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Psychological portrait of the terrorist

Abstract. In the present article the author considered a psychological portrait of the terrorist.

Keywords: terrorism, act of terrorism, psychological state.

Clarification of the reasons of terrorism is one of the main conditions for development and implementation of measures for his prevention, from that, the reasons of this especially dangerous crime will be how precisely established, efficiency of the taken measures for fight against him and their further improvement will depend.

It is possible to allocate the following groups of the factors promoting distribution of terrorism:

1. Political factors.
2. Economic factors.
3. Social factors.

The theory deserving attention about the reasons of involvement in terrorism is, the theory of "a ladder to terrorism" of the American psychologist Mogaddam. He presents a way to an act of terrorism in a building image which each floor is a new step of motivation of the terrorist.

The underground floor is the psychological interpretation of living conditions, the most important on it is a feeling of injustice or deprivation that is called a deprivation.

The people dissatisfied with the life pass to the first floor where look for an opportunity to fight against injustice. Here the psychological factor of aspiration to justice, and also disappointments is important if he doesn't manage to achieve.

The second floor is wreaked by aggressions; it occurs, as a rule, at intergroup interaction and is connected with the fact that leaders of groups can direct the negative emotions accumulating in group out of her limits.

The third floor on which in future terrorist installation according to which society is unfair is put is extremely important, and the terrorist organization pursues noble purposes, - and not vice versa. Moral justification of terrorist actions directs people further, to commission of acts of terrorism.

On the fourth floor the social categorization - extremely effective psychological process leading to isolation of group and discrimination of the people who are out of it takes place. Categorical vision of the world on the model "we against them" is one of the main signs of the terrorist organization and people attracted with it.

The fifth - and the most top - the floor of the building described in the theory is a act of terrorism and an opportunity to separate psychologically from the victims, the constraining mechanisms limiting aggression haven't turned on yet.

Thus, it is possible to say that the psychological science has taken a step forward in establishment of the reasons of formation of terrorists: if several decades ago scientists spoke about mental inadequacy of terrorists

that not so much solved a problem how many it was discharged of her decision, then more objective psychological mechanisms explaining appearance of terrorists have been found subsequently.

In this article we want to consider what is represented by the people conducting terrorist attacks from the point of view of psychology? What psychological motives of actions of terrorists and the reason on which terror keeps high ability to self-reproduction?

In absolute majority of cases terrorists are young people at the age of about 20 years, plus or minus five years which have received education in patriarchal and very religious culture.

At their consciousness usually there are steady ideas of a historical trauma of the nation and powerful emotional communications with the last. Typical social feelings - grief and a grief, in combination with the restrained national pride. Most often are characteristic of terrorists special (in many respects - distorted and mythologized) ideas of "the historical offender" and need for his punishment and punishment which are set by the steady patterns of behavior and estimates which are actively cultivated in society. These representations, most likely, are supplemented with the actual mental trauma connected with the real facts of death of the family, relatives or just tribes people, is frequent - directly in the face of future terrorist.

At individual history, as a rule, there is an early deprivation of parental care and attention, and also the traumas youth which is carried out in deprivations and being followed by numerous humiliations and losses (at home, relatives, property, the social and material status, etc.).

Lack of emotional communications in the childhood in the subsequent is usually compensated in their ideological or religious option, in particular, in fanatical devotion to these or those leaders or ideas (up to ideas by god chosen) and to religious and utopian dreams of the perfect world (with very simplified ideas of him).

The characteristic world outlook components and prerequisites peculiar to the people conducting terrorist attacks:

- time sense shift - the past is included in the actual present;

- deleting of borders between reality and the imagination;

- some naivety in combination with blurring of moral restrictions;

- combination of borders of the good and evil, in some cases existence of apocalyptic experiences and imaginations in combination with ideas of Messianizm;

- a BDSM position - pity to and the tribes people in combination with hatred to the real or mythological opponent and readiness for self-sacrifice;

- identification with an aggressor, that is existence of ideas of type: "if I am an aggressor, then I won't become object of aggression";

- limited ability to understand and accept arguments of those who think differently;

- a certain loss of rationality, especially in the sphere of ideas of the available and inaccessible purposes and ideals; at the same time, if the purpose is inaccessible, the ersatz purpose can become total orientation to destruction of everything that interferes with achievement of the purpose even if it won't bring closer realization of the last in any way.

Now we will consider in more detail a portrait of the suicide bomber.

1. General information

These are teenagers of 7-14 years, young people, girls of 15-17 years, orphans from needy families who don't have influential relatives, young widows, as a rule, aren't more senior than 35 years, deeply believing (Muslims) of the man of middle age, the committed religious or household crimes and condemned by sharia courts to the death penalty. More often it is people lonely, not having close relatives or lost touch with a family.

2. External signs and signs of behavior

Terrorists often look is more senior than the years. Men are, as a rule, clean-shaven (preparation for a burial ceremony), in perfectly pure footwear. The suicide bomber can have detached or, on the contrary, the concentrated look, to keep watchfully, separately from others. For masking of the female suicide bomber can give themselves for pregnant women, persons with various mutilations can be used (without hand, a leg,

an eye, etc.) . Suspicious (unnatural) cambers around a belt can take place, the wearable objects disguised under a household subject, a backpack, a bag, a baby carriage and so forth which the terrorist treats it is increased carefully. He usually presses things to himself and periodically involuntarily feels them. Odette, as a rule, in the clothes corresponding to local conditions, style, weather. But the clothes can not correspond to weather for concealment on a body of the explosive device (in a zone of carrying out the military uniform of clothes can be used). As the drive of a detonator of the explosive device usually serves the cord or a wire gripped or which is seen from under folds of clothes (sleeve).

Characteristic of behavior of suicide bombers is the noticeable unmotivated excitement accompanied with plentiful release of sweat, and sometimes and saliva, special attention to a surrounding situation and people. Some of them say prayers with transition to whisper at approach of strangers.

3. Motivation of behavior

a) religious, national, political fanaticism;

b) the seeming life hopelessness caused by set of adverse circumstances: social and economic (poverty, lack of means of livelihood, vital prospects, loss of relatives, dear people in the military conflict, low educational, intellectual, spiritual level); ethno cultural (remnants, past foundations, patriarchal traditions, customs, abjection, lawlessness of a role of the woman in a family); psychological (loss of meaning of life, indifference of authorities, surrounding, spiritual, emotional, information, communicative isolation); psycho physiological (apathy, aggression, frustration, fear, the increased susceptibility to suggestion of ideology of the "aggressive Islamization" which is followed by glorification and a mythologization of "feats" of shahids);

c) other set of a difficult motivational complex which cornerstone contrast of negative is - unwillingness to continue life, brought to disgust for life, - and positive components: charitable (it is material to provide, at least for some time, a family, to please parents, a sort, the husband, darling); ideological (belief in own mission, a select , service to the highest idea, spirit, to Allah, the distorted understanding of the patrimonial, conjugal, religious, civic or corporate duty, performance of a responsible and honorable task, assignment); spiritual and religious (desire to be cleared of a sin, to wash away guilt, to come, to merge with Allah), psycho regulators (disposal of alarms, fears, phobias, feelings of inferiority); self-realizable (commitment to excellence, partnership in the general fight); emotional (revenge for the harm done to companions on fight, brothers in faith, tribes people, relatives, colleagues on political activity etc.).

4. General and special preparation

Level of the general training of suicide bombers has no basic value. All special preparation is reduced to achievement of implicit submission to mentors and readiness for self-sacrifice.

As an additional element of ideological training of young male suicide bombers it can be used:

- opposition of youth to parents and people of the senior generation;
- promotion among Muslim youth of ideology of neglect to work, a physical activity, social justice;
- instilling of feeling of special wahabite advantage and superiority over the persons practicing Islam of other sense;
- a compromise of customs and family foundations by Islamic traditions, traditional for this district, instilling of feeling of disrespect for official Muslim clergy, denial of their doctrine among believers;
- promotion of the simplified execution of Muslim ceremonies (combination of several prayers, denial of requirements of traditional school of Islam) in wahabite communities and jamias;
- imposing (including by methods of physical pressure) thoughts of leaving from national custom and transition to positions of "pure Islam";
- planting of feeling of impunity for infringement of property "incorrect" (movable and immovable), life and health of "kaffirs";
- appeals to manifestations of "jihad" with a use of weapons, explosives, poisons;
- propaganda to replacement of Slavs from the North Caucasus and to capture of

their property by power methods.

As elements of ideological training of young girls ("Allah's brides") it can be used:

- forthcoming marriage;
- sexual violence which is fixed on video;
- the prevention of the victim and parents that record of violence can become known to all friends and relatives;
- powerful ideological and psychotropic pressure, which purpose — to show that the only exit — "death for the sake of Allah".

As elements of ideological training of women of average years ("black widows") it can be used:

- a separation of these women from a family and the maximum submission to jamia (a wahabite community);
- powerful brain washing and schooling to psychotropic drugs;
- programming of actions according to the scenario of organizers of the terrorist attack.

As elements of ideological training of inhabitants of various nationalities of the concrete region psycho programming can be used.

5. Features of social disadaptation

Features of social and psychological disadaptation are connected with the increased uneasiness, isolation, the orientation only to narrow group of mentors increased by passivity, destruction of the personal sphere. Available constantly unstable, inadequate self-assessment. And she can be as overestimated (to feeling of the superman deciding destinies of other people), and underestimated (needing confirmation at the expense of these other people). Commitment is only the fixed moment of the psychological instability reaching abnormality level. The personality is accented, with unusually strong, bright, not quite "normal" expressiveness of some lines.

6. Dynamics of a mental state

The mental condition of the terrorist can change from hardly noticeable excitement before panic. Character and extent of change of a mental condition of the terrorist depend from:

- individual and psychological features;
- preservations of a submission to control of a psychological state when understanding: the coming death, existence of the factors interfering the implementation of an act of terrorism (police officers, vigilant citizens, adverse combination of circumstances, etc.);
- uses of psycho programming, psychotropic and narcotic substances.

Summarizing knowledge from the field of psychology, sociology, political science, psychiatry and neurophysiology, creation of a social and psychological portrait of the terrorist as special criminal is possible. Undoubtedly, the question concerning terrorists arises: perhaps, it is just mad? Psychological researches of the personality who has made an offense lead to a conclusion that the aspiration to violence, murder, cruelty and in general to violation of the law is deviant behavior or anomiched (from the Greek word "apomia" - denial of the law). The terrorist, as the person who has violated the law, it is also possible to carry to the category the anonymous of persons. These individuals deny the moral values accepted in society, can't correctly estimate the situation in group of other people, set the unacceptable purposes and use illegal means of achievement, that is process of adaptation and socialization of the personality is broken.

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Murder for hire: the theory and practice

Abstract. The article raises the question of jurisprudence associated with isolated cases of conviction for murder for hire. Also to be considered theoretical aspects of this problem.

Keywords: Murder for hire, criminal law, criminal code, concept of murder etc.

The problem of contract killings should be considered multifaceted, i.e. from the position as criminal law and other Sciences, for example, of criminology. According to A.A. Gartenzaun, "criminal law and criminology "act" together and all crimes are investigated in the unity of their criminal-legal and criminological characteristics"[1].

The legislator, seeking to unify the concept of murder, at the same time, we have believed that there are specific cases, although formally falling under the signs of murder, but, in fact, wearing a slightly different nature, primarily for the murderer, because intent to cause the death of another person occurs under conditions of traumatic situation or in a state of mental breakdown, and still unclear situation caused by the threat of life for the assassin. In these cases, a unified concept of murder, in particular, applied to punishment cannot be applied. Therefore, independent of the murder provided in the criminal code of the Republic of Kazakhstan, is not contrary to the General desire of the legislator to unify the concepts of murder on the basis of the similarity of compositions. In a changing socio-economic situation in the Republic of Kazakhstan the Commission of murder for hire happens too often, they have become a phenomenon symbolizing a modern country, a factor destabilizing the normal operation of the state apparatus, dramatically changing the value orientation of the population, the idea of protection of human life. Technical progress and accumulated by humanity skills have qualitatively changed the methods of crime in General. Not the last role was played by changes in legislation and the destruction of the Soviet law enforcement system, the absence of developed methods of solving such crimes, the lack of funding of law enforcement agencies and the consequent lack of qualified personnel.

Physical elimination of the competitor, the opponent, the opponent, the debtor, the creditor has become a common method of solution. Currently law enforcement is increasingly faced with the problem of a surge of murders that, as correctly noted in the literature, become a "service factor" in the sphere of economic activity, both legal and illegal. We are talking about the elimination of

competitors, intimidation and solution thus various problems in the field of business, etc. [2].

In judicial practice are not isolated cases of conviction for murder for hire. As shown by the generalization, murder for hire, or the so-called custom-made murders, were committed with the purpose of return of a loan, taking a room in a communal apartment, with the purpose to get rid of wife and get a lump sum on the occasion of his death, to get rid of an accomplice jointly committed crime out of fear of being exposed and so on [3]. The legislator uses the term "murder for hire", in the press and everyday speech ingrained the phrase "contract killing". I think that some unnecessary in the use of the terms "assassination" and "hired murder" occurs due to their different applications: "a contract killing" - a concept used in criminology, "homicide for hire" - specific qualifying sign of murder and operate with the theory and practice of criminal law.

The current crime situation in the Republic of Kazakhstan is a new phenomenon, as the scale of criminal manifestations and devastating impact on the livelihoods of societies, the functioning and security of the state, rights and freedoms of its citizens. Murder cases, is called, as a rule, the greatest public resonance, and on the results of their investigation, the citizens largely judged on the effectiveness of law enforcement [4].

From the criminological point of view it is important to distinguish all the studied array of intentional homicide two groups, conventionally referred to as "traditional" and "nontraditional." "Traditional" is well known and mastered by the criminology premeditated murder, committed in the sphere of culture and leisure.

The second group of "non-traditional" killings related to organized, professional crime, had no such wide circulation (murder to order, various kinds of criminal acts in business, eliminate competitors, etc.), the investigation of which is of the greatest complexity, it is one of the reasons of their low detection rate [5]. "Non-traditional" murder although a relatively small percentage of all murders committed, have a particularly high public risk. Such killings are almost always committed with direct intention. That is characterized by boldness, cruelty, sophisticated methods of concealment of traces of crime, and hence high complexity of the disclosure. Besides the inability to restore human life, touches on broad areas of social relations (Economics, politics, law, etc.), and therefore there are usually adverse reactions: retaliatory acts of aggression, disrupting the normal functioning of public institutions. The commitment of "non-traditional" murder always affects more people, directly or indirectly affects a very wide circle of human relations.

Murder for hire in a number of "non-traditional" is particularly significant, their prevalence, the complexity of the disclosure introduce them to the leading position from the point of view of their social danger. They became a factor significantly influenced the way of life in modern Kazakhstan. The legislator formulates the qualifying sign "murder from mercenary promptings or on hiring". How should we understand this formulation? It seems that the element of interest is required to be able to incriminate a murder committed for hire. Greed is the qualification of a number of crimes, including murder. Ulterior motive is characteristic primarily for property crimes. But the law does not associate the concept of gain only with crimes against property. It seems that greed is inherent only to those crimes which the offender seeks to obtain material benefits.

The mercenary motive at murder covers material gain in the widest sense. It cannot be reduced only to the misappropriation of property and money, although as practice shows, murder from mercenary motives most often committed in order to seize the property and money. Greed killing is not only the acquisition of material gain, taking what had not guilty to murder, but also the desire to get rid of any material costs now or in the future, to save material possessions, which will have to leave legally.

Admits the murder committed from mercenary motives, regardless of who is the victim: the owner of the property (other valuables), or the person from whom it was in use or which it is deposited. The victim may be a person, the death of which the perpetrator hopes to receive some law of material nature.

For recognition of the murders committed from mercenary motives don't matter who can obtain the material benefit of the offender himself or his family, such as family members, other persons in which he is interested. Murder from mercenary motives must be distinguished from killings for other reasons. Errors in the qualifications, usually be permitted due to the fact that recognized such selfish motives and circumstances which have with them only a superficial resemblance.
In practice there was a question on qualification of actions of persons who committed murder in order to keep or maintain the property, already owned by the perpetrator. Mercenary motives of the murder suggest the pursuit of unlawful misappropriation of property or other valuables in the possession of the victim, or the desire of a person will receive material benefits from the Commission of the crime by other means. Likewise cannot be considered murder from mercenary motives deprivation of life of the person who committed the theft. Here the guilty party in a murder is also guided by the desire to avenge the theft of property and any benefits as a result of the murder does not extract. Incorrectly be attributed to selfish and a murder committed in connection with the failure to return the victim previously taken debt, because the creditor is no material benefit from it.

To mercenary killings refers murder for hire when a murderer takes someone's life to someone who promised to pay or have paid for the murder of a reward. The defining feature of murder for hire is a subjective crime. The employer and the contractor accounts for the minimum possible set of partners. For qualifications under article 99 of the criminal code of the Republic of Kazakhstan rather have a mercenary motive, only an artist who would be to attempt to win an award. Murder for hire is not in all cases can be accomplished only because of the money. There may be other motives, for example, the promise of "customer" to arrange by killing a high-paying job, to ensure adoption in an educational institution, to promote. The motivation of the employer may be different, although as shown by special studies of murder for hire made more often from selfish motives [6].

Considering the murder for hire as a kind of selfish, we can identify a number of important criminal legal consequences. All typical mercenary murder in the murder for hire with the necessary changes, due to the complex nature of relations between partners.

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Classification of ecological offenses

Abstract. in this article the general concepts classification of ecological offenses are considered. Along with it, authors various classifications of ecological offenses on types depending on approaches in differentiation of ecological offenses move forward.

Keywords: ecological offense. Objects of environment. Environment components. Ecological crimes

S.T. Kulteleev from the general category of environmental offenses is isolated like an independent type of offenses - water offenses, while it is noted that in some cases at the same time can be committed as water and subsoil, land, forest, water offenses, taking into account the object of infringement [1].

Professor V.V. Petrov classifies ecological offenses into three groups:

a) violate the right of ownership, possession, use of natural resources;

b) contrary to the ecological requirements of protection of the environment;

c) prevent to the economic exploitation of natural resources (destruction of landmarks, damage to hydraulic structures, etc.) [2, p. 27.].

In the textbook "Environmental Law of the Republic of Kazakhstan" by D.L. Baideldinov, S.D. Bekisheva indicate that reducible by V.V. Petrov classification of environmental offenses is controversial, they justify their opinion by the following grounds: First, offenses, which violate the right of ownership of natural resources, cannot be associated with environmental damage. Secondly, preventing to the economic exploitation of natural resources would hardly be called an environmental offense due to the absence of environmental damage [3, p. 20.]. Thus, quite naturally and rightly emphasizes the mandatory feature of environmental offenses - the presence of a threat of environmental damage.

Along with this, various classifications of environmental offenses are put forward into categories depending on the approaches in delimitation. So, in her monograph "Environmental law" N.V. Kuznetsova shows broad classification of environmental offenses by the following criteria:

- By type of natural resources and environment objects to which is caused damage, are allocated land, forest, water offenses, violations of the law on subsoil, fauna, air and so on.;

- By characteristics of caused damage - pollution of the environment and separate natural objects (forests, waters, mineral resources, land and others.); damage, injury, destruction of natural objects (deterioration of land, the destruction of animals listed in the Red Book, damage of forests by sewage, chemicals, industrial and municipal waste, and others.); the depletion of natural resources (depletion of surface and underground water, selective mining of rich sites of mineral deposits, leading them to the unreasonable loss and others.); irrational use of natural resources (for example, wasteful water use, improper use of agricultural land, and others.).

- By characteristics of applied sanctions, that is, depending on the type of the coming responsibility - criminal, administrative, civil legal, disciplinary and other offenses. According to the degree of social danger - environmental crime, criminal offenses and environmental offenses (administrative, civil, disciplinary offenses) [4. p. 25.].

So, recognizing the importance of criminal law provisions for the criminology, N.P. Yablokov indicates to the lack of criminal and legal characteristics for generating scientifically based special techniques of investigation that would meet the current needs of investigative practices because the criminal and legal signs in most cases are not be able to take into account all the peculiarities of criminal acts that are relevant for them to detection and investigation [5. p.262].

During the investigation environmental crimes should be considered as far as they are diverse, specific. Environmental crimes as wrong unlawful acts which violate environmental regulations and causing harm to the environment or human health by pollution, damage, destruction, injury, irrational use of natural resources, destruction of natural ecological systems differ from other acts extremely by complex subjects of a criminal assault. From the perspective of the natural

sciences (chemistry, biology) components of the ecological system of the Earth - millions of species, subspecies of organic and inorganic variety. Consideration of environmental components - environment, natural object, natural ecological system, natural landscape, natural complex, natural and anthropogenic object, etc. require a comprehensive study of forensically important information necessary for disclosure and investigation of environmental crimes and need concretized by content special knowledge to collect and investigation of the evidentiary information. For example, in the case of the mass death of fish determining the cause of its death is required knowledge in the field of ichthyology and water environment of their habitat; mass death of birds - in the field of ornithology and their habitats of the atmosphere, water environment; the cattle deaths - determining the cause require specialized knowledge in the field of veterinary medicine and animal science and also environment, etc. A completely different approach is in the case of ecological offenses such as littering and pollution of lands, or failure to observe environmental requirements in the storage, burning, recycling, and disposal of industrial, household or radioactive waste. Radically differs investigation of environmental offenses in the case of the illegal hunting, fishing and other acts directed against specific representatives of fauna and flora. The foregoing demonstrates the need of the classification of these offenses with forensic point of view, and in the future on bases of carrying classification to conduct the development of individual techniques.

Depending on the purpose of the law enforcer may be elected a wide variety of classification grounds, respectively, and the number of classifications cannot be limited. In the framework of research for us greater interest is the system of environmental crimes in respect of which are required in develop recommendations on the detection, investigation unified tactical and methodological basis, i.e. relying on existing criminal law classification to differentiate them already by forensically important features.

By studying the classification of environmental offenses, the author supports the view of a number of scientists conducting this classification by the following criteria: a) by the subject - to committed by officials, citizens, legal persons; b) by subjective side - to committed guilty, i.e. intentionally and recklessly, without cause; c) by source of law contained a rule of conduct and sanctions for its violation - to provided only by environmental legislation, but other (e.g., criminal) law, by both of them; d) by belonging of the subject, which is empowered to implement the measures of legal responsibility - to punishable by judicial and administrative authorities (officials) and international judicial and administrative authorities.

After analyzing a number of scientific opinions and currently in force CC of RK and on the basis of the purpose of developing methods of detection, investigation of environmental crimes should be summarized the fact that on the basis for the classification of environmental offenses, in the first place shall be, the substantive essence of the main elements of criminological characteristics, namely, the personal characteristics of perpetrators of these acts, methods for their actions, features of the subject of a criminal assault and picture trace of the act. It seems to give more or less adequate forensic characterization of environmental act or group of acts appropriate, apparently need to give the following classification of environmental crimes [6.]:

1. To the first group combine such crimes as violation of ecological requirements to economic and other activities (art. 324 CC of RK); violation of veterinary rules or rules established to deal with plant diseases and pests (art. 327); pollution, contamination or depletion of water (art. 328 CC of RK); pollution of the atmosphere (art. 329 CC of RK); marine pollution (art. 330 CC of RK); land damage (art. 332); failure to take measures to eliminate the consequences of environmental pollution (art. 343 CC of RK); violation of the legislation on the continental shelf of the Republic of Kazakhstan and the exclusive economic zone of the Republic of Kazakhstan (art. 331 CC of RK).

2. To the second group include the violation of environmental requirements when dealing with environmentally potentially dangerous chemical or biological substances (art. 325 CC of RK); violation of environmental requirements when dealing with microbiological or other biological agents or toxins (art. 326 CC of RK).

3. To the third group include illegal extraction of fish resources and other water animals or plants (art. 335 CC of RK); violation of rules of protection of fish stocks (art. 336 CC of RK); illegal hunting (art. 337 CC of RK); illegal felling, destruction or damage of trees and shrubs (art. 340 CC of RK); destruction or damage of forests (art. 341 CC of RK); violation of the regime of specially protected natural territories (art. 342 CC of RK).

4. The last group should combine crimes such as violation of the rules of protection and use of mineral resources (art. 333 CC of RK); willful use of mineral resources (art. 334 CC of RK); violation of the rules of protection of fauna (art. 338 CC of RK); illegal treatment of rare, endangered and also prohibited to use species of plants or animals, their parts or derivatives (art. 339 CC of RK).

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Scientific validity criminal legal norm as condition of their efficiency (theoretical and practical questions of classification of forms of participation)

Abstract. Actuality of research theme is related to the special public danger of the organized crime, that does a fight against her one of priority directions of law-enforcement activity. It is explained not only by that the organized crime causes harm of life and to the health of citizens, and also property harm to society, but also by more serious and substantial factors.

Keywords: crime,committed crime, criminal society, criminal participation.

In the criminal law of Republic of Kazakhstan four forms of participation are envisaged: group of persons, group of persons on a previous concert, organized group and criminal society (criminal organization). The analysis of determinations of the forms of participation, driven to the criminal law, shows that their formulations are certain not enough,

that quite often conduces to the errors and difficulties during qualification of crimes. In this connection, a problem of differentiation of separate forms of criminal participation is actual.

