITIONS OF APPOINTMENT AND CONDUCT OF FORENSIC EXAMINATIONS ARE DURING CRIMINAL PROCEEDING

The article is devoted to the investigation of the basic principles of the appointment and conduct of forensic examination in criminal proceedings. The author in his study determines the basic principles of the appointment and conduct of forensic examination and their application in rule-making. The conditions for appointing and conducting judicial expertise in the course of criminal proceedings have been established.

Key words: *forensic examination, principles of forensic examination, forensic examination conditions.*

Expert activity is the system of judicial and organizational procedures, forensic examinations related to the conduct. Progress of this activity directly depends on a number of fundamental ideas about which it is accepted to talk as about principles.

Researches of questions devoted appointment and conduct of forensic examinations carry debatable and in a great deal fragmentary character, that does not allow to make the complete and

integral picture of them. This scientific problems, related also with research of principles of appointment and conduct of forensic examination, are given, examined in labours of domestic and foreign scientists, namely: S. V. Borodina, R. S. Belkina, L. M. Golovchenko, V. G. Goncharenko, Yu. M. Groshevogo, N. I. Klimenko, V. O. Konovalovoy, V. K. Lisichenko, V. G. Lukasiewicz, N. P. Maylis, Yu. K. Orlova, O. R. Rosinskoy, T. V. Sakhnovoy, M. Ya. Segaya, M. O. Selivanova, F. N. Fatkullina, V. U. Shepit'ka, O. R. Shlyakhova. At the same time, problems of maintenance of principles of appointment and conduct are investigational not enough, by the selection of these principles from the conditions of appointment and conduct of examinations [13, a. 128].

Beginning our research, will underline that in quality of principles of appointment and conduct of examination it is possible to name the followings, as: 1) *Providing of right for personality is at appointment and conduct of examination*; 2) *Publicness of forensic examination*; 3) *Availability the expert's conclusion*; 4) *Independence and autonomy of expert is during the conduct of research*; 5) *"Contentionness" of examination*; 6) *Validity and timeliness of appointment of examination*.

Will ground each of them: 1) *Providing of right for personality is at appointment and conduct of examination*. During disclosing of this principle should be emphasized, that we adhere to position, according the list of basic rights and freedoms of citizen, fastened in Constitution of Ukraine, are not exhaustive. For each there must be well-to-do possibility to appeal to the rights which did not enter to this list, and for judges is possibility of verification of observance of such rights [1].

Human dignity – it is not dignity that a particular person can produce on the basis of his own, actual individual qualities, but the one, that belongs to every personality without the account of its achievements, status and features. Even those people who, due to their physical or mental condition, are not capable of socially meaningful behavior, have the right to claim social respect. It is not halted as a result of them «not worthy behavior» [11, a. 108–109].

The article 29 Constitution of Ukraine, provides, that everybody has a right on freedom and bodily security [1]. Encroachment upon physical inviolability very often is simultaneously related to encroachment upon dignity of personality. Simple limitation of individual freedom proves to be correct, if it is based on a law or pursues legitimate public interest. Imprisonment provides for, that a person against its will is long time retained in a certain place. In Convention about protecting of human rights and fundamental freedoms from 04.11.1950 certain pre-conditions of legal imprisonment, which consist in the following are foreseen: 1) execution of a sanctions, imposed by a court sentence; 2) arrest of person which refuses to comply with procedural duty; 3) pre – trial detention; 4) detaining in custody of minor; 5) arrest of persons which make a danger for society; 6) imprisonment for the purpose of deportation or extradition [5].

In the article 32 Constitutions of Ukraine are set that nobody can subjected to interference in his or her personal and family life, except for cases, foreseen Constitution of Ukraine [1]. Complication of this question consists in that there was not a concept of private (personal) life in a soviet period. Because of it, there are not certain limits of the personal life of person even in the theory of civil law. It is unconditional that the protection is not a certain type of action, but any circumstances and actions that constitute a personal and family life and do not violate the interests of others.

