

# **Actual problems of criminal law, criminal procedure and criminalistics**

**Materials of scientific conference**

«East West» Association for Advanced Studies and Higher Education GmbH

**Vienna  
2016**

# **Actual problems of criminal law, criminal procedure and criminalistics**

Materials of scientific conference

ISBN 978-3-903115-04-0

**Editor-in-chief**  
**Consulting editors**

**International editorial board**

**Proofreading**  
**Cover design**  
**Additional design**  
**Editorial office**

**Email:**  
**Homepage:**

Samuel Cuenca, Spain  
Kamila Orzechowska, Poland  
Anton Mackevitch, Russia  
Oana Olteanu, Romania  
Nora Szekeresne, Hungary  
Rima Dzhansarayeva, Kazakhstan  
Květoslava Vitkova, Czech Republic  
Matthias Kuster, Austria  
Valery Gurchin, Ukraine  
Herve Thomas, France  
Tatiana Yashkova, Russia  
Lidija Jovanović, Croatia  
Kristin Theissen  
Andreas Vogel  
Stephan Friedman  
European Science Review  
“East West” Association for Advanced  
Studies and Higher Education GmbH,  
Am Gestade 1  
1010 Vienna, Austria  
info@ew-a.org  
www.ew-a.org

This collection contains materials of scientific conference "Actual problems of criminal law, criminal procedure and criminalistics". The works are aimed at addressing problems such as the modern criminal policy, combating transnational organized crime and corruption, the development of criminal procedure legislation, to ensure the effective investigation of crimes.

## **Instructions for authors**

Full instructions for manuscript preparation and submission can be found through the “East West” Association GmbH homepage at: <http://www.ew-a.org>.

## **Material disclaimer**

The opinions expressed in the conference proceedings do not necessarily reflect those of the «East West» Association for Advanced Studies and Higher Education GmbH, the editor, the editorial board, or the organization to which the authors are affiliated.

## **© «East West» Association for Advanced Studies and Higher Education GmbH**

All rights reserved; no part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Publisher.

Typeset in Berling by Ziegler Buchdruckerei, Linz, Austria.

Printed by «East West» Association for Advanced Studies and Higher Education GmbH, Vienna, Austria on acid-free paper.

## Contents

<b>Section 1. Actual problems of criminal law</b> .....	3
<i>Abbasov A., Shopabayev B.A.</i> Psychological portrait of the terrorist.....	3
<i>Abdulkaum Z., Aratuly K.</i> Murder for hire: the theory and practice.....	7
<i>Abzhabpar A., Daubassova S.Sh.</i> Classification of ecological offenses.....	9
<i>Aizharykova A., Satybaldinov D.D.</i> Scientific validity criminal legal norm as condition of their efficiency (theoretical and practical questions of classification of forms of participation).....	12
<i>Ainakulova D., Malikova Sh.B.</i> Murder committed in aggravating circumstances.....	14
<i>Amangeldy A., Shopabayev B.A.</i> Criminal and legal characteristic of the separate types of corruption crimes.....	18
<i>Baymurat M., Umirbaeva Z.A.</i> Determination of the objective and subjective elements of bribetaking.....	19
<i>Bekbolatuly M., Dzhanarayeva R.Ye.</i> Model Law "On the treatment of animals" in the Republic of Kazakhstan – a step towards solving a number of social problems.....	24
<i>Bekbolatuly M., Dzhanarayeva R.Ye.</i> Research the experience of foreign countries in the fight against prostitution and the possibility of its implementation in the Republic of Kazakhstan.....	26
<i>Bissenova M.K.</i> Features and innovations of the new Criminal Code of the Republic of Kazakhstan.....	28
<i>Boribai M., Bissenova M.K.</i> Manifestation of crimes against property in the new Criminal code accepted on July 3, 2014.....	32
<i>Daubassov S., Razakov A.</i> The problem of illegal migration, and possible ways to solve it.....	34
<i>Dauletbai D., Dzhanarayeva R.Ye., Mukhamadiyeva G.N.</i> Measures to combat juvenile offense.....	36
<i>Yergali A.M., Nurbekova K.</i> The legal framework to combat corruption in the Republic of Kazakhstan.....	38
<i>Yergali A.M., Alimkulov G.</i> Criminological and Victimological characteristics of fraud.....	41
<i>Zhamankenova A., Duzbayeva S.B.</i> Foreign experience of fight against crime of minors.....	44
<i>Kaketayeva Zh., Malikova Sh.B.</i> Juvenile delinquency in the Republic of Kazakhstan.....	46
<i>Karataeva A.M., Daubassova S.Sh., Serikbayev A.M.</i> The subject of legal relations, and their features.....	48
<i>Karataeva A.M., Serikbayev A.M.</i> The concept of legal relations, content and their basic concepts.....	50
<i>Makhmutova A., Mukhamadiyeva G.N.</i> Actual problems of the application of compulsory educational measures to minors.....	52
<i>Muratova A., Taubayev B.R.</i> Positive experience of functioning of penal institutions of Norway and possibility of its use in the Republic of Kazakhstan.....	54
<i>Musagali A., Shopabayev B.A.</i> Psychological and personal features subjects of computer crime.....	57

