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ПРАВОВА ТА ПРАВООХОРОННА ДІЯЛЬНІСТЬ: ЄВРОПЕЙСЬКИЙ ДОСВІД ТА УКРАЇНСЬКІ РЕАЛІЇ

LEGAL AND LAW ENFORCEMENT ACTIVITY: EUROPEAN EXPERIENCE AND UKRAINIAN REALITY

RECHTS-UND RECHTSPFLEGETÄTIG-KEIT: EUROPÄISCHE ERFAHRUNG UND UKRAINISCHE REALITÄT

L'ACTIVITÉ DU DROIT ET DE LA LOI: L'EXPÉRIENCE EUROPÉENNE ET LES ACTUALITIÉS UKRAINIENNES

Науково-практична конференція
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Матеріали збірника стануть у нагоді усім, хто цікавиться роботою правових та правоохоронних органів України та Європи, а також бажає вдосконалити рівень володіння іноземними мовами.

Conference materials will be a good opportunity to all those interested in the work of legal and law enforcement agencies of Ukraine and Europe as well as to everybody who wants to improve the level of knowledge of foreign languages.

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ШАНОВНІ УЧАСНИКИ КОНФЕРЕНЦІЇ, ГОСТІ ТА ПРИСУТНІ!

Ми раді вітати вас на теренах Львівського державного університету внутрішніх справ в рамках проведення нашого наукового заходу «Правова та правоохоронна діяльність: європейський досвід та українські реалії», що став вже доброю традицією і має двадцятирічну історію підготовки та проведення.

Наукові розвідки студентів та курсантів на актуальні проблеми з фаху загалом, та відтворення результатів розвідок іноземними мовами зокрема – це важливий творчий процес, в якому домінує елемент самореалізації кожного. Участь у наукових конференціях іноземними мовами дає змогу юним науковцям гармонійно поєднувати ті внутрішні та зовнішні чинники, що сприяють формуванню іншомовної компетенції особи, створюють додаткові умови для самореалізації.

Результатом навчання у вищому навчальному закладі повинен стати високий рівень іншомовної та моральної культури випускника, адже без цих властивостей жоден кваліфікований фахівець не зможе сьогодні якісно виконувати свої професійні обов'язки. Основним завданням кожної молодої інтелігентної людини, громадянина України, є максимально вдосконалити та активізувати власний іншомовний потенціал, постійно працювати над собою, аби бути готовим у будь-який момент гідно представити свою державу серед інших держав Європи та світу.

Окреслена тематика нашої конференції об'єднала сьогодні понад 30 доповідачів. Віримо в те, що ваші наукові розвідки будуть покладені в основу формування серйозних наукових поглядів та здійсненні вагомих наукових досліджень в ім'я української науки, в ім'я України.

Творчих Вам здобутків!

DEAR PARTICIPANTS AND GUESTS OF THE CONFERENCE!

We are glad to welcome you in our alma-mater «Lviv State University of Internal Affairs» at our annual conference «Legal and Law Enforcement Activity: European Experience and Ukrainian Reality» which became our good tradition and has 20 years background.

Scientific researches of students, cadets and post-graduates concerning the vital problems in their specialties and their results in foreign languages, are very important creative process in which every student's self-realization elements prevails. The participation in the foreign languages scientific conferences gives the young scientists the opportunity to combine the inner and outer factors harmonically which contribute to the person's foreign language competence formation, and create extra conditions for their self-realization.

The high level of foreign language and moral culture of the graduates has to become the result of the higher establishment education, because without these characteristics any efficiently educated specialist cannot perform professional duties perfectly. The main task of every young, intelligent person, the citizen of Ukraine is to improve and activate his/her foreign language potential, so that under any circumstances to be ready to present with dignity our state among other states of the world.

The topics under discussion will be rendered by more than 30 brilliant presenters. We believe that your research works will greatly contribute to creation of serious scientific views and making deeper research studies in the name of Ukraine and Ukrainian science.

GOOD LUCK!

SEHR GEEHRTE KONFERENZTEILNEHMER, SEHR GEEHRTE KOLLEGEN UND GÄSTE!

Wir begrüßen Sie bei der Staatlichen Universität des Inneren Lwiw im Rahmen unseres wissenschaftlichen Ereignisses „Rechtliche und Rechtschutztätigkeit: europäische Erfahrung und ukrainische Realität», das zur guten Tradition geworden ist und seine Geschichte siebzehn Jahre Vorbereitung und Durchführung hat.

Wissenschaftliche Erforschung von Studierenden und die aktuellen Probleme des Faches in Allgemeinen und die Ergebnisse dieser Erkundungen in fremden Sprachen im Besonderen ist ein wichtiger kreativer Prozess, in dem jedes Element der Selbstverwirklichung dominiert. Die Teilnahme an wissenschaftlichen Konferenzen in Fremdsprachen ermöglicht jungen Wissenschaftlern harmonisch diese internen und externen Faktoren zu verbinden, die zur Bildung der Fremdsprachenkompetenz der Person die Schaffung günstiger Bedingungen für die Entwicklung beitragen.

Die Sdudienergebnisse in der Hochschulbildung müssen ein hohes Maß für ausländische und moralische Kultur werden, denn ohne diese Eigenschaften kann fachlich kompetentes Personal, das nicht eine hohe Qualität ihrer beruflichen Aufgaben zu erfüllen. Die Hauptaufgabe eines jungen Menschen, eines Bürgers der Ukraine ermöglicht ihre eigenen Fähigkeiten Fremdsprachen zu verbessern und zu intensivieren, ständig an sich zu arbeiten, um bereit zu jedem Zeitpunkt die Chance, ihr Land für andere europäische Ländern und die Welt zu präsentieren.

Thema unserer heutigen Konferenz verbindet mehr als 30 Referenten. Wir glauben, dass Ihre wissenschaftliche Erforschung die Grundlage für ernsthafte wissenschaftliche Gutachten und die Umsetzung wichtiger Forschung im Namen der ukrainischen Wissenschaft und der Ukraine bilden wird.

Viel Erfolg!

CHERS PARTICIPANTS,
INVITES ET PRESENTATEURS!

Nous vous souhaitons la bienvenue à l'Université des Affaires Intérieures de Lviv dans le cadre de notre manifestation scientifique «L'activité juridique et de droit: l'expérience européenne et les réalités ukrainiennes» qui est déjà devenue une bonne tradition et son histoire compte dix-sept années.

Les recherches scientifiques des étudiants et des élèves-officiers sur les problèmes actuels de la spécialité en générale et la reproduction des résultats de ces recherches en langues étrangères en particulier est un processus créatif important où prédomine l'élement d'autoréalisation de chacun. La participation aux conférences scientifiques en langues étrangères permet aux jeunes scientifiques de combiner harmonieusement les facteurs internes et externes qui contribuent à la formation de compétences en langues êtrangères de la personne et forment des conditions favorables pour le développement personnel.

Un haut niveau de la culture morale et de la connaissance des langues étrangères doit devenir le resultat de la formation dans l'établissement d'enseignement supérieurs car sans ces qualités aucun spécialiste professionnel ne puisse pas accomplire ses missions avec succès.

La tâche principale de la jeunesse intelligente, des citoyens de l'Ukraine est le perfectionnement et l'activisation ses connaissances des langues étrangères, le travaille sur soi-même pour présenter avec dignité son Etat dans le monde.

Plus de 30 conférenciers sont réunis par notre conférence aujourd'hui. Nous sommes sûrs que vos recherches scientifiques seront mises en oeuvre en l'honneur de la science ukrainienne et de l'Ukraine.

Réalisez-vous avec success et Bonne chance!

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THE ROLE OF THE LAWYER IN A LEGAL STATE

A legal profession has always been universal, profitable and popular in the whole world. In the developed countries (such as the USA, Great Britain, etc.) lawyers have always been appreciated. The lawyer should always be prepared properly and timely respond to the demands of the society. He should be able to talk with people, listen to their problems, participate in the discussion of legal cases and negotiate. Sometimes he has to deal with very difficult relationship between people, resolve conflicts, deal with people's passions, and act like an arbitrator, etc. The legal professionals should be able to formulate decision on a particular case according to law. And if you ask the lawyer what «professionalism» means, you are likely to hear that ***professionalism*** *means putting your client first or acting as an officer of the court*. The aim of this article is to reveal some important features and characteristics the lawyer must possess to be a real professional and master.

In the democratic societies the lawyers surely play an important role that no other professionals play: the lawyer is the guardian of the rule of law, the ideal that all people stand equally before law and neither expect nor receive special treatment from it.

The legal professionals are distinguished from the others by the profound knowledge of law, which can be divided into a few types:

- fundamental – giving the understanding of state and law, covering all important legal categories:
- specialized – specific legal knowledge for the needs of different types of legal work.

Not everybody can do legal work, only those people who possess appropriate knowledge and skills. Errors in the lawyer's work are a direct threat to the public interests which are protected by law. Though there is a saying «anyone can make mistakes», the lawyer, as the doctor, has no right for an error, because it is too costly to a man and

the whole society. The main purpose of the legal profession is the establishment of justice. There are not so many professions in the world, which are very responsible, respected, honored and difficult at the same time as a legal profession is. Here are the main characteristics of the legal profession. It is a:

- humane profession;
- socially significant profession;
- highly intellectual profession;
- creative profession;
- responsible profession.

This profession has a lot of freedom and independence. It is impossible to imagine the lawyer without the national feelings. Each lawyer has to work out his/her own version of political culture.

Speaking about the lawyers in Ukraine we must stress that in the heart of each lawyer must be Ukrainian national patriotism, the proper understanding that we live in the period of the formation of the Ukrainian state. In their work the lawyers of Ukraine are guided by the following basic principles:

- ✓ Serving the people of Ukraine;
- ✓ Independence and subordination only to law;
- ✓ Democracy and humanism;
- ✓ The priority of human rights and fundamental freedoms;
- ✓ Professionalism, competence and commitment.

The lawyer should also have some moral qualities, such as the ability to apply properly legal knowledge, which is impossible without the appropriate professional and life experience. In this case legal ethics plays an important role. Legal ethics is a kind of professional ethics that pertains to the application of the general rules of morality in the lawyer's work. Lawyer's professional ethics includes the following elements:

- the moral legal profession and its specific features;
- the moral relations in the field of law and enforcement of law.

The real professional should also have legal culture. The basic principles of legal culture of the lawyer are legal historicism, value of human rights, and legal management, etc.

The features of legal culture are:

- improving the quality of law;
- preventing the acts of legal harassment;
- preventing the legal anomalies;
- saving the cultural value of law.

The lawyer can not use legal culture as a tool to manipulate with law. This can damage the development of the state system. Aesthetic culture of the lawyer is very important too. Aesthetic culture includes:

- culture of speech;
- culture of the workplace;
- culture of the preparation of legal documents.

So, the general culture of the lawyer consists of legal, political, ethical and aesthetic culture. Also, the legal profession is governed by the principles of social regulation. This means that the lawyer should be guided not only by the legal rules but also moral, aesthetic, religious, etc. ones.

So, when people hear about the lawyer, they usually think of an individual who goes to court everyday and stands before a judge defending the freedom of another individual. This is true in some cases; however, there are many different types of lawyers with a variety of job responsibilities and duties. No matter what type of the lawyer one may be he/she ultimately has an extremely important role in the lives of other people. There are many different general responsibilities of the lawyer. He/she will represent clients in court, mediations, business transactions and other important legal proceedings or arrangements where law will be discussed. The lawyer meets with the clients before, during and after legal proceedings to ensure that the client fully understands all the aspects of their case. In general, the lawyer is the individual who represents another in all the issues where legal representation is advised and deemed necessary.

So, to sum up we must stress that the lawyers are individuals who have a wide range of responsibilities and duties when it comes to their profession. Their role in the society is even more important as they are acting as a voice for others.

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FIRE AND RESCUE SERVICE: SELECTED OF UKRAINE AND UK

Fire-fighters, more than most other professionals, need to possess a multitude of skills and talents. There are also many personal traits necessary to ensure that fire-fighters are properly and respectfully representing their department and profession as well. This, combined with the unique work and living conditions place many demands on fire-fighters, creates a long list of traits that are necessary for success [3].

As a fire-fighter, you will be called upon to tackle various emergency situations where your problem solving skills and initiative will be vital to resolve issues quickly and calmly. Incidents vary from tackling fires and rescuing people from burning buildings to dealing with chemical spillages and Road Traffic Collisions (RTCs).

Becoming a fire-fighter in the Fire and Rescue Service does not come easily. In fact many serving fire-fighters have spent months and years training themselves to join the Service. You also must be prepared to work hard and be patient if you are to pursue a career within the Fire and Rescue Service.

The process of joining the Fire and Rescue Service varies throughout the UK and Ukraine but the principles you need to follow are the same.

To be successful in the process, you need to be one step ahead of the next candidate, and be better prepared than they are. The Fire and Rescue Service will choose the best, so those who succeeded will be offered to take recruitment courses. It's also worth noting that recruitment into some Fire and Rescue Services happens only every couple of years, so this may be yours only shot for a while [2].

Let's acquaint with some institutes dealing with Fire and Rescue Service.

The first one is Lviv State University of Life Safety.

Lviv State University of Life Safety is a leading higher educational institution of Ukraine in the sphere of safety. University is a member of European Fire Service Colleges Association (EFSCA), an organization which deals with safety.

The university provides qualified training of professionals of such educational and qualification degrees as: Bachelor, Specialist and Master, for departments of the State Service for Emergency Situations of Ukraine, other ministries, authorities and services, private organizations which deal with safety in all spheres. These are information security and transport safety, fire and industrial safety, ecology and environmental protection, occupational safety, etc.

There is also Recruitment training before entering university, where young freshmen can try themselves in future job. They do exercises, sport and study topography.

Entering this university on Fire Safety you should study at least 4 years on Bachelor degree and then 2 years to become a Master.

This university has all opportunities for future fire-fighters. There are a lot of gyms, training rooms, various sport sections, etc. Besides, this university has many relations with other higher educational institutions abroad, which cooperate and help each other in teaching future fire-fighters and rescuers. There are approximately 3000 students and cadets [1].

The second one is Fire Service College. It is an award-winning leader in fire and emergency response training and one of the world's largest operational fire and rescue training facilities.

The College provides the full range of training for fire-fighters at all levels, including initial training for recruit fire-fighters.

It specialises in providing dedicated training for fire and rescue services (FRSs), emergency responders and a wide spectrum of commercial and public sector clients globally. Its instructors are current serving fire officers seconded from individual FRSs across the UK. And, as you'd expect, their tutors are professional and technical experts in their chosen fields.

In March 2013 the College moved from government ownership to Capita in order to secure future investment. This will allow them to maintain the College as a pioneering facility for the fire and rescue services (both UK and overseas). Other emergency services and related markets, such as defence, oil and gas, will also benefit from these world-class facilities.

Their clients value the support they give to the professional development of their people.

They also host integrated scenario planning and live exercises for major incidents. With their 'live' incident ground and wide range of realistic and practical training scenarios, they can replicate the situations faced by today's emergency responders.

This helps to prepare them to deliver the highest standards of effective emergency response when they are back on operational duties.

The College is one of the few organisations in the world that can offer such a broad and challenging training experience.

The College works closely with the Chief Fire Officers' Association (CFOA), the Joint Emergency Services Interoperability Programme (JESIP) and the UK Fire and Rescue Service. This allows to promote common operating standards and to develop and deliver a common and consistent approach to operational and leadership training within an accredited framework in support of interoperability.

Everyone going through training at the College has benefits from a truly unique experience.

From practical and theoretical training, to the opportunity for networking with peers and instructors, this is an unforgettable way to build skills and knowledge [4].

	Lviv State University of Life Safety	**The Fire Service College**
Amount of students / cadets	≈ 3000	≈ 150
Education	4-6years	From 3 months
Spheres	• Fire Safety • Civil Defence • Informational Defence • Occupational Safety • English-Ukrainian Translation • Psychology • Social Protection • Ecology • Transport Technologies	• Fire Service Operations • Hazmat Courses • Incident Command • Industrial FF and Pipeline Emergencies • Instructor Programmes • Management & Leadership • Prevention & Protection • Urban Search & Rescue • Rope and Water Rescue

Summarizing everything written above we can say that being a fire-fighter is very important.

They should be professionals and need to possess a multitude of skills and talents which can be obtained at Lviv State University of Life Safety and Fire Service College.

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THE RULE OF LAW CONCEPT

The Rule of Law is what some philosophers have called an «essentially contestable concept»: it has evaluative as well as descriptive elements, and its correct application cannot be fixed simply by appeal to ordinary usage. In more concrete terms, the «true», «best» or «preferred» meaning of the Rule of Law depends on the resolution of contestable normative issues; disagreements are therefore to be expected. Nonetheless, there is enough common ground for it to be relatively clear how particular disputes fit into broader patterns [2].

Efforts to specify the meaning of the Rule of Law commonly appeal to values and purposes that the Rule of Law is thought to serve. Three such purposes – against which competing definitions or conceptions can be tested – appear central.

- First, the Rule of Law should protect against anarchy and the Hobbesian war of all against all.
- Second, the Rule of Law should allow people to plan their affairs with reasonable confidence that they can know in advance the legal consequences of various actions.
- Third, the Rule of Law should guarantee against at least some types of official arbitrariness [2, p. 7].

Against the background of these purposes, leading modern accounts generally highlight five elements that constitute the Rule of Law. To the extent that these elements exist, the Rule of Law is realized.

1. The capacity of legal rules, standards, or principles to guide people in the conduct of their affairs. People must be able to understand the law and comply with it.
2. Efficacy. The law should actually guide people, at least for the most part.
3. Stability. The law should be reasonably stable, in order to facilitate planning and coordinated action over time.
4. The supremacy of legal authority. The law should rule officials, including judges, as well as ordinary citizens.
5. Courts should be available to enforce the law and should employ fair procedures [1].

It's necessary to emphasize at the four rules of law ideal types: a historicist, a formalist, a Legal Process, and a substantive ideal type.

Historicist conceptions associate the Rule of Law with rule by norms laid down by legitimate lawmaking authorities prior to their application to particular cases.

According to a *formalist conception* of the Rule of Law, the ideal if not necessary form of «law» is that of a «rule,» conceived as a clear prescription that exists prior to its application and that determines appropriate conduct or legal outcomes. Underlying the formalist ideal type is a picture of human beings as rational planners and maximizers, who reasonably demand to know in advance the legal consequences of alternative courses of action.

On this view, rules provide maximally effective guides to behavior and ensure that judges, as much as other officials, are bound by law. Because blurry lines of authority promote uncertainty, formalism also idealizes a sharp division between the legislative and judicial functions.

Legal Process conceptions find the requisites of «law» necessary for the Rule of Law to be satisfied by a mixture of procedural fairness in the development and application of legal norms, an internal connection between notions of law and reasonableness, reasoned elaboration of the connection between recognized, pre-existing sources of legal authority and the determination of rights and responsibilities in particular cases, and judicial review as a guarantor of procedure fairness and rational deliberation by legislative, executive, and administrative decision-makers.

A final, substantive ideal type insists that not merely any «rule», not merely any «posit» of a lawgiver, and not merely any product of a reasoned deliberative process can satisfy the Rule of Law. According to this conception, the Rule of Law implies the intelligibility of law as a morally authoritative guide to human conduct [2].

The four Rule-of-Law ideal types are of course competitive with each other; indeed, they were developed to model conflict. As a result, an adequate theory of the Rule of Law could not simply subsume them all.

Significantly, however, the various ideal types characteristically aim to promote distinctive values, which do not conflict in every case and indeed are often complementary. Besides displaying this complementarity, a full, adequate theory of the Rule of Law would have to order diverse and sometimes competing values (and strategies for their protection) and specify the capacity of relative satisfaction of some of the Rule of Law's component ideals to compensate for deficiencies with respect to others.

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THE CORRELATION OF MODUS OPERANDI AND CRIMINAL CONSEQUENCES

Among scholars in the field of criminal law there is still not a single term in the formulation of the concept of criminal consequences, because scientists also distinguish between the result of the crime and the criminal damage. This situation makes it difficult for legislators in amending the criminal law or new construction of its rules to be enforced. It is important to study modus operandi in its relationship with criminal consequences.

The criminal code of Ukraine does not contain the definition of criminal consequences. There is not a unanimous opinion on this issue and the views of scientists. For example, N. F. Kuznetsova considers criminal consequences as «harmful changes in protecting public relations under criminal law, caused by criminal act or omission of the subject» [1, p. 15]. According to M.Y.Korganskyi, criminal consequences are illegal transformation of social relations, which is in full or partial temporary or permanent obstruction eliminate the possibility of the subjects of public relations of their interests» [2, p. 162].

But S. V. Zemlyukov distinguishes between the criminal result and the criminal consequence. Firstly, «harmful change is defined by him within the occurrence of intentional acts. Criminal consequence is considered as a careless harmful change that occurs in the process of breach of guilty by generally accepted rules or special rules, security, and retention of persons from committing the desired action»[3, p. 32]. We regard this position of S. C. Zemljukov inconsistent. Firstly, it is impossible to characterize criminal consequences (results), using the concept of guilt, which refers to the subjective side of the crime. Secondly, describing the criminal consequence firstly as a careless harmful change is further specified by the author as an element of the objective side of the crime regardless of the form of guilt. We believe,

that both intentional and negligent crimes carry criminal consequences, criminal harm (I think the term harm is more correct, but not the result) as a form of guilt does not affect anything. Criminal consequences are a form of manifestation of criminal harm, that is, relate to both the form and the content and may not be considered identical.

Summing it all up, we propose to use the term criminal consequences understanding them as negative changes in protecting public relations under criminal law, which cause a certain type of criminal harm.

After analyzing the concept of criminal consequences, it's necessary to determine their correlation with the modus operandi. We suggest to determine the modus operandi as a specific sequence of movements and techniques, applied by a person with direct attacks on legitimate social relations. The modus operandi of a crime with the material composition as the external form of manifestation of criminal activity is criminal consequences in close causal connection that is shown in the following positions:

1. Committing criminal acts in a certain modus operandi leads to the occurrence of criminal consequences, and, therefore, criminal responsibility. At the same time, an action, otherwise, would not be recognized by the Criminal code as a crime, and, therefore, will not lead to the occurrence of criminal consequences.

2. A type of modus operandi leads to a specific criminal harm and criminal consequences. For example, the modus operandi related to the physical impact on the object of criminal-legal protection leads, as a rule, to property or physical harm, which is manifested in the material criminal consequences. In turn, such types of modus operandi as fraud, breach of trust or a threat mainly cause moral damage, which is manifested in intangible criminal consequences.

3. The modus operandi is not to be equated with criminal consequences, but is a separate element of the crime. Criminal effects are a consequence of the negative impact on public relations protected by criminal law. Therefore, we don't share the opinion of Y. G. Lyapunov considering such modus operandi as violence which is ranked as «a wide range of violent actions and their consequences, ranging from abrasions and bruising to intentional or negligent infliction of the death of the victim»[4, p. 14]. It is obvious that violence is the only way, and the consequences caused by them is not included in

its content, and acts as an independent attribute of a crime. Combining types and consequences of crime is unacceptable.

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THE DEFINITION OF «INTERNATIONAL TERRORISM», THEORETICAL ASPECT

The problem of war and peace and security is the most actual problem among other global problems in nowadays. International terrorism is one of the specific types of war in international space. Every year many people are killed by terrorists, but an effective mechanism to counter this phenomenon is still missing and there is no any single point of view on this phenomenon among scientists and international legal environment.

Unfortunately, the concept of international terrorism has not found its final and complete definition on the universal level, that's why lots of difficulties are arising in its identification and combating this phenomenon on an international scale. Many states at different times of their existence provided the UN the proposals about the definition

of the term, but they haven't reached a single definition yet. First of all, the reason is a different vision of the counties of this concept, the difference in political and legal systems and the reluctance of countries to link them with commitments to non-use of violence in any form in its foreign policy [3].

Thus, the United Kingdom provided the UN to extended definition of international terrorism, that is – «the acts of the following individuals or groups, which are unacceptable under any conditions, for example, these acts relate to innocent people who haven't any relation to the purpose of political acts» [1].

The similar definition was included to the Special Committee of UN on International Terrorism of the USA, where terrorism is defined as: «illegal acts committed by foreigners against foreigners and these acts entail international consequences» [4]. This definition seems to be incorrect to some extent, as it doesn't reflect the specific content of international terrorism.