An idea speaks out in literature, that at determination of limits of the personal life it is necessary to go out from that the personal life is a right to be leave at peace [11, p. 128]. In a criminal process

the row of guarantees of protecting is foreseen from the disclosure of secret of the personal life of citizens. Information which make the secret of the private, family, personal life of citizens can be used in the field of the criminal legal proceeding, as a legislator goes out from public (state and community interest). For now, it is possible to talk only about partial realization of guarantees of the above-mentioned rights in a criminal judicial legislation and other legislation, for example, in a law "On a psychiatric help" from 22.02.2000 1489-III [3]. Yes, there are not convincing guarantees of realization of right for a victim on just access to justice, as he does not own those rights on the stage of pre-trial investigation at appointment examinations which are owned by a defendant. Not a few cases, accordingly with which persons, placed in psychiatric permanent establishment for the conduct of forensic examination, at once test intensive treatment strong psychotropic drugs.

2) *Publicness of forensic examination.* The publicness as means principle, that protecting of society and citizens from criminal trespasses is the duty of the state in the person of its law enforcement authorities. That touches forensic examination in a criminal process, the publicness, in our view, shows up in that public expert institutions or those experts activity of which is licensed can carry out examination only. In other words investigation judge, court (judge) at appointment of examination obliged to provide the proper conditions of its conduct: judicial conditions (issue a judicial document about appointment of examination, to carry out the choice of expert (expert establishment), to provide the guarantees of rights for the participants of process at appointment and conduct of examination); gnosiological conditions (to define the subject of examination, volume of materials, necessary an expert for research).

3) *Availability the expert's conclusion.* This principle is predefined the duty of court to substantiate the verdict in evidence in lawsuit. This duty of court spreads on the conclusion of expert. Regardless of difficulties, which are caused by the estimation of scientific validity of conclusion of expert, court, investigator obliged to estimate such conclusion of expert from point of relativity, admission, sufficientness and authenticity. This principle is related to the question about the addressee of evidence. As noticed O. O. Eysman: "Evidence collected in case, are addressed not only to the investigator and not only court; they must be clear and accessible to all participants of process, all present at the courtroom, finally, to all society" [14, a. 88].

4) *Independence and autonomy of expert is during the conduct of research.* Before to begin the analysis of maintenance of this principle, it follows to specify some starting positions in this question. Foremost it would be desirable to mark that examination is conducted after the appeal of side of criminal proceeding or on the instructions of investigation judge or court, if for finding out of circumstances which matter for criminal proceeding, the special knowledges are needed. In maintenance of this principle independence of expert must be included in the process of expert research, thus independence must mean freedom of choice the expert of research method, from the list of generally accepted in this kind or type of examination, and also freedom estimations of the got results, which conclusions are formed on the basis of.

To maintenance of this principle also, in our view, must enter norms which guarantee an expert freedom against prejudice, and also norms of legislation, which provide an expert the novelty of perception of objects of examination and other materials, given him in disposing of investigator and of court.

5) *"Contentionness" of examination.* In a general view under contentionness in a criminal process understand the dispute of participants of process concerning the produced prosecution under control a court. The conditions of realization of this principle is a separation of functions of

prosecution, defence and decision of case, in essence, and also principle of equality of rights for the participants of judicial trial [10, a. 173]. Thus, appointment of examination is taken at discretion of investigation judge or court, that a court or investigation judge may refuse in satisfaction the petition. But only in case that appointment and conduct of examination will not result in establishment of substantial for case circumstances. The contentness of examination shows up also in that during criminal proceeding of side can take part in research of conclusion of expert, to set the expert of question, to take part in formulation of court's questions an expert by the grant of writing questions a court or investigation judge before appointment of examination.