<i>Nurgaziyeva M., Duzbayeva S.B.</i>	
Features of juvenile crime.....	59
<i>Ordabek K., Aratuly K.</i>	
Problems of corruption and possible solutions.....	61
<i>Omerbayev E.S., Bissenova M.K.</i>	
Criminal law characteristics of economic crimes.....	63
<i>Rakhmetova A., Mukhamadiyeva G.N.</i>	
Psychological portrait of the criminal.....	67
<i>Sartayev S.A., Daubassova S.Sh., Abdykadyrova Zh.</i>	
Theoretical and legal issues to ensure lawful behavior in the Republic of Kazakhstan.....	69
<i>Satybaldinov D.D.</i>	
Cruelty to animals in the foreign and domestic criminal law and criminalistics field.....	72
<i>Satybaldinov D.D.</i>	
Preventive aspects of animal cruelty in the world today.....	74
<i>Sukhanova A., Shopabayev B.A.</i>	
Problems of fight against crime against public safety in the light of legal education.....	77
<i>Taukenbai A., Tlepbergenov O.N.</i>	
The role of criminal politics in the national system of the Republic of Kazakhstan.....	79
<i>Tlepbergenov O.N.</i>	
Techniques for teaching law in the Republic of Kazakhstan.....	82
<i>Tomayeva N., Shopabayev A.B.</i>	
Experience of foreign countries in fight against corruption.....	85
<i>Tokhtakhunova D., Shopabayev A.B.</i>	
Internet as means of influence on consumption drugs and their analogs.....	90
<i>Shopabayev B.A.</i>	
Criminological characteristics of criminality of migrants.....	92
<b>Section 2. Actual problems of criminal procedure.....</b>	<b>102</b>
<i>Abilkhair B., Sharipova A.B.</i>	
The subject of the Truth in a Criminal Proceeding.....	102
<i>Askarbek M., Sharipova A.B.</i>	
The role of the court to protect the rights of man and citizen.....	106
<i>Bekentaeva A., Duzbayeva S.B.</i>	
Professional ethics of the lawyer.....	109
<i>Daubassov S., Abdrazak A.</i>	
Urgent problems of appeals procedure of juveniles.....	112
<i>Zhaksybekov B., Bersugurova L.Sh.</i>	
The role of the Prosecutor's supervision on stages of the criminal process.....	114
<i>Kadyrbayeva G., Zhanibekov A.K.</i>	
The role and legal status of the court in modern Kazakh criminal proceedings.....	117
<i>Kurmankulov A., Alimkulov E.T.</i>	
Some problems of mediation in criminal proceedings the Republic of Kazakhstan.....	121
<i>Kurmankulov A., Bayandina M.O.</i>	
The moral essence of service to society and the state of law enforcement officers.....	125
<i>Kurmankulov A., Bayandina M.O.</i>	
Some problems of acquittal in criminal proceedings.....	127
<i>Mustafa Zh., Duzbayeva S.B.</i>	
Supervision of the legality of executive production.....	128
<i>Myrzakhan Zh., Mukhamadiyeva G.N.</i>	
The legal basis of criminal procedure protection of individual rights.....	131
<i>Okhmetov E., Duzbayeva S.B.</i>	
Lawyer mystery.....	134