The Special Committee on international terrorism, established by the General Assembly in 1972 became a hostage of the policy and its activity in practice proved to be not subjected to any time, no compromises of participants. The main reason stopping its activity were constant disputes of countries about understanding and interpretation of international terrorism. There were unacceptable theories that equate national liberation movements to the terrorism for one part of the members and correlation of concepts of state and international terrorism for another [3].

The latest researches, the practice of international and legal relations approve international terrorism as an international crime, the crime of international nature or general criminal act of a criminal nature. For the first time in 1991 the International Law Commission of the UN adopted the Draft Code of Crimes against the Peace and Security of Mankind in the first reading, where among other international crimes international terrorism was interpreted as: «Implementation, organization, implementation assistance, financing or promoting by agents or representatives of a state the acts against another state or indulgence on their part to implement the following acts against persons or property, which have the purpose to cause fear among governmental officials, groups or the general population completely» [3].

In the final text of the Draft Code, adopted in 1996, acts of terrorism were seen as a part of war crimes. However, we consider,

that such qualification doesn't reflect the proper degree features of criminology of international terrorism, although it emphasizes its special public danger and similarity to military actions.

In many scientific studies there are also no distinctions between the actual acts of terrorism and other criminal activities, such as aggression, genocide, apartheid and crimes that violate the laws and customs of war.

The integral, main sources of nowadays about defining international terrorism are: European Convention on the Suppression of Terrorism 1977, International Convention for the Suppression of Acts of Nuclear Terrorism 2005, International Convention for the Suppression of CTF 1999.

Ukrainian realities indicate that any type of terrorism may be relevant for our country. The main methodological approaches to the definition of terrorism are set out in the Law of Ukraine «On Combating Terrorism».

We agree that the main condition for the formation and implementation of public policy to combat terrorism is to create an adequate regulatory framework. The complexity of legal support to combat terrorist threat is that modern terrorism has become a lucrative business. Launched in Ukraine, a legal reform in the conditions of a transition society on democratic principles set before public authorities the problem of fighting against organized crime and corruption, which, in turn, creates a real base to counter terrorist threats.

In general, studies show that Ukraine has not yet created an efficient national system to counter terrorism, there are only some elements separated with interdepartmental barriers. The analysis of international experience in the sphere of fighting against terrorism allows to some extent to alleviate the similar process in our country. The production of anti-terrorism legal norms in national legislation on the basis of in-depth studying of the achievements of other countries in this field allows using advanced and proven with practices algorithms to combat terrorism. International cooperation can be effective only on the conditions of the mutual trust and similarities of operational culture, based on the same standards, laws, procedures, and – the most important – shared values.

The problem of integration of Ukraine into the system of international security and cooperation with international and European

integration structures in the sphere of security is associated with the process of forming the same standards for different countries in the fighting against global terrorism, which should include the assessment and tracking of terrorist organizations and groups subjected to coordination of security system of Ukraine and foreign countries, including NATO. So, for Ukraine, in the context of ensuring its safety it is important to become an organic part of the international anti-terrorist structures. International terrorism is a multifaceted, politicized concept, a complex political and legal phenomenon that involves an act of terror (this act is directed against persons enjoying international protection), and the interest that affects at least two countries, causing or may cause serious international consequences.

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THE REFORMATION OF LOCAL GOVERNMENT IN UKRAINE BY EUROPEAN STANDARDS

At first, I want to say that every European country is characterized by specific political, social and economical features depending on the constitution and its own political and social relations. Generally speaking, the local government in different states has individual expression. And what means «local government»? Local government is a form of public administration which in a majority of contexts exists as the lowest tier of administration within a given

state. The term is used to contrast with offices at state level, which are referred to as the central government, national government, or (where appropriate) federal government and also to supranational government which deals with governing institutions between states. Local governments generally act within powers delegated to them by legislation or directives of the higher level of government. In federal states, local government generally comprises the third (or sometimes fourth) tier of government, whereas in unitary states, local government usually occupies the second or third tier of government, often with greater powers than higher-level administrative divisions [1, p. 34–35].

The question of municipal autonomy is a key question of public administration and governance. The institutions of local government vary greatly between countries, and even where similar arrangements exist, the terminology often varies. Common names for local government entities include state, province, region, department, county, prefecture, district, city, township, town, borough, parish, municipality, shire, village, and local service district [1, p. 41].

Local government in all European countries is one of the views of democracy. It is the one of the ways the direct democracy and the ability to implement national rights and interests. The local authorities are one of the main foundations of any democratic regime and it is the right of citizens to participate in the conduct of public affairs is one of the democratic principles [2, p. 13].

European countries are aware that the safeguarding and reinforcement of local self government is an important contribution to the construction of Europe based on the principles of democracy and the decentralization of power [2, p. 18].

In European practice local self government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population. This right will be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision will in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute [3].

Ukraine is the part of Europe. But local government in Ukraine is still based on the principles of centralization. And the main task of the government is reformation of its local units.

Local government in Ukraine consists of Administrative divisions of Ukraine. There are 24 regions, with each one further divided into districts.

The heads of local governments are appointed and dismissed by the President of Ukraine and serve as representatives of the central government in Kyiv. They govern over locally-elected assemblies.

In cities with district divisions, decisions of the local community or the city council may be made at the district level. Executive bodies of villages, townships, cities and city-district councils have their executive committees and departments established by the council's executive bodies. The implementation of delegated executive powers is also under the control of the relevant executive bodies. The village, township, or city mayor is the chief executive of the local community at the village (or association of several villages), town or city level, elected by universal, equal and direct suffrage by secret ballot every four years in the manner prescribed by law. The village or township mayor leads the executive committee of the respective village, township or city council, and presides at its meetings [4].

The main difference Ukrainian local government from the European is its destination, but not its election. Every year Ukraine takes part in different international forums for reforming and improving its practice. Last year such forum was in Lviv. In that IV Forum of Local Government (March, 28-29) Ukrainian politicians signed the agreement to take over the Polish practice of the establishing local government.

In 1985 in Strasbourg the European Charter of Local Self-government was proclaimed. This Charter had established the main principles of functioning local government and its importance. According to this Charter the basic powers and responsibilities of local authorities will be prescribed by the constitution or by statute. However, this provision will not prevent the attribution to local authorities of powers and responsibilities for specific purposes in accordance with the law. Local authorities will, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority. Public responsibilities will generally be exercised, in preference, by those authorities who are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and

economy. Powers given to local authorities will normally be full and exclusive. They may not be undermined or limited by another, central or regional, authority except as provided for by the law. Where powers are delegated to them by a central or regional authority, local authorities will, insofar as possible, be allowed discretion in adapting their exercise to local conditions. Local authorities will be consulted, insofar as possible, in due time and in an appropriate way in the planning and decision making processes for all matters which concern them directly [3].

In 1995 Ukraine ratified this Charter and pledged to put it into the practice. But it did not happen. Many times European community tries to explain us how powerful local government is important for state and for building civil society. We all hope, that the events of 2014 (calling Maidan) show that we are ready to build a strong state starting with the basic of local government.

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LEGAL SYSTEM OF UKRAINE: NEW JUDICIAL REFORMS AND NEW CONCEPTUAL APPROACHES

In the process of building the rule of law, one of its most important criteria is to create a fair, transparent and effective judiciary. Currently, there is a significant need for radical change of the judicial system and reform of its individual institutions.

I. **Bar Association of Ukraine** believes that one of the main challenges in modern historical stage of the development of Ukraine is to build an independent and impartial justice, without which it is impossible to strengthen the legal and democratic state and to fulfill any legal, economic and social reforms.

II. The Association believes that the conduct of judicial reform should be based on the following conceptual approaches:

1. The main purpose of the judicial reform in Ukraine should be to create legislative and organizational conditions for the establishment of an independent, effective and accountable judiciary, which is trusted by the society.

2. The judicial and legal reform in Ukraine should be comprehensive and provide for amending the Constitution of Ukraine, legislation related to the judicial system and the status of judges, reformation of the related institutions (prosecution, advocacy, law enforcement), improvement of procedural legislation and legislation regulating the procedure of judgments' execution.

3. The basis for judicial reform in Ukraine should be generally recognized international standards of the immunity of judges, the best practice of democratic states, the analysis of national experience of establishing justice and as well as worked-out suggestions concerning the improvement of the judiciary in Ukraine, that were expertized by the Venice Commission, the achievements of the Constitutional Assembly.

4. In order to ensure the independence of the judiciary some steps should be taken at the constitutional and legislative levels:

– completely eliminate the participation of the Verkhovna Rada of Ukraine, President of Ukraine and executive bodies in the process of the appointment, transfer, bringing them to criminal liability and dismissal of judges;

– predict the principle of tenure (immutability) of judges and the appointment to a permanent position, giving way to the first appointment procedure for five years;

– set exclusively competitive basis for selection of judges, their transfer to courts of other instance including higher courts, based on transparent and objective criteria and procedures;

– consolidate the key role of the meetings of judges concerning the procedure of the appointment of judges to administrative positions;

– strengthen the legal and criminal liability for the unlawful influence on judges in any way;

– ensure financial independence of judges, the increase the level of financial and logistical support of courts, to set high salaries for judges.

5. Increased guarantees of judicial independence should occur with simultaneous establishing effective mechanisms of responsibility of judges for making unjust decisions, corruption, actions that are inconsistent with the high status of a judge.

The law should determine clear grounds for disciplinary actions of judges and their dismissal from the post, providing the range of disciplinary sanctions depending on seriousness of a wrongful act taking into account the principle of proportionality. Another step is to limit the scope of judicial immunity functionally, that is directly connected with the judicial activity; transmit powers to sanction the arrest of a judge or his detention prior to the indictment by the court to High Council of Justice.

6. The High Council of Justice is to become an independent state body responsible for all issues of the formation of highly-qualified judges and guarantee the independence of judges. It is necessary to provide the functioning of the HCJ on a regular basis. Most of the members of the High Council of Justice should be judges elected by their staff. In order to ensure social and public control over the judiciary, the High Council of Justice should necessarily include lawyers, scientists, representatives of human rights protection and other civil organizations operating in the field of law.

The term of the members of the High Council of Justice should be no more than 3 years without reappointment. High Qualification Commission of Judges of Ukraine has to be eliminated. Instead, the High Council of Justice proposes to establish a disciplinary and qualification chambers. The HCJ will have nothing to do with the issues relating to prosecutors.

7. The judicial system in Ukraine should be based on the principles of efficiency and access to justice. In order to discharge the judicial system and making it closer to the people there is an idea to introduce Justices of the Peace.

The Supreme Court of Ukraine proposed to remain the status of the highest judicial body, with its main objective to ensure the uniform application of the law by all courts in accordance with the rule of law.

It is necessary to make amendments into the Constitution of Ukraine concerning the recognition of the jurisdiction of the International Criminal Court. It is necessary to legally regulate the activities of the jury and to ensure the defendant's right to a trial in certain categories of cases.

Further development should be given to mechanisms of extra-judicial dispute resolutions (mediation, arbitration, arbitration courts).

8. Improving procedural law should be conducted by its maximum simplification and acceleration of procedures dealing with disputes in those categories of cases where it is possible to ensure legal certainty and uniformity of judicial practice. At the same time the mechanisms to prevent unfair application of judicial procedures should be improved.

More information technologies should be introduced in the court trials and the organization of the court activity.

9. The judicial and legal reform should include the improvement in the organization and activities of other agencies involved in the proceedings – the prosecution, advocacy, law enforcement. There should be significantly improved the system of enforcement of judgments and introduced an effective control in this area.

An independent judiciary is the key to protecting the rights of a man and citizens.

The destruction of telephone rights and influence on judges, judicial self-government as a key element of judicial independence – these are the basic tenets that should really be a base of a fair, independent judicial branch, «- said the Prime Minister.

According to the Government, the new Parliament of Ukraine must return all the powers of the Supreme Court as the highest court and the authority to consider appeals: «We believe that the main element of a genuine judicial reform in the country should be the restoration of the **Supreme Court of Ukraine** and the citizen's right of access to the Supreme Court of Ukraine, the right of a citizen to cassation appeals through the Supreme Court of Ukraine».

The Government also considers it necessary to return to the Supreme Court of Ukraine the right of generalization of judicial practice and provide explanations to lower courts on the application of certain provisions of the law.

A. Yatsenyuk said that the draft law of Ukraine «On the Judicial System and the Status of Judges» provides a guaranteed access to justice that means «To come to court, to bring a claim with the requirement to review it. «We suggest in the bill that the court itself would send a claim to an appropriate court. To help people who do not spend money on lawyers and do not waste time».

The bill also ensures openness and transparency of the process and proposes to provide the possibility of not only audio, but also a video of the process.

The Government also proposes «E-mail Justice». Therefore, we suggest the law should provide for the possibility of electronic receiving and sending of documents and the formation of a single register.

The independent, honest, and fair judiciary is the foundation for developing a democratic political system and a competitive market economy. It is obvious that such judiciary is lacking in Ukraine.

On 23 February 2014, after the overthrow of the regime of Viktor Yanukovych, the parliament adopted the law on certain aspects of the judiciary and the status of judges, restoration of the authority of the Parliamentary Committee on Justice for preliminary consideration of judge recruitment issued at its sessions (the Committee had this mandate before the reform of 2010).

The law also stipulates that the heads of the court and their deputies should be appointed by the parliament on the proposal of the respective councils of judges. This law is an attempt of the parliament to assume the permission of personnel issues in the judiciary system, but this is contrary to the European standards.

What Should Be Done?

– to adopt the draft law #3678 on enhancement of the judicial self-governance submitted by MPs (developed on the basis of the suggestion of the Venice Commission, it will simplify the system by canceling the appointed bodies –conferences and councils of judges of general and specialized courts – the «proxies» between assemblies of judges at each court and the Congress of Judges and the Council of Judges of Ukraine; as well as to authorize assemblies of judges to appoint heads of courts). Thus, it is necessary to abolish the law of 23 February 2014 on certain matters of the judiciary system and the status of judges;

– after adoption of these changes, we should implement them in practice: to re-elect new judicial self-governance bodies, the High Council of Justice, the High Qualification Commission of Judges (banning the current members from being elected to these bodies), and to appoint new heads of courts and their deputies at assemblies of judges;

– to strengthen the role of the Supreme Court in the formation of a coherent judicial practice by adopting the draft law #3356-2 submitted by MPs (but having improved it by withdrawing the authority of the Supreme Court and high specialized courts to issue interpretations regarding application of laws beyond court proceedings; no unjustified expansion of the Supreme Court's membership).

– to work out and adopt amendments to the legislation on the system of recruitment of judges (in particular, to introduce competitive mechanisms to promote judges based on objective criteria, e.g. by using a polygraph) and on the system for disciplinary accountability of judges (to clarify the grounds, to stipulate proportionate sanctions, to set validity periods for bringing to liability, to stipulate a competitive procedure for disciplinary proceedings, to establish a single disciplinary authority, to foresee special integrity proofs) – based on the draft new law «On the Judiciary and the Status of Judges» developed in 2011 by the Commission for Strengthening Democracy and the Rule of Law that received a positive feedback from the Venice Commission;

– to finalize the preliminary draft law #2522 on amending the Constitution adopted by the parliament to strengthen the guarantees of judicial independence for full implementation of the opinion of the Venice Commission, including:

– to eliminate the president from the processes of transfer and dismissal of judges, he/she can only have the power to appoint a person to the position of a judge based on the recommendation of the High Council of Justice;

– to empower the High Council of Justice to identify the court where a judge will work and transfer him/her to another court on competitive grounds;

– to establish qualification and disciplinary boards within the High Council of Justice, while the separate High Qualification Commission of Judges should be eliminated;

– judicial self-governance authorities should appoint heads of courts;

– to bring down judicial immunity to the functional one (i.e. not to apply the immunity for crimes that judges may commit beyond their professional activity);

– to remove the General Prosecutor from the staff of the High Council of Justice;

– to cancel the increase of the retirement age for judges to 70 and the raise of the minimum age for judges from 25 to 30 years old, given the need to increase the number of the younger generation representatives (who have a better command of foreign languages and are brought up in the independent Ukraine) among judges;

– to stipulate the person's right to bring a cassation appeal to the Constitutional Court;

– to establish a separate unit to act on a voluntary basis for selection of candidates for positions of judges of the Constitutional Court.

– to reform the mechanism of forming the Constitutional Court – nominations for the office of a judge of this court should be put forward by a special commission from among competent professionals (including the retired judges of the Constitutional Court who have not discredited themselves at that position);

– to develop a clear legal framework for lustration of judges – dismissal of those who passed their decisions with great disregard for fundamental human rights. Lustration of discredited judges is needed to restore public confidence in the judiciary system.

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TYPES OF PSYCHOLOGYCAL EFFECTS ON SOLDIERS

For centuries we have seen casualties of war; soldiers who have had various physical injuries and scars that last a lifetime. Yet until the 20th century little was known about the emotional effects of war on soldiers and it wasn't until soldiers were studied psychologically that we began to understand what had happened to them.

You may have heard of psychological disorders associated with war, such as shell shock or 'Combat Stress Reaction' as it is otherwise known. Post-Traumatic Stress Disorder or PTSD is a diagnosis made by doctors on a regular basis for patients who have suffered major traumas such as rape or a car accident. It was due to soldiers of the Vietnam War that the disorder was discovered, yet their symptoms had been synonymous with war veterans from hundreds of years before.

The actual emotional effects of war on soldiers can be distressing and it seems so unfair to the family and friends of veterans that after all they've been through, they continue to suffer. PTSD and shell shock are essentially manifestations of the brain's attempts to cope with trauma and failing to do so adequately. With PTSD in soldiers, the sufferer will often recall and re-experience the specific trauma of war, perhaps when they dream, or even when they think or close their eyes. Hallucinations are not uncommon either, with soldiers feeling as if they are back in the traumatic war environment during sleep, when drunk or on drugs and even during normal wakefulness [1]. They will also react strongly to anything that reminds them of the trauma and begin to avoid anything they associate with it. This often means a distinct reluctance to mix socially, due to loud noises that remind them of bombings, or crowds of people reminiscent of trenches.

It's no surprise, once you understand the distress that soldiers experience during war, that they find it hard to be the same,

emotionally, ever again. Some may say that their inability to form close bonds with loved ones is due to the experience of near death and the fear that they will leave someone behind. The emotional effects of war on soldiers very often hinders their future achievements too as they find it impossible to imagine or plan. Veterans of war who experience PTSD without adequate counseling and care often do not marry or have children, perhaps because they have experienced near death and have severe difficulty letting go of the idea that they may die any day [2].

War can be and has been proven to be a deeply scarring experience for many soldiers. Of course, nothing can prepare them for warfare, seeing close friends die and narrowly escape death themselves. Some veterans of past wars have recovered from their traumatic experience with the right care, but what we need to ask ourselves is how we can protect them from mental trauma before they are even sent to fight, as opposed to treating their symptoms once the deep psychological damage has already been done.

When most people think about the casualties of war, they think of physical injuries and death tolls. However, the psychological casualties of war are just as widespread as the physical ones. Psychological effects of war produce difficulties for soldiers long after they escape the battlefield.

Post-Traumatic Stress Disorder

Formerly called «Combat Stress Reaction,» Post Traumatic Stress Disorder is diagnosed in people who survive traumatic events, such as a car accident or rape. After the Vietnam War, doctors began to diagnose soldiers with PTSD. Soldiers suffering from PTSD may have hallucinations, scary dreams, visions or sudden disorientation as a result of the fact that their brains have not yet fully coped with traumatic events. The brain recalls these events of war as a coping mechanism.

Feelings of Revenge

As a result of the physical and mental toll that war takes, some soldiers develop psychological feelings of hatred and desire revenge over the other side of a conflict. It results from the fact that feelings of hostility and anger are sometimes integrated into a soldier's training regimen, which yields a long-lasting sentiment in his psychology. A recent study by the London Institute of Psychiatry suggests that soldiers and victims of war experience «traumatization» or

«brutalization» after war, in which they promote new cycles of violence after the fighting has ended.

Psychological Collapse

Although many psychological disorders may take time to set in, psychological collapse, a phenomenon in which soldiers become immediately incapacitated as a result of psychological trauma, happens to some soldiers immediately. For example, in World War II, 504,000 United States soldiers were rendered unable to fight as a result of psychiatric collapse. These soldiers typically have repeated exposure to direct conflict and artillery range warfare. Prolonged exposure to these situations leads the brain to shut down as a result of seeing and experiencing traumatic and gruesome events.

Feelings of Listlessness

One major psychological problem for soldiers who have recently returned from war is a feeling of listlessness and lack of direction. After spending a lot of time on the battlefield, many soldiers feel unequipped to handle a lifestyle in which they cannot relate to others who have not experienced such traumatic events. Joblessness and alcoholism are common characteristics for these soldiers, who cannot seem to re-enter into society in a healthy way.

Battle Fatigue

Warfare is very traumatic, especially for front line troops that must face their reluctance to killing as well as being killed. It is much more frightening to have someone try to kill you with a knife than lob a bomb at you. You don't see the fear and hate in a bomb's eyes as he tries to insert a length of sharp metal into your body. The psychological casualty rate of front line units gave the Powers That Be, the idea of doing the same thing to enemy populations. In WW2 this became more evident as the nations bombed innocent, helpless civilians. It was believed that bombing them would cause a high number of psychiatric casualties for the enemy and destroy their will to fight, but it didn't happen. In many cases it hardened their resolve instead of creating hordes of mentally traumatized people.

In this way, maneuver warfare is superior to attrition warfare because it strikes directly at an enemy's will to fight. By violently attacking some rear area people begin to get frightened and realize that there is a threat of invasion and close up interpersonal aggression. The potential of close-up, inescapable, interpersonal hatred and aggression is more effective and has a greater impact on the morale of the soldier

than the presence of inescapable, impersonal death and destruction. Officers are often buffered from enemy attack by ranks of soldiers that are defending them [3].

When an enemy attack destroys a headquarters unit, people realize that they are a target and the enemy is not interested in killing front line units. This can cause a great deal of psychological trauma for a battalion commander as he realized the enemy wants his head on a pike and is trying to get it. Living under this kind of threat can have a noticeable impact on people and because a front line soldier has to deal with this constantly he is more likely to become a psychiatric casualty.

We in our day to day lives aren't able to tolerate small insignificant incidents, which we feel hurt us deeply, how can not the brave sacrificing soldiers not be affected. We all should be proud of them and try to empathize with their situations.

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THE ACTIVITY OF CENTRAL GOVERNMENT IN GREAT BRITAIN

In general terms it is possible to distinguish between those administrative agencies responsible for the initiation of governmental or other administrative action and those which are adjudicative agencies in that they are responsible for the adjudication or resolution of disputes arising from administrative action. Central government departments, local authorities and some public corporations are prime examples of those agencies which initiate governmental or other administrative action. Administrative tribunals and inferior courts

are those bodies most obviously responsible for the adjudication of administrative disputes. However, there is no rigid division between these categories since some central government departments in particular act as adjudicative agencies. Where this is the case and a central government department is given the responsibility for adjudication, this is almost always an indication that there is a significant policy element in the decision-making process. An important example occurs in the Town and County Planning Act 1990 which empowers local authorities and the Secretary of State for the Environment to control most uses of land by the statutory requirement that if a person wishes to carry out 'development' on land, he is normally required to apply to the local planning authority for planning permission to enable the building of houses or some material change in the use of the land such as the storage of motor vehicles on land hitherto used for agricultural purposes. Each local planning authority is obliged to make a policy which provides an element of guidance for some of the important decisions that have to be made on applications for planning permission. Some of these policies must be approved by the Secretary of State who is able to impose his own policy preferences for which he is in turn responsible to Parliament. While the Secretary of State can take the initiative in requiring a planning policy to be made, he remains responsible for the adjudication of planning disputes where, in particular, the local planning authority refuses to grant planning permission from which decision he has to decide any appeal undertaken by the disappointed applicant.

From the foregoing it has been seen that it is the policy element which usually characterizes the various administrative functions which are conferred on central government departments. It is this policy element which often explains the nature of the powers conferred by statute on government departments. Whether a government department is required to initiate administrative action, to control other administrative agencies in their performance of various statutory functions or to act as an adjudicative agency from a decision of another administrative agency, such functions are usually defined in terms of discretion, as illustrated in the earlier reference to s 68 of the Education Act 1944. The essence of any such discretion is that the administrative agency has the opportunity to make a choice of action to take as long as that choice is made within the limits of the statutory powers concerned. Therefore, the Secretary of State

for Education could not use his s 68 powers for a purpose unconnected with education. The opportunity to choose a course of administrative action is clearly important where the administrative agency is charged with the function of initiating such action. Equally, it is a matter of importance that there should be some guidance in the exercise of the discretion. Consequently, if the performance of some statutory function depends on the availability of finance, a policy would enable the definition of priorities where such finance is scarce.