6) *Validity and timeliness of appointment of examination.* In judicial sense foundation for acceptance of any judicial decision is sufficient information (judicial and unjudicial information), what necessary and sufficient for acceptance of that or other decision. Actual foundation is a receive an investigator, court of information, from which the necessity of acceptance of judicial decision follow out about realization of that or other action which carries certifying (confession of person by a victim, bringing in in quality a defendant) or cognitive character (realization of review, search, producing, is for recognition). In criminal judicial literature practically all scientists under foundation of conduct of examination understand a requirement in the special knowledges for establishment of circumstances which are subject evidence [6; 8; 12]. It follows to develop an idea, expressed T. V. Sakhnovoy in relation to the necessity of determination of grounds of appointment and grounds of conduct of examination [13, s. 90]. It is also possible to talk about material and judicial, about gnosiological and legal grounds of appointment and conduct of examination.

The first circumstance foresees establishment, more frequent all, so-called evidential facts. The second circumstance foresees establishment of circumstances of main fact, financial right stopped up a norm, in quality the sign of corpus delict. First circumstance – a receipt of information from which a requirement follow out in appointment of examination is judicial foundation of realization of examination. Second circumstance – pointing of norms of financial right on the necessity of the use of the special knowledges – we name financial basic for the conduct of examination.

Obviously, that by such actions followings: 1) issuing a procedural document about appointment of examination; 2) implementation of requirements of procedural law on the provision and realization of rights for the participants of process in connection from appointment and conduct of examination; 3) providing of expert necessary and sufficient initial information is for realization of expert research.

It should be noted that a the same circumstance in criminal proceeding can be set by a few consequence (search) actions, including by appointment of examination. It is connect to CPLD, foremost, with the necessity of providing of failsafety evidence for criminal proceeding. Therefore it follows to consent from Yu. K. Orlovim, which considers that the groundless appointment of examination is less dangerous, than an appointment of examination is at presence of for this purpose grounds [12, a. 39]. At the decision of question about appointment of examination it is necessary to take into account possibility of origin of requirement in appointment of examination afterwards, for example, when a defendant is changed by a testimony or witnesses in course of time can not categorically assert already, that damages were inflicted exactly this object.

With reasonableness of appointment of examination the closely associated timeliness. The timeliness of acceptance of judicial decisions is laid down in an article 28 CPC of Ukraine as a requirement of cleverness of terms. During criminal proceeding every judicial action or judicial decision must be executed or accepted in clever terms. On the other hand, some types of examinations

require careful preparation, for example, when the question is about psychologo-psychiatric or forensic accounting examinations. However here necessary it is to take into account intercommunication of terms of conduct of examination and terms of pre-trial investigation. It follows to accede to those authors, which consider that a timeliness means at appointment of examination, that the conduct of it is expedient and effective in that moment when: 1) there is a requirement in the special knowledges; 2) when necessary and sufficient material is collected for realization of examination [6, a. 56; 7, p. 37].

Along with principles it is necessary to select the general conditions of appointment and conduct of examination as a judicial action. The concept of general conditions in the theory of criminal process is examined in relation to the stages of criminal process: stages of pre-trial investigation and stage of judicial trial. Under general conditions in a criminal process the set understand a established by the criminal procedural law requirements, which determine a judicial order which is based on principles of criminal process and expresses the most essential and specific lines of the stage or institute of criminal judicial right [8, p. 246]. In legal literature marked, that general conditions and principles are not identical concepts. Connection of principles and general conditions consists in that those fundamental positions and ideas which are fastened in principles of justice develop and specify the “general conditions of pre-trial investigation”. But differentiating of these concepts in a criminal process is not always carried out sufficiently clear, so, for example. M. V. Zhogin, F. N. Fatkullin mark that in the light of criminal judicial legislation and modern requirements to the fight against criminality it is necessary to distinguish substantive provisions which can be examined in quality principles and general conditions of preliminary investigation in a soviet criminal process [9, p. 71].