So, 1995 to in textbooks on a criminal law participation was subdivided into two forms: simple and difficult (although the row of researchers assumed another his forms). If to trace the dynamics of changes of forms of participation on the legislation of Republic of Kazakhstan, then it is possible to mark the following. For example, President president of republic of Kazakhstan, valid law, from March, 17, 1995 "About outside changes and additions in some legislative acts of Republic of Kazakhstan" determined participation in three forms:

1) group of persons, committing crime on preliminary to the conspiracy;

2) the organized group;

3) criminal society (item 17-1) [1].

Criminal code of RK 1997 year envisaged already six his forms: a 1) crime accomplished by the group of persons; 2) the crime accomplished by the group of persons on a previous concert; 3) the organized group; 4) criminal society; 5) the transnational organized group; 6) transnational criminal society. Last two forms, i.e. the transnational organized group and transnational criminal society were inculcated in a criminal code as addition.

New Criminal code of RK from July, 3, 2014, renouncing a concept "Forms of criminal participation", in the article 31 observing initial two forms of participation the name and determination, the third generalized concept "Criminal group" leads. Part 3 articles 31 formulates determination of criminal group as follows: "Crime confesses accomplished by a criminal group, if it is accomplished by the organized group, criminal organization, criminal society, transnational organized group, transnational criminal society, terrorist group, extremist group, band or illegal militarized forming". In an address such determination of criminal group it is possible to say of just remarks. Firstly, there is not determination of criminal group in this text. Here we see enumeration of some varieties of the organized group and criminal society, envisaged by the articles of Special part of CC.[1] In this part of criminal law it would be necessary a legislator to take into account that the organized group, criminal society and criminal organization as compared to other types of participation, (for example, gangsterism), are the generalized concepts, and they in Special part of CC form the not special norm, and general norm. In other words, the organized group and criminal society in itself do not present a corpus delict, they are always accompanied by other crimes. For example, theft accomplished by the organized group etc. Secondly, in Special part of CC there are other crimes, corresponding to the varieties of the organized group, that is not taken into account in the article 31 at formulation of determination of criminal group. For example, article 302. "Organization or maintenance of dens for the consumption of narcotic facilities, psychotropic substances, their analogues". It is here possible to notice that a legislator did not need to engage in enumeration of varieties of the organized group and criminal society, to set forth determination of criminal group. Taking into account before undertaken studies on this issue, we will mark that classification of forms of participation must come from a single differentiating criterion, as forms of participation belong to one-типному to the criminal phenomenon and hatch from the general concept of the criminal participation contained in the article 27 CC. It is necessary to confess that this theoretical requirement in a law is not observed.[3]

It is impossible to characterize, as a commission of crime by the group of persons and such case, when in him one of participants is limited to implementation of role of organizer or instigator, and other all are performers. At that rate participation of even one person as an organizer or accomplice changes the form of participation toward difficult participation[2]. Sense of difficult participation consists in that it was committed crime, and persons executing other roles participated in him, except a performer. It is necessary necessarily to take into account in the general question of classification of forms of participation, that by an initial value or reason of appearance in the criminal law of

such concept, as there is criminal "participation", is circumstance that it was committed crime, and someone to this crime participating as an accomplice, and they must be punished. Critically behaving to the current criminal legislation, it is expedient to bring the variant over of decision of this problem. In the article 31 CC must find the reflection all circumstances of joint criminal activity two or more than persons. Under all circumstances of joint criminal activity two or it is more than persons necessary to understand the forms of participation, that on sense present the methods of satisfaction of criminal intent as criminal participation.

By them can be:

1. it is a commission of crime by the group of persons (or simple participation);
2. it is a commission of crime with distribution of roles (or difficult participation);
3. it is the organized group;
4. it is criminal society.

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Murder committed in aggravating circumstances

Abstract. The article below researches questions about inalienable and inherent right of every person - right for life, about criminous deeds that encroach upon this right, to be exact, about murders under aggravating circumstances, and motives of perpetration such crimes. Also there is studied in details the aggravating circumstances pursuant to the legislation of the Republic of Kazakhstan and other international laws.

Keywords: murder, an aggravating circumstance, life, social risk, motive, method of killing.

Murder always considered a crime against humanity and condemned as moral, and a system of rules and regulations having the force of law. Prohibition against murder was one of the first taboos in human culture. Freedom of murder threatened mankind of annihilation, so the first murder was condemned and forbidden in local communities - families and tribes. By the formation of larger human communities up to the national associations, the taboo on killing became the form of law, binding on all members of the community.

Murder with aggravating circumstances in the position of the law and science of criminal law, we first need to describe the objective properties of these murders. The murder of two or more persons is an attributie

of to the circumstances aggravating this crime, due to the severity of the ensuing consequences and therefore the risk of the perpetrator deprives of life several persons. It is necessary to assume that the actions of the perpetrator when murder was covered under the unity of intent and committed, as a rule, at the same moment. The unity of criminal intent show intent to kill two or more persons and the same reason for the deprivation of those people. [3]

The murder, combined with abduction or hostage-taking is the deprivation of a person's life during his abduction or capture as a hostage or hold such person, as well as the refusal to perform any action under the condition the release of the hostage. The motive may be revenge for the government or international organizations, individuals, and organizations. One of the serious consequences of this murder is the death of the hostage. The murder, combined with the hostage situation qualifies for multiple offenses under the criminal code of the Republic of Kazakhstan. [4]

The murder of the woman whem the perpetrator knows she is pregnant is related to the number committed in aggravating circumstances due to the fact that the offender, causing the death of a pregnant woman, in fact, encroaches on two lives — the life of the victim and the life of the future person. Given this fact, the law guards the life of a pregnant woman. In this case, the law imposes mandatory conditions necessary for qualification of actions guilty it a deliberate awareness of the pregnancy of the victim.

A murder committed in a way dangerous to lives of other people means that there not only because of the danger of this way of life for many people, but also the risk of the occurrence of other deleterious impacts, such as destruction of houses, vehicles or means of communication, etc. in the murder by explosion, or contamination of ground or water sources, etc., when the murder is committed with the use of harmful chemicals or tools. In this regard, it should be noted that such effects, if they contain a crime must be qualificationed as independent murder, because these effects are related only to manner of crimes, i.e. committed by the same action in perfect conjunction.

For correct qualification of the murder matters the understanding of the manner of the murder, his social danger. Often the danger to the public way is not in doubt. However, danger of method should be evaluated not in abstract, but in the scene of the crime. The correct qualification of the murder depend of the subjective side of this crime. Here we should keep in mind that the perpetrator's "knowledge “ about danger method by the analysis of killing method only covers the intent – both direct and indirect. Therefore, the establishment is subject to the nature of the intent of the perpetrator as against the victim and against individuals, for which the method of killing is dangerous. Often the culprit in such murder aims to kill some particular persons and are indifferent to he puts in danger other people, i.e. in relation to a particular victim he acts with direct and others with indirect intent.

Murder committed with special cruelty. A sign of special cruelty is present in cases when the deprivation of life or in the process of the murder to the victim was tortured, the torture was committed or the mockery of the victim. Or when the murder was committed in a way that the perpetrator was connected with causing to the victim particular suffering. Special cruelty can be expressed in murder in the presence of persons close to the victim when the perpetrator was aware that their actions cause them great suffering. The cruelty is manifested when the perpetrator after the application of wounds hampered delivery of aid, bleeding to the victim. So the concept of special cruelty is an estimate, in judicial practice can be mistakes in the application of this aggravating circumstance.

The murder to conceal another crime or facilitate its Commission, and killing combined with rape or forcible actions of a sexual nature is that the offender actually commits two crimes in pursuit of objective of facilitating another crime, or exemption from liability for his previous crimes, not stopping the killing of another person. [4]

First of all, it must be emphasized that we are talking about the murder for the purpose of concealing any offence or

facilitating the Commission of any other crimes regardless of whether it is particularly serious or does not pose great danger to society. In the classification of this type of murder it is necessary to consider that it can be committed only with direct intent.

The murder that is equal to rape is not only the murder in the process of rape or to conceal it, but also murder, for example, based on revenge for resisting their rape. It is sometimes believed that it is murder, paired with rape, should be attributed only to a murder committed during the rape. This cannot be accepted. It would be illogical the other options are named such to recognize the murder committed, with the purpose to hide other crime or to facilitate, not involving rape. [4] However, this cannot be accepted. As already noted, murder during a rape is committed in almost all cases for the purpose of concealment of this crime and therefore should be considered as a serious consequence. It couldn't be imagine a more serious consequence to the victim than murder. In addition, even a purely logical analysis of the law shows that rape by killing the victim must be recognized as resulting in serious consequences, as for rape, merely by threat of murder or infliction of bodily harm. A murder committed for the purpose of using the organs or skin of the victim suggests that it committed only with direct intent. The motives for committing this crime are mostly selfish character.

Execution of official activity and public duty of citizens is their most important duty. Therefore, conscientious attitude to work and public debt, the life of the citizens performing this duty, are protected by law, including criminal. [4]

Responsible for the murder of the person or his relatives in connection with implementation of service activity or performance of public debt comes no matter how much time has passed after the Commission of the victims of those actions in which the murder occurred. In such a situation it is only important that the murder was committed out of revenge for these actions.

Murder from mercenary promptings or on hiring, is equally to robbery, extortion and banditry. A selfish motive is suite especially for property crimes. But the law does not associate the concept of gain only with crimes against property.

In my opinion, a selfish motive in the murder covers the material gain in the widest sense. It cannot be reduced only to the misappropriation of property and money, although, as practice shows, murder from mercenary motives most often committed in order to seize the property and money. Greed killing is not only the acquisition of material gain, taking what had not guilty to murder, but also the desire to get rid of any material costs now or in the future, to save material possessions, which will have to leave legally.

So, selfish motives in the murder are characterized by the desire of the perpetrator in removing after crime financial benefits, including to become free from material problems for themselves or for others in whom he is interested. The question of the form of intent in murder from mercenary motives need to be addressed depending on whether the murder only under the signs of mercenary murder or it was committed simultaneously with another crime.

In addition, to recognize that killing a brand of selfishness is necessary to establish that the desire to take possession of the property arose in the guilty to murder. In cases where this desire arose after the murder, it cannot be considered selfish. For example, after the murder out of jealousy or revenge the perpetrator appropriates the property of the victim. His actions are murder without aggravating circumstances, and possession of property is theft, not robbery.

So, the criterion to distinguish selfish murder with robbery and murder mercenary with no signs of robbery is the presence or absence of a binding together of three signs. If the murder committed, first by the attack, and secondly, the purpose of a taking property (theft), and if, thirdly, the seizure of property made in the time of the murder or just after it, then there is a set of mercenary murder and robbery. [4]

Murder from rowdy promptings shows that this circumstance occurs more often than other aggravating circumstances. To qualify murder committed because of the obvious disrespect to the society, when the behavior of

the perpetrator due to the desire to oppose themselves to others, to demonstrate disregard for generally accepted rules.

The specificity of this motive should be searched, first of all, in causation. Ruffianly promptings have no necessity : they originate from selfishness associated with disrespect for the individual and human dignity, indifference to the public interest, disregard the laws and rules. Often the basis of such attitude to public and personal interests is instinctive anger, a sense of unmet necessity that give rise to blunt the despair and the associated desire for mischief, daring, destruction, desire to express and show themselves. Ruffianly motives are often based on a misunderstanding of freedom of their actions, the meaning of which is clearly expressed by the formula "all things are lawful". Ruffianly motives mean that the person gets satisfaction from the criminal act, violation of public order, he gets satisfaction from their antisocial behaviour.

Murders are committed more than once. For committing repeated murder the perpetrator bears a greater responsibility, the law is based on the fact that a premeditated murder by a person previously committed a murder, is a particular threat to society as the severity of the ensuing consequences and danger of the perpetrator. The feature of this type of murder is that a qualifying circumstance are not the features that characterize this murder, and describes the subject, the fact of committing the same crime in the past. In other words, this aggravating circumstance is not a constitutive characteristic of a particular crime, it is beyond it and affects the qualification in force of the previous activity of the subject. It must be emphasized that the repetition of the murder is a personal circumstance, qualifying the actions of the perpetrator. This means that this aggravating circumstance cannot be charged with the guilt of accomplices.

It is obvious that the life is one of the fundamental rights of every human without distinction of age, race, religion, political belief, economic and social situation, in connection with which Kazakhstan has ratified

The universal Declaration of human rights adopted on 10 December 1948, in the first time defined in detail the rights of person, first of all the right to life [1].

International acts on human rights of 1966 "Right to life stated in article 6 of the International act on civil and political rights – is an inalienable right of every person" and this right is protected by law, whereby no one shall be arbitrarily deprived of life [2].

In the Constitution of the Republic of Kazakhstan this issue is the subject of Chapter 2, in which 15 article stipulates that "Everyone has the right to life. No one has the right to arbitrarily deprive a person of life" [3]. In addition, with independence and the change of the political course of the Republic of Kazakhstan changed and criminal justice policy, a priority of which was the protection of life and human dignity, in connection with the criminal law undergone some changes. So, in the current Criminal code of the Republic of Kazakhstan in article 2 "objectives of the criminal code" among the priorities of criminal law noted "the Protection of the rights freedoms and legitimate interests of man and citizen"... moreover, the Special part of the Criminal code of the Republic of Kazakhstan. begins with the Chapter "Crimes against persons", which indicates a high significance of the values protected by the Chapter of the Criminal code. [4]

The main function of any state is the protection of life, health and protection of rights, freedoms and legitimate interests. And this function is carried out by different legal rules, including criminal.

Murder is one of those crimes that cause serious difficulties when considering legal education and sentencing. These difficulties stem from a variety of different situations such crimes, such as careful preparation for the crime by concealing his tracks, which leads to the distortion of the true signs of the crimes.

As shown by the analysis of judicial practice of criminal law, providing responsibility for the murder, linked to judicial errors. Errors in qualification of murders permitted the investigating authorities and the courts, is attributed to several factors: first of all, with incomplete research of circumstances of Commission of the murder during the investigation of the case, the inability to differentiate related offences. Judicial-

investigatory practice does not give due importance to the study of the profile and content of criminal motivation in each case of the murders.

Objective difficulties in qualifying are due to the existence in law of a large number of evaluation concepts, which are to some extent subjectively interpreted by law enforcement officials.

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Criminal and legal characteristic of the separate types of corruption crimes

Abstract. In the present article the author considered questions criminally – the legal characteristic of separate types of corruption crimes.

Keywords: corruption, bribe, mercenary motive, property benefit.

The concept bribery in criminal and legal literature corresponds to both parties of a crime - both giving, and reception of a bribe. In this research taking of a bribe as this party of a crime is the most dangerous will be considered. Recipients have more powers for change of social, business and legal relations in society.

Bribery, being rather widespread criminal and negative social phenomenon, perhaps, most capaciously personifies all that characterizes a corruption phenomenon.

Bribery - concept complex, including two aspects, criminological and criminally - legal. Each of them taken separately can't settle the content of this concept. When studying criminally - legal aspect of bribery, the main attention is paid to the legal analysis of elements of the concrete crime components united by this concept.

The subject is an obligatory sign of this crime. In the Kazakhstan criminal law the big part was always assigned to a problem of definition of a subject. This sign of corpus delicate is a starting point at establishment of object of a crime and qualification of act.

Determines by a bribe subject, the Criminal law:

1) money;
2) securities;
3) property;
4) benefits of property character.

During transition to the new market relations new pieces of bribery have come to light. Legislators besides that concretized bribe objects, but also I have brought concept of "benefit of property character" unknown earlier. This concept has expanded interpretation in this connection "On sense of the law benefits or the services of property

character rendered gratuitously, but which are subject to payment can be a bribe subject along with money, securities and other property. It is necessary to understand as benefits of property character, in particular, understating of cost of the transferred property, the privatized objects, reduction of rent payments, interest rates for use of bank loans".

As property benefit it is possible to consider also, forgiveness of a debt, payment of a debt of the official, a response of the property claim from court, granting in gratuitous (or it is obvious at the underestimated cost) use of any property, receiving the credit on favorable terms, and so forth.

Thus, pieces of bribery are various property, the benefits, services, benefits, but all of them have to have property character, provide to the recipient material benefit as taking of a bribe is a crime for profit. Therefore don't form bribery cases of granting to the official though scarce goods and services, but paid with it in full (an opportunity to acquire the rare book or ornament, extraordinary apartment renovation and so on). Rendering the non-material character to the official of services which aren't attracting obtaining material benefit for commission by him on service of these or those actions or for inaction (for example, giving orally or in writing favorable review of his work, the positive recommendation, the certificate of honor and so forth) can't be considered as bribery.

Obligatory signs of taking of a bribe is the mercenary motive and the purpose – a profit.

The bribe can't be without mercenary motive and without the profit purpose. Even in case the values or money got as a subject bribes, the official readdresses in favor of the third parties (the family familiar), it is necessary to consider that this person has disposed of values as own that, naturally, doesn't eliminate crime of deeds.

Mercenary motive and the purpose are directly not recorded in the text of the criminal law, but follow from the nature of taking of a bribe as special type of mercenary abuse of powers of office and material character of a piece of bribery.

Therefore when the official, earning illegal reward for the office behavior, initially aims to spend the funds for needs of the organization run by him received by him, to use them for charitable purposes and so forth, the structure of taking of a bribe is absent here.

However other situation and other legal treatment of actions of the official takes place in case values or money are accepted in favor of the enterprise, public organization or the state in general that is if the official accepts values not in the private use, without the profit purpose. Now such phenomenon is widespread and is called as sponsorship.

Restrictions of bribery from the sponsor's help isn't among legal questions and is a procedural problem. But in principle it is simple to make it as sponsorship, as a rule, isn't carried out secretly, and on the contrary, widely is advertized and is the positive phenomenon.

However the situation when sponsor's help is given under pressure from the official is possible. Such "sponsorship" can be shown in receiving expensive gift which the official uses, for example, in the office, on a desktop. In this case, it is worth talking about illegal receiving the sponsor's help, about her extortion, that is no other than takes place the taking of a bribe interfaced to extortion.

To qualify a crime doesn't matter whether the recipient of a bribe intends to execute actions for which she is given. The desire to make action isn't included into the content of intention at commission of this crime. In case of a taking by deception by property of the briber (i.e. the bribe after all is taken, and operations aren't performed), occurrence of responsibility for taking of a bribe, as for more dangerous crime, than fraud is possible. In this case the deeds fully strike object of encroachment and dishonesty of the bribe taker can't exclude criminal prosecution for taking of a bribe.

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Determination of the objective and subjective elements of bribetaking

Abstract: Determining the elements of the objective side of bribery has important theoretical and practical significance. The objective aspect shapes the features that characterize the external manifestation of a crime. "Actus reus is the process of socially dangerous and unlawful interference with interests protected by law, viewed from the outer side in terms of consistent development of certain events and phenomena that begin with the criminal actions of a subject and end with the onset of criminal result". Thus, the actus reus includes the following features: action, criminal consequences and the causal connection between the crime and the consequences. Mandatory indication of the actus reus of bribery is a socially dangerous act.

Keywords: bribery, the actus reus of bribery, bribetaking, bribee, corruption.

Article 311 of the Criminal Code of the Republic of Kazakhstan provides that receiving by a person authorized to perform state functions or by an equal-status person, personally or through the intermediary, of a bribe in the form of money, securities, other property, property rights or property benefits for itself or others for the actions (inaction) in favor of the bribe giver or representative persons thereof, if such actions (inaction) are included into service powers of a person authorized to perform state functions or an equal-status person or it, in virtue of official position, can promote such actions (inaction) as well as general patronage or connivance of the service is bribe taking.

Compared with the previous law, the bribery legal structure is much improved, but some of its problems are still controversial in the theory of criminal law, in the jurisprudence. On the objective side, ordering some signs of bribery composition causes no arguments; one of them is indirect bribe taking. In both cases, there are the crime elements in the actions. Also indisputable is the concept of action or inaction of the person who is the subject of bribery, this problem causes no difficulties in judicial practice, i.e. the concept of actions or inactions denotes active or passive action of an officer. Moreover, open or veiled form of bribery does not involve much difficulty. Open bribe – is a direct transfer, from one hand to the other, of subject of a bribe, and the veiled bribes are apparently legal, but in fact, the illegal acts of bribery person for services (for example, chip dumping in the cards, arranging a good rest, repayable money loan and so on). There is also no dispute regarding the law provision of the "action of a person authorized to perform state functions or an equal-status person in favor of the bribe giver or persons representing thereof". This is about the personal interests of a bribe giver, relatives, and friends of the same, as well as the interests of legal entities.

The theoretical and practical importance of the objective definition of bribery is great. Specifically, it is shown in the following cases:

a) The objective side of the crime serves to define the crime and its properties;

b) the objective side defines the feature of the crime and the properties that distinguish it from similar crimes;

c) in many cases, the crime in question differs from the disciplinary crimes by objective evidence;

d) in some cases, the objective side has an impact on the analysis and assessment of the degree of social danger of an act. Objective side combines the properties that characterize the external manifestation of the crime. The objective side of crime components is a combination of properties provided by the law that characterize the outward manifestation of a socially dangerous act, the process of dangerous and illegal encroachment on the interests protected by law, that start with the criminal actions of a subject and end with the achievement of a criminal plan", as well as the objective conditions associated with such assault. Consequently, the objective side includes the following properties: the action, the criminal consequences and the causal relationship between the crime and the consequences. Mandatory indication of the objective side of bribery is the presence in its composition of a socially dangerous act.

Neither theory nor the judicial practice has not uniform understanding of objective evidence of bribery. All of them relate to the meaning and content of the act or omission to take bribes.

As indicated in the disposition of Part 1 of Article 367 of the Criminal Code of the Republic of Kazakhstan, a person authorized to perform state functions, or an equivalent-status person (the subject of bribery) takes bribes using his official position in the following cases:

a) Committing in favor of the bribe giver or his representative persons of the actions within its official authority;

b) Implementation in favor of the bribe giver or his representative persons of the actions outside its official authority, using its official position;

c) General patronage or connivance on service.

When defining the subject and the subjective side of bribery a distinctive feature of bribery and crime against the interests of state service and the activities of local state authorities is commitment by their certain subjects, that is, commitment by their persons characterized by certain differences from regular subjects. Specific features of the subject are shown in the following: They are the basic feature of a crime composition, without which this composition does not exist; Is an analytical feature determining the composition of crime in the study or aggravation of a crime.

Analysis of the composition of bribes gives grounds to conclude that the subjects of this crime can be four categories of employees. They are:

Persons authorized to perform state functions;

The equivalent-status persons;

Officials;

Persons performing state responsible functions.

The Criminal Code of the Republic of Kazakhstan dated July 3, 2014 № 226-V (with amendments and additions as of 11.24.2015) Chapter 15, corruption and other criminal offenses against the interests of civil service and public control

Therefore, the chapter is called "Corruption and other crimes against the interests of state service and state administration". The disposition of many articles of this chapter has been changed. But there are also emerged the newly notation relating to the definition of bribery and its subject. If previously the subject of bribery was the only official, according to the new changes, the list of subjects of bribery is enhanced, now the subjects of bribery are added with a person performing state functions and an equivalent-status person. In the criminal law the legal information to define such persons is given in the note to Article 361 of the Criminal Code. In this regard, the persons authorized to perform state functions are the officials, members of Parliament and Maslikhats, judges and all government officials in accordance with the legislation of the Republic of Kazakhstan on government service.

The persons authorized to perform state functions are deemed to be: those elected to the local self-government; citizens registered in the manner prescribed by law as candidates for the President of the Republic of Kazakhstan, deputies of the Parliament of the

Republic of Kazakhstan and maslikhats as well as the members of elective bodies of local self-government; employees permanently or temporarily working in local government, whose wages are paid from the state budget of the Republic of Kazakhstan; persons performing administrative functions in state institutions and organizations, in the authorized capital of which the state share is at least thirty-five percent.

According to the amendments introduced to the Criminal Code of the Republic of Kazakhstan, now all the state and other employees are the subjects of bribery. Therefore, compared to the previous law, the number of subjects of bribery increased much. Now officials have become the subjects aggravating the features of bribery. If the previous law provided the for only officials to be a subject of bribery, now the subject of the main composition of bribery are the persons authorized to perform state functions and equivalent-status persons. There are also strange points of such changes and additions made to the law. Firstly, the amendments made to the criminal law with changing the subjects list submitted by the Law on Corruption, destroyed the line between the concepts of government employees and officials. Secondly, this law directly states that the persons authorized to perform state functions involve the officials as well. In such case, it is unclear what is the difference between the officials mentioned in the first part of the note to Article 361 of the Criminal Code and the officials mentioned in the third part of this note. Therefore, the criminal law gives a concept of "officials" broken down into two groups. Subsequently, this discrepancy should be resolved legislatively. In general, officials become the subjects of bribery. As stated previously, the term "official" appeared in 1926 in the Criminal Code of the RSFSR, but this concept has not been represented in the law. The study of theoretical problems of specific subjects of official malfeasance in the criminal justice literature occurred from practical requirements. However, the law failed to pay prompt attention to this process.

Thus, according to the explanatory note to article 361 of the Criminal Code: officials are the persons permanently, temporarily or on special authority, performing the functions of representative power or performing organizational and management or administrative functions in state bodies, local self-government authorities, as well as the Armed Forces of the Republic of Kazakhstan, other troops and military formations of the Republic of Kazakhstan. In this case, as the definition clarifying the concept of official, the content of functions, job description defining a stated in the law service to be performed by a person are shown. Consequently, the law the first category of subjects include:

a) persons performing the powers of the Government:

b) persons performing organizational and management or administrative functions in the structures referred to in the Act. Of course, the Criminal Code provides important features of an official as a specific subject of a crime and the common features of the subject. By disclosing the essence of function there is the possibility of referring a person to the number of officials.