Although it is the policy element which usually determines whether a function goes to a central government department or is subject to some control from the same direction, there are other variables which go to make up the picture. For example, there may be a measure of political sensitivity associated with some administrative decisions, for example, in which case such decisions will probably remain with a government department rather than being conferred on an administrative tribunal or some other adjudicative body. A good illustration arises from the context of immigration control under the Immigration Act 1971 where one crucial area of control remains exclusively with the Home Secretary, namely, the question of whether a person's presence in the UK is 'conducive to the public good'. In some cases a function clearly has some local dimensions in which case the option may be between the function being conferred on the relevant local authorities or a local regional division of a particular central government department. Clearly, in these circumstances the option will be between two democratically accountable bodies, that is, the council of a local authority and the relevant minister of the Crown. Whichever option is chosen may depend on factors such as the need to retain a strong central government policy influence, e.g. in the case of the various localized statutory functions of the Department of Health and Social Security, or the need to recognize local sensitivity and expertise, e.g. in the case of town and country planning. Even with this latter case and in similar areas such as education it is clear that central government control is not lacking.

Where a statutory function has been conferred on a central government department, it has been seen that there will almost certainly be a policy element involved in that function. This will be true whether the function relates to a decision on whether secondary education should be reorganized or a decision on the question of whether a compulsory purchase order should be confirmed.

In both cases and in many others the decision of the responsible minister may be dominated by the need to reconcile any matter of policy with the individual rights and interests of those affected by any proposed action involving the confirmation of proposals for the introduction of comprehensive education or the confirmation of a compulsory purchase order. Is the need for more housing land locally and nationally outweighed by the fact that land contained in the local authority's compulsory purchase order is good quality agricultural land, efficiently farmed by the principal objector to the order? It is this crucial question which can receive close scrutiny, before the minister takes the final decision, through the medium of a public, statutory inquiry. Such an inquiry is provided for by many statutes prescribing administrative action by a minister of the Crown, whether based on local authority proposals or not. As such it is a fundamentally important part of the bureaucratic process. Indeed, in the area of town and country planning it is the case that many planning appeals are now decided by the minister's inspector who conducts the inquiry, so expediting decision-making.

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LEGAL ISSUES OF FIGHTING TERRORISM: A SPANISH EXPERIENCE

The issues of terrorism are of high alert in modern world, yet particularly in Spain. The state does not have a special antiterrorism law. The Criminal Code (*Código Penal*, CP) defines terrorism offenses

and the Code of Criminal Procedure (*Ley de Enjuiciamiento Criminal*, LEC) establishes the powers of law enforcement agencies and judicial authorities in investigating crimes of terrorism. These special measures derive from the Constitution that allows for the suspension of the rights with respect to length of detention, privacy of the home, and secrecy of communications.

Article 571 of the Criminal Code defines terrorists as «those who belonging, acting in the service of or collaborating with armed groups, organizations or groups whose objective is to subvert the constitutional order or seriously alter public peace» as well as attacks on buildings or transportation or communications infrastructure with the use of explosive devices, arson causing risk of injury or death [1].

The article does not criminalize the mere act of belonging to such a group, but rather the commission of criminal acts by members of these groups with the above-mentioned goals [2, p. 114].

The Criminal Code articles also establish the minimum and maximum prison sentences for different crimes when committed by members of the above-defined armed groups or those acting on their behalf allowing Spanish courts to consider foreign convictions for activities related to armed groups as equivalent to convictions under Spanish law to enable citing recidivism as an aggravating factor.

The Code of Criminal Procedure (LEC) establishes that all persons arrested must be brought before a competent judge within seventy-two hours of the arrest, those detained on suspicion of membership or collaboration with an armed group (including terrorist organizations) may be held for an additional forty-eight hours. This means that terrorism suspects may be under police custody for five days before being seen by a judge.

Persons in incommunicado detention have at their disposal the basic legal rights to be informed immediately in a manner they can understand of the grounds for the arrest and their rights; remain silent until brought before a judge; not incriminate themselves or confess guilt; have their consulate notified in the case of foreign nationals, etc.

They do not have the right to receive and send correspondence or other communications; receive visits from religious ministers, private doctors, relatives, friends.

Spain has a long and painful history of internal political violence. The *Euskadi Ta Askatasuna* (Basque Fatherland and Liberty – ETA) Organization has been waging a violent campaign to establish a separate Basque state since the 1960s. For the last four decades, according to official statistics, ETA has killed 831 people, kidnapped seventy-seven persons, and injured 2,392 [3, p. 18].

In addition, thousands of people, from police officers to politicians to journalists and intellectuals, have lived under the threat of violence by ETA.

The separatist group has employed targeted assassinations as well as indiscriminate attacks to further its political goals. The violence has diminished over the last years.

Basque separatist violence has accompanied Spain's transition to democracy since 1975 after thirty-nine years of dictatorship under General Francisco Franco. Since that time, the Spanish state has adopted a variety of strategies to fight ETA. The criminal justice system has long formed an important part of Spain's approach. Over five hundred people are in prisons around the country for membership or collaboration with ETA.

Although Spain has adopted and later abrogated specific antiterrorism legislation in the past, terrorist crimes are now included in the regular Criminal Code and special law enforcement and judicial powers to combat terrorism are incorporated into the Criminal Code of Procedure.

Spain's extensive antiterrorism provisions, though developed in response to internal violence, placed that country at the forefront of international antiterrorism efforts in the wake of the September 11 attacks. In response to those attacks, the U.N. Security Council adopted Resolution 1373 on September 28, 2001, mandating all U.N. member states to adopt specific measures to combat terrorism. Spain has been an active participant in the work of the CTC.

The present government sees itself as a leader to combine effective antiterrorism efforts with respect for human rights. The director of the Unit for the Coordination of Spain's Participation in the United Nations Security Council of the Ministry of Foreign Affairs, Angel Lossada, emphasized that «Counter terrorism has to be framed in the context of respect for human rights… Spain actively supported

the Security Council resolution on human rights and counter terrorism» [4].

Security Council Resolution 1456, adopted in January 2003, requires that «States must ensure that any measure taken to combat terrorism complies with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee and humanitarian law» [5, p. 31].

The attorney General Cándido Conde-Pumpido explained to Human Rights Watch that Spain's «history of twenty-five years of internal terrorism coinciding with democratic development» has resulted in a mature and effective approach to terrorism» [5, p. 47].

Although many of concerns have been raised in the past by international and national human rights bodies with respect to the treatment of suspected members of ETA, Human Rights Watch believes that for Spain to assume a leadership position in the fight against terrorism without undermining respect for human rights standards, critical changes must be made to both the law and practice of its counter terrorism measures.

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CATALAN LOCAL POLICE IN THE LAW ENFORCEMENT STRUCTURE OF SPAIN

Law enforcement in Spain is carried out by numerous organizations, not all of which operate in the same areas. The *Guardia Civil* (Civil Guard) patrol rural areas, including highways and ports, and investigate crimes there. They operate from precincts called *casas cuartel* (garrison posts), which are both minor residential garrisons and fully equipped Police Stations. The *Policía Nacional* (National Police) deal with serious urban situations. The *Policía Local* (Local Police) exist in most cities and important towns in order to concentrate on preventing crime, settling minor incidents, traffic control, and, crucially, intelligence gathering [1; 8].

Under the Statutes of Autonomy of 1979, the Basque Country and Catalonia were granted authority to form their own regional police forces. Subsequently, ten of the seventeen autonomous regions were extended the right to create their own forces, but, as of 1988, only three areas – the Basque Country, Catalonia, and Navarre – had developed regional police units. The 1986 organic law defined the limits of competence for regional police forces, although the restrictions imposed did not apply to the existing forces in the Basque Country and Navarre and applied only in part to those in Catalonia [5].

In this way, ***5*** administrative units have their law enforcement forces represented on a regional level as follows:

1. ***Ertzaintza*** in the Basque Country
2. ***Mossos d'Esquadra*** in Catalonia
3. ***Policía Foral*** (in Basque *Foruzaingoa*) in Navarre
4. ***BESCAM*** in the Madrid region
5. ***Policía Canaria*** in the Canary Islands

Under the aforementioned law, regional police could enforce regional legislation, protect regional offices, and, in cooperation with national forces, could police public places, control demonstrations

and crowds, and perform duties in support of the judiciary. A Security Policy Council was established at the national level to ensure proper coordination with the new regional forces, which, as of 1986, numbered about 4,500 officers [5].

The ***Mossos d'Esquadra*** (the most opportune translation into English is the *Troopers* as literally the term means «Squad Lads» or «Squadies») are the police force of Catalonia. The police force currently has 16,654 officers who are distributed into a complex structure of central and territorial agencies.

Number of police officers of Mossos d'Esquadra 2014 by rank and gender [4].

	Commissioner	*Intendant*	*Inspector*	*Sub-inspector*	*Sergeant*	*Corporal*	*Officer*	*Total*
Men	15	42	122	346	809	2,192	9,632	13,158
Women	1	4	12	27	77	363	3,012	3,496
Total	16	46	134	373	886	2,555	12,644	16,654

The force was founded in 1950, but a different Catalan force with a different name, the *Escuadras de Paisanos*, was one of the oldest [4] police forces in Europe. The term *Mossos d'Esquadra* was first used as an informal name for this earlier force.

On July 21, 1950 the Deputation of Barcelona was authorised to create a small security force using the historical title Mossos d'Esquadra. These new Mossos were a militarized corps with little similarity to the earlier incarnations, with limited attributes and few in number. With the return of democracy to Spain, the *Mossos d'Esquadra* grew in number and attributions. Since October 25, 1980 the force has been under the authority of the *Generalitat de Catalunya* (regional Government of Catalonia).

The current incarnation of the Mossos d'Esquadra was created by a law of the *Generalitat* of July 14, 1983, basically refounding the previous corps into a modern police force. They are no longer a military force, but a civilian one. Since then, the Mossos have gradually grown in both number, skills and responsibilities.

The *Escuadras de Paisanos*, later known as the *Esquadres de Catalunya*, are a force from which the *Mossos d'Esquadra* have no direct descent. They were men-at-arms who had fought as irregulars in the *War of the Spanish Succession*, and were brought together by the mayor of the town of Valls near Tarragona between 1719–1721.

The corps became institutionalised and constituted a militia, which intended to provide security to trade routes and fairs, exposed to constant dangers. They were constituted as a complement to the regular troops of the bourbon army, which had to confront the *Miquelets*, who persisted as an insurgent redoubt of supporters of Archduke Charles.

It was manned by locals, who had to speak Catalan and be familiar with the paths, caves and hiding places in the area. They were eventually placed under military jurisdiction but were less centralised than the Spanish police force (then known as the *Intendencia General de Policía*) formed in 1817, or the yet to be established *Guardia Civil*, both of which were systematically deployed away from their regions of origin, and were thus strangers.

Throughout the centuries it has passed back and forth from Catalan authority to Spanish military command several times. They were dissolved in 1868 by General Prim after the fall of Queen Isabella II of Spain, since the Mossos had always been royalists [7, p. 94–97].

They were reinstated in 1876 under the reign of Isabella's son king Alfonso XII of Spain, but only in the province of Barcelona. Under his son Alfonso XIII of Spain, the *Mossos* were not well regarded in Catalonia, specially by the Commonwealth of Catalonia, who paid them but had no control over them. They flourished, though, under Primo de Rivera's dictatorship.

When the Second Spanish Republic was proclaimed, however, the *Mossos* sided with the *Generalitat de Catalunya*. After the Spanish Civil War, the last *Mossos* left Catalonia with the President of the *Generalitat* and the corps was dissolved by the Francoist authorities.

The Mossos d'Esquadra have now replaced Spain's Policia Nacional and Guardia Civil within the territory of Catalonia. This process of substitution began in 1994 and was completed in 2008 [2]. In November 2005, the Mossos took full duties in the city of Barcelona.

As a global police, it performs the functions entrusted by law to the Security Forces and specifically the following ones [3; 6, p. 141]:

– Public safety and public order, preventing and neutralizing risk situations to people and property.

– Administrative Police.

– Judicial Police of criminal investigations, including organized crime and terrorism, under the terms established by law.

– Amicable settlement of private disputes.

– Cooperation and collaboration with local authorities.

– Policing road safety and traffic, neutralizing and preventing risk situations to the safety of persons and property on interurban roads and, if applicable, in the urban roads.

– Policing emergency and civil protection.

The *Mossos d'Esquadra* are a police force of the Spanish state placed under the authority of the *Generalitat de Catalunya*, within the territory of the autonomous community of Catalonia, and in accordance with the principles of the Spanish constitution and all legal provisions therefrom derived, such as the Statute of Autonomy of Catalonia and the laws therefrom derived.

The Policia Nacional and the Guardia Civil, on the other hand, are commanded directly by the Spanish ministry of the interior. They keep some officers in Catalonia to handle terrorism, identity documents, immigration and other limited responsibilities of the central government [6:137].

Thus, the ***Policía de la Generelitat – Mossos d'Esquadra*** continues to function as the police force of the *Generalitat* of Catalonia, refounded through Law 19/1983 [4], which was adopted by the Parliament of Catalonia.

The *Mossos* are trained in the *Institut de Seguretat Pública de Catalunya* (Public Safety Institute of Catalonia), which also trains local police officers.

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WAYS OF PSYCHOLOGICAL TRAINING OF THE POLICE OFFICERS

The effectiveness of the fight with the delinquency and protection of public order is largely dependent on the psychological preparation of the police officers for action in extreme conditions. The relevance of such training due to the fact that most investigators believe, that 50% of their official situations are the potentially extreme, police public safety respectively 52%, the criminal police – 60%, and Special Forces – 64%.

Thus extreme situations for many police personnel became the norm [2, p. 19].

According to V. G. Androsyuk most respondents (about 70%) are guided by tactics of prevention and avoidance of situations that may adversely affect their physical or psychological condition [2, p. 25].

Based on these data, we can assume that there is a high probability that in the event of extreme situations the police officer will not engage in solving problems but will provide their own security.

It should also be noted that this survey was conducted among employees who have worked in the police department for more than three years.

That is, people who have some experience and a more or less stable formed life direction and values, but are not psychologically ready for action at a time when their lives and health are at risk.

Most employees in critical situations behave themselves according to some patterns which, depends on their level of training. At high preparedness (including psychological) such employee in difficult circumstances hopes mainly «over» himself, his decision and try to solve problem by his own means and efforts, which, of course, based on the knowledge necessary legislative regulations, certain personal experience.

The less trained staff in similar cases feels self-doubt, which is caused by the lack of a correct understanding of their duties, experience. So they try to shift responsibility to someone else, and at the critical moment they don't think of what is urgently need to do but they worry who will response for it. There lies the psychological explanation of the essence of «fear of errors», and other faults in difficult circumstances.

What is the way out? It is necessary to help each employee to get rid of uncertainty, fear of making a mistake at a critical time, to develop his independence. And it is the main task of each manager. They need to give more autonomy to subordinates at training sessions, to teach them to make informed decisions, teach them to believe that in difficult circumstances they can rely only on themselves.

With operations in extreme situations the problem of the audience is of particular importance. Even in normal conditions they restrict the officials if they do not have any experience of work «in public». At difficult situation «effect of the audience» often make the employees feel indecisively, nervously, act with respect to the public opinion. As it is not always possible to get rid of the audience, the officers should be ready. It is necessary to prepare and conduct special open training, including training in which workers and police alone, and in groups will operate in the presence of spectators.

One of the most important circumstances of successful officers' activity is the quality of instruction, which they get on duty spade (before doing their job). Some managers do not understand the importance of this procedure. Indeed, during the briefing manager

(commander), except alarm duties introduces the operational environment, describes various situations, which may occur at combat missions, and gives guidance on optimal actions of subordinates. Accumulated evidence suggests that most of the acts of subordinates are the algorithm that was proposed by the head during the briefing. Properly organized instruction allows reducing the stressful actions in extreme situation, preventing the emergence of «guilt complex» and fear of legal liability.

It can be concluded that the better instruction employee received, the higher is his psychological readiness, the more adequate and reasonable his actions will be, the less possibilities of his death, as well as the emergence of mental disorders after the incident.

Equally important element is self-instruction, by definition of P.K. Anokhina «anticipatory reflection» [3, p. 67]. That is the playing in mind of extreme situations and their behavior (their actions) in them. Self-instruction is a prerequisite for the officers' success in the various circumstances. Most often it is used by pilots (especially test pilots) and astronauts.

That is, those people who have to make the decision in less than a second and everything depend on psychological readiness for the emergence of such situation and gained automatic action.

This method would help to adopt a police officer. It is simple and entirely dependent on the power of imagination. To play in the minds actions is possible anywhere and at any time. But self-instruction will help to prepare on the psychological level to many surprises that can be brought by life and service.

Thus, quality training of the police officers is impossible without well-organized psychological training in institutions and places of service. In other words, with little attention to it now, in the future we risk to appear in a situation where the growing professionalism of the criminal world, we will have nothing to oppose.

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WHAT DO WE KNOW ABOUT WAR?

What do we know about war? Our ancestors wanted us to know what the war was by their words only. They wanted we'd never know what it was from our own experience. The whole world remembers war with words «Never again!».

The whole world mourns for the dead and sympathizes with the victims. Each native, who had known the horrors of war, swears that he/she will always try to prevent a recurrence of those terrible events. The whole civilized world was sure that war will never again be caused by any nation.

Unfortunately, there are some people in our world, who choose their ambitions and wishes before someone's lives.

It happened so that such a man was someone whom we considered like a friend. We trusted him. It seems like that the main law of life such as «Your enemy is closer, that you've thought» had worked out. And there's the question «Was that just ambitions or pure madness?» What guides the man, who sends people to death because of obscure goal? Hey, people, what are you doing?! We've called you brothers just yesterday! And now Ukrainian people are dying, protecting their land from those, who were friends; from those who stabbed Ukrainians into their backs.

We can talk a lot about dirty tricks of some person. But I don't want to waste our time.

Let's talk about other human qualities such as bravery, fortitude, generosity and compassion. All those qualities are typical for soldiers of ATO and volunteers, who are trying to help them. Those people are heroes! Honestly, I was surprised that there would be so many of them. Someone makes more, someone makes less. But no one stays indifferent. Each of them is fighting for our country, and for our future

in their own way. Each soldier and volunteer has family, parents, and friends. Each of them has something to lose. Perhaps, someone else will disagree, but not them. Thanks to them we are walking along the streets, visiting our favorite places. Thanks to them we are still alive.

We get the news about dead or badly injured soldiers every day. Many of them will stay disabled for the rest of their lives.

Many soldiers, who are fighting on the East of Ukraine, ask themselves: «Are their actions necessary for anyone?» Because a lot of those people do that for a minimal fee, and someone does it for free. They risk their lives every day and night. And don't get anything back from the state.

Yes, our President calls on to artists to dedicate their works to soldiers of ATO. Yes, deputies talk a lot that Ukrainian army needs considerable help. But that's just words. They don't care about soldiers, who are protecting them, their families, their houses... and amounts of money...

But thanks God that there are people who help warriors and soldiers, who've returned home. Many of Ukrainians are imbued with this struggle, so that acts of bravery of our soldiers can be forgotten by officials but will never be forgotten by Ukrainian nation.

So let's remember all the heroes – dead or alive, soldiers and 'Euromaidan' activists, doctors, and volunteers. They fight for our lives, our better future. Don't forget that. And then they all will be alive in our hearts forever. Just like guardian angels with weapon in hands.

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THE ELECTORIAL SYSTEM IN GREAT BRITAIN

The task of the article is to find out some facts about the general election campaign in Great Britain and state if their experience can be useful for the same process in our country.

General elections, for all seats in the House of Commons, take place at least every five years. In practice, elections are usually held before the end of the five-year term. The general election campaign takes place both at national level and in the 651 parliamentary constituencies. The average number of electors in each constituency in England is about 69,500; in other parts of Britain the average numbers are slightly lower. In practice it begins as soon as the Prime Minister announces the election date, although Parliament is not usually dissolved until several days later.

The System of Voting

The simple majority system of voting is used in parliamentary elections in Britain. This means that the candidate with the largest number of votes in each constituency is elected, although he or she may not necessarily have received more than half the votes cast.

It is thought that this system favours two-party competition, particularly when the parties' support is concentrated geographically. It does not favour parties whose support is spread across constituencies, as they tend to accumulate relatively small numbers of votes in each constituency and consequently do not win many seats. Voting is by secret ballot.

Voters. Voters usually vote for the candidate and party which they would most like to see win the election.

Who may vote. All British citizens may vote provided they are aged 18 years or over and are not legally barred from voting. Subject to the same conditions, citizens of other Commonwealth countries and the Irish Republic who are resident in Britain may also vote at parliamentary elections. All voters must be registered as resident in a constituency on a specified date.

British citizens living abroad may apply to be registered to vote for up to 20 years after leaving Britain. They must register to vote in the constituency in which they were last resident. British citizens who are working overseas as British Government employees also have the right to vote, regardless of how long they have been abroad.

Voting in elections is voluntary. On average about 75 per cent of the electorate votes.

Who may not vote. The following people are not entitled to vote in parliamentary elections:

– peers, and peeresses in their own right, who are members of the House of Lords;

– foreign nationals, other than citizens of the Irish Republic resident in Britain;

– people kept in hospital under mental health legislation;

– people serving prison sentences, and

– people convicted within the previous five years of corrupt or illegal election practices.

Candidates

Any person aged 21 or over who is a British citizen, or citizen of another Commonwealth country or the Irish Republic, may stand for elections to parliament, providing they are not disqualified.

Those disqualified include:

– people who are bankrupt;

– people sentenced to more than one year's imprisonment;

– clergy of the Church of England, Church of Scotland, Church of Ireland and the Roman Catholic Church;

– members of the House of Lords; and

– a range of public servants and officials, specified by law. They include judges, civil servants, some local government officers, full-time members of the armed forces and police officers, and British members of the legislature of any country or territory outside the Commonwealth.

Candidates do not have to live in the constituencies for which they stand. However, candidates who are on the electoral register in the constituencies for which they are standing may vote in their own constituencies.

Candidates must be nominated on official nomination papers, giving their full name and home address. A political or personal description of up to six words may be included. The nomination paper must be signed by ten electors, including a proposer and a seconder. At the same time a sum of £500 must be deposited on behalf of each candidate: candidates who receive less than 5 per cent of the votes cast in the subsequent election lose this deposit. Candidates from the main parties very rarely lose their deposits.

Candidates normally belong to one of the main political parties. However, smaller political parties or groups also put forward candidates, and individuals without party support also stand.

So, the knowledge about the details of the general election campaign in Great Britain enables it to understand its peculiarities

and to use the positive experience during the election campaign in our country.

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ETHICS AND PROFESSIONAL RESPONSIBILITY CODES FOR LAWYERS AND JUDGES IN THE USA

We have learned that law is only one of society's resources for developing standards of ethical conduct. Professional associations also make significant contributions. It is common for persons in a trade or profession who share a common concern about competency, quality, and integrity to organize an association. Such an association typically will develop a code of ethics to which the members will subscribe. In this fashion, many of the do's and don'ts of a profession become codified, at least as far as the members are concerned. Theoretically, a member who fails to comply with the code will be expelled from membership. This process has the twin advantages of distinguishing the membership from predatory competitors and enabling the members to establish and maintain a positive image with consumers. Real estate brokers, undertakers, social workers, engineers, doctors, police chiefs, and lawyers, to name but a few, have formed associations, at least in part, to establish and maintain standards of ethical behavior for their memberships. In some of the regulated professions,

membership in an association is required as a condition of licensure. This is true in the legal profession, where thirty states require attorneys to be dues-paying members of the state's bar association.

The American Bar Association and many state bar associations have standing committees on ethics that issue advisory opinions at the request of members. These opinions are often highly respected and can be influential when used in conjunction with disciplinary proceedings. Bar associations are also heavily involved in developing proposed rules for consideration by the state supreme courts, and they often sponsor courses in continuing legal education for the benefit of the membership.

The supreme court of each state is normally responsible for overseeing the practice of law within its jurisdiction. It fulfills this obligation in part by promulgating standards of professional conduct to protect the public from incompetent and/or unethical lawyers and from judges who prove to be unsuited or unfit to remain on the bench. Supreme courts also create administrative boards to investigate complaints and enforce rules, and increasingly require that all attorneys and judges participate in continuing legal education programs.