<i>Paizova A., Duzbayeva S.B.</i>	
Need of institute of mediation in criminal proceedings of Republic of Kazakhstan.....	135
<i>Senkibayev B., Mukhamadiyeva G.N.</i>	
Features of the preliminary investigation of the juvenile.....	138
<i>Suleimenova A.</i>	
The role of the investigating judge in the new Code of Criminal Procedure of the Republic of Kazakhstan.....	141
<i>Suleimenova A.</i>	
Issues of admissibility of evidence in light of the new criminal procedure legislation of the Republic of Kazakhstan.....	143
<i>Sukhanova A., Duzbayeva S.B.</i>	
Prosecutor's supervision over execution of the legislation on juveniles in the Republic of Kazakhstan.....	146
<i>Tanatar A., Mukhamadiyeva G.N.</i>	
The necessity of introducing in the criminal proceedings of the Institute of the investigating judge.....	149
<i>Tasova M., Mukhamadiyeva G.N.</i>	
Equality of the parties as a principle of criminal proceedings.....	152
<i>Tasova M., Mukhamadiyeva G.N.</i>	
Legal regulation of publicity in criminal proceedings.....	156
<i>Tasova M., Mukhamadiyeva G.N.</i>	
The legal nature of the principle of openness in criminal proceedings.....	159
<i>Tolegenova A., Zhanibekov A.K.</i>	
The concept and essence of prosecutorial supervision.....	162
<i>Toleuova A., Alimkulov E.T.</i>	
The investigative judge - as the factor of the system controls and counterbalances.....	163
<i>Tynysbek A., Duzbayeva S.B.</i>	
Legal basics of mediation development in Kazakhstan.....	168
<i>Sharipova A.B.</i>	
The activity of the court and adversarial of parties in criminal proceedings.....	170
<i>Aldabergen A., Duzbayeva S.B.</i>	
Mediation - the art of resolving conflicts.....	173
<b>Section 3. Actual problems of criminalistics.....</b>	<b>175</b>
<i>Adanbekova Z., Daubassova S.Sh.</i>	
Some aspects of the forensic classification of environmental crimes.....	175
<i>Aizharykova A., Satybaldinov D.D.</i>	
Method of investigation of a crime related to drugs.....	177
<i>Aitzhanova B., Daubassova S.Sh.</i>	
Problems of pre-investigation and interrogation in legal enquiry arrangement.....	180
<i>Amanov R., Shopabayev B.A.</i>	
Problems of the theory of judicial examination: methodological aspects.....	183
<i>Appazov E., Shopabayev B.A.</i>	
Features of survey of material evidences research of traces of breaking.....	184
<i>Daligul S., Shopabayev B.A.</i>	
Judicial ballistics and judicial and ballistic examination.....	185
<i>Daubassova S.Sh., Abdizhappar I.</i>	
Forensic recommendations of interrogation.....	188
<i>Daubassova S., Ibraimov M.A.</i>	
About categories of forensic tactics.....	192
<i>Yeleuov M., Daubassova S.Sh.</i>	
Judicial examination in the Republic of Kazakhstan.....	196