Corruption is the only barrier between the current economic, political development and long-term development of our state, a black spot of our society experienced in the last century the Soviet era.

Theoretical and practical importance of studying the meaning of the subjective side is extremely high. As one of the components of criminal liability, it considers the criminal behavior of a person separately from non-criminal behavior.

The subjective side of the crime affects the determination of the level of social danger of the crime and, therefore, affects the individualization of crime. Besides, its value is in that it enables to consider apart the crime components similar by other characteristics.

The composition of bribery in its disposition indicates no prosecution object, but based on the analysis of the objective side of the crime, description of action in the law and guided by part 2 of Article 20 of the Criminal Code of the Republic of Kazakhstan, it is safe to say that such crime can be committed only by direct intention.

To determine the direct intent, as well as other types of fault, the law uses the content of

intelligent and strong-willed elements of the psyche.

The intellectual point of the composition under question include commitment or omittance by a guilty of certain actions or the patronage and connivance on a service in favor of the bribegiver or its representative persons, to obtain illegal property profits, using its position.

Analysis of intellectual point of the briber allows saying that in his mind all objective evidences of bribery discussed above must occur. This is awareness of the following: a) that the received material gifts are illegal; b) that it will be dismissed for action (inaction) in favor of the bribegiver or its representatives; c) these actions (inaction) are included into service powers of an official or it through its official status encourages such acts, or it will be dismissed for allowing general patronage or connivance on service. Through awareness of all the objective evidence one can understand what object the infringed benefits are intended for. By taking a bribe an official must understand that he infringes on the legal activities of the state apparatus, or the apparatus of local self-government authority, and as a result, his executive receipts can cause damage to rights and lawful interests of other people. Understanding the fact of transfer of material income as a bribe leads to the awareness that both an official and individual transferring such income (illegal gift) consider it as a bribe. At this point, it should be remembered that for the detection of attempts to take a bribe by an official, the totality of the content of the intellectual and volitional sides of a bribe taker is taken into account, and this case it is not critical the intention of the bribegiver to give the property value as a bribe for any action (inaction). Therefore, for example, if the official takes the transferred to him property as a bribe, while a person transferring thereof believes that he is returning debt, or paying a penalty, tax or other fees, then he should be prosecuted for attempted bribery. A mandatory feature of the subjective side of bribery is also recognized the illegal extraction of deliberate property-related income. Mercenary intention corresponds the mercenary goals. That is, receipt of the bribe shows the unity of intents and goals, and therefore the intention and goal become the driving force of intellectual and volitional actions of a subject.

Lack of mercenary goal is not the basis to characterize the actions of officials as a bribe. In case of bribetaking for the execution (non-execution) of any action under its service not by official, but his relatives, the crime is only in the following cases:

a) the owner of the office knew about the present and

b) the direct recipient of the present was dependent on him or periodically used his material support

In other cases, no officials can be prosecuted for a bribe, as his actions have no mercenary goals. If in this case the actions have other elements of a crime, then there can be a question of the actions in his personal interests ultra vires of officials. In conclusion, in case of sole full coverage of the intention by the intent of a guilty of all objective evidences in a composition of a bribe at the time of taking a bribe, one can talk about classifying activities as a bribetaking. Only a complete combination of the objective and subjective features allows consideration of official's actions as receiving bribe. Also, as the main summary, we consider it necessary to demonstrate proposals that could help in combating both corruption and bribery.

The phenomenon of corruption in recent years has undergone many changes and is seen now as a complex, multifaceted phenomenon. In this connection, no corruption can be equated with bribery only. This phenomenon may be using official powers for personal and other vested interests not only by official, but also by government employees not holding the post.

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Model Law "On the treatment of animals" in the Republic of Kazakhstan – a step towards solving a number of social problems

Abstract. Question Solution of Cruelty to Animals in Kazakhstan matured quite a long time. The world is full of violence and cruelty, if a man even as it is able to protect itself, has the ability to seek help from the relevant authorities, the animals are, in turn, deprived of such opportunities. Each owner of the animals in their treatment must take into account not only regulated by the regulatory legal acts on animals, but also simple public morals. Protection of animals – the duty of every self-respecting man.

Keywords: animal cruelty, killing, Model Law, the legal regulation.

“We can judge the heart of a man by his treatment of animals”
I. Kant

Protection befitting the existence of animals is necessary, animals should be kept in conditions in which their owners will not practice over them abuse, bullying or inappropriate content, which resulted in it may suffer. As though it was sad, most people who give birth to animals, not fully aware of the fact that - "start a pet" is not mere entertainment. Citizens should stop practicing cruelty to animals, because animals also feel pain, hunger, thirst, and other signals. Some of us can afford to simply recoup on the poor animals, because of their personal failures in the home, at work, or simply because of a bad mood. Often we forget that animals need our love, care, and protection.

316 article of the Criminal Code of the Republic of Kazakhstan is located almost in

the "sleep" state, arguing that its ineffectiveness. According to the Legal Statistics Committee of the General Prosecutor of Kazakhstan from 2005 to 2013, out of 800 registered claims on the fact "of animal cruelty" only 11 cases have reached court[1].

This is due to various kinds of factors:

1. Outdated and incomplete wording of this article;

2. The attitude of citizens to the animals in terms of "things";

3. The reluctance of law enforcement agencies to record the facts of cruelty to animals;

4. The latency of the act.

Addition to all the above, you can turn on and the fact that, to the domestic legislation regarding animal cruelty lacks a clear definition of the terminology of a particular act, as well as consolidate the principles of treatment of animals to the level of the law. Also unresolved questions about monitoring the number of homeless animals across the country. Legal regulation of the animal welfare - in zoos, kennels, circuses and other places clusters of animals contains many gaps and shortcomings.

Questions related to the treatment of animals in 2007 was raised to the Interparliamentary Assembly of the CIS countries in the course of which was signed Model Law "On the treatment of animals". But as of 2016, our country has not been enacted, based on the Model Law. Considering this fact, and aware of the possibility of adjusting further questions about the treatment of animals, it is necessary to adopt a law of Republic of Kazakhstan "On the treatment of animals" [2].

Model Law allows the basic principles, based on which we can change the attitude of our citizens toward animals as "things".

Model Law makes it possible to carry out:

1. protect animals from suffering, death, sacrifice on the part of their owners;

2. state regulation and control in the field of treatment of animals;

3. reimbursement of the owner of the animal harm caused to his/her animals or other animal health and property of citizens or property of the organization.

The Law "On the treatment of animals" to fill the gaps and shortcomings in the national legislation regarding animals, would be another step towards finding and solving the problems.

Model Law course must be adapted and adjusted to the realities of Kazakhstan. Possible adoption of this law implies the need to make the appropriate changes and additions to some existing legal acts.

Article 316 of the Criminal Code does not give a complete definition of cruelty to animals, and therefore the classification of "abuse" a pretty difficult thing, which again leads to a reluctance of law enforcement agencies to bring the case to court.

In conclusion, we would like to mention the fact that, yes of course, at this stage of development for our state, there are more significant problems and gaps in the legislation that require immediate action, but for the five institutional reforms proposed by the head of state [4], including the construction of a civil society, we are now at the state level requires raising questions such as "treatment of animals." After all, today's condescending attitude toward "animal cruelty" in the future may lead to a whole generation of brutal murderers "not animal" ...

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Research the experience of foreign countries in the fight against prostitution and the possibility of its implementation in the Republic of Kazakhstan

Abstract. Modern Kazakhstan society continues developing various kinds of moral deviations, including prostitution and related to it phenomena. As history shows, an increase in the coverage of prostitution is particularly acute exposure to destabilize the social and economic situation of the population in times of crisis that we are seeing now. Anti-prostitution policy by the current legislation is ineffective.

Many scientists and experts think that at the moment, the most effective way to counter prostitution is its legalization. In this article we have tried to consider all the useful and flawed sides of the legalization of prostitution.

Keywords: morality, prostitution, brothel, legalization, criminalize decriminalize**.**

Prostitution - a worldwide phenomenon with deep historical roots and in a civilized society, prostitution has become a problem of international scope. Prostitution is subject to change, and to enhance its scope particularly badly affected by the destabilization of the socio-economic situation of the population in times of crises, wars and revolutions [1, p. 17].

Prostitution leads to the destruction of human values, carries with it a crime, alcoholism, drug addiction, sexually transmitted diseases, AIDS, the degradation of personality, the abolition of national gene pool [2].

What leads women to prostitution? There are three main reasons:

• Coercion;

• The need for money;

The problem of prostitution for many years attracted the attention of researchers. All methods of dealing with prostitution being made in our country, are ineffective. The question of prevalence of prostitution in the modern Kazakh society developed very weakly. After studying and analyzing the experience of the struggle of countries that were able to reduce the spread of prostitution, we can find the right way to reduce the unwanted manifestations of this deviation. Many scientists and experts think that at the moment, the most effective way to counter prostitution is its legalization. And in order to identify the feasibility of legalizing prostitution in the Republic of Kazakhstan, we conducted a series of research listed below:

• Analysis of the pros and cons of the legalization of prostitution;

• Conduct a poll among students and teachers of Al-Farabi Kazakh National University;

• An analysis of the criminal legislation of the Republic of Kazakhstan;

In Kazakhstan, prostitution is in "limbo" - that is, prostitution itself is not prohibited, but at the same time and not legalized. In the research, we conducted a survey through the site surveymonkey.com, as well as the learned opinion of Almaty city residents to legalize prostitution. The topic of the survey was to study public reaction to possible legalization of prostitution. 55.3% of respondents are opposed to the legalization of prostitution, believing that the official recognition of prostitution - give rise to new problems in addition to the existing deviation. In favor of the legalization of prostitution as a profession expressed 39.7% of respondents. They argue their position the fact that the legalization of prostitution will protect customers' health and could shorten a perpetual shortage of budgetary funds. The rest of the respondents were undecided respondents - 5%.

We also conducted a sociological survey among students and teachers of Al-Farabi Kazakh National University. The opinions of the respondents were divided: Most opposed the legalization of prostitution, citing as the main arguments of the moral aspect, the immoral character of this craft and unavailability of Kazakh society to legitimize prostitution. Respondents who responded positively to the legalization of prostitution as arguments brought the possibility of taxation as a profitable business, the decriminalization of prostitution, monitoring the health of commercial sex workers and accounting for sexually transmitted diseases.

The Criminal Code of the Republic of Kazakhstan dated 07.11.2014, provides for punishment for involvement in prostitution (Article 308), organization or maintenance of dens for prostitution and pimping (article 309). For prostitution in the Criminal Code penalties are unforeseen. Moreover, all of these articles are in Chapter 11 of the Criminal Code of the Republic of Kazakhstan: «Crimes Against the Health of the Population and Morality». It should be noted that a similar situation is present in the Criminal Code of the Russian Federation, the Republic of Belarus and the Kyrgyz Republic, which we took for the comparative analysis, along with the Criminal Code of the Republic of Kazakhstan [4,5,6,7].

The Swedish experience in the fight against prostitution. Despite the belief that 'prostitution will always accompany us, "the success of a country still stands. Sweden has considerably reduced the number of women involved in prostitution. In its capital, Stockholm, the number of women involved in street prostitution has decreased by two-thirds, and the number of customers by 80%. The other Swedish cities, prostitution is simply ceased to exist. Moreover, the number of foreign women trafficked into Sweden for sex went off to zero. According to the Swedish Government in the past few years, the annual traffic of women ranged from 200 to 400 women, the figure is incomparably small compared with 15 000 - 17 000 women imported to neighboring Finland.

What kind of a complicated formula chosen Sweden for such a struggle? Amazingly, Sweden's strategy is not complicated. Realizing that the legalization of prostitution does not bring the expected results, the Swedish Government adopted a law in 1999 that:

а) criminalization buying sex

б) decriminalizes selling sex.

"In Sweden prostitution is regarded as an aspect of male violence against women and children". The exploiter / buyer should be punished, and the victim / prostitute need a help [8, 9]. In general, the survey results show that the Kazakhstani society has a negative attitude to the possible legalization of prostitution. The overwhelming majority of respondents did not believe that illegal prostitution is eradicated. In order to treat prostitutes victims of male violence and abuse requires that the government first changed the view of prostitution from the male point of view to the female point of view. And for the more effective promotion of the idea we want to maximize the number of women in government bodies and the adoption of legislation. Legalization and / or regulation of prostitution, according to research leading to:

- The growth of all aspects of the sex industry;
- The growth of organized crime involvement in the sex industry;

- The growth of child prostitution;
- Increase in violence against women [10].

Conclusion

The topic was discussed in this article: «Research the experience of foreign countries in the fight against prostitution and the possibility of its implementation in the Republic of Kazakhstan».

Before talking about the legalization of prostitution in the country should be taken into account a number of factors such as: the history of the State, the place of religion in the state, the mentality and culture of the nation.

On the one hand - with the legalization of prostitution will be respected the rights of sex workers, they become equal members of society. In addition, they will have and responsibilities: a highly qualified services, payment of taxes, constant medical examination, etc. That is, in fact, the provision of sexual services to be equated with ordinary services, and will be fully regulated by law.

On the other hand, the legalization of prostitution in some ways akin to the legalization of crime.

In the research, we concluded that the Kazakh society has a negative attitude to the possible legalization of prostitution and society is not yet ready for the legalization of prostitution.

In the course of studying the experience of Sweden in decriminalization and considering the ineffectiveness of the legalization of prostitution in other countries, we came to the conclusion that - the most suitable for our society and for our mentality, a method of combating the spread of prostitution is - to criminalize the purchase of sex and decriminalize the sale of sex.

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Features and innovations of the new Criminal Code of the Republic of Kazakhstan

Abstract. This article is devoted to the peculiarities of the operative Criminal Code of the Republic of Kazakhstan. The characteristic peculiarities, the reasons of the adoption of the new Criminal Code of RK are analysed. Special attention is payed to the difference between new (operative) and old code. The article particularly deals with the innovations, a the advantages and disadvantages of the operative code.

The article is assigned for students, undergraduates, PHD doctoral candidates of law deportment.

Keywords: crime, punishment, Criminal Code.

The policy on the improvement of all branches of the law system, conducted by the President of the Republic of Kazakhstan N. A. Nazarbayev, including the criminal legislation, has significantly changed legal awareness and legal culture of citizens of our country. The legislation of Kazakhstan is being formed in a close interrelation with history, culture and traditions of the people of the Republic. All positive is being selected, as well as more advanced, which, certainly, can only improve the operating law system of our government, promote effective implementation of justice and statement of legality [1]

Within the last two years, there was a development and now is adopted the new Criminal code of RK, which came into rightful force on January 1, 2015.

The need to adopt a new CC was due to several reasons. We will only name some of them. First, there is a process of intensive development of the public relations going on in our country, which compels to correct constantly the legislation, including the criminal one. Second, a significant amount of changes and additions annually brought in the Criminal code after its acceptance in 1997, and which generated many shortcomings, because some of them were included without taking into consideration the text of all code, resulted in inconsistency of some norms of CC among themselves. In order to eliminate the collected defects, it was necessary to carry out audit of all text, which led to adoption of the new code.

The new Criminal Code of the Republic of Kazakhstan was adopted on July 3, 2014, entered into force on January 1, 2015. It uses the achievements of modern criminal law theory, advanced experience of foreign countries. Therefore, its content is much better than the old code. I will focus only on some of the benefits.

Unlike the old Criminal Code, the new one includes the concept of a criminal offence, which covers two types of criminal offence: crime and criminal offense. Crime - is the most dangerous criminal offense, for which there is a prescribed punishment in the form of a fine, correctional work, restriction on freedom, imprisonment or death penalty. The sanctions of the new Criminal Code articles on the responsibility for criminal offenses presume a punishment in the form of a fine, correctional work, community service and arrest (there is no imprisonment or death penalty). Therefore, the criminal offenses are different from the crimes of the sanctions of the Criminal Code articles: if there is a sentence of imprisonment or death penalty, then it means that this provision presumes a responsibility for an offense if these two types of punishment are not in place - hence, the responsibility for the criminal offence is presumed under the given provision. Convicted for a criminal offense shall not be considered as an offender. This should be considered as an important matter, since a criminal record has a negative impact on the fate of the convicted person after his release from punishment.

Some experts were against about the new Criminal Code's introduction of the concept of "criminal offense", fearing that it will increase the repressive criminal law. It's a hardly to agree with that opinion, since the introduction of the concept that specified in above, other way round, shall lead to the fact that more than a hundred acts which in the old Criminal Code were recognized as a minor offense (for their commission penalizes non-custodial) – in the new way will be recognized as criminal misconduct. It's could be considered as the reduction of the repression's degree.

A lot of attention had been paid to the principle of humanization of criminal legislation during the development of the new Criminal Code. The compliance of such kind principle is observing in the many institutes of criminal law. It's especially noticeable in the rules that governing the exemption from the criminal liability. There are 7 articles in the common part of the Old Criminal Code that governs the questions of exemption from the criminal liability, but in the new one was provided two more fresh types of the exemption from criminal liability: in the conditions procedural agreement (Article 67) and with the establishment of a guarantee (Article 69). There are a lot of types of exemption from the criminal liability that permitted for ours law enforcement agencies and the law courts to not lead the case to the

punishment if the person has committed a crime of minor or moderate severity.

It's pertinently to note that the Criminal Code of the foreign countries do not contains so much kinds of exemption from the criminal liability. For example: There are only 4 types in the Criminal Code of Russia, among 1-2 types in the far abroad countries.

The punishment for the offense that wasn't societal danger was softened, as well as in the cases when the crime was committed by infants, women and elderly persons. Also the responsibility and punishment for the more danger crimes was reinforced: for the murder, terrorism, for the crimes against infants. It's also could be attributed to the changes of the humanistic nature as the humanization of the criminal law, as it was stated in the Concept of Legal Policy of Kazakhstan for the period from 2010 to 2020. It's not only about of soften the responsibility and punishment, but also about a tightening of the responsibility and punishment for the more danger crimes. [2]

This direction of humanization goes in favor of crime victims, it is presuming to increase the criminal law protection of the individuals. Annually a huge number of citizens suffer from the criminal acts. For example, in 2013 from the reported victims crime has been recognized 311,460 individuals, in the issue of those criminal acts was occurred the death of 5,125 people. In the many cases, such as a thievery, the damage from the criminal acts is non-refundable. That is way the humanization of criminal legislation in favor of persons who have committed a crime should be treated with caution, and thinking about how it will affect to the crime situation. One of the advantages of the new Criminal Code, unlike the old one – its a presence of the article, which provides an interpretation of more than 30 concepts and terms that shall help to reduce the errors in application of the criminal law.

Let's take a look to the features and innovations of the new Criminal Code. The innovation begins with the first article of the new Criminal Code:

In this document of the criminal offenses includes a new institution, which calls the criminal misconduct. There are only 156, including 47 former executive offenses, 100 minor offenses, which doesn't envisage as the imprisonment punishment, as well as 9 new acts that has not provided earlier in any of the Criminal Code or the CoEO (mainly medical and cyber offenses). Misconduct does not lead to the conviction. The maximum of the punishment measure constitutes the arrestment until 90 days.

There are changes in the Institute of relapse. Now, under the Criminal Code for the relapse will be consider only an unredeemed and non-dropped conviction for the serious and particularly serious crimes without of accounting convictions for the less-serious crimes. The applicable rules of the punishment assignment in the relapse (at least 2/3, 3/4 upper limit of imprisonment) were excluded.

The lifetime ban has been installed for positions in the civil service which has officially convicted in corrupt, as well as a ban to working with the children for the persons who has convicted for sexual offenses against infants.

The ban on contingently anticipatorily dismissal had been introduced, replacing a less severe penalty an amnesty for persons who had convicted in the terrorism and extremism.

As compared with the existing Criminal Code the punishment system had been reworked with an emphasis on the more general measure applications which alternative to imprisonment.

As the only-begotten form of imprisonment punishment had been saved only for crimes which committed in an organized criminal group (OCG), that related with the murder of the person, especially serious crimes, including the terrorism, corruption, and war crimes which committed in wartime or in combat situation.

The content and the order of execution of corrective labors had been changed, which had been set as the closest alternative to the penalty. They are calculated in a specific size, which payable to the budget, for example, 1 thousand MCI. In fact that evasion of penalty or correctional labor involves to the replacement of punishment to imprisonment.

The CRIMINAL PROCEDURE CODE

In this case the initial stage of the criminal process has been changing radically

by eliminating the pre-investigation stage, which will exclude the conduction of large volume of events, which preceding to the initiation of criminal prosecution. The concept of pre-trial investigation has introduced. It starts from the moment of statements registration and reports about the criminal offenses or the first urgent investigative actions which preceding the registration.

The procedure of the citizen's detention had been detailed. The concept of the actual arrest had been revealed. It had been established in the case that it's determining from the moment of actual restriction of freedom, including freedom of movement, which regardless of giving any procedural status to the detainee. The delivery term is a part of the general term of actual detention, which will be specified in the detention protocol. If the person hasn't procedurally detained after delivery, then he will be immediately issued with the certificate which shall report about that the delivery had been accomplished. In order to improve the criminal investigations of unsolved crimes the trial investigation will be produced out within the time limits which has established by the Criminal Code.

The existing forms of the investigation had been improved (inquiry and preliminary investigation), which provides: the accelerated production, the procedural agreement to the confession, and the procedural agreement to the cooperation. The protocol form of investigation for "criminal offenses" has been introducing. In this case, the appointment of the preliminary investigation is necessary for the criminal offenses which had committed by infants and the persons who are using the privileges from the prosecution.

The procedure of the obtaining the suspected person status into the offense committing (since interrogation) and reviewing the cases of the criminal misconducts in a court had been simplified. In general, the decision-making process during the pre-trial investigation has been simplifying.

Such procedural act as "the indictment" has been excluding. A short indictment will be constituted by investigator of the investigation results in which: he is indicating the data about of suspected person, describing the committed criminal offense, making qualifies and transferring the collected evidence of the cases, and procedural costs.

The figure of "Procedure" prosecutor has been introducing, which has transmitted the considerable number of powers from the head of the prosecuting authorities. This had been done in order to increase the responsibility of ordinary prosecutors who is carrying out the surveillance of the investigation and inquiry, but now they will support on the same cases in the court and state prosecution to appeal against their court acts.

The cases shall be investigated no more than 15 days within the framework of the accelerated production. The time of usual production of pre-trial cases investigation of inquiry is in so far as 30 days, and a preliminary investigation is in so far as two months. In order to protect the citizen's rights and freedoms, to secure the information about their work places and the witness's residence address, victim, expert, specialist, interpreter, witness, counsel body which is conducting the criminal proceedings will be taking the measures which shall restrict the access to the address data. [4] [5]

The new investigative action "provision of documents and objects" had been introduced, which is submitting the court matters of the person's initiative to the investigator.

In the criminal proceedings shall be one more innovation - The Institute of procedural agreement. It shall be designing in form of the transaction about the crimes confession: small, medium or heavy category in the case if the suspect is agreeing with the suspicion and accusation. This institution is so far new and had been borrowed from the criminal proceedings of the several countries where such agreements had been completed the production of 80-90% criminal cases. This allows to make the process more economical and to focus on the investigation of complicated cases. The main burden will fall exactly on the prosecutor which supervising the pre-trial stage, and including the procedural prosecutors. Particularly, considering the possibilities of the deal institution application about: the concession,

clarification of the circumstance's conclusion, an explanation of the consequences, and also directly drawing up the agreement, sign it – it all shall be made exclusively by the prosecutor, in which he will spend on average 10.4 hours, taking into account the revision of the agreement, and the prosecutor's participation in court and protestation.

The prosecutor shall immediately forward the pre-trial investigation to the court in the case if the necessity of the other proceeding has lack of after the conclusion of the agreement, the pre-trial investigation of the case shall be considered as ended. After the checking the legality of the drawn up agreements, court shall to clarifies the related issues which related with the voluntary volition of the parts, indemnification, and whereupon the court shall make his decision, which shall significantly reduce the burden against the judiciary.

The Conclusion: And so, the new Criminal Code of the Republic of Kazakhstan which had been adopted in July 3, 2014, and includes 467 articles. The common part has consisted from the 7 chapters, 98 articles; the special part has consisted from the 18 chapters and 369 articles which are more humane in relation to socially vulnerable groups and persons who have committed petty crimes. But at the same time in the new Criminal Code had tightened the liability for extremism and terrorism, as well as criminalized acts conducive to the spread of radical ideology. And also a new concept of the criminal offense had introduced that will help to reduce the degree of repression. In my opinion the advantages of the new penal code are significantly much more than minuses, as in the old Criminal Code annually makes a significant number of changes and additions, which have generated a lot of shortcomings, because some of them were made without taking into account the entire text of the Code and this has led to inconsistency of certain provisions Criminal together. The new Criminal Code on the achievements of the modern criminal law theory, advanced experience of foreign countries. Therefore, the content of the new on is much better than the old one. I must admit that generally the new Criminal Code shall intended to play a main role in the struggle against the crime in our country.

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Manifestation of crimes against property in the new Criminal code accepted on July 3, 2014

Abstract. This article is about manifestation of crimes against property in the new Criminal code accepted on July 3, 2014.

Keywords: crime, property, Criminal code.