Typical codes of conduct for lawyers and judges will express concerns about competency, confidentiality, loyalty, honesty, candor, fairness, and avoiding conflicts of interest.

The West Virginia Supreme Court of Appeals, for example, has promulgated such codes of conduct for its lawyers and judges. It has established a special commission to investigate complaints against judges and to «determine whether probable cause exists to formally charge a judge with a violation of the Code of Judicial Conduct.»

The West Virginia Code of Judicial Conduct, in Canon 3E(1), prohibits any judge from participating in any proceeding where «the judge's impartiality might reasonably be questioned …» West Virginia is one of thirty-nine states that elect rather than appoint some or all of their judges.

Judges everywhere appreciate that the only power they possess is the right to make decisions. They depend on the executive branch of government to enforce their orders and on the legislative branch of government for funding. Judges who are not fair and impartial threaten public support for the judiciary as an institution, and potentially undermine respect for all other judges. It is unusual, for a judge to refuse to voluntarily remove (in legal jargon, «recuse») himself/herself

from a proceeding which fairly or unfairly involves circumstances that could be perceived as raising questions about whether that judge is biased or has a conflict of interest. It is even rarer for a sitting judge to deny three separate recusal motions brought by one of the parties to a highly publicized and contentious case.

Whenever it appears that a federal or state court trial has been fundamentally unfair for procedural reasons, an aggrieved party, after exhausting all other available sources of relief, has the right to petition the U.S. Supreme Court for a writ of certiorari. This is what happened in the case of Caperton v. Massey Coal Co. The U.S. Supreme Court granted certiorari, and thereby agreed to decide this case, in part because the facts were so compelling. However, by accepting this case the Court was also reminding the lower courts, political operatives, and the country that the protections of the Due Process Clause can be invoked to remedy a procedural wrong, if it is necessary to the preservation of judicial integrity.

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LAW ENFORCEMENT RESPONSES TO TRAFFICKING IN PERSONS: CHALLENGES AND EMERGING GOOD PRACTICE

In recent years, the European countries have committed significant resources to combating trafficking in persons. Within this larger anti-trafficking effort, the community sector, law enforcement, prosecutors, health professionals and members of the community

all have an important role to play. As each sector comes to terms with the reality of trafficking in Europe, it is important that emerging challenges and possible solutions are identified. This paper focuses on the challenges that may confront law enforcement officials in any country in their efforts to detect trafficking, identify victims, investigate offences and contribute to the successful prosecution of offenders. Drawing on international experience, this paper identifies some examples of emerging good practice that can help to overcome these challenges, and contribute to the effectiveness of the larger criminal justice response to trafficking.

Since the entry into force of the UN Trafficking Protocol in 2003, 115 countries, have agreed to a set of key legal obligations relating to trafficking.

They include:

- criminalise trafficking and provide appropriate penalties
- extradite or prosecute traffickers
- actively identify victims
- diligently investigate and prosecute traffickers
- assist and protect victims
- refrain from detaining and prosecuting victims
- provide adequate and appropriate remedies to victims of trafficking
- provide special measures for children
- work towards preventing trafficking
- cooperate across borders.

Having agreed on the legal framework, the next challenge for countries is to convert these legal obligations into practical outcomes. The translation of law into practice is rarely easy, particularly for a crime as complex as trafficking. Experience in Europe and overseas confirms that enacting appropriate criminal laws is just the first step. Greater challenges lie in giving full effect to these laws, while recognising the special rights and needs of victims of trafficking.

Drawing on the international literature, this paper seeks to identify some of the practical challenges that are likely to confront law enforcement officials in their efforts to:

- detect trafficking and identify victims of trafficking
- investigate trafficking cases

- contribute towards an effective prosecution of those accused of trafficking.

Many of these challenges are inter-related, and reflect both the nature of trafficking and the impact of the crime on victims of trafficking. This paper provides an overview of some of the strategies developed in response to these challenges. These strategies take account of the particular nature of the crime type and recognise the need to protect and support victims of crime.

Why is it so hard for law enforcement to detect and investigate trafficking?

Unlike many crimes, trafficking is not a single, static 'event'. It is a process that can involve multiple offenders and crime sites across several jurisdictions, ultimately leading to exploitation of the victim. Many investigations will be conducted in the country of destination where the exploitation is perpetrated. However, important evidence such as information about deceptive recruitment practices may be located in the country of origin or transit. Investigators in one country need to work closely with law enforcement officials in other countries to exchange information, and possibly also to secure evidence and extradite offenders.

The international legal definition of trafficking is complex, and incorporates a number of concepts that need to be clearly defined such as coercion, exercise of control over another, and exploitation. Many countries are still coming to terms with how best to translate these concepts into national law.

Gaps in coverage, confusion or lack of clarity in legal frameworks will affect law enforcement.

Unlike simplistic stereotypes about sex slavery, trafficking cases can be complex and subtle. Victims of trafficking may or may not hold legitimate visas and they may or may not be located in the sex industry. Some cases might involve victims being controlled through violence and physical confinement but in other cases, coercion and control might be exercised through far more subtle means, such as:

- threats to turn victims over to the authorities, with threats of imprisonment or deportation and an ever increasing 'debt' that still has to be paid off
- threats of violence or other harm, including to family
- social, cultural and physical isolation that results in effective dependence.

As a result of these and other complexities, the line between willing work and the criminal exploitation involved in trafficking can be difficult to locate and even harder to prove.

Victims of trafficking may not report their experiences to law enforcement agencies. European research found that law enforcement officials were most likely to come into contact with victims of trafficking through indirect means, such as referrals of cases from NGOs, immigration raids, or law enforcement activity around prostitution.

The least common means of contact was for women to approach officials voluntarily and directly as victims of crime. The implication is that law enforcement cannot simply react to crime reports. It will need to work closely with a range of agencies, including NGOs, and be ready to recognise trafficking in a range of contexts.

Deterrents to victims of trafficking reporting their experiences include fear of reprisals from traffickers, the political and social pressures that work against undocumented and sex workers reporting abuse, the victim seeing the situation as their own fault or believing that they have committed a crime, fear of deportation and fear of law enforcement acting in collusion with traffickers.

Many migrants and members of minority communities do not trust law enforcement. They may perceive it as a threat rather than a source of help.

Some victims of trafficking will not want to cooperate. They may not self-identify as victims, seeing themselves instead as people who have had bad luck. In these instances, an intervention may be seen more as an oppressive interference than a rescue from an exploitative situation.

A lack of cooperation can also be related to the impact of the crime on victims themselves. A victim of trafficking may have experienced severe and persistent abuse and trauma. The health impacts of this can be devastating, resulting in symptoms similar to those observed in victims of other types of chronic abuse and trauma, such as domestic violence, repeated sexual abuse and torture. Trauma can fundamentally affect a person's psychological state and behaviour, and recall and perception of events.

For example, a person who has experienced a traumatic event might depersonalise the experience and come to regard it as having happened to someone else, suffer from an altered sense of time and

impairment of memory, or suffer from fragmentation of perception, feeling, consciousness and memory.

While clearly the largest impact is on the victim of crime, trauma also affects the efforts of law enforcement. For example, victims of trauma may say they do not remember key events or situations, deny that key events took place, appear to consent or agree to their situation, display a high level of apathy or indifference about their situation, or be overtly hostile, refuse to cooperate and avoid release. These behaviours can indicate a deliberate, rational decision not to cooperate with law enforcement. However, they might indicate that an individual is suffering from trauma and is in need of professional support and assistance.

The impact of fear, the victim's personal situation and trauma can play out in a number of ways in an investigation. For example, some victims may seek to change or correct their version of events over time. This may reflect the fact that they have very little recall of what happened, and their memory may improve over time.

This can easily be misread as a lack of truthfulness or credibility. Other victims may have full recall of what happened but hesitate to tell their story to complete strangers, particularly foreign law enforcement officials.

This scenario presents law enforcement with practical difficulties.

Consistency in statements, and the related issues of credibility of witnesses, have a considerable impact on whether prosecutions proceed and the outcome of prosecutions. Inconsistency in witness statements can be used to attack the credibility of a witness in court, and undermine their evidence.

Efforts to respond to these challenges

Law enforcement also has to work within the reality that many victims will not want to participate in an investigation if it means appearing in court as a prosecution witness.

This can involve waiting several years for a case to get to court, then being subjected to intrusive and hostile questioning, which can be very stressful and potentially dangerous to the victim and/or family and friends.

Law enforcement agencies have been developing approaches and methods to improve the effectiveness of their response to trafficking. Many approaches are new and few have been evaluated.

Nonetheless, it is possible to identify a number of emerging good practices that:

- have been developed in response to clearly identified problems;
- have been developed through extensive consultation with a wide range of people working in the field;
- balance the rights of victims with the interests of criminal justice;
- reflect the inter-connected nature of all actors in the response.

Specialist and local law enforcement responses

Many countries have established specialist units to investigate trafficking cases. Benefits to this approach include:

- consolidation of resources, including expertise and experience;
- a focal point that can build strong working relationships with other key agencies, including law enforcement in other jurisdictions;
- capacity to develop, test and refine appropriate and effective standard operating procedures and training.

Specialist units focused on a narrower range of crime types are likely to have an increased capacity to undertake proactive or intelligence-led policing – rather than simply responding to crime reports.

They can build strong working relationships with units in other countries. This is likely to improve the flow of intelligence and facilitate the processes involved in mutual assistance and extradition.

While specialist units may be at the centre of many trafficking investigations, it is essential that local or frontline law enforcement officials know how to identify and respond to trafficking. They know their local area, have local contacts, and are best placed to identify what is out of the ordinary in a way that specialist units can not. Accordingly, it is vital that frontline officials know how to:

- quickly and accurately identify victims and perpetrators
- identify, preserve and collect evidence
- ensure victims are removed to safety and receive immediate assistance and support.

It is important that there are clear lines of communication around roles between specialist unit and frontline police. This will

require the development and implementation of standard operating procedures, supported by training.

Because of the complexity of trafficking investigations, it is vital that law enforcement develops clear and practical policies and procedures to guide the conduct of both reactive and proactive investigations. for example, the regional standard for anti trafficking police training in south eastern europe includes a number of detailed policies and procedures for law enforcement officials in relation to:

- risk assessment
- processes for victim identification
- obtaining the victim-witness evidence
- scene preservation and evidence gathering
- counter-trafficking intelligence.

The standard was developed by a group including the Police Development Unit at the Organization for Security and Co-operation in Europe, the Austrian Federal Police Directorate, Federal Criminal Investigation Unit and Ministry of Interior, and General Police Directorate Croatia, in addition to ICMPD and NGOs.

The training program was tested and validated in a number of pilot sessions.

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ACTIVITIES OF LAW ENFORCEMENT AGENCIES IN COMBATING CRIME IN THE USA

In every country in the world, law enforcement officials are at the frontline of efforts to combat organized crime. The building of criminal investigative and other law enforcement capacity is a core component of UNODC (United Nations Office on Drugs and Crime)'s work.

Technical assistance includes institutional and operational capacity building of law enforcement and judicial bodies to strengthen investigation and prosecution of organized crimes. Training is offered to police investigators, prosecutors and judges, criminal intelligence analysts, specialized drug and organized crime investigators and customs officials.

UNODC delivers a range of trainings to law enforcement officers on topics of relevance to fighting organized crime in their local contexts. It also employs modern technical training such as computer-based training as well as assistance in improving information exchange between law enforcement agencies, custom and border control authorities in different countries. UNODC also supports evidence-based law enforcement responses by analyzing report questionnaires submitted by States parties to the Organized Crime Convention. On this basis, research conducted by UNODC is vital in identifying regional and global organized crime trends, forecasting future trends and strengthening the capacity of States to respond reactively and proactively [1, p. 76].

Countering kidnapping. The international community is increasingly concerned about the use of kidnapping by organized criminal groups. In the most severely affected countries, several hundred kidnappings occur annually. Criminal groups are involved in kidnapping for the purpose of extortion, as a method of accumulating

capital for other criminal activities, such as trafficking in firearms, money laundering, drug trafficking, trafficking in people and crimes related to terrorism.

In its resolution 2002/16 of 24 July 2002, the Economic and Social Council vigorously condemned and rejected kidnapping in any circumstance for any purpose, and resolved to treat it as a serious crime, particularly when it was connected with actions of organized criminal or terrorist groups. While definitional and recording problems make the crime difficult to assess the incidence of kidnapping at the international level, it is clear that States generally consider this crime to be a serious one. When committed by an organized crime group, the crime can be addressed in the framework of the provisions on mutual legal assistance and extradition of the Organized Crime Convention [2, p. 34]

Border management. Border control officials are often at the frontline of defense against organized crime and may be called upon to identify and apprehend criminals and protect and assist victims. It is therefore essential that border control officers be supported in their role as first responders.

UNODC's Border Liaison Officer (BLO) programme supports countries to better manage their borders and to better communicate with their counterparts on the other side of the same border. Specific activities and interventions within the programme differ depending on the particular context and the funding available.

Often border officials are sparsely equipped, with limited resources with which to patrol borders and react when borders are breached.

The BLO programme provides beneficiaries with technical resources (such as computers) and transport resources (such as motorbikes) with which to strengthen their responsive capacity. Additionally, the programme acts to build trust and dialogue between border staff on both sides of the border and strengthen communication between them so as to empower both sides to act and respond quickly to border threats [3].

Container Control. International trade is one of the significant contributing factors as well as by-products of globalization. Trade can significantly contribute to sustainable development though increased economic opportunities in movement of goods around the world.

However, many developing countries do not have the capacity to effectively harness the goods of international trade, while also ensuring trade security and standards at their ports, handling terminals and borders.

Although freight containers are an important part of the trade supply chain, they are used by organized criminals to traffic illicit drugs, precursor chemicals, weapons, explosives and other contraband.

Where the trafficking of illicit goods through containers is not intercepted by law enforcement authorities, it fuels the commission of other serious crimes.

For instance, trafficking of weapons and explosives raises concern about trafficking in containers being used directly or indirectly for terrorist attacks.

The UNODC Container Control Programme, in partnership with the World Customs Organization, aims to assist governments to establish effective container controls that serve to prevent illegal activity while also facilitating legal trade [1, p. 110].

We can conclude that organized crime threatens the economy, national security, and other interests of the United States. 1 Particularly in the past several decades, organized crime has been evolving and taking on an increasingly transnational nature.

With more open borders and the expansion of the Internet, organized criminals threaten the United States not only from within the borders, but beyond.

Organized crime stretches far beyond the Italian mafia, encompassing Russian, Asian, Balkan, Middle Eastern, and African syndicates.

Even though organized crime has not received as much recent media or congressional attention as have other national concerns, such as the threat of terrorism, these criminals have not ceased their illicit activities.

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PECULIARITIES OF FIRE EXTINGUISHERS IN USA

A fire extinguisher, or extinguisher, is an active fire protection device used to extinguish or control small fires, often in emergency situations. It is not intended for use on an out-of-control fire, such as one which has reached the ceiling, endangers the user (i.e., no escape route, smoke, explosion hazard, etc.), or otherwise requires the expertise of a fire department. Typically, a fire extinguisher consists of a hand-held cylindrical pressure vessel containing an agent which can be discharged to extinguish a fire [1].

But there are a lot of differences between Ukrainian fire extinguishers and extinguishers which are used in USA.

There is no official standard in the United States for the color of fire extinguishers, though they are typically red, except for class D extinguishers which are usually yellow, water and Class K wet chemical extinguishers which are usually silver, and water mist extinguishers which are usually white. Extinguishers are marked with pictograms depicting the types of fires that the extinguisher is approved to fight. In the past, extinguishers were marked with colored geometric symbols, and some extinguishers still use both symbols. The types of fires and additional standards are described in NFPA 10: Standard for Portable Fire Extinguishers, 2010 edition [2].

New throwable fire extinguisher.

Aerosol canister disperses a powder that will interrupt fire for about 15 minutes. Ara Safety has introduced a newer version of its aerosol canister that can knock down a room-and-contents fire for nearly 15 minutes.The device removes the fuel from the equation at the molecular level, interrupting the fire tetrahedron, and knocking down flame and heat, the company says.

The Ara Safety Pro can be used in a wide variety of structure fire scenarios, from incipient to fully involved and in defensive, offensive

and transitional modes. The company says the unit will cool a room long enough for a water source to be secured, an interior attack to be launched or a primary search to be conducted.

When using the device where victims may be trapped, the company recommends throwing it as far from the victims as possible and removing the victims as quickly after deployment as possible. The aerosol flow may disrupt the thermal layers, causing hotter air to move towards the floor momentarily. In all scenarios, the company recommends that after deploying the device, the fire area be sealed off as much as possible to allow the powder to work.

The company says that its product works best when deployed at the lowest point possible so that the air flow draws the powder into the flames. Rising hot air will carry the powder upwards and away from the fire. The unit is especially effective for basement fires.

The units cost $997.50 when buying two or more at one time.

Blitzfire portable monitor. The Blitzfire Portable Monitor is manufactured from lightweight high strength aluminum alloy that has been hard coat anodized and powder coated for ultimate corrosion protection. The unique stainless steel slide valve design provides total nozzleman flow control and integrates TFT's patented safety shut off to prevent unintended movement.

The Blitzfire Portable Monitor offers an exclusive 10 degree low attack angle, 20 degree side to side horizontal movement, and a rear pivoting inlet for added fireground stability. An optional oscillation feature provides an automatic 20-30-40 degree sweep, and can easily be overridden for manual operation.

The Blitzfire Portable Monitor is the only personal portable monitor [3].

When and how to use fire grenades. In confined spaces, these mini extinguishers can save lives and property. It is tempting to dismiss thoughts of fire grenades based on our experiences with carbon tetrachloride bombs. But, as we're told to use the technology that works, it is worth revisiting these devices.

The earliest fire grenades were hand-blown, colored round glass bottles usually filled with salt water. These were designed to be thrown at a fire so the thin glass container would shatter and disperse the water to extinguish the flames.

After 1900, a newer and more industrial looking glass bulb came into vogue. Instead of water, these grenades contained a blue- or

reddish-colored liquid, carbon tetrachloride, also known as tetrachloromethane. This technology was used in conjunction with a bracket assembly that could be mounted on walls or ceilings above high fire-risk areas such as boilers or furnaces.

Much like today's fire sprinklers with their fusible link, when high temperatures reached the device, the bracket would release the globe causing it to crash on the floor and release the carbon tet.

Some models were more sophisticated and used a heat-activated, spring-loaded trigger to break a bottom seal on the glass vessel to release the liquid at which point a deflector would distribute the carbon tet over a wider area. That's pretty ingenious, especially for the early 1900s, right?

There was just one small problem. While the carbon tet will extinguish the fire, when it's exposed to the fire's heat it can produce a nasty phosgene gas. During the 1940s, scientists also learned that carbon tetrachloride was a probable carcinogen [4].

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CORRUPTION IN PRIVATE SECTOR

Corruption in the business sector is widespread due to flaws, loopholes, and inconsistencies in legislation, but even more so due to negative practices in interpreting and enforcing the law and intentional abuses and disregard for the law. Recent revisions of all business-

related legislation uncovered over 5,500 regulations that do not comply with state regulatory policy, or are outdated, contradictory or excessive. Such regulations and wide discretion have resulted in 82 percent of businesses making unofficial payments to deal with public officials, and 84 percent of businesses operating in the shadow economy and not paying their taxes in full.35 Corruption occurs on a petty, grand and state capture level. While small businesses pay frequent rents to bureaucrats, millions of dollars are embezzled from larger firms through lucrative procurements, privatizations, or massive VAT tax scams.

The business community is very poorly organized. Only 25 percent of businesses are members of business associations. Generally, they are not prepared to provide their members with necessary services or advocacy support. Businesses, in particular small ones, lack legal knowledge of their rights or of constantly changing regulations.

In the late 1990s, the Government of Ukraine undertook some steps toward improving the business environment and simplifying business regulations, but soon these efforts slowed down and faded. The new Administration that came to power in 2005 revived and reinforced the course. Within a very short period of time, an effort to review all business regulations was initiated throughout the country with the participation of all interested parties. Mandatory streamlining of procedures for business registration and the issuing of permits in hundreds of municipalities was conducted, a new procurement law was passed, customs reform was begun, and a business advisory council was reactivated, among other reforms. It is too early to determine the impact of these efforts on reducing corruption, but the initiatives were started in the right direction. There are still many gaps and priorities that need to be addressed to prevent and reduce corruption in business-government transactions [1].

A number of surveys show that corruption is ranked as one of the most significant problems that hinder business development in Ukraine. According to the IFC survey of 2004, 75 percent of businesses identified corruption as the second major barrier, after unstable legislation, for business operations. Corruption has had an almost 25 percent increase in significance in comparison with the 2002 survey and almost a 30 percent increase since 2000.The recently issued EBRD-World Bank Business Environment and Enterprise Performance Survey (BEEPS) report places corruption among the top four

significant problems for Ukraine out of a list of 21 business development obstacles.

Petty corruption – extortion, bribery, speed money, influence peddling, and favoritism – is common practice in most business-government transactions starting from business registration, numerous government permits issuing, inspections, and leasing of public property. These forms of corruption have the greatest impact on small and medium-sized businesses that feel insecure and helpless to confront authorities and bureaucrats.

Thousands of regulations issued by more than a dozen governmental agencies that regulate almost every aspect of business activity are often complicated, contradictory, outdated or difficult to comply with. Some of the regulations have not been reviewed or updated since the 1950s or earlier. Others are subject to broad interpretation. Rather than pursuing business compliance with regulations, governmental agencies often establish fiscal targets for inspection agencies, thus creating quotas for fines collection. Entrepreneurs often lack knowledge of existing and frequently changing legal and regulatory requirements. On the other hand, governmental agencies do not rush to educate businesses on the law, but rather take advantage of them to collect rents. Businesspeople often are aware of the major laws and newest amendments, but do not necessarily have knowledge of agency-specific regulations that are vital for day-to-day business operations. High legal fees and widespread corruption in the courts usually result in entrepreneurs paying the rents.

Corruption in tax administration is one of the most disturbing and it occurs as a result of extensive flaws in legislation and discretion in implementation practices. Businesses consider tax administration as one of the most overly burdensome, complicated, contradictory and severe transactions, but at the same time, one of the most flawed and unstable. For example, tax legislation creates numerous opportunities for abuses by providing a wide range of fines that can be imposed for the same violation, the right of granting postponements for tax payments, and some others.

Grand corruption in the form of kickbacks is frequent in public procurement, privatization, in granting tax privileges and subsidies, and in export-import operations. These types of corruption apply primarily to large and medium-sized businesses and often involve

the collusion of both partiers. When the auctions or procurements are conducted, the conditions, requirements and criteria can be influenced by the interested parties in exchange for kickbacks promised to officials. Poorly regulated and controlled subsidies are often provided for political reasons (in coal mining and agriculture, for instance). Tax privileges are granted to some companies and localities, allegedly in exchange for kickbacks. Governmental policies to improve the business environment, promote small businesses, and deregulate business operations had some positive results at the beginning but quickly slowed down and became highly bureaucratized. More recent efforts by the new Administration in mid-2005 to review regulations throughout all governmental agencies (9,866 regulations were reviewed as of September 1, 2005) have resulted in identifying over 5,500 regulations at all levels that need to be eliminated or modified. Unrealistically short deadlines set by the central government may jeopardize the quality of future reform legislation. The Customs Service, for example, has demonstrated its intentions to clean up its agency and introduce new policies and procedures to prevent corruption; this has resulted in a significant increase in customs revenue collected during the last quarter. It is too early to say if this initiative will bring results.

Government on a local level, represented by three different jurisdictional branches – local self-governmental bodies, regional administrations, and local branches of the central executive government agencies – often represent different interests and objectives. Dual subordination of some executive branch departments and resource dependency of local elected self-governmental bodies on regional administrations make it difficult to mobilize all parties along common goals, such as anti-corruption. There have been some successful examples of anti-corruption initiatives at the local government level, but these often depend on the personalities of local officials.

The business community remains poorly organized and very passive, especially among the smallest firms. However, being a frequent victim of corruption and abuse, small businesses are looking for opportunities to deal with this problem and business associations might be very instrumental if further developed. The Council of Entrepreneurs, an advisory body to the Cabinet of Ministers, has recently been activated with a change in leadership and demonstrated focus on pursuing business interests. To date, the Council has proved

to be an effective mechanism for public-private dialogue, but risks being captured by government interests, since it is not a self-organized group. Another example of effective mobilization of the business community is the Coordinating-Expert Center of the Entrepreneurs' Union of Ukraine that currently unites over 60 business associations, two-thirds of which are regional associations. The major mission of the Center is to promote business interests by commenting on laws and draft laws.