<i>Esen U., Shopabayev B.A.</i>	
Object and subject of judicial examination in the theory and practice of a judicial expertology.....	198
<i>Zhalkpbekov N., Daubassova S.Sh.</i>	
Detection and research of microobjects.....	200
<i>Zhumabayev A., Shopabayev B.A.</i>	
Forensic medical examination of living persons.....	202
<i>Ibraimi M., Shopabayev B.A.</i>	
Role of natural, exact and legal sciences in judicial handwriting examination.....	204
<i>Imashev A., Shopabayev B.A.</i>	
Features of judicial and accounting examination within a judicial expertology .....	208
<i>Marat A., Shopabayev B.A.</i>	
Some problems of judicial examination at the present stage.....	210
<i>Mashkenov M., Shopabayev B.A.</i>	
Stages of carrying out expert research.....	212
<i>Rakhmetova A., Aryn A.A.</i>	
Legal, organizational and methodological problems of criminal techniques.....	213
<i>Stybayeva A., Duzbayeva S.B.</i>	
Tactics of minors interrogation.....	215
<i>Sultan D., Shopabayev B.A.</i>	
Some questions of trasological examination.....	218
<i>Tabyldiyev K., Tapalova R.B.</i>	
The value of specialized knowledge in the consideration of environmental offenses in civil proceedings.....	220
<i>Umbetalin N., Shopabayev B.A.</i>	
Basic concepts of the theory criminalistic identifications, diagnostics and situalogiya.....	222
<i>Hamzina Z., Shopabayev B.A.</i>	
Production of examination in court.....	224
<i>Hasenova A., Shopabayev B.A.</i>	
Separate problems of use of the polygraph.....	225
<i>Shopabayev B.A.</i>	
Trends in the development of judicial expertise in the Republic of Kazakhstan.....	227

particularly France, where the Law "On a selective immigration" was adopted. According to the law, entry is allowed only for the working foreigners and stateless persons, and, mainly for skilled workers; others are only allowed if they are needed or that specific sector of the French economy [2].

The main task, which is now before us - is the formation of an effective migration policy. This problem is equally relevant for us and for other countries of Europe. This is the basis for sustainable growth of the economy, social justice and empowerment of Kazakhstan.

#### References:

1 Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders / K.G. Borisov. International Customs Law. - M., Second Edition, Revised 2001.

2 French law "On a selective immigration."

*Dauletbai D.  
First-year Master's Student  
Department of Criminal Law,  
Criminal Procedure and Criminalistics  
Faculty of Law  
Al-Farabi Kazakh National University*

*Dzhansarayeva R.Ye.  
Doctor of law,  
Department of criminal law,  
Criminal procedure and criminalistics  
Faculty of law  
Al-Farabi Kazakh National University*

*Mukhamadiyeva G.N.  
Candidate of legal sciences,  
Department of criminal law,  
Criminal procedure and criminalistics  
Faculty of law  
Al-Farabi Kazakh National University*

#### Measures to combat juvenile offense

**Abstract.** This article discusses the issues about juvenile offense. Also special attention is paid for finding main reasons of delinquencies. An authors gave a list of some combat measures to prevent offences committed by adolescent.

**Keywords:** juvenile, offence, delinquency, prevention, combat, measures.

Juvenile delinquency is committing criminal acts or offenses by a young person, generally involving people under the age of eighteen. Adolescents - an important, integral part of society, on which depends the future level of culture and consciousness of society [1, p.25].

I would like to mention five major causes of offenses by persons under the age of majority:

- 1) lack of attention from parents, relatives and friends;
- 2) the absence of the educational function in the system of education;

3) weak prevention of juvenile delinquency;

4) poor organization of social work with minors;

5) too soft responsibility for the offense;

I. e, the elimination of the negative points above and consideration of these issues will help to reduce the level of crime committed by juveniles [2, p.30].

V.B. Konovalov notes the particular juvenile delinquency prevention system, in which we can identify:

1) early prevention, which is aimed to establish the circumstances, adversely affected on the formation of the identity of minors and prevention of their transition to crime;

2) the establishment of the circumstances, which has already entailed the commission of specific offenses of minors;

3) prevention of relapse. [3, p.33]

Also, according to many authors, public authorities and civil society organizations should carry out the following preventive and educational measures in order to prevent juvenile delinquency:

1) improve the living conditions, education and upbringing of minors in cases where the situation threatens their normal development;

2) set the source and stop the action of anti-social influence;

3) impact on minors, having deviations in behavior in such a way, so as not to give a foothold antisocial attitudes and habits.

Also important is the fact of individual prevention effect on the minor's personality and his environment. The main elements of the impact warning system are:

- Thorough study of minors who can commit the offense;

- defining the main measures and activities. Based on them, it would be possible to achieve these goals in practice;

- production of rational methods of organization, control and determine the effect of individual preventive effect. The purpose of individual prevention of offenses committed by juveniles are correction and re-education of teenager or changing his criminal orientation. Hence, we can find the necessity to solve the problem of establishing patterns of deviant

behavior, the mechanism of its formation and change [3, p.38].