One of the big news of this year of sheep in the country led to the implementation of legal reforms, including the reform of the criminal law. The main focus of the criminal policy is to improve the existing criminal law. To this end, since January 1, 2015, this new criminal and penal codes of criminal procedure adopted and came into force. Of the Criminal Code is the law of the country after independence. Old Code adopted on 16 July 1997 Today is at the bottom of the story. State criminal law is very important to have the right to order. Therefore, the times changed, because of the emergence of a new public think that it is forced to go to such reforms.

Many of the crimes, articles, chapters appeared, were some of the crimes. If you want real changes, which is currently experiencing a lot of change in crimes against property crimes. A crime against property crime is one of two in the manufacture of the court to say that, no more. And how is it reflected in the new Penal Code?

In 1997 the Criminal Code, which was adopted on July 16 of this Chapter 6 of crimes against property. In this chapter, items 175-188 in seven of the ten offenses.

New Special mortality 6th Chapter of the Criminal Code, criminal offenses against property, eighteen of the crime. The disappearance of the former projects in one of the crime, a crime is a criminal offense.

The new article 187 of the Criminal Code, which was adopted on July 3, 2014, petty theft is a criminal offense. Previously, this was one of the administrative offenses, offenses. Petty theft, a small amount of the theft of another's property, fraud, embezzlement of purchase or to that of [1]. Three of seventeen article of the Criminal Code is theft of another property in this caused damage to the owner or other owner of the property, or other rights of the people in favor of the mercenary motives of the person found guilty of anti-free removal and (or) spin. Insignificant amount of not more than ten monthly calculation of the property owned by the entity owned by an individual, or the value of the property does not exceed two monthly indexes [1].

This is a violation of the Code of Administrative Offences before, there must be no more than ten times the monthly index [2]. The law refers to a new project, it is a criminal offense. That is, through the criminalization of the Criminal Code.

Replaced by a new term changes theft, misappropriation of the term of the Criminal Code.

Some changes with regard to the crime of theft. Theft, theft of another's property is hidden [1]. This is due to the advance of the crime aggravated by a group of people, a few times, residential, office or industrial premises, storage or transport illegal on the sign, as well as unauthorized access to the information system and information and communication network as a way to change the information provided by the theft [2]. Former canceled in contrast to the Criminal Code, which was adopted on July 13, 1997 relating to the composition of the oil- and-gas pipeline theft aggravating. Included in the new Code innovative information system, illegal access or change the information provided by the information and communication network introduced a new crime of theft by staff. Aggravating composition of the legislature put a large amount of the theft. Aggravated by the structure of the criminal group, made of oil-and-gas pipeline, the largest amount. Criminal group is an organized group, a criminal organization, the criminal community, transnational organized group, transnational criminal organizations, transnational criminal and terrorist groups, extremist group, gang, is illegal paramilitary structure [1]. Legislative group organized criminal group referred to the

new law, a criminal organization, etc. to introduce the concepts. Former adopted on July 13, 1997, the Criminal Code, it ceases to relate to a crime committed by an organized group in the composition of the heavy component [2], and he referred to the structure of the most aggravating. I.e. criminal groups, criminal organizations, and other responsibilities of the crimes committed by the same group. More than 500 large and a large amount of damage to the monthly cost of real estate in excess of the amount of damage, and the largest amount in the amount of more than 2000 times the value of the property and provided that the amount of damage [1].

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The problem of illegal migration, and possible ways to solve it

Abstract. This article is about the problem of illegal migration.

Keywords: migration, problem, migrant.

At the present time the problem of illegal migration in Kazakhstan has received unique judgment. On the one hand, migration helps to smooth the effects of the demographic crisis, on the other hand- is a very negative factor making worse crime situation in the country.

The fundamental reason of illegal migration existence is the disparity of economic development of the state. Countries with a high standard of living are attracted to migrants from less developed countries, which are often paid little for similar work. This economic factor is the cause of significant part of the world migrations. Another important reason for the existence of illegal migration is the implementation of restrictive migration policies. Depending on the judgment, influence of migration flow to the social and economic situation in certain case, the states can carry out different policies regarding the entry of migrants - from the creation of the regime opened door to the use of rigid restrictive measures. More effective are measures based on a coordinated the group policy of states. For example, one of the goals of conclusion the Schengen Agreement in 1985 was the necessity to facilitate the movement of labor and goods within the EU and at the same time to maintain careful control over them in relations with other regions of the world [1].

The current migration policy and real actions on its implementation are far from their conformity with the national interests of Kazakhstan. The situation has been worsened, negative trends in the regulation of migration processes have been intensified by 2015.

This migration situation requires new

approaches. Migration processes in Kazakhstan should become a factor which makes contribution to the development of society, reason from the needs of the economy, interests of national security, public order and public health. The majority of illegal immigrants are concentrated at the bottom of the social pyramid. Although, coming into the country, immigrants are agree with any conditions, but after some time they feel discriminated minority representatives, for whom many opportunities are closed.

This situation slows down the process of their integration into the host society, nourishes the protest, including the extremist ideology, "ethnic" crime, etc. In this connection, particularly important are the development of complex and likely an expensive system "escort" of new arrivals, their training, the involvement of the Russian cultural society etc.

The output from the shadows of undocumented employers, giving to some of them a registration certificate, naturalization of some of them - such are the steps of transformation of the current illegal labor migration.

From my point of view, it is necessary to ensure the improvement of the legislation of the Republic of Kazakhstan on the following issues:

- freedom of movement, choice of residence and stay, the rights and freedoms of man and citizen;
- regulations of entry and next arrival in the territory of the Republic of Kazakhstan for foreign citizens and stateless persons including the purpose of employment;
- deportation of foreign citizens and stateless persons (deportation) from the territory of the Republic of Kazakhstan and strengthen their responsibility for violating the rules of stay in the territory of the Republic of Kazakhstan;
- criminal, administrative and financial responsibility for the organization of illegal migration.

It is also necessary to develop fundamental research on the social and economic, legal, psychological foundations of regulation of migration processes. It is also necessary to carry out monitoring and scientific forecasting the migration situation in our country. It is advisable to use the experience of foreign countries to prevent and combat illegal migration, threatening the national security of the Republic of Kazakhstan

Foreigners often use tourist visas and tourist exchange in order to legally enter the territory of Kazakhstan and illegal stay in the future. In order to tighten control in this area is necessary to create a system of accounting Kazakhstan legal entities, branches and representative offices of foreign legal entities whose activities are related to the organization of international tourism, the reception of foreign citizens for training and treatment.

It seems appropriate to create an automated database fingerprinting of immigrants suspected of criminal offenses, as well as committed administrative offenses.

Solution of these problems along with the transition to the notification of the proceedings of registration of immigrants, a tough policy towards employers, including taxation, creation of mechanisms for premises for the temporary accommodation of foreign workers will minimize illegal use of foreign labor, which means to reduce the amount of illegal migration. Exceptionally deportation and fines will not give a positive effect to reduce illegal immigration. Simultaneously with the process of regulating the use of foreign labor is necessary to develop and adopt measures to encourage the inflow of population for permanent residence in the territory of the Republic of Kazakhstan. To maintain a stable population of Kazakhstan annual increase of migration should not be less than the annual decrease (the difference between the number of births and number of deaths).

However, not all migrants are staying in the territory of the Republic of Kazakhstan with the purpose of legitimate employment. This category of workers (as a rule, consist of unskilled workers) is a threat to national security. Uselessness of this category of persons in the labor market and precarious social and economic conditions contribute to the direction of their criminal activities. In this regard, we are particularly interested in law-making experience of foreign countries,

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.

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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.

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The legal framework to combat corruption in the Republic of Kazakhstan

Abstract. In this article authors research problems of legal framework to combat corruption in the Republic of Kazakhstan.

Keywords: corruption, legal framework.

In the modern scientific, educational and socio-political literature also offered various definitions of corruption. Developing a unified concept of corruption as a basis for determining the universal way to combat it - a complex evolutionary process. The integrated nature of corruption are not allowed to date, to develop a unique definition of this complex phenomenon.

Law of the Republic of Kazakhstan "On Combating Corruption" defines corruption as no statutory decision directly or indirectly property benefits and advantages of persons who perform public functions, as well as persons equated to them, using their official powers and related options or other the use of their powers to obtain property benefit, as well as bribery of such persons by providing them with unlawful individuals and legal entities mentioned benefits and advantages. [1]

Corruption is a self-perpetuating phenomenon, which is rooted in the depths of the social way of life, it does not recognize the cultural, ethnic and territorial borders. Elimination of corruption or rapid and sustained its relegation to a socially insignificant level by urgent target program is impossible. It not based on international practice and reliance on self-sufficiency of market forces in the fight against corruption and organized crime. In countries with well-established market relations for several decades is a struggle against organized crime and corruption. However, these phenomena continue to exist and develop, albeit constrained because of the measures taken. In these countries are constantly being improved and supplemented by the relevant legal regulations and mandatory stricter penalties, as well as the introduction of additional operational-search, criminal procedure, and control of financial and other measures to expose corruption and organized crime.

The ongoing processes in Kazakhstan society accompanied by strengthening anti-corruption. The complex nature of this phenomenon, as well as his more noticeable manifested connection with other criminal activities required to deal with it, not only to focus, clear sequence, but that is extremely important - a strong political will. Such political will was manifested at the highest level. In July 1998, the first post-Soviet adopted the Law of the Republic of Kazakhstan "On Combating Corruption", the development of which was initiated personally by the President NursultanNazarbayev. The law at the national level declares the need to counter this negative phenomenon. It obliges all state bodies and officials within their competence to combat this scourge. [2]

Adoption of the Law of the Republic of Kazakhstan "On Combating Corruption" was the beginning of a qualitatively new stage of struggle against corruption in the area of strengthening national legislation and practice. This has greatly contributed to an appeal of the President of the Republic of Kazakhstan to the citizens of the Republic in connection with the adoption of the law, which caused a wide resonance in the public opinion.

Pursuant to Law Decree of the President of the Republic of Kazakhstan dated December 7, 1998 "On State Programme against Corruption for 1999 - 2000" was approved today implemented a state program to combat corruption for 1999-2000, which included as priorities for improving the legal framework to combat Corruption, precautionary and preventive measures, practical measures to combat corruption, improve the effectiveness of law enforcement and the judicial system. [3]

Resolution of the Government of the Republic of Kazakhstan dated July 20, 1999 №1015 approved the Program of Action of the Government of the Republic of Kazakhstan on

the implementation of socio-economic and financial measures against corruption. The measures include: a consistent narrowing of the scope of cash circulation in the private sector, the establishment of restrictions on the amounts of payments with the use of cash; ensuring the implementation of the rights of owners and shareholders, establishment of transparency of organizations. Resolution of the Government of the Republic of Kazakhstan dated October 31, 2000 №1641 approved a program to combat crime in the Republic of Kazakhstan for 2000-2002, in Section 5.3 which provides the item "The fight against economic crime and corruption." The contents of paragraph include improving the legal regulation of economic relations, to strengthen supervision over the implementation of legislation in the sphere of economy, as well as tax laws with the aim of narrowing the ground for economic crime and corruption, improvement of the effectiveness of law enforcement in the prevention and investigation of corruption and other economic crimes activities, bringing to the fight against economic crime and corruption of civil society, the business community, independent media. [4]

Decree of the President of the Republic of Kazakhstan approved the new government anti-corruption program for 2001-2005, which is a logical continuation of the previous one, provides for measures aimed primarily at further improving the efficiency of detection and elimination of conditions that give rise to corruption, especially in the economic sphere. The program focuses on increasing responsibility in the fight against corruption, public authorities and social partnership of all branches of government and civil society in addressing this problem.

The fight against corruption is closely connected with the implementation of further democratic reforms in the country. Accordingly, the state program for fighting corruption stems from the Strategy of Development of Kazakhstan till 2030 and the National Security Strategy of the Republic of Kazakhstan till 2005. Measures to combat corruption, as defined in the Development Strategy of Kazakhstan until 2030, linked to the creation of the professional state apparatus, the formation of a modern and effective body of civil servants. The strategy tasked with improving public service institution, providing for the creation of the national system of human resource management with a powerful and effective training at home and abroad, with a fair order of career advancement, with a unified information system, with guaranteed social protection system, with respect for the the basic management resource - human capital. [5]

Thus, the fight against corruption must be a constant function of the State and concern the whole of society. Must be created stable nationwide basis to limit the spread of corruption and self-reproduction, designed for long-term historical perspective.

Based on the actual state of corruption, the efficiency of the control over it and deal with it, the general conditions of counteraction of corruption are: maximum limitation of the sovereignty of the officials, the reduction in the ideal of their functions to the formal registration; strict limitation of the rights of the bureaucracy on the "regulation" of the economy, education, health, science, culture, etc .; reducing bureaucracy at all levels; strengthening the independence of the business and the individual; increasing the independence and prestige of the court (judges); development of civil society; a substantial increase in salary of officials (civil servants) while increasing their responsibilities; ensuring the transparency of their activities; there is a real political will to reduce corruption.

In Kazakhstan, the fight against corruption based on the basic principles set out in Art. 5 of the Law "On Combating Corruption":

1) the equality of all before the law;

2) providing a clear legal regulation of activity of state bodies, legality and transparency of such activities, the state and public control over it;

3) improvement of the structure of the state apparatus, personnel management and procedures address the issues affecting the rights and legitimate interests of individuals and legal entities;

4) priority to protecting the rights and lawful interests of individuals and legal

entities, as well as socio-economic, political and legal, organizational and administrative systems of the State;

5) recognition of the admissibility of restrictions on the rights and freedoms of officers and other persons authorized to perform state functions and persons equated to them;

6) restoration of violated rights and lawful interests of individuals and

legal entities, the elimination and prevention of harmful effects of corruption

offenses;

7) To ensure personal security of citizens, assisting in the fight against corruption offenses;

8) protection of the state rights and legitimate interests of persons authorized to

perform state functions and persons equated to them, the establishment of these individuals wage (cash allowance) and incentives to ensure these persons and their families a decent standard of living;

9) the inadmissibility of the delegation of authority for government regulation of business legal entities and individuals engaged in such activities, as well as control over it;

10) the implementation of operative-search and other activities with a view to identifying, disclosing, suppression and prevention of crimes related to corruption, as well as applications in accordance with the law of special financial control measures to prevent the legalization of illegally amassed cash and other assets;

11) the establishment of the ban for a particular group of persons to engage in business activities, including paid employment positions in management bodies of business entities, except for cases when the activity of such a post provided statutory duties. At the same time it should be noted that the basic direction of the fight against corruption should be its prevention, ie effects on the causes and conditions. [1]

Thus, noting the role of the state in the fight against corruption as defined by all state institutions, economy, other factors expressed in vivo, directly social rights, it should be noted - it develops in the confrontation with the state. Then, in the fight against corruption involved the whole society, because without the participation of the citizens can see a picture of such ineffective counter.

The legal basis for the fight against corruption in Kazakhstan dates back to independence. At the same time, we note, with an extensive database corruption legislation, we can say with confidence that the practical implementation at a low level. For this reason, subject to serious contradictions in the theory and practice. Anti-corruption begins when the activities of public bodies is limited, strictly ordered using the licensing procedure. This demonstrates the inextricable link society and the state. The main aim of every citizen is to prevent further development of corruption, for this reason it is necessary for each of us to send their forces to eradicate this global phenomenon in both the political, economic and social spheres of society.

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Criminological and Victimological characteristics of fraud

Abstract. The necessity of research of victims of economic fraud and carried out their criminological analysis. The author draws criminological classification of the victims of economic fraud: individuals' social status and volume of material damage caused to them, and legal entities - in the form of property. He proposes the formation of a new scientific direction - victimology fraud for the development of effective measures to protect victimological actual and potential victims of this type of crime

Keywords: culture, procedures, legislation, prevention, statistics, criminal law, ethics.

Fraud accompanies human society throughout its history, and with the development of society fraud is becoming more sophisticated and penetrates into the various spheres of social life (the mass deception of investors in the various joint-stock companies, trust companies and insurance funds, cheating customers, fictitious business and many other forms of criminal fraud, causing damage that is beyond counting).

In terms of law, fraud - a seizure of personal property of citizens or acquiring the rights to property by fraud or breach of trust. [1]

In a market economy in modern society is increasing the strain economic, political, legal, moral and other kinds of social psychology, formed in its queue, the numerous contradictions that exist in the various spheres of social life, leading to a sharp deterioration of the crime situation.

Under the conditions of demoralization of society, extreme psychological tension associated with the deterioration of the material condition of much of the population, a sharp, his deep stratification, rapidly growing acquisitive crime. Among property crimes occupy a significant share of the theft of another's property, committed by fraud. In addition, as a result of so-called consumer fraud is often applied to property damage low income categories of the population (mainly pensioners, students - teenagers from low-income families, single women with children or sick relatives dependent).

Solving the problem related to the prevention of this type of crime and the elimination of its consequences, it requires the coordinated interaction of general and specific measures criminological and victimization plan aimed at combating fraud. The importance of research fraud is through the prism of the victimization aspect is obvious. After all, the act of fraud is impossible without the participation of the victim, who, in fact, contributes to their behavior in relation to the commission of a criminal assault. [2]

It must also be noted that the investigation of fraud victimization has not been given much attention. However, existing research related to fraud (mainly economic, in the credit and banking and insurance sectors, committed against legal persons) do not reveal the specifics of domestic types of crimes committed against individuals in most cases hidden from the eyes of law enforcement authorities thus victimological fraud investigation is a very important and relevant.

Solving the problem related to the prevention of this type of crime and the elimination of its consequences, it requires the coordinated interaction of general and specific measures criminological and victimization plan aimed at combating fraud. The importance of research fraud is through the prism of the victimization aspect is obvious. After all, the act of fraud is impossible without the participation of the victim, who, in fact, contributes to their behavior in relation to the commission of a criminal assault.

In the mechanism of committing fraud behavior of the victims, as a rule, it is victimization and has the following varieties:

- Socially approved behavior of the victim, however, creates favorable conditions for the commission of the crime (this behavior is due to excessive credulity, superstition, kindness person);

socially disapproved behavior: a) unlawful; b) careless (such behavior could wear situational, as a consequence of single exposure to external circumstances, or are neutral to start a criminal act, but to promote the actions of a rogue at the time of the crime). [3]

The specifics revealed to criminal ties between the cheater and the victim is that they often do not have any relationship to each other comes only casual acquaintances;

In the causal complex fraud are the following reasons for this crime:

1) Strain of economic psychology, formed the contradictions that exist in the economic sphere. The latter include: the decline in production, which increases the number of unemployed and people without a regular income; deteriorating financial condition of the population and its dramatic stratification; a large gap between the growth rates of prices and incomes of the population;

2) Legal nihilism (as a kind of deformation of legal consciousness), which is manifested in its two extreme forms of legal indifference (indifference to the law) and legal negativism (denial of rights);

3) Deformation of moral consciousness (in the field of professional, family relations, leisure, as well as in the field of self-awareness and self-esteem). [1]

As an environment conducive to the implementation of the fraudulent abuse, can be identified: 1) poor performance of internal affairs bodies for the prevention of such crimes; 2) deficiencies in the organization and the economic sphere; 3) lack of control by the state in relation to the activities of various "soothsayers," "healers", fortune tellers, persons engaged in private medical practice, giving ads in various media, non-observance of the law in these areas (based sometimes on the corruption of officials); 4) a relatively high psychological vulnerability of victims to fraud and breach of trust, their victimization, including the manifestation of a person victim behavior in the mechanism of the fraudulent act; 5) the establishment of the victim environment conducive recurrence of fraud - when the victim is drawn not to the police, and the courts, not wanting to give the cause of penal coloring yourself trying to achieve the return of property or do not take any action to return their property and apprehending criminals or it does so too late.

The identity fraudster to a certain extent different from the identity of other offenders, such as thieves, robbers, hooligans. Most of the scammers have cunning, resourceful mind, imaginative and visionary, interest and ability to win over people who are endowed with acting ability. They cleverly use some favorable circumstances for criminal acts or modify, adapt them in accordance with the criminal plan. [4] Conventionally, fraudsters can be divided into four categories:

casual fraudsters, first-time offenders under the influence of circumstances or others; persons previously convicted of fraud and other crimes, including recidivists who have no permanent source of income; Citizens are generally not tried committing "fraud continued," was to obtain any material benefits; scammers - professionals whose way of life is linked to the systematic practice of this type of crime, which are their main source of livelihood. Fraud committed by them predominantly one favorite way. This category is the most dangerous cheaters, causing considerable damage.

The effectiveness of deception depends on the use of personal features to cheat. Despite the similarity of biological and social nature of people, their individual differences are quite large. Accordingly, for each person

there is a special approach, allowing delve into the depths of his soul and to influence his thoughts and actions.

The survey operatives specializing in the fight against fraud has shown that people commit fraud have certain personal qualities such as sociability; the ability to quickly make contact with the people; observation; the ability to influence people; organizational skills; determination; the ability to gain people; caution; the ability to understand people; care; clarity, critical intelligence, ingenuity; ability to navigate in a complex and rapidly changing environment, play a certain role; talkativeness, developed imagination; propensity to unlawful activities, the experience of the offense; a conviction in the past; stable contacts with persons serving as a criminogenic environment, visits to places of concentration of persons representing operative interest. Fraudsters, firstly, seek to impress their potential victims a feeling of complete confidence and only then proceed directly to the hype. For these purposes, they form a proper reputation and create the image of a truthful, honest man, using a confidential tone of conversation, providing uncritical acceptance by the subject of fraud and more.

A characteristic feature of fraud, as mentioned above, is a fairly high level of latency, which is the main danger lies in the fact that it is objectively creates conditions for the formation of a sense of impunity of criminals and ready to re-commit their crimes. It is noted that scammers younger committed mostly their criminal actions against the victims, victim behavior manifested precisely in the mechanism of a criminal act. [5]

As a main action to take warning complex target program of anti-crisis measures aimed at the revival and development of industry in the country, the restoration of agriculture. Furthermore, in this program must provide for measures to ensure the employment of youth, women and other categories of the population, among whom unemployment is now particularly prevalent.

Conducting general social measures in the economic sphere, it seems, should lead to positive changes in the social sphere. Important actions value in this case belongs to the elimination of social stratification, material support of needy citizens and neutralize the negative social consequences of unemployment and forced migration of people. [3]

You can also mention the important role of preventive capacities of legal education in the implementation of the fight against domestic fraud. The most effective approach is submitted to the legal education as an activity aimed at developing the personality of legal activity, eradicating her strain of moral and legal consciousness. First of all we are talking about measures to strengthen state power, the revival of the authority of the law and the rule of law as the highest social values. For this population should, at least, know the laws of your country that you can carry through complex training, lecture programs, organizations, institutions, and through the media.

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Foreign experience of fight against crime of minors

Abstract: This article explores the experience of foreign countries against ,the fight against juvenile crime and delinquency . The article also describes different preventive measures which were used in foreign countries to help to avoid minor crimes.

Keywords: crime of minors, prevention , juvenile offenders , preventive measures, criminal, foreign countries.

History of development of foreign prevention system of minors` offenses begins since 1846 when the first reformatory for juvenile offenders has opened in Massachutes, and in 1854 the Law "About corrective schools for minor criminals" has been adopted in England [1, p. 17].

Research of rich and very various historical experience of formation and improvement of prevention system of minors` offenses gives the chance to reveal the most effective preventive measures applied in foreign countries. On the one hand, it will allow using historically approved prevention methods, with another – the most advanced developments in the studied area for improvement of domestic prevention system of minors` crimes.

The preventive measures applied to minors in foreign countries for the purpose of the prevention crimes commission by them can be subdivided into the criminal and legal, applied as punishment for the committed crime, and preventive measures, actually which are not punishments.

Separate justice systems work in many countries for more careful approach to consideration of cases about the offenses made by minors and for the accounting of age specifics at the choice of preventive measures and punishment assignment since the end of the 19th century: criminal minors affairs (juvenile justice). Justice for minors leans on quasimedical theoretical model according to which juvenile offenders are considered as mentally unbalanced and need educational characterized intervention for the purpose of elimination and correction of frustration.

The criminal legislation of foreign countries in the majority contains the norms establishing an age threshold after which overcoming it the person can be prosecuted. Besides, the limit age of the persons prosecuted on special, i.e softer conditions also is specified in the legislation and as a rule, it connects on achievement of majority by the person. [2, p.25]

The minimum age isn't established at all in some countries that, in principle, allows to bring the child to trial from the moment of the birth. Where it is established, between the countries there are significant differences.

It should be noted that the criminal legislation of the majority of foreign countries establishes lower age of criminal liability, than in Kazakhstan. So, the Criminal code of Switzerland of 1937 (Art. 82) provided that "the present law isn't applied to the child who hasn't reached seven-year age" [1], the age of legal responsibility has been increased till 10 years by the special resolution in 2002 [2]. In England before adoption of Law about "Children and teenagers" in 1933 [3] to the juveniles who isn't subject of criminal liability

admitted the child who hasn't reached seven years according a general law. The age of criminal liability approach has been increased till eight years by this law, and then till 10 years by the Law about "Children and teenagers" in 1969 [1]. The minimum age in seven years is established in Australia, Jordan, Ireland, Pakistan, and also by a general law of the USA (at the same time each state establishes age of criminal prosecution independently). So, in criminal codes of Colorado and Louisiana the ten-year age, in criminal codes of Georgia and Illinois – thirteen-year-old, in the Criminal code Minnesota – fourteen-year-old, in criminal codes of New Gempshir and Texas – fifteen-year-old, in the Criminal code of New-Yorka-sixteen-year-old is specified.