The current Administration has opened the door to positive improvements in the business environment. Several laws and Presidential Decrees issued over the past year demonstrate political will and an intention to make a difference. The central government was able to move forward deregulation reform quickly; this initiative creates a favorable path for further promotion of corruption prevention reforms. The business community, small and medium-sized enterprises in particular, is by any means the very path to promote anti-corruption programs. The business community needs to be mobilized and organized into strong and vocal associations with the capabilities to advocate for their constituency interests [2].

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THE NATURE OF ECONOMIC CRIMES AND WAYS TO PREVENT THEM

Economic crimes can be defined simply as fraudulent financial transactions for financial gain. Popular realms of economic crimes these days include political and policymaking sector, government sector, financial sector, commerce and industry sector and individual

entrepreneurs and cover events and activities like deposits fraud, shares and securities fraud, company regulations violation, fraud concerning government funds, counterfeit, import and export fraud, foreign exchange violation, telemarketing fraud, patent infringement, copyright violation and piracy, tax evasion, smuggling, hoarding and black-marketing, adulteration, drug-trafficking, insurance fraud, money laundering, highsea fraud, telecom and electricity fraud, computer manipulation, internet fraud, land deals fraud, bribery, cheating, breach of trust and unauthorized commission to name just a farthing of what actually exist and accrescently expand with the ingenuity of the persons involved. Some of them like deposits fraud, company regulations violation, fraud concerning government funds, import and export fraud, foreign exchange violation, tax evasion, smuggling, hoarding and black-marketing, adulteration, drug-trafficking, insurance fraud, high-sea fraud, bribery, breach of trust and unauthorized commission are d' accord with the definition by Sutherland as committed in the course of occupational activities, while others like telecom and electricity fraud, cheating, patent infringements, copyright violations and piracy and counterfeit are ectogenesis.

Commission of these crimes in gargantuan scale sponte sua by individuals and organised groups extra-muros to the occupational activities with or without the cooperation of the invisus insiders constitutes the recent trend in economic crimes. Shares and securities fraud, counterfeit cheques, telemarketing fraud, software piracy and patent infringement, software copyright violation, computer manipulation, Internet fraud and land deals fraud in mammoth scale are relatively recent trend in the field. High sea fraud, insurance fraud and money laundering also continue to be periculous threats to the economic security of the country [1, c. 28].

Economic crime is an entity that consists of quite different elements. It includes, for example, bankruptcy fraud committed by a businessperson who neglected to keep accounts, the failure of a large company (for economic motives) to adhere to provisions on the disposal of wastes, turnover tax fraud by a company engaged in international commerce, insider trading on the stock exchange, and even violation of provisions on marketing. Common features of economic crime are that it is committed in connection with what is in itself legal business activity, and that the offenders seek economic benefit.

Economic crime is regarded as one of the most serious problems in criminal policy. Assessments of the financial loss through economic crime vary, but the losses are believed to be in the billions of dollars. The social and moral consequences of economic crime may be even more serious than the financial loss. Economic crime threatens the rules by which economic life is regulated, and it threatens the capacity of society to maintain these rules. For example, according to PricewaterhouseCoopers' 2007 Global Economic Crime Survey, fifty-three percent of U.S. companies surveyed reported that they were affected by some form of economic crime in the past two years with total losses of $223 million. So now it's time to speak about the ways to combat economic crimes [2, c.37].

The aim of the measures that must be implemented is to prevent and reduce economic crime without unnecessary intervention in people's private lives.

There are two main strategies that are adopted for crime fighting in the police and public prosecution authority in general: general preventive work and prosecution of cases. To my mind, the best way to combat economic crime is through prevention.

Because of the variety in economic crime, many crime prevention measures are required. Crimes committed by debtors must be prevented in a different way than industrial safety offences, and marketing offences must be prevented in a different way than fraud related to company subsidies.

The complexity of the taxation system requires quite different measures in the prevention of tax offences.

However, the measures available to traditional criminal law in the prevention of economic crime have proved to be problematic. Information on the number of economic crimes and on the size of the financial losses involved shows that these measures are ineffective. The existing control is apparently able to detect only a small proportion of economic crime. The investigation of the offences is difficult and time-consuming. Often, insufficient evidence is obtained or the right to bring charges for the offence has become time-barred. The threshold for bringing charges is high, and the sentences imposed by the courts have been criticised for being unreasonably lenient.[3, c.52]

Preventive measures should be focused on three approaches.

1. Measures to increase the risk of detection and to reduce the opportunities to commit offences (opportunity).

2. Measures to reduce the opportunities for neutralisation (combating verbalisations and excuses associated with criminal acts).

3. Creative measures aimed at making it possible to become successful without breaking the law.

It is important to examine the effects that different preventive measures have on crime. Unfortunately, knowledge of the effectiveness of crime prevention measures is poor. This lack of knowledge should not however lead to passivity. Amongst other things, knowledge on the effects of crime prevention measures has to be developed.

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NECESSITY TO IMPROVE OCCUPATIONAL SAFETY LEGISLATION

The fights and clashes in the Eastern part of Ukraine have continued for almost a year. As the result vast part of our country is not controlled by the state government. Despite the high level of danger some strategic industrial enterprises are still functioning. These enterprises belong to different spheres and industries: transport, mining, power engineering and metallurgy. In Donetsk region despite the situation more than 7 thousand miners are still working in 14 coal mines. As the result of fierce battles equipment of 7 mines is totally or partly destroyed. The mines are administrative supervision of Donetsk mining administration. However 17 mines are trying to support or increase their activity, workers pump water from tunnels and repair

them. Because of property seizure (lands, buildings, vehicles, documents, signets) local mining administrations of Donetsk and Luhansk regions have moved to safer locations (like Dimitrov and Lysychansk), where they continue their activities. Everyday problems of local administrations are followed by several other issues such as setting up social and service infrastructure and workplaces at new locations (providing means of communication, equipment, and salary).

Nowadays in Donetsk area local mining administration includes more than 50 inspectors. During 2014 they surveyed enterprises and completed 898 inspections and 317 special investigations. According to State mining inspectorate, 584 people received fatal injuries in 2014 (compared with 538 in 2013). Because of warfare 63 out of them were deadly injured at work while performing their duties. The injuries occurred not due to accidents at work, but due to warfare, so they breach UN convention №955 concerning protection of civilians during a war.

The statistics provides the following figures on workers who died while performing their duties at various industrial enterprises: mining – 11 people, power engineering – 2, construction – 1, mechanical engineering – 2, metallurgy – 10, transport – 7, public utility – 3, agriculture – 7, culture – 12, communication – 13. The victims were from Donetsk region (39 people), Luhansk (12), Dnipropetrovsk (3), and Kyiv (2).

General analysis of accidents with fatal injuries at work during 2014 shows that they happened due to the following reasons:

- ✓ management problems – 319 people (58%);
- ✓ psychological and physiological reasons – 121 people (22%);
- ✓ technical fails – 109 people (20%).

Index of industrial injuries in mining during 2014 redused almost for 54,7% (2034 miners vs 3147 in 2013). The main reason for reduction is not improvement of safety and health procedures but the fact that mining enterprises were damaged or stopped functioning due to warfare and antiterrorist operations. 13 out of 99 workers who received fatal injuries died under firings and bombings. 15 miners died from heart diseases.

Among other reasons casualties are:

- ✓ working with underground machines – 17,5%;
- ✓ heart diseases – 18,7%;

- ✓ coal burst and gas blowout – 15%;
- ✓ collapses of coal and rock – 15%;
- ✓ explosions of gas and dust – 10%;
- ✓ machines and mechanisms operation – 8,7%;
- ✓ asphyxia – 6,3%;
- ✓ falling into the mines – 3,7%;
- ✓ breaking out of water – 1,2%;
- ✓ on surface during repairs and servicing – 19,2%.

Taking into account that large amount of industrial injuries is caused by technical failures, there is a necessity to improve legislation concerning inspection including the Law of Ukraine on occupational safety. The occupational safety management system should be improved, because its inefficiency caused death of 61 miners. It is also important to raise the awareness and responsibility of every individual for safety at work place.

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1. Official webpage of State Service of Mining Inspection and Industrial Safety of Ukraine http://www.dnop.gov.ua/index.php/uk/

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CRIME SCENE INVESTIGATION

Crime scene investigation is the meeting point of science, logic and law. Processing a crime scene is a long, tedious process that involves purposeful documentation of the conditions at the scene and the collection of any physical evidence that could possibly illuminate what happened and point to who did it. There is no typical crime scene, there is no typical body of evidence and there is no typical investigative approach.

Most police investigations begin at the scene of a crime. The scene is simply defined as the actual site or location in which

the incident took place. It is important that the first officer on the crime scene properly protect the evidence. The entire investigation hinges on that first person being able to properly identify, isolate, and secure the scene. The scene should be secured by establishing a restricted perimeter. This is done by using some type of rope or barrier. The purpose of securing the scene is to restrict access and prevent evident destruction.

Who's at the Scene?

Police officers are typically the first to arrive at a crime scene. They arrest the perpetrator if he's still there and call for an ambulance if necessary. They are responsible for securing the scene so no evidence is destroyed.

The **CSI unit** documents the crime scene in detail and collects any physical evidence.

The **district attorney** is often present to help determine if the investigators require any search warrants to proceed and obtain those warrants from a judge.

The **medical examiner** (if a homicide) may or may not be present to determine a preliminary cause of death.

Specialists (entomologists, forensic scientists, forensic psychologists) may be called in if the evidence requires expert analysis.

A criminal investigator interviews witnesses and consults with the CSI unit. They investigate the crime by following leads provided by witnesses and physical evidence.

The physical evidence itself is only part of the equation. The ultimate goal is the conviction of the perpetrator of the crime. So while the CSI scrapes off the dried blood without smearing any prints, lifts several hairs without disturbing any trace evidence and smashes through a wall in the living room, he's considering all of the necessary steps to preserve the evidence in its current form, what the lab can do with this evidence in order to reconstruct the crime or identify the criminal, and the legal issues involved in making sure this evidence is admissible in court.

The investigation of a crime scene begins when the CSI unit receives a call from the police officers or detectives on the scene. The overall system works something like this:

- The CSI arrives on the scene and makes sure it is secure. It does an **initial walk-through** to get an overall feel for the crime scene, finds out if anyone moved anything before it arrived, and

generates initial theories based on visual examination. It makes note of potential evidence. At this point, it touches nothing.

- The CSI thoroughly **documents** the scene by taking photographs and drawing sketches during a second walk-through. Sometimes, the documentation stage includes a video walk-through, as well. It documents the scene as a whole and documents anything it has identified as evidence. It still touches nothing.
- Now it's time to touch stuff – very, very carefully. The CSI systematically makes its way through the scene **collecting all potential evidence**, tagging it, logging it and packaging it so it remains intact on its way to the lab. Depending on the task breakdown of the CSI unit it works for and its areas of expertise, it may or may not analyze the evidence in the lab.
- The **crime lab** processes all of the evidence the CSI collected at the crime scene. When the lab results are in, they go to the lead detective on the case.

Every CSI unit handles the division between field work and lab work differently. What goes on at the crime scene is called crime scene investigation (or crime scene analysis), and what goes on in the laboratory is called **forensic science**. Not all CSIs are forensic scientists. Some CSIs work only in the field – they collect the evidence and then pass it to the forensics lab. In this case, the CSI must still possess a good understanding of forensic science in order to recognize the specific value of various types of evidence in the field. But in many cases, these jobs overlap.

A criminal investigator is a law enforcement professional who attempts to solve crimes, identify and detain suspects, and prevent future instances of criminal activity. Professionals may work alone or in investigative teams to uncover facts about a case. An investigator may specialize in analyzing evidence and information from a crime scene, conducting interviews and searches, or performing surveillance. Depending on a person's specialty, the responsibilities and requirements of the job can range greatly.

Experts who specialize in crime scene investigation are often degree-holding laboratory technicians and technologists who work to uncover the details of a crime. To become a criminal investigator, a person must typically have at least a high school diploma. Most police bureaus at local, state, and federal levels of government prefer to hire candidates with bachelor's degrees and experience in the field. Since

many crime scene professionals perform laboratory research, they benefit from obtaining computer science, biology, and chemistry degrees. Crime scene investigators may carefully examine a scene and collect evidence such as weapons, clothing samples, and fingerprints. Investigators frequently bring the evidence to a laboratory for intensive studies and experimentation. Among many tasks, they may determine ballistics information by performing firearm evaluations or confirm identities by extracting DNA from clothing samples. They write reports based on their findings and frequently appear in courts as expert witnesses.

Some criminal investigators engage in covert surveillance operations to expose criminal activity. Such investigators may install and monitor surveillance equipment or wear disguises to find out more about a suspicious person or organization. They may be required to follow suspects, carefully documenting their whereabouts and conversations. Investigators may also spend a large amount of time tracing phone calls and performing exhaustive background checks and Internet database searches.

When a suspect is detained, an investigator often interrogates him or her to find out more facts about a case. Investigators may also interview witnesses and other people who may have relevant knowledge about the suspect or crime scene. After obtaining a search warrant, a team may explore a suspect's home, business, or property. Searches frequently reveal new pieces of evidence, such as stolen items, money, letters, and weapons that confirm a suspect is involved with a crime. It's fascinating work that is ever-changing, but it requires an exceptionally focused mindset and the ability to separate one's emotions from one's work.

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PARLIAMENTARY ELECTIONS IN BRITAIN: GENERAL PRINCIPLES

Great Britain is one of the oldest democracies in the world which has a stable system of parliamentary elections tried during many dozens of years. The task of the article is to state the bases which make parliamentary elections so viable and effective.

Elections to the House of Commons, known as parliamentary elections, form the basis of Britain's democratic system. Unlike heads of Government in some countries, the Prime Minister is not directly elected by voters, although he or she is an elected Member of Parliament – an MP.

Instead, the Prime Minister depends on the support of a majority of his or her fellow elected representatives in the House of Commons.

These MPs back the Government because they are members of the party which the Prime Minister leads, although on some occasions governments have been made up of coalitions of more that one party. Most government ministers are MPs who belong to the governing party; the remainder are members of the same party in the House of Lords.

MPs who belong to the other political parties are usually opposed to the Government of the day.

Parliament is the legislature and the supreme authority. It consists of three elements – the Monarchy, the House of Lords and the House of Commons. These meet together only on occasions of ceremonial significance.

The House of Commons consists of 651 MPs, who are directly elected by voters in each of Britain's 651 parliamentary constituencies.

The House of Lords consists of hereditary peers and peeresses – men and women who hold titles of nobility which can be passed on to their sons and, in some cases, daughters; life peers and peeresses – distinguished citizens who are given peerage and who hold their titles only during their own lifetimes; and two archbishops and 24 senior bishops of the Church of England.

Parliament has the following functions:

– passing, or abolishing laws;

– voting for taxation, in order to provide the means for carrying on the work of government; and

– debating government policy and administration and any other major issues.

For over 150 years Britain's system of parliamentary democracy has been based on organized political parties competing to form governments.

Political parties are neither registered nor formally recognized in law, but the system depends on the existence of at least two parties in the House of Commons, each of which is capable of forming a government.

Most candidates in elections and almost all winning candidates belong to one or other of the main political parties. Candidates who are members of small political parties or groups, or who do not belong to any party, may also stand.

Since the Second World War (1939–1945) the great majority of MPs have belonged to either the Conservative or the Labour Party.

The leader of the party which wins most seats at a general election, or which has the support of a majority in the new House of Commons, is by convention invited by the Monarch to form a government.

He or she becomes Prime Minister and chooses the ministers which will together form the Government.

General elections

General elections, for all seats in the House of Commons, take place at least every five years. In practice, elections are usually held before the end of the five-year term. In exceptional circumstances, such as during the two world wars (1917–1918 and 1939–1945), the life of a parliament has been extended beyond the five-year term.

The decision on when to hold a general election is made by the Prime Minister. The procedure involves the Queen, acting on the Prime Minister's advice, dissolving parliament and calling a new Parliament. Formal Writs of Elections are normally issued on the same day. The Prime Minister usually announces the dissolution of parliament and explains the reasons for holding the elections. Voting takes place within 17 days of the dissolution, not including Saturdays and Sundays and public holidays. Therefore, election campaigns last for three to four weeks.

Administration of elections. Britain is divided into 651 parliamentary constituencies. Each constituency is a geographic area; the voters living within the area select one person to serve as a member of the House of Commons.

In each constituency a returning officer, usually a senior local government officer, administers the election. He or she arranges for notices of election to appear in public places and for all electors to receive a poll card giving details of the voting arrangements. Returning officers also make the necessary arrangements for voting on polling day, including setting up polling stations and providing staff to run them.

For the purposes of voting each constituency is divided into a number of polling districts. In each there is a polling station: many types of building, including schools, are used.

The official expenses of parliamentary elections, as distinct from individual candidates' expenses, are paid by the Government.

Thus, the knowledge about the general principles of parliamentary elections in Britain makes it possible to find out some interesting and important facts how this process takes place in the country, why it is reliable and does not change during many dozens of years.

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EVOLUTION OF THE JUDICIAL BRANCH

Law building process is one of the most important elements of the development of law as a whole and particularly of a legal system of any country. The analysis of the law-making activity and its varieties is one of the most important theoretical problems of the modern legal science. The law-making problems are associated with legal philosophy, legal political science, legal ethics, and legal sociology. In the transitional societies and the active development of the legal system the issue of law-making becomes one of the most important and the most urgent.

The aim of this article is to look through the judicial branch of the USA and take into consideration the main aspect of it, which could be essential also to the Ukraine in the process of forming out national judicial and legal branch.

Because of its power to interpret the law and the Constitution, the Supreme Court has played a major role throughout American history. Some of the important decisions of the Supreme Court have an impact on the quality of life in the United States.

But the Supreme Court was not always considered powerful. For the first three years of its existence, almost no business at all came before the Court. Justices who had received Supreme Court appointments were even required by the Judiciary Act of 1789 to travel twice a year to remote parts of our country to preside over circuit courts.

Judicial Review

After a period of being largely ignored, the Court became more active when President John Adams nominated his secretary of state, John Marshall, as chief justice. Marshall asserted the principles of judicial review. As you learned earlier, judicial review is today one of the basic principles of the American constitutional system. It means

that the federal courts have the power to decide on the constitutionality of legislative and executive actions at the local, state, and federal levels. Because the Court is the ultimate interpreter of the Constitution, it has the final say in deciding what the document's provisions mean.

As basic as this principle is, though, it is not mentioned in the Constitution. It was not until 1803 in the case of *Marbury v. Maison* that the Court, under John Marshall, claimed the power. The story about how the Court was able to do this begins in 1800 when Thomas Jefferson was elected President, defeating Federalist John Adams. Jefferson's party, the Democratic – Republicans, also won control of Congress. Before leaving office, President Adams and the defeated Federalists Congress quickly created several new federal judgeships. The night before Jefferson took over, President Adams signed a number of commissions to fill these offices with Federalist judges. He then gave the commissions to his Secretary of State John Marshall to deliver. Among them was Marshall's own commission as chief justice of the Supreme Court [2, p. 54].

When Jefferson discovered this «court-packing» scheme, he ordered several undelivered commissions to be held by his new Secretary of State James Madison. Among them was one for William Marbury, who had been appointed a justice of the peace for the District of Columbia. Marbury immediately asked the Supreme Court for a writ of mandamus – court order requiring a public official to carry out a special act or lawful duty, ordering Madison to deliver the commission. Congress, you see, had given the court the power to issue writs to federal officials in the Judiciary Act of 1789 [1, p. 278].

Chief Justice Marshall, however, was afraid, that if the Court issued the writ, it would be ignored by the Democratic-Republicans, who held the Court in low regard. But not issuing it would show that the Supreme Court lacked the power to take action regarding the other two branches. Marshall's final opinion was a masterpiece of judicial strategy.

The Court decided that Marbury was entitled to his commission, but refused to issue a writ of mandamus. Why? In the decision, Marshall also found that the section of the Judiciary Act of 1789, which granted the Court the power to issue writs of mandamus, conflicted with the court's jurisdiction as outlined by the Constitution. Congress, Marshall said, did not have the power to enlarge upon the original jurisdiction of the Court. By declaring only one section of an act of Congress

unconstitutional, Marshall had set the precedent for judicial review. Thus, the Court lost some authority, that of issuing writs of mandamus, in return for the recognition that it was an equal branch of government.

You may be surprised to know that this power of reviewing the acts of Congress has been used sparingly. It was not until 1857, in the *Dred Scott* case, that another law was declared void [3, p. 87].

On the other hand, the Court has acted more vigorously in challenging state and local laws. Chief Justice Marshall wanted to assert that the court could review state actions. He also wanted it clearly understood that where state laws were in conflict with the Constitution or national laws and treaties, the state laws must give way.

Today, judicial review remains a vital part of our constitutional system. More than 1000 state or local laws have been overturned by the Supreme Court.

Not all the decisions the Supreme Court makes have been popular. Some meet with strong disapproval. When the stock market collapsed in 1929, it looked as if the American economy was heading for ruin. Following the election of Franklin D. Roosevelt as President, Congress began to pass legislation dealing with the emergency. By June 1933, 15 major «New Deal» laws had been passed. But in 1935 the Supreme Court declared Roosevelt's National Recovery Administration unconstitutional and struck down several more reform laws. Over the next two years, federal district courts issued more than 1600 injunctions to keep acts of Congress from being enforced.

In November of 1936, Roosevelt was reelected by a margin of 10 million votes, leading him to believe that his recovery programs have the support of the people, if not the Court. So in 1937 he sent a recommendation for court reform to Congress. Emphasizing the «limited vision of older man», Roosevelt asked Congress for the power to name an additional justice whenever sitting justice aged 70 did not retired. Since six justices were already 70 or older, Roosevelt's plan would have increased the Court to 15 members. Recognizing that this «court-packing» scheme might upset the balance between the three branches of government, public opinion turned against Roosevelt. Even members of Congress, who were Democrats like Roosevelt, joint the opposition, thus assuring defeat for the plan.

But even before Roosevelt's plan was rejected, the Court had upheld a Washington State minimum wage law and ruled favorably on other state and congressional legislation. So the Supreme Court had,

in a sense, preserved its independence by beginning to interpret the Constitution in ways that would better meet the needs of an industrialized society.

In conclusion it is important to said, that examine the above mentioned material can be useful to the lawmakers, the students learning law and legal practical lawyers.

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4. https://www.wikipedia.org.

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JUDICIAL SYSTEM OF UKRAINE: SHOULD TRIALS BE OPEN?

Public trial or open trial is a trial open to public, as opposed to the secret trial. A public trial is a legal trial held in a court made open to members of the public. Anyone may enter such a trial and observe, assuming there is room in the court, and people can followin formation about trial proceedings in the media. In some cases, such trials may be broadcast if there is intense public interest and there are concerns about accommodating all the spectators. This is incontrast with a close dtrial, where proceedings are open only to those involved. The term «public trial» has also come to be associated in some countries with a show or sham trial, where trial proceedings are publicized but it is clear to every one that the trial is being conducted for show, not with the goal of trying the facts in a case.

There are certain restrictions on who may attend a public trial in other countries. People on the witness list are usually not allowed

in the court room until after they have testified, out of concern that they may adjust their test imony or bein fluenced by other witnesses. People must also be have respectfully at a public trial. Weapons are not allowed in the court and people who are disruptive, such as people who interrupt proceedings or attempt to intimidate witnesses, can be escorted out of the court on the order of the judge. People who disturb trials can also be charged and subjected to fines. The concept of a public trial is ancient, but it did not begin as a right be longing to a defendant in a criminal case. In the United States of America and in the former Soviet Union idea of open trials was widely discussed. For example, in the USA the Sixth Amendment to the United States Constitution establishes the right of the accused to a public trial, because the right to an open trial is personal to the defendant and may not be asserted by the media or the public ingeneral. In the Ex-U.S.S.R. public trial was the possibility for public to be present at the hearings. But what about our country? Should trials be open in Ukraine? There are many opinions on this subject. On the one hand, the appearance of public trials means additional abilities and many advantages. In this case, the public will be able to know all the details and intricacies of the judicial system. Moreover, the establishment of open trials is a chance to change thew hole judicial system for the better. Indeed, our society deserves to be aware of all cases. People have to know the truth.