As the general conditions (rules) for the appointment and conduct of the examination, the following provisions can be distinguished: 1) *A decisive role is in appointment and conduct of examination of person, which appointed examination.* To this general conditions we can take rules, fastened in an article 242 CPC of Ukraine, in accordance with which the initiators of appointment of examination is an investigation judge or court, if for finding out of circumstances which matter for criminal proceeding, the special knowledges are needed. The same persons determine the article of examination and limit of acquaintance of expert with materials of criminal proceeding. In addition these persons are under an obligation to appeal to the expert for the conduct of examination in relation to: 1) establishment of reasons of death; 2) establishment of weight and character of bodily harms; 3) determination of mental condition suspected at presence of information, which cause a doubt in relation to his responsibility, limited responsibility; 4) establishment of age of person, if it is necessary for the decision of question about possibility of attracting of it to criminal responsibility, and it is by other method impossible to get these information; 5) establishment of puberty of victim of person is in criminal proceeding in relation to crimes, foreseen the article 155 of the Criminal code of Ukraine; 6) determining size financial losses, harm of unproperty character, harm, an environment, caused criminal offence [2].

2) *Freedom and independence of expert during the conduct of examination,* it is foreseen in the article 4 Laws of Ukraine “About forensic examination” [4]. However much freedom and independence of expert didn't got the direct expression in CPC of Ukraine which is a substantial gap in a criminal procedural law. This general condition includes rules defining the limits of the expert initiative and the limits of familiarization of the expert with the materials of the criminal proceedings.

3) *Order of appointment and conduct of examination in expert and outside the expert establishments.* Rules, that determine this general condition is the sequence of action of all participants of appointment and conduct of examination: investigation judge, court, and also expert, defendant (suspected), defender, victim, civil plaintiff, civil defendant and their representatives.

4) *That touches participation of defendant (suspected) and his defender, victim, at appointment and conduct of examination,* given a general condition means that at appointment and conduct of examination necessarily it follows to adhere to the requirements of norms of right about realization of rights for those participants of criminal process, interests of which are violated at appointment and conduct of examination.

5) *Appointment and conduct of examination is only in relation to the begun criminal proceeding at presence of for this purpose grounds.* Given general foundation talks that at appointment of examination it follows to adhere to all rules, set a criminal procedural law.

6) *General and special rules of estimation of conclusion of expert by an investigator and court.* A norm comes forward in quality of general rule of estimation of conclusion of expert an investigator and court, set article 94 CPC of Ukraine, is in accordance with a “investigator, public prosecutor, investigation judge, court on the internal persuasion which is based on comprehensive, complete and impartial research of all circumstances of criminal realization, following a law, estimate every proof from point of belonging, admission, authenticity, and collected cumulative evidence – from point of sufficientness and intercommunication for acceptance of the proper judicial decision” [2]. A rule comes forward the special foundation, set a. 101 CPC of Ukraine: “a conclusion of expert is not obligatory facial or organ, which carries out realization, but disagreement with the conclusion of expert must be explained in the proper a decree, decision, sentence” [2].

Thus, summarizing, it follows to mark the necessity of differentiating of principles from the general conditions of appointment and conduct of examination. Principles of forensic examination in a criminal process are ideas, fastened in the norms of criminal procedural law, which express essence of operating under appointment and conduct of examination and estimation of conclusion of expert as to the source of proofs. The general conditions of appointment and conduct of examination are rules of appointment and conduct of examination, which have general character and fastened in the norms of criminal procedural law. In other words, principles and general conditions are correlated between itself as certain knowledge and method of realization of this knowledge through concrete norms and rule.

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The article is devoted to problematic issues of implementation of the Specialized anti-corruption Prosecutor's office functions and the justification of their solutions. Priority directions of improvement of activity of Specialized anti-corruption prosecution, based on the provisions of international legal instruments, international experience. The functions and tasks of Specialized anti-corruption prosecutors whose implementation is carried out in a procedural form are established.

Key words: *corruption, Specialized anti-corruption Prosecutor's office, prosecutor's office activities, anti-corruption activities, prosecutor's office functions.*

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Цимбал П. В
Грабарчук М. М.
Лисенко О. В.

12.12.2017. _____ 75 108/16.
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300 _____ 623.

_____ 31. _____ , 08201
38(098)878-46-91
e-mail: in_yur_visnuk@ukr.net