The French criminal legislation establishes that "this law defines such conditions under which sentences can be imposed to minors who are older than thirteen years" [3] (Art. 122-8 of the Criminal code of France). The criminal code of Germany (§ 19) provides a possibility of criminal prosecution of the children who have reached age of 14 years. The similar age threshold of criminal prosecution is established also in Romania.

It is necessary to emphasize that the question of a possibility of attraction of the person to criminal liability in the foreign right is connected with concept of sanity. So, by the english right insanity can be caused by a sincere illness, intoxication and age. In works of the english lawyers devoted to criminal law, these questions traditionally are considered in the section on the circumstances excluding criminal liability. French Ordonans about offenses of minors № 45-174 of February 2, 1945 also provides a possibility of recognition deranged persons under 18 [2]. Establishing the minimum age after reaching which the person can be brought to trial, the foreign legislation provides "multi-staged" system by which for different age groups different corrective actions are provided.

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Juvenile delinquency in the Republic of Kazakhstan

Abstract. This article is about juvenile delinquency in the Republic of Kazakhstan.
Keywords: juvenile delinquency, law, society.

The problem of modern civilized society, regardless of the system and policy, has always been the juvenile delinquency.

A prerequisite for instituting criminal proceedings against a person is the attainment of a certain age. Since the person is the subject of a crime. For a number of serious crimes, such as for murder, robbery, rape, the law establishes criminal responsibility at 14 years.

Professor E.I. Kairzhanov noted that “if the crime is evil, juvenile delinquency is evil aggravated tenfold”

The moral norms and rules of behavior of minors must be subject to special attention of the family, school and social organizations. Our country needs clean, neat and integrated schools with good teachers and experts in working with wayward youths. The “zone” of special attention should include “disadvantaged” neighborhoods of the city. The professionally performed leadership can help children achieve maximal result in their development.

For example, in Finland, the school curriculum includes the subject of "Ethics", the content of which consists of 3 sections:

1) human relations and spiritual development

2) cultural identity and public relations

3) civil ethics

The teaching staff “protects” the reputation of the school by all means, and the fact that their students have committed a crime they present as a misunderstanding, thereby admitting their full professional failure. However, the materials of criminal cases show that the head and teaching staff of the general educational institutions have known about the facts of extortion and violence within the walls of the school, even carried out intraschool record of the “intractables”, but no action has been taken believing that everything would be solved by itself. The failure to resolve this situation has led to the fact that more and more suicide cases are happening in schools, as well as theft and extortion.

The negligent attitude to their official duties is not admissible and should be considered as criminal, when the head and teachers do not react and prevent in time the formation of criminal behavior in pupils.

Giving special role to school and teachers in the development of an individual and citizen, we must not forget about active participation of the family and parents in this process.

Family is the main source of intellectual development of the child, moral and aesthetic formation of personality, emotional culture and physical health of children.

The family plays a huge role in upbringing of a youth, as the life style of parents is one of the key elements in the formation of children. It is the negative, which has originated in the youth’s family, which entails formation of unfavorable circumstances for the moral formation of the youth’s personality.

In turn, the conflicts on the back of family dramas, implicitly:

1. Affect the background of the youth’s nature

2. Predispose the youths to communicate outdoors, which leads to neglect

Parents of today's students need to:

- determine the child’s leisure time through active going in for sports, participation in amateur performances and sections

- pay attention to the behavior disorder in due time (low level of sociability, irritability, aggression)

The role of the prosecution agencies is important in the suppression of the facts of illegal involvement of youth in religious opposition, social conflicts, as well as their use for extremist and terrorist purposes. At least once every six months the prosecution agencies should carry out verification of compliance with the rule of law in the activities of the education institution (orphan asylums, boarding schools, etc.)

“The purpose of juvenile justice is the prevention of further criminalization of the personality and facilitation of social rehabilitation of the child, rather than alienating him/her from society.

The criminal court as well as the criminal proceedings in whole apply the principle of special regulation for minors. It depends on a complex of age, psychological characteristics peculiar to youths and aims at

the most complete implementation of the court's educative-preventive function.

Crime control among minors is one of the leading areas of the crime control. The effective prevention of juvenile crime is an essential condition for the protection of the moral health of the younger generation, entering into an independent life.

In order to prevent crime among the younger generation, our country should provide free educational institutions, so that the youths would have the opportunity to realize themselves as a person. It is necessary to increase the number of free groups. The higher the circle of spiritual needs a person has, the wider range of interests, the greater opportunities to organize his/her leisure time he/she has, the less he/she wants to commit socially dangerous acts.

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The subject of legal relations, and their features

Abstract. The participants of legal relationships are those subjects that are in the field of objective right. Their swingeing majority is in the legal state. Other persons, on, or reasons not plugged in the sphere of the legal adjusting, are under watching over different eleemosynary organizations and state. The measure of participation of subjects in legal relations is determined by their legal capacity and capability.

Keywords: civil law, criminal law, subject of legal relationships, legality, special knowledge, constitutional law.

A legal capacity is the ability of subject to have legal rights and carry legal duties envisaged in a legislation. She begins from the moment of birth of individual and ceases death. A legal capacity is not natural property of man, and generated by an objective right. The those legal right and duties, that a subject can possess are concentrated in her, however it yet means that he really possesses them. To become the real participant of legal relationship, a capable subject must be capable. A capability is name acknowledged by the norms of objective right ability of subject independently, to carry out legal right and duties the realized actions. A capability is subdivided into general and special. General, for example, behaves to all without an exception legal transactions, the special spreads only to the algoristic type of these transactions. [1]

By virtue of natural reasons a legal capacity and capability coincide not always.

The table of contents and volume of capability depend on a few factors:

1. From age of capable subject. The legislation of entire countries determines age of lawful age, after the achievement of that personality to become capable, id est can the actions in full to acquire civil laws and create for itself social duties (civil capability). By equal character a legislation is determine age of political full age, with the offensive of that a citizen acquires political rights and carries corresponding duties (has a right to elect and be select in organs state. Authorities; being a deputy, be under an obligation to report in the activity before electors). Finally, age of marriage full age is set in entire countries, when a man can enter into marriage and in full to carry out marriage-domestic right and duties.

Depending on age of subject his capability is complete or limit. So, the minor accomplish transactions only from a consent parents, or trustees. [2]

2. From the state of health. If because of mental affection or imbecility a citizen loses ability to understand the value of the actions and manage them, he can be confessed by a court incompetent. Civil laws and duties of such persons are carried out by their guardians. Under the law the capability of persons suffering alcoholism or practising upon narcotic substances is limited.

3. From the cognation of subjects. It touches foremost of domestic relations. In the civilized countries celebration of marriage is forbidden between relatives on a line ascending and descending to the lines, between and brothers and sisters, and also between and adopted. In a number of countries, being is forbidden on state. To service in the same establishment of the married couples, if one of the married couples on service submits to other. [3]

4. From legality of subject. Person, committing crime, at of criminal punishment in places limiting his freedom, unable to realize the row of civil, political and other rights and duties, making his legal capacity.

5. From religious persuasions of subject. In the legal state, where freedom of religion is proclaimed and guaranteed, believers can by reason of the religious persuasions give up realization of row of rights and duties that they possess as citizens of the state.

The citizens of the state, foreign citizens and persons without citizenship, being on territory of this state, behave to the individuals or subjects of legal relationships. Individual subject of legal relationship not physical, and a legal concept is clean. Subject of legal relationship - it not the same, what man, is only one his property created by an objective right. Totality of all belonging to the citizen of rights, freedoms and duties named legal status. Term "legal status" is used for description of legal position of person on the whole, and terms a legal "capacity" and "capability" are used as it applies to participating of one or another persons in legal relationships. [4]

To organizations - collective subjects of legal relationships - state, public, private organizations and state belong on the whole. Unlike individual subjects a legal capacity and capability of organizations are limited to those aims and tasks for the sake of that they are created and function. Legal entities are commercial and noncommercial organizations always fully, id est they always possess a legal capacity and capability to a full degree. Under a legal entity organization, salient in civil circulation under the proper name, having property on the right of ownership or another rights, is understood, and can be a plaintiff and defendant in a court. Public and municipal organs are part of vehicle on a management by the state. Public organs are the structural subdivisions of state machine, that is provided with the competense, created under the law. The competense of public organs is determined through their articles of conduct. In an administrative law totality of the articles of conduct sometimes also name jurisdiction. Public authorities out of the jurisdiction have status of legal entity. A the same person presenting mutually exclusive interests of the different legal statuses simultaneously is a few different subjects of legal relations. [5]

In order that to participate in legal relationships, it is necessary to possess a legal capacity. The legal capacity of participants of civil legal relationships the state provides with,

acknowledging to the same them as legal subjects.

In order that to acquire the actions and carry out rights, create for itself duties and to carry out them, the subjects of legal relationships are provided with a capability.

Sometimes in scientific literature a term is used legal "personality", uniting a legal capacity and capability. Legal personality is determined as "socially-legal ability to be the participant of corresponding legal relationships".

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The concept of legal relations, content and their basic concepts

Abstract. Legal relationship - individualized social relation, ie the ratio between the specific individuals (citizens, organizations, the state represented by the state bodies, entities of a federal state, municipalities). And also - between one and the same person representing conflicting interests of various of their legal status. Interconnected subjective rights and duties provided by the law defining the extent possible and appropriate behavior. Possibility and ought implemented in concrete actions, in actual behavior. Subjects of legal relations - a socio-legal units, among which are the relations. That is a person, as well as state, endowed with rights and responsibilities; is directly involved in relationship.

Keywords: President, government, parliament, the judicial power, municipal formation.

The subjects of legal relations are divided into two categories: legal entities as such, they do not have separate legal status, the State (the person to call it is quite arbitrary). Legal status here are the so-called branches of government. Individuals are always the only people they are legally characterized legal capacity. Legal entities - commercial and non-profit organizations are always completely legal personality, that is, they always have the legal capacity to the full. Under the legal entity is an organization serving civil circulation under his own name, which has the right of ownership or other rights of property, and may sue and be sued in court. State and municipal authorities are part of the apparatus of government. Sometimes in the literature uses the term "personality" that combines the authority and capacity. Legal personality is defined as "social and legal capacity to be party to the relevant relationships." From the definition given in the

beginning of this article, it follows that the material content of any relationship is that the public attitude that it is fixed. In other words, it "is the actual behavior (action and inaction), which can be empowered and pravoobyazanny must do. [1]

"Differentiation in the relations of legal and material content allows us to understand the mechanism of the effects on human social life. Possibility and ought implemented in concrete actions, in actual behavior. Subjects of legal relations - a socio-legal units, among which are the relations. That is a person, as well as state, endowed with rights and responsibilities; is directly involved in relationship. More accurate to consider the financial and legal relationship to the content of his (content) "elements" or "parties". In addition, what is called the material and legal substance, with philosophical positions itself due to both form and content (the actual legal form of public relations, its material content). [2]

The concept of "legal content" relationship, strictly speaking, refers to the content of the legal form. More precise definition of the object is the following relationship - "those phenomena (objects) the world around us, which are aimed at the subjective legal rights and responsibilities" object relationship - always something external to the legal content of the legal relationship, that is something that is out of subjective rights and duties . Legal relationship exists in the real-life events, objects around us. In characterizing the relationship as the unity of the legal form and the actual content, we have already included in the legal entities, as well as material content - the behavior of people. Now the range of phenomena around us associated with a legal illuminated even wider - in the field of view includes phenomena (objects) that are sent to the rights and obligations. [3]

It should be emphasized that certain phenomena (objects) are treated as objects is applied to the relationship. And as the objects are the legal phenomena (objects) that are recognized as such by the state. Any industry Kazakhstan law regulates certain relationship, ie, relations regulated by the law. However, it should highlight some of the features that complement this general characteristic and can serve as a basis for the delimitation of administrative relations to other types of relationships. [4]

Objects of civil rights (and hence the civil relations) are things vklyuchayadengi and securities, other property, property rights, services and information, results of intellectual activity, including chisleisklyuchitelnye rights to them (intellectual property), intangible benefits. In a number of property relations associated with the presence of the object existence of the subjective right. These legal relations of nullifying or impairing the object leads to a violation of the subjective rights and gives rise to legal enforcement aimed at eliminating the consequences of the offense and the adoption of measures against violators. For example, the destruction of objects of property rights may have criminal and civil enforcement relationship, in which the offender is criminally and civilly liable. Thus, with respect to legal relationships where there is a "separable object" in dealing with legal cases is necessary in some cases, analysis of objects and of the legal rules that govern their legal regime. [5]

The current law and practice the concept of "legal regime of objects" (things spiritual creativity products, the results of separable) and reflects the impact that the properties of objects on the content of rights and obligations. From the point of view of philosophy, social relation is the state of the relationship and the relationship between people, manifested in their interaction. Hence, the most common in science understanding of the legal relationship as a public relations regulated by law. 3. legal practitioners and ordinary citizens are guided by this understanding of legal relations. It allows you to select and distinguished from other legal relations of social relations, focusing on their public-binding and warranty measures of state coercion.

In conclusion, we can say in general theory of law is legal understanding of how to resolve the legal norm of public relations is considerable controversy, because in science there is no clarity in the definition of "communication", "actual ratio", "social

relationship" in their mutual transitions into each other.

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Actual problems of the application of compulsory educational measures to minors

Abstract. In recent years, crimes committed by juveniles, occupy a very important place. The dynamics of their commission is characterized by a growth trend that is having a negative impact on the state of crime in general.

Keywords: underage, criminal process, detention, preliminary inquiry.

Entry humanity in the XXI century has marked a substantive crime control problem as to narrow national and global level. Especially alarming manifestations of criminological characteristics of crime among minors, in connection with which the international community is constantly concerned with the exploration and development of adequate, but, in turn, humane and effective measures and struggle with this dangerous phenomenon.

Problems combat juvenile delinquency, as well as issues of criminal responsibility and the application of compulsory educational measures, discussed in numerous works of scientists, lawyers. However, many important issues, including the general theoretical and applied research concerning the criminological aspects remain insufficiently investigated [1, p.106].

In cases of crimes of minors special importance is attached to the educational rather than punitive justice exposed, and therefore seems to be promising in the development of legislation on juvenile crimes extension is not criminal enforcement measures on that orient the norms of international law. In order to provide greater flexibility and avoid possible imprisonment in correctional facilities by the competent authority should have in the resolution of the case wide set of interventions. Such measures, which can be combined with each other, are: a) Care, guidance and supervision; b) testing; c) Resolution on the work for the benefit of society; d) Financial penalties, compensation and restitution; e) Intermediate treatment and other measures; e) the decision to participate in group counseling and similar activities; g)

Orders concerning foster care, living communities or other educational measures, etc.

A common reason for the use of any compulsory measures of educational influence is the recognition that the correction can be achieved by the application of compulsory educational measures. The court in this case must take into account the nature and degree of social danger of the crime and the identity of the perpetrator, their living conditions and education, the level of mental development and other personal characteristics, etc. The same criteria are set by the criminal law and the determination of a minor penalty. Consequently, the decision to apply compulsory educational measures will be taken as and subject to domestic law-belief, in particular the court. In addressing this issue the court should take into account that the application of these measures by the legal nature can not pursue all the objectives of punishment and criminal liability. The most important purpose of the application of compulsory educational measures is to correct minor, since it is to this end, with the possibility of achieving it without imposing punishment, the law envisages the release of the minor from criminal liability [2, p.27].

The content of compulsory educational measures are twofold. On the one hand, they are educational, based on its core - a warning, transfer under supervision of parents, reparation of damages, limitation of leisure. On the other hand, are coercive, as appointed by the court. Forced measures of educational influence can be applied to minors, regardless of what time he commits a crime. They can be used in the commission of a new crime under existing probation, after repayment of earlier convictions for the crime, and so on.

Exemption from criminal liability, if there are grounds and conditions specified in the law, it is possible at any stage of the proceedings. If can be achieved without the use of punishment, the investigator with the investigative body consent of the head, as well as an investigator with the consent of the prosecutor has the right to terminate the criminal proceedings and initiate before the court a request for the application of the preliminary investigation of the criminal case of minor or moderate severity is determined that the correction of a minor to juvenile defendant forced measures of educational influence.

If the minor committed the crimes and at least one of them is a serious or very serious, exemption from criminal liability with the use of compulsory educational measures is impossible, both in general and for certain crimes within the totality and belonging to the category of crimes of minor or moderate severity . Some authors propose to extend the possibility of applying educational measures to cases of committing a teenager for the first time a serious crime without the use of violence, but such an extension of the cases of possible application of educational measures to the exemption from criminal liability is unjustified and contrary to the logic of the criminal law of the separation of the cases of exemption from criminal responsibility and punishment.

As a general rule the finding of commission of an offense can only be entered into legal force of a court sentence. When applied to a minor educational measures may be an exception to the general principle, therefore, special attention is paid to the establishment of the fact of the crime. Application of the rules for exemption from criminal liability is inappropriate for those minors who do not recognize his guilt in committing a crime, because the realization of the incorrectness of his behavior and the desire to correct is one of the essential conditions to suggest the ability to patch without criminal punishment [3, p. 102].

The question of the possibility of a minor correction by applying compulsory educational measures also depends on the establishment of a variety of circumstances relating to the identity of the perpetrator and his crime. The possibility of a minor correction can be set based on the nature and severity of the particular offense, the motives behind it, the guilty person, their living conditions and education and other circumstances. In the application of compulsory educational measures to juvenile courts take into account the following factors: the identity of a juvenile offender, the positive behavior of the minor to commit a crime and his behavior after the

offense; committing a crime for the first time; the motive of the crime; remorse; no criminal record; compensation for damage; a confession, a confession, active assistance in solving the crime. The choice of educational measures shall be based on the motives of crimes committed by juveniles, their behavior after the offense, as well as taking into account whether or not these measures to them previously used and which ones.

A formal approach to the regulation of the law species and the application of compulsory educational measures already in the theoretical analysis raises many questions regarding the effectiveness and appropriateness of these measures in the form in which they are currently assigned to the criminal law. This fact demonstrates the need for further improvement of this institution.

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Positive experience of functioning of penal institutions of Norway and possibility of its use in the Republic of Kazakhstan

Abstract. In article questions of an order and a condition of serving of punishment in modern prisons of Norway and indicators of a standard of living in penal institutions on the basis of the international standards of the address with the condemned are considered.

Keywords: the foreign experience of penal systems, the international relations condemned, prisons of Norway, serving of punishments, resocialization and adaptation the condemned, European penitentiary rules.

The tendency of studying not only theoretical questions, but also practical experience in part of the solution of problems of the right was outlined in modern science of law. The special attention is paid to foreign experience of penal systems, their legal basis and implementation of the existing European convention "About Protection of Human Rights and Fundamental Freedoms" (Rome, on November 4, 1950).

Modern development of the international relations testifies that execution of punishments in penal institutions of the Republic of Kazakhstan is based on the principles of legality and prevention of humiliation of human dignity. It is confirmed

by the ratified European standards accepted in the territory of the Republic of Kazakhstan [1].

In the present article we consider questions of an order and a condition of serving of punishment in modern prisons of Norway, and also indicators of a standard of living in penal institutions on the basis of the international standards of the address with the condemned. It should be noted relevance of this subject which is directly connected with the European experience in relation to the Scandinavian country – Norway where the legislation concerning condemned to imprisonment is superhumane. For example, even to the terrorist Anders Breivik who deprived lives over seventy people and sentenced to 21 year of imprisonment (it is the maximum term of punishment, lifelong imprisonment in Norway isn't present), good conditions of keeping (the three-room room with a gym, the computer, the shower room, a bedroom, kitchen, possibility of visit of the psychologist, the placement to clinic) are created [2].

In Norway there is a model at which the system of execution of punishments is under control of the joint Ministry of Justice and internal affairs. For effective management of penal system the state divided the country into six regions in which the management is responsible for serving of punishment within the region, and also for constructive use of resources and adjustment of cooperation with other prisons. The penal system of Norway is centralized and depends on the budget of the country [3, p. 22].

The address with the condemned is based on the concept of social and ethical education of the guilty. According to this concept retaliatory properties of stay guilty of isolation conditions from free society are minimized. Escapes from places of imprisonment aren't present, prisons for the maximum safety are on the island, and the policy of fight against crime was always directed on decrease in retaliatory properties of punishment.

The representative of such approach to punishment – the world famous scientist Nils Cristi, the consecutive opponent of the death penalty, growth of "the prison population", the supporter of a humanization and minimization of punishment and unconditional protection of interests of the victim [4].

Prisons of Norway, according to Kazakhstan citizens, represent something between good educational institution, a normal cooperative farm and a cozy ski resort with quite good food.

In recently constructed prison Halden located on 30 hectares in the pine wood and calculated on single stay of 252 prisoners, the standard camera is the room of 12 sq.m equipped with modern furniture, the LCD TV and shower (2 sq.m). In the territory of prison are located the cultural center with recording studio, rooms for creativity, library, a winter garden; the sports center with the big hall for occupations; separate lodges for long appointments to relatives; the room for school and laboratory researches; medical center and production workshops. Premises of prison are decorated with works of art for which acquisition nearly 1 million dollars was spent. The mode of prison in Haldena assumes free movement of prisoners.

Large penal institutions, according to Norwegians, cause to people big sufferings, than systems small, and it is explained by that circumstance that more people are involved in them. Similar regularity extends and on penal institutions: in Norway the usual prison is designed for 50–100 prisoners, and the largest in the country – no more than on 350, it gives opportunities for preservation at least of a minimum of normal conditions for interaction. In the Russian penitentiary reality restriction of freedom more than 1000 condemned in one correctional facility is possible.

In total in Norway about 50 prisons. The smallest is designed for 16 people, in the biggest – about 400 people. There are prisons the safety opened and closed with strong level. At the same time in the country there are "transitional" prisons under the name "Half-Way House" that means "To the house halfway". These prisons are similar to usual hostels, their task – to prepare condemned to release [5]. Thus with the condemned individual work is well adjusted. At least, one employee is put to everyone – it is promoted by the number of the personnel.

A.E. Zhalinsky, analyzing questions of an execution of the punishment in the form of

imprisonment, I emphasized that any way of impact on the personality which is compulsory, that is contradicting will of this personality, anyway causes to this personality various sufferings, deprivations, burdens. The purposeful obligation to transferring of sufferings and burdens is always present at punishment [6, p.374]. An effective remedy of reduction of moral sufferings of the criminals called by punishment serving – creation of worthy living conditions and the organization of work of services of corrective system of the state by it [7].

As for recurrence of crimes in Norway, it makes from 33 to 36%. The contents one condemned in Russia per day makes about 90 rubles (2,5 euros that is nearly 85 times less, than in Norway, are thirty times less, than in the USA). Expenses on food, a ware and medical support enter this sum, household, etc. [10].

In total the Norwegian prisons contain about 3700 people. In a year through prisons on average there pass about 14 thousand people. Norway has one of the lowest indicators by number of prisoners in the world, and the Norwegian prison Halden (the closed men's prison, the biggest in Norway) where number of prisoners – 248, according to the Forbes magazine, in 2011 it was recognized as one of the best in the world [5].

Further it is necessary to stop on questions of a medical support in the prisons which since 1988 according to requirements of the Minimum standard rules for the address with the condemned is in close connection with local or government bodies of health care. In other words, medical care is provided condemned in the territory of that municipality where there is a correctional facility [3, p.24].

Implementation of requirements of the European penitentiary rules in establishments of execution of punishments of Norway demands from the personnel of appropriate preparation: candidates for positions in correctional facilities differ in honesty, humanity, possession of professional skills and personal suitability to performance of work. The last, in our opinion, is very important as the persons who only received the certificate about secondary education come to educational institutions of Kazakhstan [8].

It is unlikely all such entrants have a conscious aspiration further to serve in criminal and executive system about which they know nothing. For the solution of questions of resocialization and adaptation of prisoners since June, 2002. the additional duty – a coaching of three-four prisoners was assigned to employees of prisons. The main goal consists in that each prisoner had a curator interested in the organization of correction and training of the prisoner. According to the act the curator has to promote creation of conditions for prisoners in whom they can show as much as possible the desire and will to change of criminal methods of behavior. The curator is obliged to do everything possible for maintenance of such motivation of prisoners and is active to interact with them [3, p. 24].

In summary it would be desirable to note that now the penal system of Norway is at a high level of development in respect of implementation of the European standards and recurrence of commission of repeated crimes in this country is minimum. In this regard it is advisable to develop the program of cooperation with Norway for the solution of the questions connected with reorganization of penal institutions, and also activities of training centers for initial training of employees and their professional selection for our country.

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Psychological and personal features subjects of computer crime

Abstract. In the present article the author considered questions of psychological and personal features of subjects of computer crime.

Keywords: personal characteristics, computer crime, psychological features.

It is necessary to refer psychological personal features of this or that individual who has committed a computer crime which existence is caused by specific conditions of formation of the personality to the reasons of computer crime.

It is possible to carry to them:

- the personal characteristics defining a mercenary orientation of computer crime at the present stage and which are followed in some cases by greed, tendency to "easy" and "beautiful" life to work with the accompanying unwillingness, steady private-ownership psychology. In a complex the called properties of the personality define a mercenary orientation of the committed crimes;

- other personal characteristics, in that or a measure the shown during criminal activity or purely formal moments of criminal activity: hardness in decisions, aspiration to self-expression, to submission to the will, on the other hand, on the contrary, absence or a lack of will power, a arguments Formation of the called personal characteristics of the person who has committed a computer crime depends on the following factors:

- adverse sphere of the family and household relations. It is well-known what all qualities of the person as persons (including negative), all his inclinations is formed at children's age, and in the subsequent, in the presence of the corresponding conditions, only develop;

- working conditions and insufficiently developed need for work. Influence on the individual of any reference group which he treats including labor collective, it is big;

- problems in the educational, cultural level, intellectual development, discrepancy of

outlook, backwardness of requirements and interests or their limitation;

- conditions of an environment and stable relations with the persons which are characterized by antisocial and illegal behavior, or groups of such persons

The main reasons and conditions promoting manifestation of computer crime are that.