On the other hand, there are some disadvantages and difficulties. Nowadays and even in the past, the government did not consider it necessary to adopt new laws on introduction of open trials. Perhaps, they did not want public and media intervention in state affairs, such as television broadcasting, spreading information etc. They do not want that trials be televised. Besides, we have another question: are we ready for such changes? Certainly, the modern worl dischanging at the rapid rate. Of course, we have to move forward and develop our country. But whether we need it now? Anyway, the government is preparing to adopt a series of reforms in judicial system of Ukraine. And we hope that this changes will bring judicial system to the next level.

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2 http://www.wisegeek.com/what-is-a-public-trial.htm

3 http://www.heritage.org/constitution/amendments/6/essays/153 /public-trial.

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INTERNET CRIMES

The problem of internet crimes has attracted attention of many foreign criminalists since the introduction of electronic computers that caused some negative consequences and aggravated the situation connected with protecting information stored in computer and their system databases.

These crimes have been registered since 1958. At that time they meant the damage and plunder of computers, theft of information; swindle or misappropriation of money, non-authorized use of computers or embezzlement of machine time. The Stanford Research Institute has recorded those cases for a long time but they were of no special interest. By the way, in 1966 a Minnesota bank was first robbed by using the electronic computer [2, p. 34].

This process has also taken place in Ukraine, which financial establishments obtained an access to the international payment systems. The number of Internet-users is still high when compared with western countries. Today they are approximately 2 million. However, it is only four per 100 people.

As more and more people opt for online banking and paying their bills on line, it's a good idea to find out what internet crimes is and find the ways to better protect yourself from fraudsters lurking on cyberspace. The term «Internet fraud» generally refers to any type of fraud scheme that uses one or more online services to present fraudulent solicitations to prospective victims, to conduct fraudulent transactions, or to transmit the proceeds of fraud to financial institutions or to other connected with the scheme.

What are the mayor types of internet fraud? There are a number of fraud scheme that have been developed over the years, and a number of these are appearing on the Internet. These scams may appear on Wed sites, or potential victim may be approached through email, chat

rooms, or other Internet technologies. Their goal is to get people to become involved in a fraudulent transaction, send money, or participate in some other way in the scam [1, p. 29].

These are:

- identity fraud – is where someone steals your personal details to con you out of money;
- phishing – is a form of online identity theft that lures consumers into divulging their personal financial information to fraudulent web sites, also knows as spoofed web sites [4];
- spam – is unasked for emails sent to a large number of email addresses;
- a chain email – is an email that you are asked to send on to your contacts. Some chain mails threaten you with bad luck if you don't pass them on;
- transferring money fraud consists of an employment offer to help transfer money to a foreign company (for example, as a charitable donation), supposedly because it costs too much to do it with the help of other methods (which is usually not the case);
- auction and E-commerce fraud involves online auction sites, or Web sites that sell items as retail vendors. In this scam, items are offered for sale;
- credit card fraud – is obtaining another person's credit card number, and then making online transactions with it. With this scheme, the credit card is used to purchase items from other Web sites, over the telephone, or other methods that don't require the physical card to make a purchase;
- divorce scheme offers quick, uncontested divorces over the Internet, which allows married couples to get divorces for a relatively inexpensive fee.

There are some suggestions how to avoid falling victim by an Internet scheme:

- investigate the business you deal with – look up information on merchants over the internet before doing business with them, and look into offers that are made to you before agreeing to them;
- be suspicious of any email with urgent requests for personal financial information;
- be wary of individuals who hide their identities – one of the attractions of the Internet is that it allows anonymity to people, but you should beware of people who refuse to disclose who they really are;

- be sure to use a secure web site when submitting credit card or other sensitive information via the web browser;
- regularly check bank, credit card, and debit card statements to ensure all transactions are legitimate;
- make sure your browser is up to date and security patches are applied;
- be vigilant about protecting yourself from these newer forms of identity theft.

At the same time significant advantages of Internet-technologies applied by an information society to conduct scientific researches, electronic business and commerce can be also used by criminals to swindle, steal or «laundering money». According to the Computer Security Institute, in the latter half of 2002 the number of hacking attacks has increased by 32% as compared with the similar period in 2001.

The Internet that became the most important information source after September 11, 2001, instantly responds to a political and economic life worldwide. On the first day after military operations were initiated in Iraq, more than 400 web sites with English and Arabian anti-war appeals were attacked.

Developers of the «Iraq» computer virus sent the electronic message with an inscription «Go USA!!!» and offer to look through the latest photos made at a place of military events. As a result, many computers were infected [5].

In December 2002, the First international strategic congress «E-Crime Congress 2002» devoted to the problems of fighting electronic crimes was held in London. William Barr, the vice-president of a group of insurance companies, has started in his report that 90% of organizations annually suffered from illegal penetrations into their information systems; 80% of them confirm financial losses; only one virus NIMBA has caused damage of more than 1,8 billion pounds; in October, 2002 a cyber attack within one hour put out of action 9 from 13 main computers controlling the Internet global information movement; annually there are cases of stealing private information to the sum of above 38 billion pounds.

Therefore, taking into consideration that the electronic dependence favors committing cybercrimes, it is necessary to protect every enterprise on a national scale and throughout the world. First, fighting computer crimes provides for creating an appropriate legislative base, taking a complex of organizational

measures (including a professional training) and giving a special technical support.

Ukrainian Criminal Code has Section XVI «Crimes committed by using electronic computers, their system and networks», consisting of Article 361, 362, 363 devoted to fighting computer crimes.

Though computer crimes have not been widely extended in Ukraine yet, but their cases have been already fixes. Thus, on November 16-20, 2001, Ukrtelecom with more than 700 computers and tens of servers were attacked with a virus. As a result, computers were disconnected from the Internet and the system of corporate e-mail was put out of action for some time.

The damage caused by the attack made more than 1 million UAH. Resonant crimes are committed against financial and bank system as well [6].

Finally, it should be noted that information security experts predict a prompt boost in the number of cybercrimes in the near future. According to the Gartner Company, late 2004 the economic damage inflicted by them will increase by 10-100 times [4].

In this connection, the USA and European Community are forced to take appropriate measures both at the legislative and organizational levels. In particular, the USA has recently accepted a new strategy on protecting the Internet informational system and the European Council is creating the Information security agency.

Therefore, having selected its own way of building an information society, Ukraine also should take appropriate steps to protect information that, according to Ukraine's Constitution, is an integral part of its national security.

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UKRAINE'S INTEGRATION INTO EUROPEAN AND WORLD STRUCTURES (CURRENT STATE AND PROSPECTS OF DEVELOPMENT)

The integration of the economy makes a promising way to improve and expand global processes in various industries. Integration as a process is impossible without increasing range of partners and the development of new technologies and services.

Integration processes attract considerable attention of such researchers as Verhun V., Hoshovska O., Zadarey N., Ivanova P., Kornylova A., Kopiyka V., Furman V., Shkarpova O., Shnyrkov A. and others. These authors contributed to the expansion of ideas about integration processes.

Integration process goes through several stages, including the creation of a single market which invisaging legal, economic and technical conditions of trade, directing of capital and labor forces, formation of economic and currency unions. Ukraine is cooperating with such international organizations as the European Union, WTO, UN, the IMF and the World Bank. As for the EU, in recent years there have been improvements in cooperation of the community with Ukraine. They provide grants, economic, technical and financial assistance in the form of loans to support the balance of payments. Some analysts distinguish possible negative effects of the policy of subsidy. Lending large sums to the state can cause losses in local economy and worsen its financial management. Another problem is that Ukrainian products are not able to compete on the highly competitive European market. Nowadays Ukraine is facing unstable economic and political situation inside the state because of outbreak of hostilities. Country is divided into two parts: one part has chosen the European way of development, while another one (being attracted by possible privilege of low gas

prices, abolition of customs duties on imports, low competitiveness, inferior quality products, obsolete technologies, high-power consumption production, etc.) is moving into the direction of the eastern neighbour.

As for the WTO, the accession of Ukraine was the result of huge concentration of political efforts and raising awareness of the opportunities arising from the integration into the world trading system. Without the WTO membership Ukraine would be unable to start negotiations on an FTA with the European Union and other international organizations. WTO membership is a prerequisite for EU integration.

Cooperation with the International Monetary Fund is important for Ukraine because of the necessity to support the good image of the country, to improve its credit rating in the world financial markets, reduce interest rates on loans, to attract foreign investors. Cooperation between Ukraine and the IMF should contribute to solving the problems that may arise before Ukraine in the short term as well as carrying out reforms necessary for sustainable economic recovery in the medium term.

The main goal of Ukraine in integration processes is to cooperate with various international organizations and financial institutions. Such collaboration is targeting at developing economic, social and geopolitical processes in Ukraine. The prospect of EU membership for Ukraine is an additional important incentive factor for internal reforms, civilized resolution of all internal and external inconsistencies. Being situated in the center of Europe, along with countries that actively rebuild its economy, Ukraine significantly falls behind in movement, progress, and development of the processes occurring in neighboring countries.

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DUTIES OF THE MILITIAMAN IN THE LIGHT OF REFORMS

What can the militiaman do, and what must he do? Why must he perform his duties and how do the authorities encourage him? What has been done and what else should be suggested by the management of the Ministry of Internal Affairs? These and other issues are going to be highlighted in this article.

Nowadays, the law-enforcement worker has a lot of responsibilities among which are the protection of the rights, freedom and health of a person and his or her property. Moreover, the duties of a law-protector include the protection of the environment in general. It means, the highest values of state and its citizens are given in custody to law-enforcement workers. It concerns the people's trust to the militia which is nowadays on low level and the quality of service provided by militia. The imperfection of the offered services involves the primitive distribution of the principle functions between separate, independent subdivisions which causes waste of time during the investigation of the case or the reaction to committing a crime. Another reason of the imperfection of Ministry of Internal Affairs system is a huge amount of people in rank which leads to competition between law-enforcement workers, who are not responsible for carrying out

principal militia functions, but they hold well-paid positions. On the whole, both financial and material provision and social security of the militia are on rather low level, and as a result, the quality of duty-fulfilling by law-enforcement workers is poor.

Reforms are the principal part of management of the state. Nowadays, every highly-developed country, willing to have brand new and effective system of management should carry out regular reforms, concerning the upgrading of the organization level of the internal affairs bodies. Today, Ukraine introduces reforms taking the example of European standards, where similar changes were made several years ago, which absolutely justified all the expectations. All in all the reform involves gradual reorganization of the Ministry of Internal Affairs which includes the reduction of staff and elimination of certain subdivisions, considered to be ineffective, and depolitization of the activity of agencies under control of Ministry of Internal Affairs. The most significant part of the reform includes the elimination of the duplication of the functions of departmental institutions and arrangement of effective methods of control over the activities of the law enforcement agencies.

If these conceptions are going to be followed, it is possible to establish effective system of Internal Affairs Bodies following European model, to improve the quality of functions fulfillment of practical militia-worker, to enforce the reaction to committing a crime and simplify the process of cooperation between militia and people by means of organizing such institutions.

While introducing these reforms it is necessary to take into consideration the experience of such country as Georgia, which was on a much lower level of economic potential than Ukraine, but nevertheless managed to reorganize by reducing the stuff. Moreover, this country was able to provide law-enforcements with appropriate material and social security which causes the decrease of corruption level in the country. It is well known if the militiaman is supplied with high salary compared with other countries of Commonwealth of Independent States and excellent social compensation package which is capable of providing a person with necessities of life, he will have no need to take a bribe. The new police became a decent standard in the country after the organization of Patrol Departments and other subdivisions, and top quality work without bribe resulted productivity. All the departments of newly formed organization gained their clear

tasks, without any duplication of the functions of internal competition between officials.

Ukraine is not Georgia, therefore, we need to develop an individual form of reorganization since everything may happen in a different way, and now it is not time for making mistakes. Taking into account satisfactory economic potential of our country it is possible to affirm that providing law enforcement workers with proper funding and offering special benefits are absolutely real-to-life objectives which could be easily accomplished. However, it is possible only with a very low level of corruption or its complete absence. We have brilliant Criminal Code of Ukraine, it is even better than in some highly-developed European countries. The only thing which is essential to be done is to observe the laws which appear to be the most complicated task for major part of the Ukrainian society. It is well known that Ukraine has perfect laws, but no one wants to observe them.

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CRIMINAL PROTECTION OF THE SECRET IN UKRAINE

Judging from the history of civilization, the secret belongs to the most important elements of the survival system, which plays an important role both in human's and society's life. The secret performs the most significant social functions. It is a way of preserving government's stability and civil legal value of the individuality, society and state in all economical systems.

It is no wonder that the jurists increasingly take interest in the problem of the criminal protection of secrecy. The evidence of this is the large number of research papers on this issue in criminal law. Thesis works by Russian scholars I. V. Bondar, A. O. Kaunova, S. V. Kuzmin, V. A. Mazurov, I. V. Smolkova, I. A. Yurchenko are dedicated to the secret as an object of criminal protection. S. M. Parshin defined the concept, features, and essential characteristics of secrecy, pointed out the peculiarities of the classification of secrets in the criminal law. D. V. Bushkov investigated the privacy of correspondence in criminal law.

Though, it cannot but be noted that this study is based on the characteristics of the legislation of the Russian Federation and cannot fully meet the needs of law enforcement in Ukraine.

In Ukrainian criminal law literature, the problem of secrecy as a legal phenomenon is not practically studied, although some types of secret, or its elements, became the object of research. For now only some aspects of secrecy are developed in the works by D. S. Azarov, P. P Andrushko, A. I. Marushchak, M. V. Paly, O. E. Radutny, V. B. Kharchenko, O. S. Yara, and some others. The study by S. O. Kharlamova presents the results of a scientific study of criminal protection of commercial and banking secrecy. Scientific research of securing of banking secrecy in criminal justice was conducted also by A. O. Shapovalova.

So, the problem of criminal protection of secrecy is not solved properly in the legislation of Ukraine. There is no precise and clear definition of «secret» in criminal law of Ukraine. Up to now, the legal scholars cannot create a single, universally accepted classification of secrecy.

Besides, there is no explanation of the Supreme Court of Ukraine concerning the correct classification of crimes related to the protection of confidentiality.

Thus, the investigation is vital and well-motivated.

The object of the work is the process of functioning of the secret in the criminal law.

The subject of the research is the peculiarities of criminal protection of the secret in Ukraine.

The objective of the investigation is the determination of the peculiarities of functioning of the institution of the secret in the sphere of criminal law, making concrete suggestions concerning the

improvement of the current criminal law and practice in Ukraine. That's why it is necessary:

– to observe the existing legal literature, to generalize and systematize the information on this issue;

– to develop a single integrated definition of secret and secrecy;

– to formulate essential characteristics and features of the secret;

– to create a universal classification of secrecy in criminal law;

– to develop and justify the propositions for improving the existing criminal law in the field of secrecy including existing Ukrainian legislation.

The comprehensive analysis of the secret as the object of criminal protection should be futher studied. It will be based on the current Ukrainian legislation including historical and international experience.

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PREVENTION OF TERRORISM ACTS

Terrorism is not new and even though it has been used since the early times of recorded history, it can be relatively hard to define terrorism.

It has been described variously as both a tactic and strategy; a crime and a holy duty; a justified reaction to oppression and an inexcusable abomination. Obviously, a lot depends on whose point of view is being represented. Terrorism has often been an effective tactic for the weaker side in a conflict. Quite often we are reminded that terrorism continues to inflict pain and suffering on people all over the world. Hardly a week goes by without an act of terrorism taking place somewhere in the world, indiscriminately affecting innocent people, who just happened to be in the wrong place at the wrong time. Some organizations are called «terrorist» while some are called freedom

fighting organizations because of the difference in their goals. The main aim of «terrorist» organizations is to make people fear them so that they can gain control over other areas too whereas the «freedom fighting» organizations want to be free and live their lives in a way that they like.

The terrorists try to control people and make them their slaves. Countering this scourge is in the interest of all nations and the issue has been on the agenda of the United Nations for decades.

The **Prevention of Terrorism Acts** is a series of Acts of the Parliaments of the European countries that conferred emergency powers upon police forces where they suspected terrorism: **Fight against terrorism – prevention, preparedness and response.**

Following the terrorist attacks in France and Belgium in January 2015, the European Union (EU) is proposing to intensify and enhance its action to combat terrorism. To this end, the European Commission has decided to increase the involvement of civil society in measures designed to improve its protection. It is also proposed to take preventive action in order to avoid terrorist attacks. The European Union is ready to ensure that it is fully prepared to respond effectively. As part of this strategy, it would like to make fighting terrorism an integral part of general EU policy.

In order to create a European area of freedom, security and justice, the Commission is proposing to involve civil society in the fight against terrorism and to step up its protection. It also intends to develop an integrated approach combining prevention of and response to terrorist threats and attacks. The Commission is proposing to involve **civil society** in the fight against terrorism. This will mean national parliaments, economic agents, civil society organizations and all European citizens participating in the development of effective tools to combat terrorism.

The Commission is also convinced there is a need for action in the following areas:

- Defending fundamental rights against violent radicalization. The Commission is aiming to protect fundamental rights and avoid violent social radicalization. It plans to work with the Council drawing on existing EU policies and instruments.
- Involving the private and public sectors. The Commission intends to encourage the private and public sectors to enter into

dialogue, to exchange information and to coordinate methodology in face of the need to step up EU security.

- Supporting the victims of terrorism. The Commission plans to develop projects to assist the victims of terrorism. It would also like to raise public awareness of terrorist threat, notably through commemorative action.

The Commission is proposing to develop an integrated approach combining prevention of and response to terrorist attacks. This will involve mainstreaming police cooperation and judicial cooperation in overall policy and will be facilitated by the Constitutional Treaty. The aim is to use existing tools and possibly create new ones to improve preparedness for and response to terrorist attacks.

The fight against terrorism must be fully integrated into EU external policy. The Commission plans to build on existing cooperation and assistance to pursue a collaborative approach with recipient countries.

Part of this strategy will involve developing the security aspects of transport and energy in both the Member States and non-member countries. The Commission would like to develop cultural dialogue with the Islamic world, addressing the underlying factors of terrorism and tackling the links between international organized crime and terrorism.

The Commission intends to equip the EU with the resources needed to react effectively in the event of a terrorist attack. To this end, it has developed a rapid alert system and a civil protection system operating on a 24/7 basis and, by way of back-up, is now considering establishing a central European structure to optimize the operation of national command centers and crisis rooms.

An efficient communications and information system is necessary to alert the public to possible terrorist threats and attacks. Detecting and analyzing threats and alerting the population promptly can minimize the impact of such attacks. Member States are currently examining GSM cell-broadcast techniques and the Commission is working on introducing a dialogue between emergency service operators and the authorities.

The Commission is proposing to step up participation by and collaboration between law enforcement and internal security authorities resulting in the sharing of access to alerts and to information on terrorist groups. It intends to increase Europol

involvement in the fight against terrorist financing and the protection of critical infrastructures. It also believes that Europol should host a law enforcement alert mechanism.

Reinforcing scientific and technical research in the area of security is another of the Commission's key objectives. To this end, it is advocating the funding of a European security research program that would focus on:

- fighting terrorist financing;
- protecting critical infrastructures;
- developing consequence management;
- cyber security.

The Commission points out that the private sector has a key role to play in the putting in place of solutions to combat terrorism – contributing to the security enhancement of goods and services, monitoring financial flows and reinforcing the resilience of critical infrastructures.

The aim is to achieve greater security in the manufacture, transport and storage of explosives, firearms and the like in an attempt to starve terrorist organizations of the components of their trade.

This Commission communication is a response to the terrorist attacks all over the world, proposing solutions to the priority problems on combating terrorism:

- prevention of terrorist attacks and consequence management;
- protection of critical infrastructures;
- financing of terrorism.

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UKRAINIAN CRISIS: GEOPOLITICAL CONSEQUENCES

«The world will never be the same again...»
(European Council President Herman van Rompuy after Crimea, conjuring up a geopolitical awakening at the heart of the EU)

Today, there are a lot of thoughts about realities of Ukrainian war and what caused this situation. There is no need to explain why we have such a problem now. From the very beginning of Ukrainian independence lots of people from the Eastern Ukraine wished to be a part of Russian Federation like in the URSR because of a purity of those regions.

So there is the question why Ukrainian government hasn't payed enough attention on people's needs. Also, another part of our country has manifested the truth of a statement that Ukraine is a unitary state. At the very beginning of 2014 there arose lots of difficulties with legal frameworks of Crimea belonging to Ukraine and later the same problem occurred with Donbas. What are the main reasons of such situation besides economical problems in Ukraine?

To begin with, the country of forty-five million people has struggled with its identity since the dissolution of the Soviet Union in 1991. Ukraine has failed to resolve its internal divisions and build strong political institutions, hampering its ability to implement economic reforms.

In the decade following independence, successive presidents allowed oligarchs to gain increasing control over the economy while repression against political opponents intensified. By 2010, Ukraine's fifty richest people controlled nearly half of the country's gross domestic product, writes Andrew Wilson in the CFR book *Pathways to Freedom* [1].

In addition, well-known Orange Revolution in 2004 masked the division between European-oriented western and central Ukraine and Russian-oriented Southern and Eastern Ukraine. Campaigning on a platform of closer ties with Russia, Yanukovich won the 2010 presidential election. By many accounts, he then reverted to the pattern of corruption and cronyism. His family might have embezzled as much as $8 billion to $10 billion a year over three years, according to Anders Aslund from the Peterson Institute for International Economics. After a series of events taking place in Kiev in the month of February, a clear result of the opposition to the Ukrainian-Russian plan, signed after a failed promise of President Yanukovich to strengthen economic relations with Europe (in a context of revolution – EuroMaidan and sparking unrests consisting of clashes between protestors and law enforcers) the government collapsed and was replaced by an interim government**.** Russia refused to recognize it, after defining the revolution a *«coup d'etat»*. The Revolution was followed by protests in the South-Eastern regions, annexation of Crimea and federal city Sevastopol to Russia, and massing of Russian troops at Ukrainian border [2].

Aggression on the Russian side broke lots of laws. In addition to violation of the provisions of the UN Charter, Russia is asserted to be in violation of the 1975 Final Act of the Conference on Security & Cooperation in Europe (Helsinki Accords) which reaffirmed the obligation of its signatories to respect each other's territorial integrity and borders as inviolable in addition to refraining from the use of threat of use of force. These are commitments that were echoed in the 1994 Memorandum on Security Assurances in connection with Ukraine's accession to the Treaty on the NPT (the Budapest Memorandum) & the 1997 Treaty of Friendship, Cooperation & Partnership between Ukraine & the Russian Federation. Further, Ukraine says Russia is violating the Black Sea Fleet Agreements & the 1999 Agreement between the Cabinet of Ministers on the Use of Airspace of Ukraine and of Airspace Over the Black Sea, which places caps on Russian troop levels in Crimea and mandates prior approval of Ukrainian authorities before making any troop movements.

The main threat is that China may use this precedent in a future bid on Russian territories. In an era of declining Russian demographic figures and a booming Chinese population, this is not a fairy tale. Immense Chinese migration into Eastern Russia coupled with Chinese

investments in it is keeping Russian strategic thinkers up at night. Russian actionsбр, however, have a deeper layer of ramifications as well, since its ascribing of Nikita Khruschev's decision to transfer Crimea to Ukraine in 1954 as an 'historical injustice' has the potential to open up a Pandora's Box.

Allowing such a precedent to be set hypothetically may very well permit Russia to declare void everything from the 19th century sale of Alaska to the Treaty of Brest Litovsk after World War I to the Belavezha Accords of 1991. It would be imprudent to equate Nazi Germany and Putin Russia by any stretch of imagination, but the principle of historical injustice was used to escape the Versailles Treaty as well.

Also the weak US response also sends a dangerous signal to China whose entire claim to the South China Sea rests on historical grounds and notwithstanding US warnings to not copy the Crimea style actions, it is unlikely to be deterred. Western rhetoric decrying the Crimean referendum relying on the argument that referendums held under foreign military occupations are illegal is not going to find any credible reception in mainland Europe or the Asia Pacific [3].

In the light of these important legal questions – to which many others not mentioned here could be added – the ongoing 2014 crisis between Ukraine and Russia represents a test for international law and international lawyers. This justifies our choice to devote the first Zoom out of QIL to the «Crimean conundrum», and to entrust the task of answering some of the above-mentioned thorny questions to two members of our editorial board who specialize in questions relating to use of force, secessionist phenomena, and unlawful territorial situations.

Ukraine's ongoing crisis has presented complicated geopolitical and diplomatic issues and will continue to do so. From the perspective of the international law that applies to the use of force and the law of armed conflict, however, the situation offers a useful opportunity to reinforce several foundational international law principles and precepts that are integral to the protection of persons, sovereignty and national security. Events in Ukraine highlight three specific central concepts: the strict separation between the law of armed conflict (LOAC) and the *jus ad bellum*; the low threshold for recognition of international armed conflict; and the overarching importance of the principle of distinction for the fulfilment of LOAC's central goals in today's conflicts [4].