To do this we need to:

- Identify juvenile, behavior, attitudes, motives of actions, which indicate the possibility of the offense;

- Study the personality of the adolescents;

- Identify and eliminate the sources of negative influence on them;

- Explore the possibility of creating an enabling environment in order to prevent the implementation of criminal intent;

- Monitor the behavior of juveniles and their way of life;

- Periodically review the results and make appropriate adjustments to the job [2, p.35].

In addition legal scholars remark, the so-called second-level measures. Second-level measures relate to the establishment of the circumstances that have resulted offenses by minors, so as to prevent the commission of offenses as these teenagers and other minors who are under the influence of the same negative effects.

These include:

- The timely prevention of illegal activities and prevention of the possibility of its continuation, selecting the right preventive measures;

- Providing educational and preventive action at the trial of cases of juvenile delinquency;

- The use of punishment, which provides the correction and rehabilitation of juvenile offenders;

- The measures to those who involved minors in illegal activities, and who maliciously doesn't carry out child-rearing responsibilities;

- The elimination of the causes and conditions that contributed to the commission of offenses by making representations, individual rulings, legal advocacy and other both procedural and procedural means [3, 40].

The third warning level is aimed to combat juvenile re-offending.

It includes measures:

1) to redress and rehabilitation of juvenile offenders;

2) to curb the sources of negative influence in the family and domestic environment of adolescents who committed offenses before;

At this level, an important place belongs to the organization and conduct of legal advocacy.

Organizationally, the juvenile delinquency prevention system is performing its specialized agencies.

Specialized agencies means the functioning of bodies, offices, individual officials entrusted with the organization of the fight against homelessness, juvenile delinquency [1, p. 105].

Specialized agencies are endowed with certain powers. In their activities specialized agencies use specific forms and methods, which take into account the peculiarities of psychology, the legal and factual situation of the legal and social groups have a fairly wide range of measures to influence not only on the minors themselves, but also those who are obliged to be engaged in education.

"Young people - the foundation of our future, will receive new possibilities to build their future. These are the new opportunities offered to each of you, to your family, to our country," said the president of the Republic of Kazakhstan Nursultan Nazarbayev in his Address to the Nation" New Decade - New

Economic Growth - New Opportunities for Kazakhstan", Astana, January 29, 2010 These lines show us how important the role of minors is in our country. We are responsible for it. It is in our interests to make changes, and it should be started from the children, from the future generation [3, p. 67].

In conclusion, it should be noted that the illegality of minors with significant prevalence requires decisive, energetic and purposeful measures to prevent it. To do this, constantly improve the forms and methods of work of the internal affairs bodies, to ensure their priority appropriately staffing recruitment and procurement.

The objective is primarily to reduce the level of juvenile crime, avoiding the corrupting influence of juvenile offenders to other teens and replenish their ranks adult repeat offenders.

In addressing these and other tasks important role belongs to the measures of general and individual prevention, applicable law-enforcement bodies in order to eliminate the causes and conditions contributing to juvenile delinquency [2, p. 55].

The effectiveness of these activities is largely dependent on how these measures are based on the provisions developed in criminology, criminal law, criminal law enforcement, psychology, pedagogy.

#### References:

1. Dolgova A.I. Criminology: A short training course. M.: "Norma", 2006. – 341 p.
2. Abdirov N.M. Early detection of juvenile antisocial behavior foundation of effective crime prevention. - Karaganda 1989. – 95 p.
3. Begaliyev K.A. Prevention of neglect and juvenile delinquency. - Alma-Ata: «Kazakhstan», 1980. – 262 p.

*Yergali A.M.  
PhD Doctor  
Department of criminal law,  
Criminal procedure and criminalistics  
Faculty of law  
Al-Farabi Kazakh National University*

*Nurbekova K.  
4th-year Student  
Department of Criminal Law,  
Criminal Procedure and Criminalistics  
Faculty of Law*