Foreign experience demonstrates that the fact of emergence of crimes in the sphere of high information technologies in society, many researchers identify with appearance of so-called "hackers" (English "hack" — to cut, cut to pieces) — the users of the computing system who are engaged in search of illegal ways of receiving unauthorized access to data with their unauthorized use in the mercenary purposes. Except the "hackers" of computer offenders stated above call also "crackers" and "freker". These persons usually possess rather high special knowledge and practical skills in the field of new computer technologies. As a rule, it is the school students who are carried away by the computer equipment, students and young specialists who are improved on this kind of activity. Follows from the publications characterizing these persons that the hacker — very capable young man working behind the display for 12-16 hours in a row to full exhaustion, eats parts. Brilliantly knows all details of an operating system, the Assembler programming language and feature of the peripheral equipment.

Their activity is directed to receiving access to computer information for what they use various ways of "breaking", circumvention of protection and penetration into a network, as a result they abduct and replace data, modify files, block network functioning and put the software out of action. For this purpose they use various technical means, in particular, the special diagnostic equipment delivered together with the equipment of a network and intended for search of "weak points" in system of her protection, means of automatic penetration at the same time in slightly computers which are switched on in a network.

Classification of the identity of subjects of computer crimes has certain specifics. The persons committing similar crimes are differentiated by various scientists on category of group. So, investigating data on personal properties of subjects of crimes in the sphere of computer information, a number of scientists share the following categories of citizens:

1. The faces consisting in the labor relations with the enterprise, the organization, establishment, firm or the company where the crime is committed (they make more than 55%), namely:

- the COMPUTERS which are directly engaged in service (operators, programmers, engineers, the personnel making maintenance and repair of computer systems or serving computer networks);

- the users of the COMPUTER having a certain preparation and free access to computer system;

- administrative and managerial personnel (heads, accountants, economists, etc.).

2. The citizens who aren't consisting in legal relationship with the enterprise, the organization, institution, firm or the company where the crime (about 45%) is committed. Can be them:

- the persons who are engaged in check of financial and economic activity of the enterprise, etc.;

- users and service personnel of the COMPUTER of other enterprises connected by computer networks with the enterprise at which the crime is committed;

- the persons having the computer equipment at the order (including the owners of personal COMPUTERS who in one way or another have got access to telecommunication computer networks).

On categories of access to funds of the computer equipment they can be divided into two subgroups:

- internal users (persons who have direct access to necessary information);

- external users (subjects who address information system or the intermediary for obtaining information necessary for them).

According to respondents (experts), the overwhelming number of crimes (87%) is committed by internal users (usually it is workers and employees of firms and companies). External users are persons who are well informed on activity of the

dissatisfied party. The circle of external users is so wide that no systematization and classification gives in (any person can practically be them).

Revealing the identity of the criminal, it is necessary also in all cases at investigation of a crime to find out motive and the purpose. It is important not only for definition of fair punishment by court for deeds, but also promotes full disclosure of a crime. Data on the most widespread motives and the purposes of commission of crimes are used at promotion of versions concerning the subject and the subjective party of a crime, and also at the organization of purposeful search of the criminal.

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Features of juvenile crime

Abstract. In this article, author describes the peculiarities of crimes which are committed by minors . Nowadays juvenile crime under different circumstances is radidly growing. Children are our future , that's why this article is important and interesting to consider.

Keywords: juvenile crime, minors, criminal, juvenile.

Children upbringing has always been considered, and will be the main task of every individual to maintain a stable future. Children are reflection of the future, of what they grow, depends on our present after a certain period of time. Therefore, one of the main objectives of every state is to maintain the stability sufficient conditions for each child. Adolescents whose behavior deviates from the socially accepted rules, norms of conduct, are called hard or intractable. Such adolescents are physically fit but not educated and not trained. They are not only bad at school but they resist educational influences, and are characterized by a deep alienation from family, school, influence of antisocial, criminal groups, serious social deviations: violate discipline at school, not wanting to learn, conflicting with teachers, with peers, with parents, droping out of school, consider themselves losers, wanders, drinks, breaks laws.

Juvenile crime has become very urgent problem of our, and not only of our state. What is a minor crime. Juvenile delinquency is a set of crimes in society which are committed by persons aged 14 to 17 years. Juvenile delinquency is an integral part of criminality in General, but also has its own specific features, it can be regarded as an independent object of the criminological investigation.

Need of such allocation due to the peculiarities of somatic, mental and moral development of minors, as well as their social immaturity. In adolescence, young adulthood at the time of moral identity formation, the accumulation of experience, including negative which can not be detected or appeared with significant delay. Crime is extremely negative, yet inevitable phenomenon of social life. "The criminal legislation of the Republic of Kazakhstan specifically title VI provides: "Criminal liability of minors" of the criminal code, which is generally consistent with the principles of humanism and justice contained in the UN

Convention " Rights of the child" adopted on 15.10.1990 G." [2]

"Article 15 of the criminal code of the Republic of Kazakhstan provides criminal liability for committing socially dangerous acts for persons who are at the time of committing the offence has attained the age of 16 years. However, for the Commission of variety of offences noted in part 2 of the same article 15 of the RK criminal code, criminal liability may be imposed from the age of 14. Not criminally liable juvenile who has not reached 14-summer age. But the legislator, in relation to such persons that the court may apply compulsory measures of an educational nature in the form of referrals to special education institutions with special conditions of education"[2].

Criminological characteristics of uvenile offenders has its own characteristics. Such as:
1. Peculiarity of the dynamics and structure of crime and its measurement;
2. Feature of existence and operation of General causes of crimes and conditions conducive to committing it;
3. Personal characteristics of criminals;
4.Motives and goals of many crimes.

One of the important feature of juvenile crime is a significant percentage of so-called latent, hidden, unidentified crime. Teenagers, including "difficult", often commits petty pickpocketing, but those situations are often settled on the spot, without becoming the subject of criminal registration.

The problem of identity is one of the important problems of our time. The first signs an antisocial orientation of personality which often manifest themselves at the early age in the form of mischief, hooliganism, and petty theft, that is minor violations of the norms which are established in the society. The identity of the minor, the offender is characterized by the presence of such structural moral-psychological properties and features (views, aspirations, attitudes, etc.), which orients him to the choice of antisocial behavior and in certain situations leads to such a choice.

Analyzing the personality of the juvenile offender, any person whether it is and without legal education, comes to mind up an image of a child with a poor level of education in his family and adverse environment conditions.

The cause of an offence, necessarily specifies an individual character. Among them are critical adverse living conditions and upbringing that exists in some families and institutions. In relation to juvenile delinquency group of subjective, individual factors and characterize those features that directly relate only to children's and youthful age. Being in younger and middle age clearly shows the influence of the environment and family education, and at an older age – more prominent role of the personality, its psychological characteristics and the relationship to the environment.

Age 14 to 17 years characterized by major changes in the human body, in his psyche. At this time there is physical (including sexual) maturation of adolescents, rapidly develops moral and intellectual abilities. During these years appears conscious attitude of the adolescent to reality. So, it is reasonable, even without psychological education, to understand that 14-17 years is one of the most critical ages of life, and during this period it is necessary to pay attention what is in the interest of a teenager, and try to pay more attention for an education.

Many juvenile offenders have formed their view of the world, has its own life "philosophy", mainly depending on social status and individual environment. Analysis of the colonies shows that they come from disadvantaged single-parent families, whose living standards are below average, have incomplete secondary education and some are not studied at school.
What pushes minors to commit crimes?

"The main motives can be:

- brag to classmates, friends with a demonstration of their courage;
- selfish attitude to the subject of claims for which a minor commits is an illegal act;
- subordination to the influence of more experienced adult with a criminal record;
- limited positive friendship and family ties;
- an inadequacy of self-esteem and level of claims, etc." [3]. But despite the fact that juvenile crime is more psychological in nature, it does not diminish the fact that it remains in

any event crime, and therefore should be subjected to preventive care and prevention with the services of operational units of internal Affairs bodies.

"At the prevention work of operational units of internal Affairs agencies rely on the support and assistance of educational bodies, sporting, cultural and educational institutions, public order, and other state and public organizations"[3].

While organization of work of prevention of juvenile delinquency it measures transparent and implicit.Public measures includes: personal effects of officers and district inspectors on Affairs of minors for teenagers consisting on the account, interviews, lectures of various kinds of surveys, administrative impact and use in educational and preventive work among adults to state bodies and public organizations.

One of the unspoken areas of prevention of juvenile delinquency is the identification and exposure of adult instigators and organisers of the crimes. After receiving information about persons who involves minors in criminal activity, field officer takes measures for documenting their illegal actions in order to bring them to justice.

In conclusion to this article I would like to define several factors that causes juvenile crime. In my understanding the biggest problem of juvenile delinquency is the family in which the adolescent grows. Caregivers of the younger generation involved school, family and community. All three factors are very important, but family, I think this is the same hearth, which lights up all the internal problems or may be complexes that are in the future and will be the chief incentive to crime. The influence of family members is decisive, because it acts on the child, not occasionally, but constantly, systematically, every day, and this is his strength. The child, without life experience, starts his adult life, should his actions, deeds copy from someone to imitate someone, and of course, watching out their parents in their daily lives, he begins to repeat everything that they see.
A. S. Makarenko said : "Do Not think that you are raising a child only when talking to him, or teaching him, or telling him nothing. You nurture him in every moment of your life, even when you are not at home. How you dress, how you speak to people and about other people, as you rejoice or mourn, as you treat friends and enemies as you laugh, reading the newspaper – all this is in a important place for the child". Based on this, I can come to the conclusion that every adult should be awared of what they are, although seeing their children, and a common future in General.

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Problems of corruption and possible solutions

Annotation: This scientific article tells about the problems of corruption in the Republic of Kazakhstan and the methods introduced by the state to prevent them.

Keywords: corruption offenses, prevention, methods of struggle, responsibility, etc.

Corruption crimes are offences under paragraph g) of the third part of article 176, paragraph a) of the third part of article 193, paragraph a) of the third part of article 209, article 307, paragraph b) of the fourth part of article 308, articles 310-315, article 380 of the criminal code.

Corruption crimes and other crimes against interests of public service contained in Chapter 13 of the criminal code of Republic of Kazakhstan.

The problem of corruption in the modern period can be found practically in any country of the world, as well as in any international organization. However, this does not mean that corruption is the same everywhere. Causes of corruption depending on historical epochs and phases of socio-economic development of the country is quite different, therefore, attempts to develop a universal administrative and legal means of prevention and suppression of corruption, it seems almost unreal. So, in a number of foreign countries developed a set of administrative regulations aimed at preventing and combating corruption in public administration and in the public service. These standards are based on the recognition and protection of the rights and freedoms of the individual and clear performance by civil servants their official duties. In order to prevent and combat corruption in the public service developed a comprehensive administrative measures aimed at the prevention and suppression of corruption in the state apparatus.

The fight against corruption identified as one of the main priorities of state policy, which is a priority also for the tax authorities. On the fight against corruption, within its competence, directed the efforts of all state bodies and officials, approved a Plan of measures on corruption counteraction.

From year to year increases the legal liability of public servants for corruption offenses, more engaged public, and this fight falls to all of us. Essential in the fight against corruption is given to the raising of image of tax authorities and improve the tax culture of taxpayers, as well as interaction and activation of cooperation in the sphere of fight against corruption with law-enforcement bodies and civil society institutions.

Nowadays, the priorities in the work of the financial police shifted towards prevention and prevention of corruption and economic crime, which consequently led to increase analytical component, both in quantitative and qualitative terms. Firstly, since the end of last year, there was established an independent analysis unit in the regions, about 40 analysts (earlier the Department didn't have their analysts on the ground).

Secondly, qualitative changes in the analytical work that focuses on two priorities.
- prophylaxis and prevention of corruption and economic crime;
- identification of crimes on the basis of analytical materials.

With regard to prevention…

Developed new criteria and approaches in conducting prevention, and aims to move away from traditional measures with which it is often identified, in the form of the practice of holding roundtables and lectures, distribution of informational materials.

Methods:

The Law "On combating corruption" provides for the obligation of state bodies and officials on combating corruption. Thus, the role of the Agency along with other law enforcement agencies is the detection of corruption offences, which does not meet the objectives detect and prevent corruption risks. This is confirmed by the invariance of the

statistics of the most corrupt departments and agencies.

Increasing the transparency of income/expenses public servants in recent years is one of the most popular measures in the fight against corruption. In accordance with the Federal constitutional law of the Russian Federation "On amendments to article 10 of the Federal constitutional law "About the government of the Russian Federation" dated 3 December 2012 from 1 January of the current year members of the government/spouses/minor children must declare their costs for the purchase of real estate, cars, securities. Such a measure should be introduced in the Republic of Kazakhstan taking into account the existing positive experience, with great coverage, additionally include responsibility for the inconsistency of expenditures in the total family income.

Effective system of penalties for corruption offences is one of the effective measures of prevention. The current system needs to be improved both in General and in terms of corruption offences. In this regard, an effective measure of punishment may be a broad application of corruption offences to the public of works performed at the place of the offence. So, works indoors or on the territory of the public authority, employee of which he was, would hasten the re-education as well as be a visual warning to the government employees.

In order to strengthen the fight against corruption proposes to strengthen responsibility for corruption crimes provided for in articles 311, 312, 313 of the Criminal Code by establishing a multiplicity of fine.

The main novelty is the establishment of a system of fines calculated from the ratio of the sum to bribe takers. In case of malicious evasion condemned from payment of the fine the court upon the judicial officer replaces a deprivation of liberty within the sanctions of the Criminal code.

The establishment of criminal liability for crimes provided for in articles 311 to 313 of the Criminal code, depending on the amount of the bribe will:

- first, to strengthen the criminal liability (the ratio of the cost of the bribe with deprivation of the right to occupy certain positions or engage in certain activities, with confiscation of property or deprivation of freedom with the specified additional punishment) with the exception of the alternative punishment to a fine, restriction of freedom.

- secondly, for the offences, the suspended sentence will not be applied (item 8 of article 63 of the Criminal code).

- third, the punishment will be just, in proportion to the bribe received, and will not depend on the position. The fact of receiving a bribe regardless of position undermines authority and creates a negative attitude of citizens to authorities.

For example, the current edition, a state official holding a responsible public office when receiving a bribe in the sum of 3 500 tenge and a civil servant occupying a similar position, received a bribe of up to $ 750 000, can receive the same punishment from 5 till 10 years of imprisonment.

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Criminal law characteristics of economic crimes

Abstract. This article reviews criminal law characteristics of criminal violations in economy dangerous for the state. It also describes the meaning and content of criminal violations origin in the branch of economic activities. The meaning and content of economic relations are described by legal professionals. The criminal law characteristics of criminal violations in economy currently have an essential role in the system of rules securing the safety of society and economics.

Keywords: economics, economic crimes, economic relations, safety, market economy, state.

The object of crimes in the field of economic activities is currently the most disputable problem not studied by the criminal law science. It always was in the focus of legislators either during the times of planned socialist economy or today's market economy. V.Ya. Tatsy once remarked that "one of the most central issues in the criminal law science is the object of economic crimes".

Many researches were conducted during 30s-60s of the XIX century, however no general meaning for the object of economic crimes was found. A.N. Trainin's opinion on the object of economic crimes is widely spread. To his point of view this "bothers the correct work of the socialist economy". B.M. Leontiev used to say that object of economic crimes is the "Socialist property". Yu.I. Lyapunov describes the object of economic crimes as "socialistic public relations arising in the system of socialist economy". However, P.T. Nekipelev states that economic crimes are "the actions against expenditure of socialist property of a socialist community for the purposes of creating of communistic society". A.N. Deliev used to write that these crimes "are oriented to the socialist property serving the interests of the state". In 90s, during the transition to the market economy the attitude to the object of economic crimes suffered several transformations. Yu. Golovlev stated in his Ph.D. thesis that "object of economic crimes is a ground either for saving the social interests or public order both secured by the criminal legislation as well as for the further correct work. According to the V.P. Saenko's point of view "the object in the field of economic criminality is economic relations arising in the economic activities being guarded by the criminal legislation". L.D. Gaukhman and S.V. Maximov suggest as the object of economic crimes "public relations securing the economic interests. These relations must not be banned by the government legislation".

The above scientific researches were conducted on the ground of the old criminal legislation. The writings dedicated to the analysis of the criminal legislation and dated 1997 describe the object of crimes in the field of economic activities as follows: The authors of the book named "New criminal legislation of Russia" determine the object of crimes in the field of economic activities as "public relations protected by the state and oriented to the development of the market economy". As think the authors of the chapter named "Object of crimes in the field of economic activities" the special part of criminal law written under the editorship of Prof. A.I. Rarog, the object of the crimes in the field of economic activities are social relations arising during rendering, exchanging the economic services or using the material benefits" [1]. The objects are public relations oriented to the operation of the state economy as permanent homogeneous national economic complex.

In the book named "Criminal law of Russia" written under the editorship of Prof. V.V. Zdravomyslov, the object of crimes in

the field of economic activities is described as "social relations securing the permanent operation as integral national economy organism of the Russian Federation". The object of crimes in the field of economic activities is the homogeneous social relations arising in the field of economic activities. In the chapter 22 of the new criminal law the group of authors remark that object of crimes in the field of economic activities is the public relations regulating the field of economic activities which are a separate object. I.I. Kucherov says that object of crimes in the field of economic activities is dangerous for the society actions inflicting damage to the society's economy system. At a later date they consider the object of tax crimes as the economic relations protected by the criminal legislation. As Prof. V.M. Leontiev supposes, the criminal law norms specifying responsibility for the crimes in the field of economic activities protect the public relations arising in this field, i.e. interests of the state and separate subjects in the field of economic activities [2].

By referring to the conducted analyses at latest one may make the following conclusions: 1) a general criterion on dividing the chapters of Criminal Code 1997 are absent; 2) all except V.M. Leontiev refer the object of crimes in the field of economic activities to public relations. As Prof. V.M. Leontiev supposes the object of crimes in the field of economic activities protects the interests of the state, separate subjects and public relations of Criminal Code. 3) the latter arise in the field of economic activities.

Taking in consideration the above our decision on this topic is the following:

Firstly, let's analyse 7th chapter of the special part of the Criminal Code. One of the criteria for dividing the chapters is the object of crimes. Economic crimes were a separate object in the Criminal Code of Kazakh Soviet Socialist Republic of 1959. In the general and special parts of the applicable Criminal Code the system of articles & parts is used. The views of authors with regard to the division into systems are quite different.

The form of type suggested by N.I. Korzhansky is a part of homogeneous one: usually the latter consists of several kinds of forms. They serve for classification of interventions into homogeneous public relations and, in general, make scientific sense. At the same time the homogeneous form does not include the form of type. The scientific classification of crimes in the composition of the homogeneous form, in this case, shall be exercised under other properties. For instance, crimes against property from the state of mind are to be divided into trespasses for profit and for no profit. However, property relations shall not turn into form of type relating to the homogeneous form, economics due to absence of (1) opportunity to divide them into forms of type [3].

V.V. Volzhenkin explains the meaning of homogeneous form of crimes in the field of economic activities and notes that "the majority of cases falling within the properties of the crime components stated in the articles hereof shall have no reference to economics and branch of economic activities", and shows the peculiarities of the form of crime against interests of service in commercial and other organisations.

We suppose that at the heart of individualisation of the special part in the chapter 7 there is a homogeneous form of intervention. The very sub-chapter was individualised under general properties of homogeneous forms of crimes embraced by them: all of them to a certain extent contentwise interfere in various economic relations. According to the meaning of economics the specialists of the branch provide especially wide interpretations: "it is a type of economy in a broad sense, i.e. all means, devices, things, aggregate of substances of material and spiritual world used to provide the housing conditions of people, to reimburse their needs, and economics are to be accepted as a system created and used by people to provide and exercise human life-sustaining activity, to secure and improve the conditions of their existence".

Even in deliberately shortened dictionary meaning the word "economics" (from Old Greek "ability to manage the household") shall mean a system of industrial branches securing the national economy of the country, i.e. "product ensuring the public needs" [4].

According to this, relations inside economics are different by content, many of them are secured from violations by the criminal legislation, in general, by the part dedicated to the economic crimes. Crimes against homogeneous economic relations are unified in this chapter.

It is noticeable that the legislator, in general, observes the principle for execution of the above system in the entire special part.

Now let's get acquainted with the meaning of homogeneous form of crimes in the field of economic activities. The science prefers orientation to the form on any stage and accepts public relations which we approve as well. Within the group of crimes being considered as noted above and as theorists of criminal law science think, this is public relations arisen in the field of economic activities. In economists' judgment the economic relations are "relations arising between people in the process of manufacture, distribution, exchange and consumption of goods". While considering these relations one cannot fully break away from politics and ideology. It's all about to distinguish the determination of the market between communists and non-communists. The commodities market and market mechanism for pricing are general for all, and our country will step-by-step be a major figure in the transition market economy.

Labour (activity) in the market economy is a person's directed action which requires an idea, power and time regardless the branches of forms and methods or work organisation and expenses results usage. The market economy has the following meaning: it forms the space for economic activities. According to the above, relations different by content arise in the field of economic activities. Firstly, these are economic relations: property relations, industrial relations or relations arising in the process of state regulation preserved to a certain extent, the order of political public relations, etc., there may be even relations arising in connection with the justice. That's why it is hard to agree with determination of the object of crimes in the field of economic activities, i.e. that they are formed public relations. To our mind, only the first group of the above relations may, being the object of crimes in the field of economic activities, represent economic relations. If another group of relations in the field of economic relations is the object of criminal law defence, then they will be included in the row of certain objects of other parts of the Special part of the Criminal Code.

The meaning of economic relations is, in general, determined by the experts in civil (economic) law. For example, S.V. Tikhomirov remarks in his study guide named "Economic law" that "One must understand economic relations as functional economic relations, these are services for entrepreneurship, commodities markets, stock, brokerage, investments, banking, privatisation of state and municipal enterprises and relating to others". [5].

The content of these relations are shortened by V.S. Martemyanov, to his mind, they "arise in the process of implementation of business activities and in result of the state impact on the market participants with regard to their mutual rights and obligations" [6]. We think these relations may not anyhow be the object of crimes in the field of economic activities. It is necessary to take decision on economic relations, agreements, ideas on market types, investments, their division by content. To implement tax and customs policies, to support competitiveness, banking risks, trading band, etc. - all of these relates to the interests of other branches of law. The criminal law is neutral to such matters and relations, the latter never was and will never be in the focus of the criminal law science. However, there is an aspect or economic relations appearing as a unique object of crimes in the field of economic activities. Authors of economic course say: "Each participant of the economic system individually or according to the state approvals chooses the rules regulating social and economic psychology and ideology, economic laws and regulations". The most important rules of that kind observed by the majority of the participants shall form the principles. As far as such principles correspond to economic laws so shall the economic system effectively operate and so inequality, dissatisfaction of needs, deficit, inflation and crises shall be insignificant. The principles shall, certainly, be

connected to the economic laws and reflected in national acts. The difference of the principles from economic laws is that they have not general universal character, they depend on the type, kind of social and political, economic system and to a certain extent characterise this system. Different authors construe these principles differently: main market rules, norms of economic activities and economic behaviour, principles of market economy, principles of economic law, principles of business law, etc. [8.]. Unless they are affected by special researches and systematisation, they are quite well known and used for a long time [7.]. These principles lie at the heart of economic relations: the latter, regardless their precise content, are formed with consideration of the above principles. In fact, these are principles for organisation of relations in the field of economic activities or principles for their implementation. Principles for implementation of economic activities shall mean initial rules, ideas, main resources being fundamental for any economic activities. Social and economic relations being formed under principles for implementation of economic activities represent homogeneous form of crimes in the field of economic activities. Authors of the study guide "New Criminal Law of Russia. Special part" came to that conclusion [9]. Marking the integral part of the system of crimes in the field of economic activities they divide crimes related to the violation of the established procedure (general principles) for implementation of business or other economic activities. We suppose that almost all crimes in the field of economic activities interfere in this form.

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Psychological portrait of the criminal

Abstract. The article describes the identity of the offender: the criteria of typology, traits, motivation and criminological portrait of wrongful conduct.

Keywords: power, psychology, criminal behavior, sadism, motivation, fear.

Nowadays, with ever-increasing pace of life, the mode of society becomes more complicated, and the principles by which society exists. Man, as a part of society is also changing, with the impact of the environment. Today's society, literally, will be different tomorrow. The current man, unlike yesterday, has access to the internet, where he can find anything. The boundaries of knowledge, information greatly enhanced, making a person much more difficult from a psychological point of view. In modern society there is practically no taboo subjects, everything can be questioned, criticized, there is a diversity of opinions. Under these conditions, the psychology, the object of study of which is a person, develops application tools, in fact, studying the man of the future. You may not agree, saying that modern man has fewer shackles holding him back for all the preceding centuries, making it possible to sublimate aggression on others. But modern man, unfortunately, has the same fears and complexes, as well as its predecessors. These fears and complexes, usually received in childhood, over time, can progress in certain circumstances and cause uncontrolled desire in people to violence. Every killer has an inferiority complex, which he tries to compensate by establishing power over his victim.