Ukraine's crisis reminds us of the historic and essential separation between these two bodies of law. If the situation devolves into violence between the two states, would they have different rights based on the lawfulness of force use?

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SCIENTIFIC APPROACH TO ECONOMIC SECURITY TO ENSURE REGIONAL SUSTAINABLE DEVELOPMENT

Sustainable development of the area allows you to maintain a certain level of its economic security, social, environmental and economic spheres, as well as restore volume and quality of necessary resources. In the context of limited resources and increasing demands these are extremely complex tasks for which is necessary to form an effective system of resources on the regional level to ensure economic security and sustain able development of the territory, its adequate management and continuous improvement.

At this time, many economists have not come to the same conclusion about the use of the term «sustainable development»

or «steady development», and especially in the context of economic security of the region. Similar problems are raised in the articles of national and foreigna uthors, including William Ofuls, D. Hartvik, L. Walras, N.V. Ostrovsky, N.I Moiseev, D.A. Denevizyuk, A.C.Filipenko, V.A. Koptyug, S.F. Serjogina.

Environmental aspect of the category «sustainable development» is the most studied in the scientific literature. XX century was marked by the formation ofthe doctrine of the biosphere and its transformation underthe influence of human activities, developed by Vernadsky [1, p. 119]. W. Ofuls introduced the phrase «sustainable state society» (Society of steady state), which later transformed into the concept of «sustainable developments» [5]. D. Hartvik formulated the condition for sustainable development of society, which, in his opinion, can be achieved, provided the investment of all rents from natural resources, which is defined as the difference between the market price of the resource and the marginal cost of its production, in reproducible capital, education and environmental protection. Along with environmental, equally important arethe economic and social aspects of sustainable development of society. Analysis of the evolution of theories of economic growth does not give a clear answer to the question of its relationship with sustainable development. Differentiation between economic growth and economic development introduced into economic science by Schumpeter, according to whom economic growth is the increase in production and consumption of the same goods and services, and economic developmentis the emergence of something new, previously unknown, in other words, innovation [4, pg. 295]. According to G. Myrdal, growth which is not accompanied by the advancement of the majority, is contrary to development, and is understood as increasing the degree of satisfaction of the basic needs of all members of society. L. Walras developed the theory of general economic equilibrium and economic stability. Opposite direction that is associated with the uncertainty of development, lack of balance determines the evolution inthe form of innovative and conservative interaction of economic agents behaviors. Historical analysis confirms the correctness of this dialectical approach, which justifies the role of innovation in the most efficient use ofsociety's resources.

The process of evolution of society is associated with cycles, which should be interpreted in two ways interms of sustainable development. On the one hand, technological change of modes,

grounded by N.Kondratyev in the theory of large market condition cycles, promotes technical progress of society and its sustainable development. On the other hand, one ofthe problems of society is the crisis of over production, which, according to K. Marx, is the main cause of instability in the economy and threaten its sustainable development [2, p. 356]. The model of the free market is not capable of self-regulation in the rapid population growth and steady deepening environmental problems.This model leads to social stratification of society and the destruction of ecosystems. In the context of globalization for sustainable development it is necessary to strengthen the role of the state and civil society in the regulation of market relations. The state should create conditions to support competition in the market, taking into account environmental constraints and effective social policies. Civil society should monitor both the state and the market to stay at the forefront of social progress, anticipate threats and find ways to minimize them. Theuse of mechanisms for uniform and balanced development of the economy promotes sustainable development of society. To ensure the sustainable development of society, national governments and international organizations should define the boundaries of the national and global economy and ensure itsfunctioning in their framework.

One of the key principles of sustainable development is the formation of a full global civil society, able to monitor the environmental and socioeconomic development. The proof of this statement is agrowing concern of the world community on global threats. In 1972 the first UN Conference on the Conservation of Nature was held in Stockholm, which adopted the Declaration on the environment [3, pg. 36]. In 1987 the International Commission for the United Nations published a report on Environment and Development, which made the concept of sustainable development accessible to the public. This report defined sustainable development as «... development that contributes to meeting the needs of the present generation without reducing the ability of future generations to meet their own needs.» United Nations Conference on Environment and Development in 1992 in Rio de Janeiro adopted the basic principles of sustainable development and global approach to its maintenance, and the World Summit on Sustainable Development held in Johannesburg in 2002, approved the specific action plan to implement the goals and objectives of sustainable development. Conceptual apparatus of sustainable

development paradigm has been evolved in the theoretical and applied study, but there is still no common understanding of its interpretation. The complexity of its interpretation is due to the fact that the concept of «sustainable development» is an interdisciplinary, formed at the intersection of different scientific fields – the sciences of society as a hole, the social organization of the economy, economic security, regional economics, and the sciences of nature. N.V. Ostrovsky says that the definition of sustainable development reflects extensiveness of the present stage of human development and the presence of resource constraints. Resource constraints are complex and relate not only to the limitations of their own minerals but also the interaction and mutual influence between antroposystemoyu and biosphere. This concept proposed more environmentally correct definition of sustainable development: «Sustainable development is the development, when the environmental impact is within the economic capacity of the biosphere, thus the natural foundation for the reproduction of human life is not destroyed» [3, p. 32].

Thus, N. I. Moiseev suggests the term «sustainable development» in following interpretation:»sustainable development is an implementation strategy for human survival on the planet, it's way to the era of the noosphere, is to implement the terms of evolution of society and nature» [2, p. 356]. D. A. Denevizyuk believes that «sustainable development is a dialectical unity of the stability of the environment in terms of the influence of technology, social stability and the stability of the economy as a control object and as an object of business people» [4, p. 293]. A.C. Filippenko said that «the essence of sustainable development is to ensure such economic growth, which makes it possible to harmonize relations» man – nature (environment) «and save the environment for present and future generations» [1, p. 71]. Academician V.A. Koptyug identified some fundamental aspects of sustainable development. First, it gives priority to spiritual values over material. Scientist believed that humanity should not admire too much excessive consumption (in the broad sense of the term). If civilization as a whole, as a society of each country is not aware of malignancy of such development, which the humanity chose-that «nothing can be done». V. A. Koptyug is sure that finding the way out of the impasse depends on the level of consciousness of people in the world [2, pg. 356]. The ideas of sustainable development received an adequate response from the authorities, May 15, 2012 at official

website (heading «Public Discussion») a draft Concept of Ukraine's transition to sustainable development, developed by the National Academy of Sciences of Ukraine was published. The document states that the removal of the existing contradictions of modern civilization is only possible due to sustainable social and economic development that does not destroy its natural base. Improving the quality of life should be provided to the extent economic capacity of the biosphere, the excess of which leads to the destruction of the biotic mechanism of regulation of the environment and its global change.

The concept states that the transition to sustainable development is based on the gradual restoration of natural ecosystems to a level that ensures environmental sustainability. The regional aspect is a keyfactor in Ukraine's transition to sustainable development. This involves the formation of an effective spatial structure of the economy of the country to balance the interests of all regions of Ukraine, which leads to the need to develop and implement programs to sustainable development for each region and territory, as well as further integration of the program due to development of monetary policy in the field of sustainable development by the state [1, pg. 115]. In the context of the above goals and objectives, in our opinion, sustainable development of the territory should be considered, which is a natural (ecological), social, economic and institutional systems of unprecedented complexity. Given the above, sustainable development is a category that is of particular importance, expanding its borders and comprises all levels from the individual entity, sector, region, industry, the national economy and the global economic system.

There are several arguments in favour of ascientific approach to economic security from the standpoint of sustainable development: Firstly, environmental. Economic development of the area and the activities of individual economic agents must be organized in such a way as not to destroy, but to preserve and sustain the environment, contribute to the stability of ecosystems. The population of the territory must agree that the preservation of the ecological balance is a major challenge for the region. In this case, any economic activity that threatens biodiversity, is undesirable for society; Secondly, social. Future generations have a moral right to live in a particular area at a time is not worse than those that the present generation live. This means that if the activities of the current generation causes damage (for example, the consumption of non-renewable resources), the future

generations must be given its full compensation. Improving the quality and standard of living in the region should promote a balanced territorial development of society, but not at the expense of the environment stability loss; Thirdly, economic. Sustained economic growth in the region is more effective if it is environmentally sustainable. Social and economic development should be aimed at minimizing the negative effects of economic activity; Fourth, institutional. The presence of institutions is the most important factor in the functioning of local economies in the long run, solving the problems of cooperation between people, reducing uncertainty by establishing a stable structure of interaction between them. Institutions act as constraints for the problems of economic decision-making, including they restrict access to recourses [5, p. 416]. Change of one parameter of the functioning of the Institute for Socio-economic system as a whole can lead to serious consequences at the micro, meso and macro levels.

Development of the region is a mode of operation of the regional system, which focuses on the positive dynamics of level parameters and quality of life, that are provided by stable, balanced and multi factorial reproduction of social and demographic, economic, resource and environmental potential of the territory. Instability stability is a key, essential features of self-organizing, self-regulating system, which include territory

In the simplest sense of stability problem arises in the study of perturbed motion of a point of the phasespace. In the mathematical theory stability of the equilibrium state of the system is determined on changesin the perturbed motion coordinate system. The essence of the concept of «sustainability» in our view, is revealed through two groups of concepts that characterize the following system properties: first, safety second, consistency, stability, constancy. Semantically close to the concept of «sustainability» is the concept of «balance», «stationary», but they have a more narrow sense, and in some interpretations differ substantially from it. It is important to understand that the above mentioned characteristics do not mean stationarity or quiescence. Complex social and economic systems are maintained by internal quality transitions, provide adaptation, security and development.

High-level, low-level equilibrium and nonequilibrium states are distinguished in economic systems. High development involves the allocation of resources for development, but the development

is understood as positive changes in economies. The basic principles of optimal control of social and economic systems in order to achieve their sustainable development is, first, the principle of the trinity of objectives (economic, social, environmental); principle of consideration regional factors. According to the first principle, none of these goals can be considered absolute, that means the implementation of a reasonable compromise in the form of a set of management decisions. The second principle mandates consideration of economic specialization of the region in developing its strategy for the transition to sustainable development. The theory of systems control distinguishes two categories of problems: stabilization and development. Problems of development and improvement of systems are called such ones solution of which aims at improving the functioning by changing the characteristics of the object of management or management system. Based on the theory of control systems, it ispossible to present problems of sustainable development of the regions follows.

Sustainability of region is interconnected and interdependent with the characteristics of social and economic system as adaptability and security. On the one hand, they are also a set of conditions and factors that ensure the independence and stability of the system, its capacity for continuous self-healing and selfimprovement, on the other hand- the properties of the system, that appear as a result of sustainable development. The combination of stability, security and adaptability, in our opinion, constitute specific resources of livelihoods of the regional economic system. The conducted study determines the internal structure of the concept of «sustainable development of the region», based on social, environmental, economic and institutional approaches to the development of regional systems and their subsystems. Consideration of the social, economic and environmental parameters in a single complex has become generally accepted. Naturally, the criteria and indicators of sustainable development should reflect the three major components of civilization. On the other hand, the development can be considered as a change, each characterized by certain stability and the ability to change.

A retrospective of views on the need to ensure sustainable development of territories has been considered in this article as well as the complexity of modern vision of the process of economic security for sustainable development of the territory, which requires appropriate resource support that allows not only maintain a certain level of social,

environmental and economic sphere, but also to compensate for an existing damage to the environment and restore sufficient volume and quality of resources.

In the context of limited resources and increasing demands it is extremely complex task. To solve this problem at the regional level it is necessary to form an effective system resources provision to ensure economic security and sustainable development of the territory, its adequate management and continuous improvement.

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ALLE MENSCHEN SIND FREI UND GLEICH AN WÜRDE UND RECHTEN GEBOREN

Als Menschenrechte werden subjektive Rechte bezeichnet, die jedem Menschen gleichermaßen zustehen. Das Konzept der Menschenrechte geht davon aus, dass alle Menschen allein aufgrund ihres Menschseins mit gleichen Rechten ausgestattet und dass diese egalitär begründeten Rechte universell, unveräußerlich und unteilbar sind [1]. Die Idee der Menschenrechte ist eng verbunden mit dem

Humanismus und der im Zeitalter der Aufklärung entwickelten Idee des Naturrechtes.

Das Bestehen von Menschenrechten wird heute von fast allen Staaten prinzipiell anerkannt. Die Universalität ist gleichwohl Grundlage politischer Debatten und Auseinandersetzungen.

Menschenrechte werden heute gewöhnlich als Abwehrrechte des Bürgers gegen den Staat zum Schutz seiner Freiheitssphäre verstanden. Weil aber Menschenrechte auch von dritter Seite bedroht werden, wird davon ausgegangen, dass außerdem zu jedem Menschenrecht eine staatliche Schutzpflicht gehört, mit der erst ein Menschenrecht vollständig verwirklicht werden kann [4]. Durch die Ratifizierung von internationalen Menschenrechtsabkommen sowie durch deren Verankerung in ihren nationalen Verfassungen verpflichten sich die Staaten, die Grundrechte und Völkerrechte zunehmend umzusetzen, als einklagbare Rechte auszugestalten.

In einem weiteren Sinne ist der Begriff «Menschenrechte» auch als Erweiterung zu den «Bürgerrechten« zu verstehen: Er steht dann für Grundrechte, die unabhängig von der Staatsangehörigkeit allen Menschen zustehen.

Den Gründungsmitgliedern der Vereinten Nationen wollte es nicht gelingen, einen umfassenden Menschenrechtskatalog zu formulieren. So lassen sich in der Charta der Vereinten Nationen lediglich an bestimmten Punkten Ansätze des internationalen Menschenrechtsschutzes finden [2]. Die Präambel besagt, dass die Völker der Vereinten Nationen den «Glauben an die Grundrechte des Menschen, an Würde und Wert der menschlichen Persönlichkeit, an die Gleichberechtigung von Mann und Frau sowie von allen Nationen, ob groß oder klein, erneut» bekräftigen und «den sozialen Fortschritt und einen besseren Lebensstandard in größerer Freiheit» fördern. Des Weiteren verspricht Art. 1 in den Zielen der VN, dass die Vereinten Nationen «die Achtung vor den Menschenrechten und Grundfreiheiten für alle ohne Unterschied der Rasse, des Geschlechts, der Sprache oder der Religion zu fördern und zu festigen».

Artikel 55 besagt: «Um jenen Zustand der Stabilität und Wohlfahrt herbeizuführen, der erforderlich ist, damit zwischen den Nationen friedliche und freundschaftliche, auf der Achtung vor der Grundsatz der Gleichberechtigung und Selbstbestimmung der Völker beruhende Beziehungen herrschen, fördern die Vereinten Nationen die Verbesserung des Lebensstandards, die Vollbeschäftigung und die

Voraussetzungen für wirtschaftliche und sozialen Fortschritt und Aufstieg; die Lösung internationaler Probleme wirtschaftlicher, sozialer, gesundheitlicher und verwandter Art sowie die internationale Zusammenarbeit auf den Gebieten der Kultur und der Erziehung die allgemeine Achtung und Verwirklichung der Menschenrechte und Grundfreiheiten für alle ohne Unterschied der Rasse, des Geschlechts, der Sprache oder der Religion» [3].

Art. 56 besagt: «Alle Mitgliedstaaten verpflichten sich, gemeinsam und jeder für sich mit der Organisation zusammenzuarbeiten, um die in Artikel 55 dargelegten Ziele zu erreichen» [3].

Art. 13 Abs. 1 Nr. b) konkretisiert den Weg, um die Umsetzung, die Entwicklung und die Kooperation zum Thema Menschenrechte wie folgt: «Die Generalversammlung veranlasst Untersuchungen und gibt Empfehlungen ab, um die internationale Zusammenarbeit auf den Gebieten der Wirtschaft, des Sozialwesens, der Kultur, der Erziehung und der Gesundheit zu fördern und zur Verwirklichung der Menschenrechte und Grundfreiheiten für alle ohne Unterschied der Rasse, des Geschlechts, der Sprache oder der Religion beizutragen».

Art. 62 Abs. 2 autorisiert den Wirtschafts- und Sozialrat «Empfehlungen ab[zu]geben, um die Achtung und Verwirklichung der Menschenrechte und Grundfreiheiten für alle zu fördern».Artikel 68 beauftragt den Rat mit der Einsetzung einer Kommission «für die Förderung der Menschenrechte». Diese wurde im Juni 2006 neu und unter anderem Namen gegründet [3].

Zur Zeit der Gründung der Vereinten Nationen und somit auch zur Zeit der Entstehung der Charta der Vereinten Nationen existierten keine klaren Vorstellungen vom Konzept der Menschenrechte. Die oben genannten Vorschriften dienten vielmehr der Bereitung einer Basis für die Entwicklung und Durchsetzung von Menschenrechten. Aus rechtlicher Sicht entspricht dies mehr einer politischen Absichtserklärung als einem rechtlich bindenden Auftrag. Nach 1945 wurden diverse Menschenrechtsdeklarationen veröffentlicht und viele Mindeststandards unterschiedlichster Art für Menschenrechte entwickelt [4]. Da die internationale Gemeinschaft sehr regelmäßig ihrer Treue zu Menschenrechtserklärungen Ausdruck verleiht, gibt es Stimmen, welche in den existierenden menschenrechtlichen Mindeststandards Völkergewohnheitsrecht sehen und es somit für alle Völker bindend wäre.

Menschenrechte werden weltweit verletzt und das jeden Tag. Es gibt nur wenige Staaten in denen Menschenrechte nicht verletzt

werden, selbst der demokratische Rechtsstaat westlicher Industrienationen bietet keinen absoluten Schutz vor Übergriffen [1]. Die Mehrzahl aller Menschenrechtsverletzungen ereignet sich jedoch in Schwellenländern und in den Entwicklungsländern.

Noch nie war eine so große Zahl von Menschen durch Eingriffe in elementare Lebensrechte bedroht oder betroffen wie heute und selten verletzt ein Staat nur ein einzelnes Menschenrecht, meistens schließen sich die Übergriffe zu einer Kette zusammen. Verschiedene Nichtstaatliche Organisationen, wie amnesty international oder die Internationale Gesellschaft für Menschenrechte, versuchen Menschenrechtsverletzungen in das Licht der Öffentlichkeit zu rücken und sich um den Schutz der Menschen vor Willkür und Unterdrückung zu kümmern.

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BEKÄMPFUNG HÄUSLICHER KRIMINALITÄT IN DER BRD

Das Strafgesetzbuch definiert die häusliche Gewalt als jede Art körperlicher, seelischer oder sexuellen Misshandlung zwischen Erwachsenen, die innerhalb einer bestehenden oder im Zusammenhang mit einer früheren häuslichen Gemeinschaft oder Beziehung verübt oder versucht wird oder mit der gedroht wird. Mehr als 50000 Frauen

flüchten jährlich mit ihren Kindern in Frauenhäuser. Nach Schätzung ist jede dritte Frau in Deutschland von häuslicher Gewalt betroffen, jede siebente Frau ist bereits einmal in ihrem Leben Opfer einer Vergewaltigung oder sexuellen Nötigung geworden. [1]

Aber meistens unter häuslicher Gewalt wird im Allgemeinen die Gewalt von Männern gegen Frauen in Ehe und Partnerbeziehungen verstanden, also Gewalthandlungen, die sich innerhalb des, oft räumlichen, inneren sozialen Beziehungskreisen der Frau ereignen. Sie hat vielfältige Erscheinungsformen: von subtilen Formen der Gewaltausübung durch Verhaltensweise, die Bedürfnisse und Befindlichkeiten der Frau ignorieren, über Demütigungen, Beleidigungen und Einschüchterungen zu psychischen, physischen und sexuellen Misshandlungen, bis hin zu Vergewaltigungen und Tötungen. Häusliche Gewalt ist damit ein Teilbereich der Gewalt in Familien und familienähnlichen Lebensgemeinschaften, die eine Vielzahl von Täter/Opferkonstellationen umfasst, insbesondere auch die Gewalt gegen Kinder und alte Menschen [2].

In Fällen häuslicher Gewalt sind drei unterschiedliche Arten von Maßnahmen von Bedeutung:

- polizeiliche Maßnahmen der Gefahrenabwehr
- zivilrechtliche Anträge nach dem Gewaltschutzgesetz
- die Strafverfolgungsmaßnahmen.

Die Maßnahmen unterscheiden sich hinsichtlich ihrer Zielrichtung und gehören auch verschiedenen Rechtsgebieten – Polizeirecht, Zivilrecht oder Strafrecht – mit ihren jeweiligen Besonderheiten an.

Die Anträge, die ein Opfer häuslicher Gewalt nach dem Gewaltschutzgesetz stellen kann, gehören zum Bereich des Zivilrechts. Im Zivilrecht klagt ein Bürger gegen einen anderen Bürger. Das Gericht bietet ihnen lediglich die Plattform, diesen Rechtsstreit auszutragen und gibt dem einen oder dem anderen Recht. Die Anordnungen nach dem Gewaltschutzgesetz kann ein Gericht somit nur auf Antrag der verletzten Person treffen. Ohne Antrag wird das Gericht nicht tätig.

Anders verhält es sich sowohl im Polizeirecht als auch im Strafrecht. Hier steht auf einer Seite die Staatsmacht (Polizei, Staatsanwaltschaft, Strafgericht) und auf anderer Seite der Gewalttäter. Wenn die Polizei eine Gefahr für die körperliche Unterversehrtheit eines Opfers sieht, muss sie in Akutsituationen polizeirechtliche Maßnahmen der Gefahrenabwehr ergreifen – egal, was das Opfer will.

Die Polizei wird, wenn aufgrund ihrer Gefahrenprognose eine Gefahr für Leib, Leben oder Freiheit einer Mitbewohner oder Mitbewohners vorliegt; notfalls auch gegen den Willen des Opfers den Gewalttäter aus der Wohnung weisen oder ihn mit auf die Wache nehmen.

Hat die Polizei Kenntnis von einer Straftat, z. B. Körperverletzungsdelikt, dann ist sie vom Gesetz verpflichtet, ein Strafverfahren einzuleiten. Es ist unabhängig davon, ob das Opfer an einer strafrechtlichen Verfolgung des Täters interessiert ist oder nicht. Die Staatsanwaltschaft wird den Beschuldigten, wenn die Beweislage es zulässt auch gegen den Willen des Opfers anklagen, ein Strafgericht wird ihn unter denselben Voraussetzungen verurteilen.

Viele Betroffene häuslicher Gewalt bedürfen zunächst psychosozialer Unterstützung, um ihre Rechte auf eigenen Schutz oder Strafverfolgung in Anspruch nehmen zu können. Die Fachstellen bieten diese Unterstützung und informieren zudem über rechtliche Schutzmöglichkeiten. Aufgrund der Bedarfslage richten sich die meisten an Frauen. Männliche Opfer können sich an die Beratungs- und Interventionsstelle oder an die allgemeinen Beratungsstellen wenden.

Die Täterarbeit bildet einen unverzichtbaren Bestandteil der Interventionskette in Fällen häuslicher Gewalt, denn die ausschließliche Bestrafung der Täter durch Geldbußen, Geldstrafen bzw. Haftstrafen führt nicht automatisch zu einer kritischen Auseinandersetzung der Täter mit ihrem Gewaltverhalten und zu dessen Beendigung.

Das Sozialtrainingsprogramm für Partnerschaftsgewaltausübende orientiert sich an den bundesdeutschen «Standards und Empfehlungen für die Arbeit mit männlichen Tätern in Rahmen von interinstitutionellen Kooperationsbündnissen gegen häusliche Gewalt», welche von der Bundesarbeitsgemeinschaft Täterarbeit erstellt wurde. Danach ist Täterarbeit ein kognitiv verhaltensorientiertes Programm, welches auf die nachhaltige Beendigung gewalttätigen Verhaltens abzielt und zu jedem Zeitpunkt dem Opferschutz verpflichtet ist. Zielgruppen sind zunächst erwachsene männliche Täter, die ihrer Partnerin gewalttätig geworden sind. Gruppenarbeit bildet einen festen Bestandteil des Angebotes, welche in begründeten Ausnahmefällen durch Einzelberatung ersetzt werden kann. Es wird sowohl mit sogenannten Selbstmeldern als auch mit institutionell vermittelten und insbesondere von Strafgerichten bzw. der Staatsanwaltschaft zugewiesenen Personen gearbeitet. Damit

ist das Projekt Täterarbeit insbesondere als Alternative zu einer etwaigen Geldauflage oder Geldstrafe zu sehen [3].