It has long been in the legal (criminal) psychology compiled both: types of criminals and features of psychology of a criminal, depending on its vessels to a certain type. There are many detailed monographs and textbooks dedicated to this topic. Particular attention is paid to an important factor such as the attitude of a criminal to his victim.

"Approved" ("self-affirming") type, it is treated the person, meaning criminal behavior is to establish himself, his personality on the social, psychological, or social and individual levels. Of course, there is a selfish motive, which acts as a parallel, collateral, in most cases equivalent. Thus, there is a polymotivation, but with the selfish motive is not intertwined with the self-affirmation, prestige considerations, the statement of the authority. By asserting himself, a person tends to feel the source of change in the world. This commitment is a guiding principle that pervades the various motifs.

It is important to note that the ownership, disposal of stolen serve as a means of asserting identity, his "I". Especially clearly it is manifested in the criminal activities of young people, if they are so obsessed by prestigious property or funds for their purchase [1, p.44].

More or less aware of their anti-social essence, the criminals usually push system of self acquittal motives and neutralize those social values that hinder the achievement of criminal purposes. Removal from liability on the basis of self-justification of his actions - one of the characteristic features of most criminals.

Due to the disposal of the social values the criminal resorted to psychiatric decompensation, to pseudo premises system which creates an internal mental balance. Criminal does not see the reasons of his wrongdoing behavior in his negative qualities, and external circumstances but in the behavior of other people. Criminal acts combined, usually with high self-esteem of the criminal. This shows the inadequacy of criminals assessments of deep breaches in value generator scope of their personality.

Self-justification is an intentional crime occurs in different ways:

1) Exaggerating the guilt offerings;

2) depreciation of social and legal norms by contrasting their reference standards, anti-social groups (gangs, gang of thieves);

3) transferring responsibility to others, excuse the actual circumstances, and so on [2, p.142].

Genuine original motives of the offender can be transformed, changed, and blacked out, made out in a suitable form for him. Unscrupulousness and greed, vanity and cynicism, jealousy and revenge, as well as other personal defects underlie the motivational orientation of the perpetrator [3, s.317].

Adler claims that the main driving force of behavior and human activity is the pursuit of excellence, dominance over other people. It is the desire for power is the factor that determines the activity of the subject. According to Adler, strength is born of weakness. Shortcomings and defects (or rather, the desire to compensate for them, to feel their power and self-assertion) induce a person to develop, improve themselves [4, s.294].

Korni claims that teurotic desire for power arises from anxiety, hatred and feelings of worthlessness. In other words, the normal desire for power arises from the sense of power, and neurotic - because of the weakness. An important feature of the neurotic personality is the desire to anyone and will never concede, to agree with the other person's opinion or accept advice is seen as a sign of weakness. Neurotic demands the world to be adjusted to it, rather than to adapt to the world himself [4, s.295].

Erich Fromm deduced motivation to power from the individual's desire to avoid isolation (loneliness). The subject of power (sadist), according to Fromm, is entirely dependent on a weak person who owns it. Sadist needs someone who belongs to him, because his own sense of power is based on the fact that it can be someone to own or control. The power and sadism, give him confidence, which connects him with other people, help him get rid of loneliness and social isolation.

Thus, the motivation of the authorities (or the need for power) - one of the main driving forces behind human actions. It is believed that this is selfish or even sadistic force, which can never be saturated, like any drive [4, s.296].

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Theoretical and legal issues to ensure lawful behavior in the Republic of Kazakhstan

Abstract. The purpose of this article is to review and detailed analysis of the problematic issues of lawful behavior in the Republic of Kazakhstan and ways to overcome them. These issues will be dealt with in accordance with the socio-right way of the Republic of Kazakhstan.

Keywords: good behavior, rule of law, society, legal means, rights protection, prevention, implementation.

The activities of people in a society made up of various acts of individuals. All human actions can be divided into two main groups: socially useful actions (good behavior) and socio-injurious behavior (misconduct). Good behavior - a behavior that complies with the law. It helps to strengthen the rule of law. Antipode of lawful behavior is illegal behavior. It violates the requirement of legal norms and harmful to society, which is why this behavior as a criminal offense.

Everyone relies on existing in his understanding of the normal or desired, harmful or unwanted behavior and the behavior of recommendation. Faced with a particular behavior, people using their own criteria, assigns it to one of the aforementioned species and, very importantly, in accordance with that builds its own course of action, affecting the behavior of the option selected on the behavior of the other party. The latter, in turn, responds to a first side of the behavior in accordance with the described circuit. [3]

Talking about the motivation of lawful behavior, using the same concept of "legalism" - is compliance with the law on the grounds that it is the law, and the law must be respected, and "conformity" - compliance due to follow, following the image of the behavior of others.

The value consciousness of modern citizens of the Republic of Kazakhstan lost more imperative that requires its correlation with the behavior of the general rules adopted at a particular location hostel losing-understanding of these general rules. Citizen absolute majority wants to stand out from the crowd, be a bright individuality, free to find a new one. Over 2 / 3 of our compatriots at a convenient ready to leave the Republic of Kazakhstan and live abroad. About 1/3 of the citizens will not take any action if you do not see in their consequences for themselves some kind of benefit. One in three young people in the country eager to have a decisive impact on the imperious other by various means. For 7% of young people "family" is not a clear social institution, the meaning of their lives, they do not associate with children, but with something different, maybe a "meaningful work", perhaps with a "power." 32% of the younger generation do not just share the value of "fun" and for which "pleasure" in different forms and shapes is very important and significant, which are guided by the value of "pleasure" in their daily activities. In the minds of today's youth more entrenched the idea that you can get the "all at once". Most likely, the way to achieve the desired here is not significant, allowing the wrongfulness. [2]

Analysis of these reasons, leads to the conclusion that, on the one hand, in the Kazakh society there are serious reasons for deviant behavior, on the other hand - we naturally come to understand the role of individual particular person in the socialization process of his personality.

In the Republic of Kazakhstan in recent years as there were whole sections of the population, which are characterized by the so-called marginal forms of behavior. Marginal personality, deprived of the usual conditions of existence, can not immediately adapt to the new social conditions and manifests in this regard, dissatisfaction, aggression, apathy, insecurity. It destabilizes good behavior as an unusually high level of crime and its constant growth. Due to a complex series of reasons

criminals replenish the citizens, which was typical of good behavior. [1]

In these aspects, it is important to strictly legal separation and appropriate assessment of signs and characteristics of socially useful behavior that is necessary to clearly indicate the boundaries between it and the negative behavior and socially harmful, to ensure, guarantee and protection of the right-appropriate action. At the same time the legitimacy of the entire system is determined by factors of social life, existing in today's society of the Republic of Kazakhstan actively intervene in the legal qualification of legal behavior, often introducing additional features in response permissible and impermissible, even within the boundaries of formally lawful behavior. Expanding freedom of individual behavior in the process of gradually implements the principle of "everything is permitted that is not prohibited by law" should be based on internal constraints or inducement of behavior, not giving splashed anarchy and permissiveness to be "within the rules". This in turn causes the relevance of reference to identify regularities of formation of the legality of the actions of the individual, the development of its typologies, motives and values with respect to lawful behavior, the study of the mechanism of enforcement of the individual regulatory requirements. [4]

Society has always resorted to a special social mechanisms by which it is to form certain ideals, goals, principles, and based on these standards of conduct, directs and coordinates social behavior supports social discipline and order. This mechanism, evolving, changing and improving, along with the development of society itself. And if there is a backlog of its structures and institutions of the objective of changing conditions of life, the needs of socio-economic, political, legal, cultural and moral development, this process has a negative impact on the changes in the social, including socio-legal behavior is revised values orientation and behavior of various social groups. General social, political and legal stability are a prerequisite for the proper functioning of the social mechanism and all its components to ensure good behavior of the individual. [3]

To overcome the destabilizing processes require significant long-term effort requiring renovation in fact all the components of the social environment, the humanization of society as a whole, its genuine democratization, to overcome the alienation of man from property and power. Collectively they can withdraw as following directions, applied directly to the Republic of Kazakhstan:

- Creation of a system of guarantees freedom of economic and social activity of the individual; full encouragement of its independence and initiative, enterprise and creativity;
- An effective social policy that ensures the priority of social criteria in the formulation and determination of national problems and their solution, based on a differentiated approach to social issues, ensuring social justice in the distribution relations and social protection;
- Improve transparency, including informing, concerning human social life; Guaranteeing the right to receive in government information necessary to safeguard the rights and legitimate interests of citizens; providing each of them the right to apply to the court for the purpose of such protection;
- Creation of a state of moral and cultural program aimed at developing and encouraging sheathe and political culture, the culture of behavior in society, the preservation, revival and strengthening of moral and ethical, national and historical foundations of social, including socio-legal behavior of the person;
- Support of community groups and associations established legally and building operations, including legal and political, within the legal framework;
- Development of clear legal procedures predict extreme forms of conduct governing public forms of socio-legal activity, specifying the procedure for the legality of limitations in cases introduction of a special regime of behavior of citizens;
- Strengthening the fight against illegal actions through the adoption of comprehensive national program, both aimed at strengthening the guarantees of due protection of the rights and legitimate interests of citizens, the inviolability of the person and her property,

respect for honor and dignity, freedom of opinion; [5]

In the education of respect for the law, the legal requirements to be used widely legal traditions, experience in the development of legal institutions and securing them the rights and freedoms of citizens, the historical features of moral and ethical education and culture.

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Cruelty to animals in the foreign and domestic criminal law and criminalistics field

Abstract. This article discusses the cruelty to animals with the criminal law and criminological side. Also performed a comparative legal analysis of the foreign-control protection of animals from cruel abuse.

Keywords: criminalistics, legislation, prevention, statistics, criminal law.

In today's world the problems of the relationship between man and animal has ceased to be arguments about the moral principles of human activity. Opposition to animal cruelty became, in my opinion, one of the important issues and factors of social, political and economic life of the Republic of Kazakhstan, in spite of little attention paid to this issue on the part of the Kazakh society and of the state as a whole.

First of all, the specificity of the problem of cruelty to animals causes patchy information about the facts of the wrongful conduct and at the same time, latent component of this type of crime which is high enough. In Kazakhstan, as well as in foreign countries it rates higher than those officially taken into statistics account. And, if you rely on these statistics, the proportion of crimes against animals in Kazakhstan remains stable. One aspect of the infringement in the case of animal cruelty is the morality of society, and, in my opinion, morals must be the object of criminal law protection, as it is human value which suffers primarily with crimes against animals. [3]

The problem of cruelty to animals is not paid so much time and effort as it should be, especially compared Kazakhstan with other countries where animal rights are protected quite efficiently. Many people underestimate the importance of the moral aspects of the problem of cruelty to animals, and in fact treatment of animals is reflected in the moral and ethical, economic and social aspects of life in any society and affects the feelings and interests of many people. Cruelty to animals forms among offenders a sense of indifference to the livings beings suffering, as well as the seeds of violence and aggression towards the people around them. These actions have an impact on the consciousness of those who commit acts of cruelty to animals and to people who witnesses such acts. It is especially dangerous for young children to witness such acts, as it may impose a negative impact on the rest of their life, as well as affect the attitude of the children to violence in the future. Modern criminology and psychology clearly

show the direct connection between cruel acts against animals and violent crimes against people. [1]

An analysis of the scientific and educational literature suggests the general criminological situation troubles related to animal cruelty.

Cruelty to animals is illegal and punishable acts consisting in the ruthless and inhumane treatment of animals hooligan or mercenary motives committed with the use of sadistic methods, or in the presence of minors, and which caused the death or injury of an animal. [1]

Signs of the person committed the offense can be divided as follows:

- By gender perpetrators cruelty to animals, in most cases are men;

- The criterion of age criminal is the most disadvantaged age group of 14 to 17 years. It adolescents in this age make about 40% of all reported crimes. Persons aged 18 to 24 years according to statistics make about 20-25% of these acts. For those aged 25-29 years is characterized by large criminal activity, which is expressed in about 35% of the commission of crimes. The last group consists of citizens aged 30-40 years, makes about 10-15% of the number of offenses recorded crimes [1].

In view of the obvious disadvantage of criminological younger age group in the context of animal cruelty advisable to bring some doctrinal views on the determinants of its criminality. Among these determinants several criminologists call asocial in its various forms and manifestations. So, O.V. Saratov in his study came to the conclusion that a person prone to acts of implementation is in a particular social and psychological distance from the society and its values. [3] R.B. Osokin studying personality perpetrators of the act indicates that among these persons is dominated by a larger percentage of juvenile delinquents who carried out violent or selfish and violent acts prohibited by the Criminal Code, under threat of punishment. These same individuals repeatedly tortured animals, and the cruelty of taking them sustainable and turned into a personality trait that later contributed to the commission of offenses.

A.V. Chibizov also notes that "... the future is often the first victims of serial killers are animals". [4]

Based on the general problem of cruelty to animals in the Republic of Kazakhstan, i would like to focus on a special law "On the treatment of animals." as one of the ways to solve this problem. This bill should, in my opinion, provide first general requirements for the treatment of animals and should pay attention to the following points:

- pet owner must take care of their animals and provide them with all necessary living conditions;

- any person who is obliged to refrain from causing suffering to an animal, regardless of its origin;

- the use of animals in scientific experiments or in the educational process is allowed only if there is no possibility of an alternative replacement;

- the use of animals in various activities for profit is permitted only with special permission;

- during animal breeding using genetic engineering techniques is not allowed to change the appearance and nature of animals, in case this may lead to animal suffering.

Secondly, i consider it necessary in this bill to establish direct prohibitions on

improper uses or treatment of animals. More specifically, to make bans on:

- -the use of traumatic methods and techniques in the capture of animals from the cells;

- sports, entertainment events, including fighting animals;

- hunting, trapping and other forms of extraction of wild animals having young animals who are not capable to exist independently;

- carrying out hunting in the form of entertainment, built on the persecution and killing of animals;

- the use of animals with the suffering infliction on them as live bait while

training, hunting, trapping them and other forms of wild animals extractions.[2] As part of the means of specially-criminological prevention and to develop effective measures against crime, interaction between the legislative and executive authorities, local

governments, law enforcement agencies and public organizations in the field of animals protection is required. It is necessary to create the Coordination Council for Prevention of Cruelty to Animals in the subjects of the Republic of Kazakhstan. The priority tasks of creation and activity of these councils could, in particular, be the followings:

- to develop measures of counteraction to cruelty to animals; to develop the principles and procedures of interaction between different bodies, institutions and organizations, including the public ones, in terms of sharing necessary information about the relevant facts of unlawful acts against animals;
- to promote international and interregional relations in order to study, analyze and implement best practices for the prevention of cruelty to animals;
- to participate in the preparation of annual reports on the state of animal protection in any region, as well as conferences and seminars on the organization and ensure animal welfare protection;
- to organize regular research on this issue with the appropriate funding. [4]

- In conclusion, I would like to note that the necessary measures of specially-criminological preventive nature, in my opinion, are:
- the organization of preventive conversations with people who are potentially able to commit such crimes;
- active involvement in the process of detecting animal cruelty facts the members of the public who are able to immediately notify the related authorities to take the necessary response measures. [3]

Kazakhstan needs a unified law on animals, it is the law, rather than regulation or rules for the treatment at the local level that each regional administration can formulate and interpret as it is convenient for them. This law must be efficient and effective, according to which every person maltreating defenseless living creature would be justly punished.

First of all, the facts of indifference are unacceptable If a person has witnessed the mistreatment of animals, he must not remain on the sidelines, even morally. Cruelty to animals deserves careful and serious attitude from the part of society in all aspects.

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Preventive aspects of animal cruelty in the world today

Abstract. This article deals with the phenomenon of ill-treatment of animals with cultural legal and criminological characteristics, issues its prevention. Also considered criminally-legal aspects inclusive. The author examines the possible ways of improving legislation and society's attitude to this unlawful phenomenon.

Keywords: methods, legislation, prevention, statistics, criminal law, morality.

The study shows that the problem of cruelty to animals becomes serious. In the world due to the rapid development of technology and the human factor in the system of personal development issues of human-animal relationship has ceased to be arguments about the moral basis of human activity. Opposition to animal cruelty was, in my opinion, one of the important issues and factors of social, political and economic life of the Republic of Kazakhstan, despite the apparent lack of attention to this issue on the part of Kazakhstan's society and of the state as a whole.

As the criminological research in preventive context, many actors have committed violent crimes directly, being a minor, albeit without realizing the full answer in their actions- repeatedly tormented, tortured, or on the basis of senseless killing of animals: cats, dogs, etc. Not getting the proper and full legal assessment, the cruelty in this context, taking steady and dangerous nature and gradually turned into a personality trait, which further contributed to the commission of antisocial immoral misconduct, and not infrequently, and the crimes themselves. This approach radically changes the idea of the social danger of these acts, which necessitates the application and development of relevant criminological and cultural and legal norms regulating this sphere.

One can't also take into account that other measures of legal regulation of animal abuse often do not give the desired effect in the longer term. The problem of animal abuse has long since become international, and it is characterized by fragmented information on the facts of the unlawful behavior and at the same time, relatively high latent component of this type of crime. In Kazakhstan, as well as in foreign countries, its rates are higher than those officially taken into account statistics. And if you rely on these statistics, the proportion of crimes against animals in Kazakhstan remains stable. One aspect of the infringement in the case of animal cruelty is the morality of society, and, in my opinion, society, morality should be the object of criminal law protection, as morality - this is the value that the first to suffer when crimes against animals. [3, p. 47]

In the analysis of the legal framework and criminological strategy to combat crime in the context of the criminal policy of the Republic of Kazakhstan-the problem of cruelty to animals is given not so much time and effort as it should be, especially if we compare Kazakhstan with foreign countries, where animal rights are protected sufficiently resistant and effectively. Many people underestimate the importance of the moral aspects of the problem of cruelty to animals, and in fact in many respects to animals is reflected in the moral and ethical, economic and social aspects of life absolutely any society, affects the feelings and interests of many people. Cruelty to animals generates among offenders a sense of indifference to the suffering of living beings, as well as lead to violence and aggression toward people around. These actions affect both the consciousness of those who commit violent acts against animals, and on the persons who are witnesses of such acts. It is especially dangerous to witness such phenomena young children, because it may impose a negative impact on the entire future life of the child, as well as the impact on the relationship of the child to violence in the future is not in a good way. Modern criminology and psychology clearly show a direct relationship often cruel acts against animals and violent crimes against people. [1, p. 218]

Cruelty to animals in the first place is unlawful and punishable acts consisting in inhumanely and merciless treatment of animals from hooligan or mercenary motives, committed with the use of sadistic methods, or in the presence of minors, and which caused injury or dying animal. [1]

Analysis of the scientific and educational literature leads to the conclusion about the general criminological situation troubles associated with animal abuse. Signs person perfection act can be divided after-follows:

- By gender persons perfection cruelty to animals, in most cases are men;

- On the criterion of age of criminal more unfavorable is the age group of 14 to 17 years. It teens in that age commit most crimes check in this area. [1, p. 218]

Given the obvious fact of criminological trouble in this age group in the context of

animal cruelty advisable to bring some doctrine views on the determinants of its criminality. Among these determinants number criminalists calls asocial in its various forms and manifestations. So, O.V. Saratov in his study came to the conclusion that the person more to the implementation of the act is to a certain social and psychological distance from society and its values. [3, p. 47]

R.B. Osokin, studying personality perpetrators of the act indicates that among these individuals is dominated by a larger percentage minor age criminals who act violent or selfish violent act prohibited by the Criminal Code, under threat of punishment. These same individuals often tortured animals with cruelty took them sustainable and turned in a personality trait that later contributed commit offenses. A.V. Chibizov also notes that "... victims often first future serial killers do violent acts to animals" [4, p.448].

Based on the general problem of cruelty to animals in the Republic of Kazakhstan, I would like to focus on this as a solution to this problem, as a special law "On the treatment of animals." This bill is, in my opinion, to provide in the first place the general requirements for the treatment of animals and should pay attention to the following points:

- The owner of an animal is obliged to take care of your animal, provide it with all the necessary conditions of existence;
- Any person who is obliged to refrain from causing suffering to an animal, regardless of its origin;
- The use of animals in scientific experiments or in the educational process is only allowed if there is no possibility of replacing the alternative;
- The use of animals in a variety of activities with a view to profit shall be allowed only with a special permission;
- During animal breeding using genetic engineering techniques is not allowed to change the nature and appearance of the animal, if it can lead to animal suffering. [4, p. 448] Second, I consider it necessary in this bill to establish a direct prohibition on improper uses of animals or animal treatment. More specifically, to make bans on:
- The use of traumatic techniques and methods in the capture of animals from the cells;
- Sports, entertainment events, including animal fights;
- Hunting, trapping and other forms of wildlife production, with young, are not capable of independent existence;
- Carrying out hunting in the form of entertainment activities, built on the persecution and killing of the animal;
- The use of animals with causing suffering to them as live bait when hunting, trapping, and other forms of wildlife production. [2, p. 226-230]

As part of the funds specially-criminological prevention and in order to develop effective countermeasures crime requires cooperation of legislative and executive authorities, local governments, law enforcement agencies and non-governmental organizations in the field of zoo protection. To do this, in the Republic of Kazakhstan subjects of the Coordination Council for Prevention of Cruelty to Animals. The priority tasks of creation and activity of these councils could, in particular, be the following:

- Development directions of counteraction of Cruelty to Animals, the principles and procedures of interaction between different bodies, institutions and organizations, including the public, in terms of exchange of the necessary information about the relevant facts of unlawful acts against animals;
- Promoting international and inter-regional relations in order to study, analyze and implement best practices for the prevention of cruelty to animals;
- Participation in the preparation of annual reports on the state of zoo protection in any region, as well as conferences and seminars on the problems of the organization and to ensure animal welfare protection;
- The organization of regular research on this issue with the appropriate funding. [1, p. 218]

In conclusion, I would like to note that the necessary measures specially-criminological preventive character, in my opinion, are:

- The organization of preventive conversations with persons who are potentially able to commit such crimes;

- Active involvement in the process of identifying the facts of cruel treatment of animals the public able to timely notify the law-enforcement bodies to take the necessary response. [3, p. 47]

Kazakhstan needs a single law of the animals, it is law, not regulation or handling rules at the local level, that each regional administration can be formulated and interpreted as it is convenient. This law must be efficient and effective, in accordance with which each person, abused defenseless living creature would be justly punished.

First of all the facts are unacceptable indifference. We can't say that the work on this issue may change much, but the scientific basis in this perspective, and so quite scarce, not to mention her nomination in the framework of a legal culture and the development of scientific-labor basis of animal abuse requires urgent attention and development not only law enforcement, but also each individual citizen in general. If a person has witnessed the ill-treatment of an animal, he must not remain on the sidelines, even morally. Cruelty to animals deserves careful and serious attitude to his society in all aspects.

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Problems of fight against crime against public safety in the light of legal education

Abstract. In this article the author considered questions of a problem of fight against crime against public safety in the light of legal education.

Keywords: Public safety, extremism, legal education.

In recent years in different continents of the world acts of terrorism which are results of activity of various illegal and nonconventional religious trends began to come to light especially brightly.

The terrorism and extremism are crimes against public safety. As public safety it is understood, according to the current law of the Republic of Kazakhstan "About national security of the Republic of Kazakhstan" - a condition of security of life, health and

wellbeing of citizens, spiritual and moral values of the Kazakhstan society and social security system from real and potential threats at which integrity of society and its stability is provided.

The terrorism is a crime which is directed against activity of our state in the sphere political, economic, military, social, ethnic, scientific and technical, technological, information and spiritual.

In jurisprudence the following special signs and characteristic features which significantly differ from terrorism of X1X and the 20th centuries are allocated:

- he represents the most dangerous form of crimes against public safety. At the same time some terrorist groups seek for maximizing the victims and damage without fears that response can threaten achievements of the political goals by them;

- he differs in public nature of execution of acts of terrorism. Acts of terrorism are planned to provoke a certain public reaction to interpretation of events which terrorists try to impose. And also, to cause certain reciprocal reactions from the state;

- a main objective is deliberate creation of a situation of fear to force the whole society to something;

- a distinctive feature is that the violence is applied to one group of persons for the purpose of impact on other group.

There are problems at counteraction to religious extremism. Namely:

1. Absence of accurate legislative interpretation of the concept "extremism".

2. Lack of restrictions and bans for representatives of various religious associations.

3. Absence of uniform effective state ideology.

4. Lack of due control from government bodies of activity of Spiritual management of Muslims.

At present the problem of religious extremism is very actual. As in the territory Kazakhstan various people of various religion live. This negative and legal phenomenon has had an effect after collapse of the USSR and development of Kazakhstan as independent, constitutional, social state. These fundamental principles were underlain in Kazakhstan by roots to terrorism and extremism. We will note that Kazakhstan after the announcement of independent began to attract the people of the Kazakh ethnos, and also various nationalities, offering them the rights and freedoms on an equal basis with citizens of RK.

The accurate legal regulation, scientific differentiation of characteristic features of extremism and terrorism are necessary for fight and opposition against terrorism and religious extremism.

For fight against terrorism and extremism "the state ideology" has to rely on the following ideas:

- honesty and decency, control over process take of these moral categories in society;

- introduction at schools of a course of spirituality as subject of purity of the human relations;

- formation of new legal consciousness and the legal culture of society providing ideology of unity and a compromise;

- a formulation of ideological and theoretical alternative to religious terrorism and extremism which has to become part of more general task – developments of a state policy concerning religion.