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PRÄVENTION GEGEN DIE KRIMINALITÄT IM BEREICH DER INFORMATION UND KOMMUNIKATION

In letzter Zeit besteht in der Welt eine neue Gefahr. Der Gesellschaft bedroht Cyberkriminalität und das Verbrechen im Internet.

Diese Bedrohung hat hohe Plausibilität. Das Internet und insbesondere seine technischen Funktionsmechanismen sind so unergründlich, dass schon von dem Existenz des Netzes subjektiv eine diffuse Gefahr ausgeht. Das Internet stellt einen zunehmend wichtigen Wirtschaftsfaktor.

Es ist auch vielmehr ein Kommunikationsmittel, das völlig neue Möglichkeiten zur Verwirklichung von Freiheitsrechten eröffnet. Information und Kommunikation stehen jetzt im Vordergrund. Hierdurch wird Meinungsäußerung erleichtert. Der beruflichen und wirtschaftlichen Tätigkeit werden völlig neue globale Perspektiven geöffnet.

Unstreitbar ist aber auch, dass das Internet zum Begehen von Straftaten genutzt werden kann. Das Internet ist kein rechtsfreier Raum.

Bei dessen Nutzung sind die Gesetze zu beachten. Da es hier Rechtsverstöße gibt, muss es auch eine Verfolgung von im Netz begangenen Straftaten geben.

Den Strafverfolgungsbehörden müssen hierfür sowohl rechtlich, wie auch technisch, die erforderlichen und angemessenen Möglichkeiten und Mittel in die Hand gegeben werden.

Das Spektrum der Internetkriminalität reicht von Straftaten wie Volksverhetzung und Kinderpornographie über neue Formen des Betrugs, Wirtschaftskriminalität und Werbe-Mails (Spam) bis hin zu Computerviren und Bedrohungen durch «Cyberterrorismus». Dabei sind nicht nur Online-Accounts oder Computer Ziel der Attacken, sondern zunehmend auch mobile Endgeräte.

Beim «Tracking» der Handybesitzer werden zum Beispiel Standortdaten, Surfgewohnheiten und weitere persönliche Daten für Werbezwecke zusammengeführt.

Zu Cybercrime gehören unter anderem:

- Volksverhetzung und extremistische Propaganda
- Gewaltdarstellungen
- Schwerwiegende und menschenverachtende Form der Pornographie
- Betrug, etwa auf eCommerce-Portalen oder Phishing beim Onlinebanking
- Ausspähen und Abfangen von Daten, zum Beispiel, Betrug mit Zugangsberechtigungen zu Kommunikations-diensten
- Datenfälschung und Täuschung im Rechtsverkehr bei Datenverarbeitung
- Verstöße gegen das Urheberrechtsgesetz
- Datenveränderung und Computersabotage
- Digitaler Identitätsdiebstahl, zum Beispiel, das Ausspähen von Zugangsdaten, Passwörtern und Kreditkartendaten
- Hacking, Bots, Viren, Würmer und Trojaner
- Spam-E-Mails

Die Zahl der Fälle von der Kriminalität im Bereich der Informations- und Kommunikationstechnologie steigt in Deutschland und in der ganzen Welt mit jedem Jahr. Nicht nur das Bundeskriminalamt, auch die Polizei in den einzelnen Bundesländern verstärkt den Kampf gegen die Computer- und Internetkriminalität.

In vielen Landeskriminalamten sind Cybercrime-Kompetenzzentren eingerichtet worden.

Dazu gehören Ermittlungskommissionen, die Zentrale Internetrecherche, die Auswertestelle für Kinderpornografie und weitere Experten für Computerforensik, Telekommunikation-süberwachung, Auswertung, Analyse und Prävention. Für Unternehmen und Behörden gibt es zudem zentrale Ansprechstelle bei den LKA.

Wenn durch einen Cyberangriff die gesamte IT (Informationstechnik) zusammenbricht, kann das verheerende Folge für den Staat, die Wirtschaft und die Gesellschaft haben. Um Angriffe gezielt zu verhindern und abzuwehren, sind in Deutschland unter dem Dach des Bundesamts für Sicherheit in der Informationstechnik (BSI) vier Stellen das IT-Krisenmanagement zuständig:

- CERT-Bund (Computer Emergency Response Team für Bundesbehörden, bearbeitet Sicherheitsvorfälle und betreibt einen regelmäßigen Warn- und Informationsdienst)
- IT-Lage- und Analysezentrum (Bewertung und Sicherheitslage in Deutschland rund um die Uhr)
- IT-Krisenreaktionszentrum (schnelle Analyse, Koordination und Reaktionen bei Vorfällen)
- Cyber-Abwehrzentrum (2011 unter Federführung des BSI eingerichtet, gemeinsam mit Bundeskriminalamt, Bundespolizei, Zollkriminalamt, Bundesnachrichtendienst und Bundeswehr betriebenes Zentrum, dient der Zusammenarbeit staatlicher Stellen und der Koordinierung von Schutz- und Abwehrmaßnahmen)

Das Bürger-CERT ist ein Projekt des BSI und soll helfen, Bürger und kleine Unternehmen online und per Newsletter vor Viren, Würmern und andere Sicherheitslücken zu wahren.

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L'ORGANISATION JURIDICTIONNELLE NATIONALE FRANÇAISE

L'organisation juridictionnelle nationale française1 est l'organisation des tribunaux nationaux français, dans l'ordre juridique interne.

L'organisation juridictionnelle nationale française a souhaité mettre en œuvre certains principes inhérents à une idée du procès, respectueuse des libertés fondamentales, prenant ainsi en compte la possibilité de faire appel, la collégialité des juges qui rendront une décision, la rapidité du jugement. Séparation des pouvoirs et dualité juridictionnelle L'origine de la dualité juridictionnelle.

Le principe de séparation des pouvoirs précise que les pouvoirs publics doivent être séparés et attribués à des organes distincts. Ainsi, le pouvoir d'édicter des règles (pouvoir législatif) est confié au Parlement, le pouvoir de les faire exécuter (pouvoir exécutif) appartient à un président ou un Premier ministre.

En effet, le problème de cette distinction des pouvoirs est qu'il faut, dans cette conception, séparer les litiges intéressant l'État, sanctionnant la mauvaise application d'un texte, et relevant donc du pouvoir exécutif, des autres litiges intéressant les particuliers, relevant d'un véritable pouvoir judiciaire autonome et distinct. Il faut donc scinder les compétences du juge en deux, entre juge judiciaire et juge administratif. Par ces textes, le pouvoir législatif et le pouvoir exécutif ont été soustraits au contrôle des juridictions judiciaires, au motif que celles-ci ne disposaient pas d'une légitimité suffisante pour juger des actes émanant d'autorités procédant du suffrage universel et donc seuls représentants de la souveraineté populaire.

Double degré de juridiction. Le principe de double degré de juridiction est au fondement de la possibilité que chaque affaire soit jugée, en fait et en droit, deux fois.

Un tel système permet d'abord l'étendue du pouvoir des juges. Il offre aussi aux parties la possibilité de présenter une meilleure argumentation, qui présentera l'avantage donc d'être plus précise en appel qu'en première instance [3,p.48].

L'exception au principe du double degré de jurisdiction Dans certains types de litiges, la loi ou la réglementation dispose que le tribunal du premier degré rend une décision en premier et dernier ressort. Ce jugement ne peut donc être susceptible d'appel. Par exemple, en matière civile: les actions dont le taux de compétence (les prétentions du demandeur) est inférieur à 4000 € sont jugées par le tribunal d'instance en premier et dernier ressort; les actions jugées par le juge de proximité, dont le taux de compétence est inférieur à 4 000 € [4], ne sont pas non plus susceptibles d'appel.

De même, devant les tribunaux administratifs: de nombreux recours en excès de pouvoir sont jugés en premier et dernier ressort, tels un bon nombre des litiges concernant la fonction publique; les recours indemnitaires d'un montant de moins de 10 000 € le sont également. Le principe du double degré de juridiction est limité par ces jugements en premier et dernier ressort, mais pour des raisons strictes : l'enjeu de l'action est supposé faible (bien que ce ne soit pas toujours le cas[5]), les risques d'erreurs sont normalement assez limités, etc [5, p. 195].

Néanmoins, les jugements de ces juridictions peuvent toujours faire l'objet d'un pourvoir en cassation, c'est-à-dire d'un recours extraordinaire devant la Cour de cassation ou le Conseil d'État. Enfin, les litiges que le Conseil d'État connaît directement sont jugés en premier et dernier ressort, sans pourvoi en cassation possible, mais l'organisation interne du Conseil d'État offre des garanties procédurales assez semblables à celles d'un double degré de juridiction. Il peut d'ailleurs s'agir de litiges d'enjeux très importants.

Collégialité ou juge unique. Selon les juridictions, les magistrats du siège (ceux qui jugent) pourront être en formation collégiale (3 ou 7 juges) ou bien à juge unique (1 seul juge). L'enjeu de cette question est triple: le prix une formation collégiale coûte plus cher qu'un juge unique; la célérité: une formation collégiale aura tendance à prendre plus de temps à juger qu'un juge unique; la solennité: un jugement rendu par une formation collégiale sera plus précis, plus justifié, plus solennel donc que lorsque le jugement est rendu par un juge unique. Un adage dit «juge unique, juge inique». On peut avancer au contraire

qu'une déresponsabilisation du juge dans le cas d'une formation collégiale n'est pas plus souhaitable.

Droit à un procès equitable L'article 6 de la Convention européenne des droits de l'homme (CEDH) dispose que tout citoyen a droit à un procès équitable. La France a plusieurs fois été condamné par laCour européenne des droits de l'homme pour violation de cet article [2, p. 6].

Le droit à un procès par un tribunal Tout individu a toujours la possibilité de saisir une juridiction de première instance : c'est un droit fondamental, qui ne peut être méconnu. Cependant, le droit à un second degré de juridiction est limité aux cas qui sont suffisamment importants. L'application de ce droit au procès par un tribunal est parfois difficile dans un système dans lequel il existe deux ordres juridictionnels. En effet, lors d'une affaire, il est possible qu'aucun des deux ordres ne se déclare compétent pour la juger. Le Tribunal des conflits est là pour résoudre de tels conflits de compétence.

L'impartialité et l'indépendance du juge Deux aspects sont à retenir: l'impartialité subjective qui se présume jusqu'à preuve contraire, signifie que le juge ne doit manifester ni parti pris ni préjugé personnel; l'impartialité objective signifie que la juridiction doit offrir des garanties suffisantes pour exclure tout doute légitime provenant des conditions d'organisation de l'institution judiciaire ou de l'intervention du juge, compte tenu justement de ses interventions antérieures qui ont pu lui donner une certaine connaissance de l'affaire.

La publicité du jugement et des débats Les débats d'un procès doivent être publics, mais ils peuvent connaître des exceptions (témoignage de mineurs...), au nom de l'intérêt général. Toutefois, les jugements doivent être prononcés de façon publique. De la même façon, la Cour européenne estime que le huis clos pouvait être imposé pour la protection de l'intérêt général. Elle a cependant estimé que le plaideur devait être à même de renoncer de son plein gré au principe de la publicité des débats.

La célérité de la justice L'article 6 alinéa un de la Convention européenne dispose que si toute personne a le droit de s'adresser au juge, encore faut-il que ce dernier intervienne dans un délai raisonnable.

Or, très souvent, la justice française met un certain temps avant de rendre ces décisions. C'est le cas en particulier lorsque le justiciable

a des difficultés à trouver la juridiction compétente, le plus souvent en raison de la séparation entre les juridictions administratives et judiciaires [1, p. 88].

Les juridictions judiciaire. Les juridictions de l'ordre judiciaire sont notamment compétentes pour le pénal et pour régler les litiges entre particuliers.

Elles peuvent intervenir soit dans le domaine contentieux (litige entre personnes), soit dans le domaine gracieux (autorisation demandée à une juridiction : changement de régime matrimonial par exemple).

À titre d'exception, elles peuvent également intervenir à propos de certains litiges qui interviendraient entre l'État et les particuliers. C'est le cas par exemple lorsqu'en matière d'expropriation, l'exproprié n'est pas d'accord sur le montant de son indemnisation ; également en cas d'accident de la circulation, lorsqu'un des véhicules appartient à l'administration et que la victime est une personne privée, le contentieux ressort également du juge civil.

Il existe deux degrés de juridiction: on établit d'abord la véracité de l'incrimination supposée, puis, le cas échéant, on applique la peine prévue. Les juridictions administrative. Les juridictions administratives sont celles qui sont compétentes pour juger des litiges entre l'État, les collectivités territoriales, les établissements publics (qui constituent les principales hypothèses de personnes morales de droit public), et les particuliers, ou entre deux personnes morales de droit public. Toutefois, dans certaines hypothèses, c'est l'ordre judiciaire qui sera compétent, pour ce qui est relatif à l'état des personnes, aux dommages pour des atteintes au droit de propriété (par exemple aux dommages résultant d'accidents de véhicules).

Alors que les magistrats judiciaires sont formés par l'École nationale de la magistrature (ENM) à Bordeaux, les membres du Conseil d'État, des juridictions financières, destribunaux administratifs et des cours administratives d'appel sont recrutés notamment par la voie de l'École nationale d'administration (ENA) ou de concours spécifiques.

Les juridictions en dehors des orders. Les juridictions « en dehors des ordres » sont des juridictions qui se placent en réalité au-dessus de ceux-ci. C'est le cas du Tribunal des conflits, qui détermine si c'est l'ordre judiciaire ou l'ordre administratif qui peut être compétent, lorsqu'il existe un conflit de compétence. C'est aussi le cas du Conseil

constitutionnel, dont les décisions s'imposent aux pouvoirs publics, et à toutes les autorités administratives ou judiciaires.

Les juridictions politiques. Les juridictions politiques (Haute Cour de justice et Cour de Justice de la République) peuvent être comprises comme étant des juridictions pénales. Toutefois, elles dérogent au droit commun par les personnalités qui sont jugées, c'est-à-dire le président de la République et les ministres des gouvernements, par la composition de la juridiction, qui est composée de parlementaires, et aussi par des questions de procédure qui diffèrent.

La Haute Cour. La Haute Cour est la seule cour qui peut juger le président de la République »en cas de manquement à ses devoirs manifestement incompatible avec l'exercice de son mandat» (article 68 de la Constitution).

La Cour de justice de la République. Créée en 1993 suite à l'affaire du sang contaminé et à la multiplication des affaires politico-financières, la Cour de Justice de la République (CJR) est chargée de juger les infractions commises par les ministres pendant l'exercice de leurs fonctions [4, p. 75].

Contrairement à la Haute Cour de Justice, la CJR peut être saisie sur requête individuelle, effectuée par un particulier. Ces requêtes sont néanmoins filtrées par une commission des requêtes, qui va juger de l'opportunité de saisir, *in fine*, la CJR. Cette juridiction comprend 15 juges. Douze d'entre eux sont des parlementaires, membres de l'Assemblée Nationale ou du Sénat, les trois autres étant des magistrats professionnels.

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1. Trois quarts des Français estiment que la justice fonctionne mal, Le Monde.fr, 16 février 2014.

2. «Pour 75% des Français, la justice fonctionne mal», L'Express, 16 février 2014.

3. Chiffres clés du Ministère de la Justice, site ministériel.

4. Circulaire relative à l'entrée en vigueur du décret n° 2005-460 du 13 mai 2005 relatif aux compétences des juridictions civiles, à la procédure civile et à l'organisation.

5. Commission européenne pour l'efficacité de la justice (CEPEJ), Systèmes judiciaires européens., Édition 2008 (données 2006): «Efficacité et qualité de la justice». Cité par David Servenay, Dati fait preuve de «lâcheté», disent les juges, Rue 89, 10 octobre 2008.

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AVOCAT EN FRANCE

La profession réglementée d'avocat telle qu'elle existe aujourd'hui résulte de la fusion des avocats avec les avoués près des tribunaux de grande instance et les agréés près les tribunaux de commerce (loi no 71-1130 du 31 décembre 1971 portant réforme de certaines professions judiciaires et juridiques) 1 puis les conseils juridiques (loi no 90-1259 du 31 décembre 1990).

L'activité professionnelle des avocats se divise en deux domaines : les activités pour lesquelles les avocats ont un monopole professionnel, et celles qu'ils peuvent exercer concurremment avec d'autres professions.

L'avocat a notamment pour fonction de défendre les droits des justiciables devant les juridictions, ou toutes instances disciplinaires en assistant et représentant ses clients. Il dispose du monopole de la plaidoirie et de la postulation, c'est-à-dire que seul un avocat peut faire de la défense des justiciables une activité professionnelle habituelle.

Les exceptions au monopole concernent généralement des personnes ayant une certaine proximité d'intérêt avec le justiciable et à qui la loi permet de l'assister et de le représenter (parent et ami devant les juridictions pénales, conseiller du salarié devant les prud'hommes…).

Le monopole de l'avocat ne signifie pas que la présence d'un avocat soit obligatoire. En effet, devant le tribunal d'instance, le juge de proximité, le conseil de prud'hommes, le tribunal des affaires de sécurité sociale, le tribunal de commerce, le tribunal paritaire des baux ruraux comme devant les juridictions répressives, la représentation par un avocat n'est pas obligatoire.

Dans les affaires de la compétence de ces juridictions, à l'exception des jugements des tribunaux d'instance susceptibles d'appel et des décisions du juge de proximité qui sont rendues en dernier

ressort, la procédure devant la cour d'appel ne nécessite pas non plus de recourir à ses services.

Si le justiciable souhaite néanmoins se faire représenter, il ne peut sauf exception confier cette mission qu'à un avocat.

Les avocats de France sont soumis à des principes de déontologie très précis.

Ces normes internes sont principalement posées par le Règlement Intérieur National ou RIN.La discipline des avocats est assurée par un conseil de discipline instauré dans chaque cour d'appel (sauf à Paris où l'ordre des avocats au barreau de Paris dispose de sa propre instance disciplinaire).

Le conseil de discipline comprend des membres désignés par les différents barreaux du ressort et, à Paris, parmi les membres et anciens membres du conseil.

Le conseil de discipline peut prononcer un avertissement, un blâme, une interdiction temporaire ou une radiation définitive du tableau.

Tout avocat fait partie d'un barreau dont le ressort est celui du tribunal de grande instance. Toutefois, plusieurs barreaux d'une même cour d'appel peuvent fusionner. L'ensemble des avocats inscrits à un barreau (y compris les avocats honoraires) sont appelés à élire les membres du conseil de l'ordre et le bâtonnier. L'ordre des avocats du barreau de Paris, qui regroupe environ 40 % des avocats français, est souvent consulté sur les questions relatives à la profession d'avocat.

Le Conseil national des barreaux est l'instance chargée de représenter la profession auprès des pouvoirs publics. Ce conseil est composé de membres élus par leurs pairs. À côté des ordres professionnels, auxquels l'appartenance est obligatoire, il existe plusieurs syndicats professionnels comme la Confédération nationale des avocats (CNA), le Syndicat des avocats de France (SAF), le Syndicat des avocats libres, l'Union des jeunes avocats (UJA) ou l'Association des avocats conseils d'entreprises (ACE).

L'article 3 de la loi sur la consommation du 17 mars 2014 autorise l'avocat à « recourir à la publicité ainsi qu'à la sollicitation personnalisée « dans des conditions fixées par décret. Le 29 octobre 2014 parait le décret d'application de la loi sur la consommation ouvrant la publicité et la sollicitation aux avocats. Cette communication n'en demeure pas moins très encadrée.

Ces publicités et sollicitations personnalisées sont « permises à l'avocat si elles procurent une information sincère sur la nature des prestations de services proposées et si leur mise en oeuvre respecte les principes essentiels de la profession. Elles excluent tout élément comparatif ou dénigrant».

1. Bernard Beignier, L'honneur et le droit, [L.G.D.J, 1995, p. 319].
2. Recueil Dalloz, Éditions Dalloz, [2004, p. 314].
3. Jean-François Fayard, Alfred Fierro et Jean Tulard, Histoire et dictionnaire de la Révolution française (1789–1799), Paris, Robert Laffont, 1987, p. 552.

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MODERN POLICE PRACTICING IN POLAND AFTER THE COUNTRY' S ADMITTANCE TO THE EUROPEAN UNION

Law enforcement in Poland consists of the Police (*Policja*), City Guards (*StrażMiejska*, a type of municipal police), and several smaller specialized agencies.

The *Prokuratura Krajowa* (the Polish public prosecutor) and an independent judiciary also play an important role in the maintenance of law and order [2].

As Poland is a very centralized state, regional law enforcement agencies do not exist in the way that they do in the United States, Canada, Germany or the United Kingdom. While regionalcommands exist within the organizational structure of the Police System, the regional authorities do not have any major say in law enforcement policy [2].

The Polish National Police consists of criminal, patrol and supportive services. Court police is also the part of the Polish National Police.

Our aim is to analyzethe main police activities and services, and characterized implemented reforms which caused some difficulties but simultaneously help to create modern police forces in Poland.

The basic police activities in Poland are:

- the protection of people's health and life, the protection of property;
- the protection of public safety and order;
- creating and organizing "community policing" and crime prevention activities;
- detecting crimes and misdemeanors, arresting people who committed crimes;
- the control of regulations, regarding public life and public spaces;
- the cooperation with police forces from other countries and international organizations [3].

It's known that on May 1, 2004, Poland, along with nine other mostly eastern European nations, was admitted into the European Union, bringing that group's membership to 25 nations.

It was a momentous occasion for Poland, which has a population of more than 38 million and is the seventh-largest country in the European Union.

It should be noticed that Poland now faces a mixture of euphoria and difficulties. Poland has been accepted into the European Union after petitioning for membership in 1994. But it faces numerous difficulties trying to catch up with the modernity and economic stability of the other members of the European Union. History has shown that the Polish people have been resilient throughout the centuries, so there is little doubt it will rise to this challenge.

But we can state the Polish police system is rapidly adapting to the 21st century. Like police in many countries, the Polish police are grappling with organized crime, gangs, drug trafficking, and terrorism. Added to these problems are the transnational crimes, human trafficking, and illegal immigration that plague Poland, which sits precariously between the East and the West. In addition to dealing with these and other common crimes, Poland's police are also addressing the organizational issues for integrating into the European Union. Finally, it

must be noted that the Polish police force, officially formed on August 10, 1990, is one of Europe's youngest.

In spite of these challenges, Polish police have made great strides and are quickly adapting to modern police practices and technology.

As to its reforms it should be said that the Polish police have been aggressively implementing them to update the entire force. One of the current reforms under way involves working with both U.S. and EU officials to develop protocols based on Poland's entry into the European Union.

The negotiations regarding these reforms, protocols, and various treaties are currently under way and appear to be promising for not only U.S. and EU interests but also for the Polish police force's modernization efforts.

The Polish police have also implemented a number of reforms aimed at modernizing its police. One reform has been the strengthening of its relationships with Interpol, which it joined in 1990. Another reform involves working closely with the European Police Office (Europol) and signing a border crossing agreement, which has become all the more important with Poland's admittance to the European Union, for Poland now serves as the eastern border guard for all Europe.

The Polish police have also established a relationship when it comes to training with French and German police, the FBI, and the International Law Enforcement Academy in Budapest [1].

On an operational level, the Polish police have established a modern command-and-control center that uses the latest computer technology and widescreen monitors for tracking crimes, disorder, and police response.

The police have also established the use of the Automatic Fingerprint Identification System (AFIS) for fingerprint identification throughout Poland.

In January 2003, the National Center for Criminal Information was opened to serve as an intelligence gathering and analyzing system at combating organized crime in Poland by sharing information with not only Polish police, but with other European Union members as well.

It's very important to indicate that Polish police have also integrated the National Police Information System (KSIP) for sharing information through a central database that will bring Poland's police

in line with the computer systems used by police in other EU member nations, which is in keeping with the EU plan.

Having analyzed the available material we should conclude that polish experience in reforming polish system to be in line with other EU member nations is very important to Ukraine in its efforts to modernize Ukrainian police system.

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1. ThePoliceChief, vol. 73, no. 7, July 2006.
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ЗМІСТ

НАУКОВЕ ВИДАННЯ

ПРАВОВА ТА ПРАВООХОРОННА ДІЯЛЬНІСТЬ: ЄВРОПЕЙСЬКИЙ ДОСВІД ТА УКРАЇНСЬКІ РЕАЛІЇ

Науково-практична конференція
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