Having investigated these negatively socio-political and legal phenomena it is necessary to draw the following conclusions:

1. The terrorism and religious extremism, are a fruit of illegal migration.

2. Strengthening of fight against extremism and organized crime in Kazakhstan assumes stage-by-stage introduction of the international legal standards developed by the EU.

3. The terrorism and extremism are the interconnected and interdependent phenomena;

4. Information terrorism can be considered as a way of commission of religious extremism.

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The role of criminal politics in the national system of the Republic of Kazakhstan

Abstract. The criminal politics in the national system of the Republic of Kazakhstan from broad point of view is examined in this article.

In general the issue such as what kind of criminal politics does need to the state is reviewed. Social contradictions different to the right contradictory the phenomena arose. The most dangerous issue of national system is a crime. The execution and detection of crime is a social partnership and social unites main obstacle and justice obstacle. In the article the using of criminal relations legislation are investigated.

The politics of crime insurance of Kazakhstan from point of view criminology aspects of law stand soberly.

Keywords: Crime;criminal politics; economic, political relations; crime insurance; the threat to the society from crime, consequence of crime; special signs of criminal politics.

In ordinary language, the term crime denotes an unlawful act punishable by a state. The term "crime" does not, in modern criminal law, have any simple and universally accepted definition, though statutory definitions have been provided purposes.

The most popular view is that crime is a category created by law; in other words, something is a crime if declared as such by the relevant and applicable law. One proposed definition is that a crime or offence (or criminal offence) is an act harmful to not only some individual or individuals but also to a community, society or the state. Such acts are forbidden and punishable by law.

The notion that acts such as murder, rape and theft are to be prohibited exists worldwide. What precisely is a criminal offence is defined by criminal law of each country. While many have a catalogue of crimes called the criminal code, in some common law countries no such comprehensive statute exists.

The state (government) has the power to severely restrict one's liberty for committing a crime. In modern societies, there are procedures to which investigations and trials must adhere. If found guilty, an offender may be sentenced to a form of reparation such as a community sentence, or, depending on the nature of their offence, to undergo imprisonment, life imprisonment or, in some jurisdictions, execution.

The criminal politics is perhaps the oldest of all crime-types. It is virtually impossible to find a history of any society which does not record political criminals.

They have always existed, they exist now, and they will exist in the future, in spite of the historical experience that the ideal behind the political crime is often destroyed the moment it becomes reality.

Although criminal politics is the oldest and most recurring criminal phenomenon of history, it has been largely ignored by criminologists. Criminal politics refers to **crimes** committed or acts omitted that injure - or are perceived as injuring - the state, the state's government, or the political system. It is the attempt of the citizen to injure the state, at least in the state's eyes.

The criminal politics is defined in contrast to **state crime**, which refers to criminal acts or omissions of the state itself, typically those against its own citizens.

States will label any behavior a criminal politics that is perceived as a threat to the state's authority and continued survival, regardless of whether the threat is real or imaginary. Some examples of severe criminal politics are treason, sedition and terrorism. In some more repressive regimes around the world, actions such as publicly speaking out against the government or supporting ideas that the government condemns may be seen as political crimes, and punished severely.

Since independence the country has substantial public transformation, including a full-scale reform of the criminal and criminal procedural law and the judicial system. The reform dictated by the need to strengthen the constitutional guarantees to protect individual rights, ensure the effectiveness of the proceedings and liability measures, the need to further enhance the competitiveness of the national legal system

It is important to highlight the position of the head of state N. Nazarbaev regarding fighting against crime, anti-corruption led to the economic growth and to the security of nation of the state.[1]

Modern criminal policy of the country is aimed at radically reforming the vector which is aimed at further decriminalization of offenses that do not pose great danger to society, with their transfer into the category of administrative violations and increased the administrative responsibility for these acts, as well as revaluation of the severity of certain crimes by leniency expansion the scope of application of criminal punishment.

The possibility of expanding its use, establishing the proportionality of punishment in the sanctions of the Criminal Code referred to a category of severity, and their compliance with the principle of fair punishment, introduction of alternative criminal punishment measures of state coercion, improving institutions excluding criminal responsibility, punishment, parole from punishment. [2]

1. the most important historical stages of the criminal policy of Kazakhstan are:

1) The criminal policy of the Kazakh State (Khanate) (XV - XVII c.);

2) The criminal policy of Kazakhstan in the period of the state (feudal) dissociation (from the beginning of XVII to the middle of the XIX century.);

3) The criminal policy of Kazakhstan in the Russian Empire (from the middle of the XIX century to October 1917);

4) The criminal policy of Kazakhstan during the Soviet period (1918 - 1991.);

5) Modern criminal policy of the Republic of Kazakhstan (since 1991. To the present).

Criminal policy of the Republic of Kazakhstan - is an independent branch of the state policy in the fight against crime, based on the principles and subjects realized through the application of preventive measures, criminal law, and criminal procedural nature in order to adequately combat all forms of manifestation of crime.

Principles of Criminal Policy of the Republic of Kazakhstan - these are the guiding ideology (provisions) to combat crime, that have a strategic, advancing and predictable character, on the basis and taking into account that developed the concept of criminal policy and the activities of subjects.

Modern criminal policy of the Republic of Kazakhstan has its own characteristics. These include: the independence of its development as an independent public policies, humanity, international cooperation aimed at the relevant national criminal legislation to international standards, the orientation of the criminal policy of the revaluation of the legislation (especially

criminal) to fight crime from the perspective of its compliance with the Constitution of the Republic Kazakhstan, the possibility of its prediction.

As an important legal policy highlighted the implementation of the constitutional right to judicial protection.

The objectives of improving the judicial system identified simplification of the administration of justice by ridding it of unnecessary bureaucratic procedures and the active introduction of new information technologies; the development of institutions of extra-judicial settlement of disputes as the direction of the unloading of vessels; measures radically to improve the situation in the area of enforcement of judgments.

Specification of the provisions of the development of the criminal law policy of the country is set out in the President of the Republic of Kazakhstan N. A Nazarbayev to people of Kazakhstan on January 17, 2014 "Kazakhstan's way - 2050: The overarching goal, common interests, common future."

As long-term priorities for tackling the problem becoming one of the 30 most developed countries, it named achieving the rule of law and high legal culture. [3]

The main areas and specific mechanisms for large-scale effort to improve the credibility, independence and effectiveness of the judiciary as the most important subject of the implementation of the criminal policy of the Head of State outlined in his keynote address.

"The objectives of the national judicial system in the context of the Strategy" Kazakhstan-2050 "at the sixth congress of judges.

Updating the judicial-legal sphere is called an integral part of development of the country, the progress of which is determined by the Strategy "Kazakhstan-2050". The growing rate of the dynamics of economic and social relations in Kazakhstan in the next decade require increasing the role and responsibility of the national judicial system to ensure the rule of law, strengthening stability in the society sequential increase of legal culture of citizens.

The criminal policy Kazakhstan based on the Constitution of our country. According to the Constitution of the Republic of Kazakhstan the highest values are an individual, his life, rights and freedom. The current criminal legislation allows comprehensive and reliable to protect the interests of man, society and the state. [4]

According to Article 44 of the Constitution of the Republic of Kazakhstan President approves State Program of the Republic.

Kazakhstan has adopted three state programs in the area of legal reform and in each of them determines the strategic direction of criminal policy.

All these documents outlining the basics of criminal policy, taking into account the historical experience of the struggle of humanity with such negative social phenomena as crime. Lessons from the past have taught us is not to rely on the deterrent effect of punitive measures by the state, and a focus on addressing the causes and conditions of the unlawful behavior of the person.

"It is better to prevent crime than to punish" - wrote back in 1776 in his famous work "On Crimes and Punishments" the famous Italian philosopher Cesare Beccaria.

Taking into account all the pluses and minuses of all social processes in the society the criminal policy is seen in the liberal attitude of the state to the weakly protected layers of the population who have committed crimes and the use of harsh criminal justice response to perpetrators of grave and especially grave crimes, as well as dangerous and particularly dangerous recidivist.

It is enshrined in Concept of Legal Policy of the Republic of Kazakhstan for the period from 2010 to 2020 approved by the Decree of the President of the Republic of Kazakhstan dated August 24, 2009 № 858.

The Concept of Legal Policy of the Republic of Kazakhstan approved by the Decree of the President of the Republic of Kazakhstan dated 20 September 2002; the idea has been designated in more detail.

It noted, criminal policy should develop in the direction of humanization in the first place with respect to persons, first-time offenders of small and medium gravity, as well as to vulnerable groups - pregnant women and

single women with dependent minor children, minors, and people of old age.

However, it is objectively necessary tightening against those responsible for committing grave and especially grave crimes, hiding from criminal prosecution, as well as recidivism.[5]

At the heart of this trend of criminal policy based on the principle of differentiation and individualization of responsibility and punishment. Its essence lies in the fact that the criminal repression should not wear egalitarian. As there are no two identical crimes, as well as the identity of the perpetrators, and should not be single-scale, averaged approach to various categories of crimes and criminals.

It is achieved through the implementation of the principle of differentiation. It indicates the need for the legislative and enforcement levels of development and application, respectively stringent measures of criminal law to persons who commit serious crimes, dangerous and malicious criminals and relatively mild measures - to those who commit crimes a low degree of public danger, situational and random criminals

The most important task for Kazakhstan is to fight against criminal politics. The yearly message of the head of the Republic of Kazakhstan N.Nazarbaev to the people is about security, prosperity and economic development and provision of security to the national system of the Republic of Kazakhstan. [6]

Concluding, criminal politics is an extremely complex area in the legislation system, particularly because of the many variations.

Despite these complexities, however, it is important for members of our society to keep in mind that these crimes do exist and should be adequately and appropriately punished when they do occur. Interestingly, however, many politicians have argued the criminal politics are an inherent part of politics and that they serve a positive function, arguing that political crimes help to lubricate the bureaucracy of government.

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Techniques for teaching law in the Republic of Kazakhstan

Abstract. This article is about teaching law in the Republic of Kazakhstan.
Keywords: law, teaching, method.

In the period ofmodernglobal processes, our government pays special attention tolegal educationand upbringing of youth. Higher legal educationandlegal awareness are

necessary for respect, preservation and unquestioningcompliance with the lawsof the Republic ofKazakhstan. The rising generation should arm themselves withprofoundlegal knowledge in order to understand thematerial and spiritual values,getting rid of the actions alien tosociety andform as competitive, comprehensive and having legaland ethical standards individuals. Therefore, today the question of education and formation of educated citizens with a high legal culture stands along with important governmental measures, which should be implemented immediately.

Techniques for teachingof legal education allow you to master the discipline fully through the use of technological tools, best practices and peculiarities of the legislation in teaching legal subjects. Basic elementsof legal educationare:objectives, methods, means and kinds ofeducationalactivitiesin the process of learning of legalsubjects.Considering traditional methodsof legal educationwe are trying toexamine the methodologyof teachinglaw inKazakhstan.

Since ancient times, mankind has been paying attention to mastering of the legal knowledge. Legal education is carried out from the period of formation of state structures. Writings ofancient philosophersand teachersdescribereflections onhumanity, obligations of an individual and mankind, compliance with the rulesof living in a society.For example, Euripides, theauthor of thewell-knowntragedies,saidthat"it is necessaryto teach how to live right".[1, 32].

In its turn, legal education, legal propaganda,i.e.the problems of legal culture are an integral part of scientific and educational activities. In this regard, it is necessary to continue work on improving legal consciousness of citizens, including legal literacy among government employees. It is necessary to restore scientific researches for improving the quality and expanding the scope of legal propaganda among people through the use of Internet resources and mass media, as well as for topical issues of rights and legislationuse, in particular in the field of rights which are often used in everyday life of citizens.

Technique for legal education is a method used for the teamwork of a teacher and a student in order to perform properly the tasks facing teaching and educational activities. Works carried out in order to achieve the goal are regulated using the technique for legal education. Teaching methods create interest in learning, develop intelligence of a student, encourage search, understanding of new knowledge. The most important in education is cognitive work of a student. Teaching methods provide knowledge of the most accurate facts, they reduce distance between theory and practice. A way of legal education is an element of the teaching method. The way facilitates understanding of educational material. Teaching methods are divided into groups for specific reasons. If in XIX-XX century there were used explanations, experiments, research, laboratory techniques, now there is a possibility of studying via computer systems. Students working under the guidance of a teacher have different cognitive activities. Even if a student remembers "ready-made knowledge" by reproductive method, and then retells without making mistakes, the level of his intellectual activity will remain low. Heuristic method strengthens intellect, student learns through his cognitive activity. For example, the teacher informs about adopted laws and regulations, shows decrees, explains the meaning of the facts, asks students questions. If among these methods method of explanation prevails, that is, analysis of the facts, comparison, message, it means that the teaching method can be called explanatory. If the main method is limited to providing information that is of the adopted law (e.g.: a teacher offers to learn laws, but the meaning is not explained, he simply informs of the method for learning by heart), then the teaching method is called informative - narrative, or the method of a simple narrative [2, 93]. According to this, in the first case, students memorize the articles of the law, listen to the teacher's explanations and analyze, search for answers to information questions. In this case, the teaching method is reproductive, to be more precise, students master new situation in a finished form. If the teaching method is the narrative method, the main way of learning is learning by heart,

work of students on demand. Such teaching method can be called performing.

When using heuristic method, problematic level (activity of students) is significantly increased, for example, on practical lessons of carrying out of judicial proceeding additional tasks are given. Students establish "justice" with the help of a teacher, in most cases students work independently on the basis of the gained knowledge. When using the research method, a teacher gives students tasks of experimental nature (to conduct research, additional information, gathering facts, and their independent analyzing and summing up, collection of the necessary materials for proving of their arguments, etc.). Students perform them on their own, but this requires guidance of a teacher. Explanation is an oral narration of certain concepts, phenomena, means, and methods of work of illustrative tools. Requirements applicable to the method of explanation: correct and accurate formation of the issues, the disclosure of a cause-consequential connections and providing evidence, comparison, assimilation, usage of vivid examples, consistency. Explanation is widely used as a teaching method in group work.

The method of exchange of views teaches a student methods of acquiring of knowledge, answering questions posed by a teacher independently, through his active involvement in acquiring of new knowledge. Through joint action, students are working on their own, reflecting and acquiring new knowledge. Exchange of views summarizes and consolidates knowledge; it is aimed at systematization of theoretical knowledge of students, methods of its application. Student uses his knowledge in new learning and solution of scientific problems [2, 96]. Result of the exchange of views in many cases depends on the correct formulation of questions. Advantages of the method of exchange of views are: development of memory and communication, activation of learning and cognitive activity of students, etc. Educational discussions take a significant place among the dictionary methods. Its main activity in the learning process is stimulation of cognitive interest, familiarizing of students to active discussion of different scientific points of view on the issue, creation of conditions for understanding the reasons of their own and other personal points of view. Carrying out of discussions requires readiness of students, as well as at least two opposing points of view on the issue discussed. Discussion without knowledge will systematically deviate from the issue and have no result. Educational debates require students to have skills of precise and clear formulation of their thoughts, ability to provide arguments and evidence, as well as teach them to reflect, to prove correctness of their points of view, to compete.

One of the methods closely related to the activities of organizational and legal nature, is legal education. Society and state need modern legal personnel who adhere to a landmark for freedom and human and civil rights, interests of society and of the state, as well as are directed on patriotism. Such a method should become the basis of legal education.

In the present case it is appropriate to pass the possibilities of the state in addressing the problem of training of legal personnel in various fields by focusing. Such a method will allow saving state resources and improving the quality of training of legal personnel [3].

When using the following method of legal education, the problem method, students move from performing activities to creative activities. Even if students do not solve the problem, they will see solutions to cognitive difficulties. In the future, it will help the student in practice in the course of the theoretical knowledge acquired in a higher educational institution. Difficult situation requires serious activity, ability for intellectual work, necessary knowledge to solve problems. Students solve them on their own or with the help of a teacher. The aim of creating a problem situation is mastering of educational materials, intellectual work of a student through complicating of learning [4, 65]. Problem situation is created by posing questions, predicting, analyzing of unproven points of view. Working creatively, students freely recall their knowledge. Problem method teaches students of inventiveness, understanding the opposites, expressing predictions, proving evidence, finding solutions.

Problems solved by students should comply with the academic programme. Improving of teaching methods is the major challenge today. In pedagogical studies particular importance is given to efficiency of teaching methods, necessity of mastering of new projects and ways of teaching. However, the choice of teaching method is one of the most complex processes. In case of application of certain methods unilateral exaggeration should not be allowed. Each topic requires special methods and ways of learning. Therefore, it is necessary to use different teaching methods. In accordance with the theme and purpose of the lecture, content and amount of educational material, level of preparedness of a student, teacher determines and selects a regular addition of the lesson structure and teaching methods himself.

Specificity of a goal of the lesson is the basis for the effective conduct of learning. As without defining the basic idea when presenting educational material or activities of students, it is impossible to achieve the goal of education.

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Experience of foreign countries in fight against corruption

Abstract. In the present article the author considered questions concerning experience of foreign countries in fight against corruption.

Keywords: corruption, history, means of fight, offer.

Corruption acts as the difficult social phenomenon which has arisen in an extreme antiquity and continues to exist now practically worldwide. Corruption means bribery; corruptibility and bribability public and politicians, government officials and officials.

The corruption counteraction problem became one of actual and widely lit both in mass media, and in the scientific world today. Nobody denies need of complex impact on this

difficult phenomenon, but, as a rule, corruption is understood only through system of corruption crimes that, certainly, influences incorrect approaches in opposition to this phenomenon. We need to understand that we face corruption actions still when we are in mother's womb. The pregnant woman looks for good hospital for safe childbirth, but to fall into "good hands" it is necessary to make corruption actions concerning the director of medical institution and all subsequent corruption actions follow themselves on a chain: good secondary and higher education, work, then ourselves become subjects of corruption.

Today hopelessness of use of legal bans as the main method of fight against corruption is obvious. Corruption has to be considered not just as benefit extraction by officials from the official position, but also as a peculiar type of the socio-political relations in government, and also in the field of his interaction with the population. All nation, each citizen of RK has to understand that corruption actions are it is good to eat and if each person asserts the legitimate rights and duties that to the place of corruption, to bribery not to be.

Corruption exerts corrupt influence on all spheres of life of society: economy, social sphere, policy. The negative consequences generated by this phenomenon not only interfere with progressive, forward development of society, but also pose serious threat to interests of national security of the country.

In the economic sphere corruption promotes emergence and development of a number of the negative phenomena and processes:

- breaks the mechanism of the market competition as not the one who is competitive, and the one who could get advantages for bribes is the winner. It promotes emergence of monopolistic tendencies in economy, to decrease in efficiency of her functioning and discredit of ideas of free competition;

- involves inefficient distribution of means of the state budget, especially at distribution of the state orders and allocation of the credits, interfering thereby with effective implementation of government programs;

- leads to unfair distribution of the income, enriching subjects of the corruption relations at the expense of other members of society;

- promotes increase in prices for goods and services at the expense of so-called corruption "overhead costs" therefore the consumer suffers;

- is the means promoting providing favorable conditions for formation and development of organized crime and shadow economy. It leads to decrease in tax revenues in the state budget, to capital outflow abroad and complicates a possibility of the state to effectively carry out the economic, political and social functions.

In the social sphere negative consequences of corruption are as follows:

- corruption assumes essential distinction between the declared and actual values and forms at members of society "double standard" morals and behavior. It leads to the fact that money becomes a measure of all in society, the importance of the person is defined by the size of his private means irrespective of ways of his receiving, there is a devaluation and demolition of civilized social regulators of behavior of people: norms of morals, right of religion, public opinion, etc.;

- corruption promotes unfair redistribution of the vital benefits in favor of narrow oligarchic groups that has the consequence sharp increase of a property inequality among the population, an impoverishment of considerable part of society and increase of social tension in the country;

- corruption discredits the right as the main instrument of regulation of life of the state and society. In public consciousness idea of vulnerability of citizens both in the face of the power and before crime is formed.

In the political sphere negative consequences of corruption are shown in the following:

- corruption promotes the shift of the purposes of policy from oligarchic] clans and groups, nationwide to ensuring dominion;

- the corrupted subjects hiding the capital abroad turn into "the fifth column" and promote treachery of interests of national security of the country;

- corruption undermines prestige of the country on the international scene, promotes her political and economic isolation;

- corruption reduces trust of society to the power, causes disappointment in values of democracy and can promote transition to other, more rigid form of government - dictatorship.

In Kazakhstan fight against corruption is conducted long ago, but if to speak objectively, then essential results are achieved only in minimization of corruption processes at the household level and growth of activity in counteraction of corruption at the elite level is observed, and system corruption continues to prosper. The adopted Law RK "About Fight Against Corruption" of July 2, 1998 is focused on use of different measures, both retaliatory, and preventive. Nevertheless, the law doesn't contain the real mechanism of counteraction of corruption as articles only declare the principles and measures of counteraction of corruption, without fixing concrete actions with use of the corresponding methods that, respectively, won't change established practices of corruption in society and the state.

Index of perception of corruption Transparency International. On indicators, nearly three quarters from 178 countries are estimated by an index lower than 5 points, an index 0 - the high level of corruption, an index 10 - says about the low level of corruption that testifies to serious problems with corruption in the world. Among the countries of the former Soviet Union of RK there was in the second half of the list-105 a place in 2010, 183 countries participate in an index of perception of corruption in 2011, our republic has taken the 120th place and at last, in 2012 Kazakhstan has occupied 133 of 174 countries.

There are many countries coping with this illness, which have made the level of corruption by that that he doesn't define economic behavior of citizens, are EU countries, new economies of Southeast Asia, some countries of Eastern Europe. Observing the general regularities - independence of judicial system, stability of macroeconomic policy, a submission to control of the power, etc., - these countries laboriously deal with each "corruption " case, reducing corruption incentives in system of decisions. When in the country take bribes, people can't be respectful to the power, submit to her rules and desires. And this factor it becomes frequent the main incentive for fight against corruption.

The circle of standard anti-corruption bans, restrictions and instructions for public servants contains in laws of all developed countries. All these measures have proved as rather effective on condition of their strict execution.

Japan. Standards of anti-corruption character contain in many national laws. Special significance is attached to bans concerning politicians, the public and municipal servants. These bans, in particular, concern numerous measures which politically neutralize the Japanese official concerning private business, both during service, and after leaving from a position. The Japanese legislation has set strict restrictions of financing of election campaigns, parties and other political organizations, rigidly regulated procedure of donations in favor of candidates on elections, political funds is entered, the reporting order is determined by the means arriving to them and spent by them. Violation of provisions of the law attracts application of the sanctions extending the action to responsible persons of the party both representing, and receiving political donations, and also on intermediaries between them. In Japan, as well as in many countries, one of the main directions of fight against corruption is personnel policy. Worthy compensation is guaranteed to the Japanese officials.

South Korea. South Korea is an example of "culture of transparency". Here since 1999 the OPEN program – the on-line monitoring system behind consideration of the applications of citizens by officials of the city administration which has made the real splash among national anti-corruption programs works. Reference called also the new law of South Korea "About fight against corruption", come into force since January 1, 2002 and already gained wide international recognition. According to him the right to begin investigation about corruption is actually granted to any full age citizen of the country: the committee on audit and inspection (in the country the principal anti-corruption organ so

is called) is obliged to begin investigation of charges according to any statement.

Singapore. The central link in fight against corruption is the permanent specialized body – the Bureau on investigation of cases of corruption possessing political and functional independence. This independent body investigates and seeks to prevent corruption cases in the public and private sector of economy of Singapore, at the same time in the Act of prevention of corruption corruption is precisely qualified from the point of view of various remunerations forms. The bureau checks cases of abuses among government officials and reports about them to appropriate authorities for acceptance of necessary measures in disciplinary area. The bureau studies methods of work of government bodies potentially subject to corruption for the purpose of detection of possible shortcomings of a control system. If it becomes clear that similar gaps can lead to corruption and abuses, the Bureau recommends to heads of these departments to take the appropriate measures. The main idea of anti-corruption policy of Singapore consists in "aspiration to minimize or exclude the conditions creating both incentive, and a possibility of inducement of the personality to commission of the corrupted actions".

It is reached due to a number of the anti-corruption principles, following to which provides:

- a binding of compensation of public servants to an average salary of the persons which are successfully working in the private sector;

- the controlled annual reporting of the state officials on their property, assets and debts (in particular, the prosecutor has the right to check any bank, joint-stock and settlement accounts of the persons suspected of violation of the Act of prevention of corruption);

- big severity in cases of corruption concerning the high-ranking officials for maintenance of the moral authority of incorruptible political leaders;

- elimination of excessive administrative barriers to development of economy.

China. A basis of the mechanism of fight against bribery created in China is the Central commission of Communist party of China on check of discipline which works in the country since December, 1978.

In 2007 Public administration according to the prevention of corruption which chapter has appointed the minister of control Ma Wen has been created. Tasks of department include studying of the reasons of emergence of corruption, the analysis of methods of her destruction, control over use by officials of powers of authority, studying of the current legislation for the purpose of an exception from him of the openings allowing administrators to bribe takers to avoid punishment. The last for China has special value. Corruption here sometimes gets so bizarre shapes that surprises even skilled investigators. For this reason the State Council of the People's Republic of China has distributed the circular forbidding to officials to receive the exchange shares "as gifts", "buy houses and cars at surprisingly low price", "wash bribes through gambling's" and to agree about the device on well paid work after resignation. One of ways of fight against corruption, in practice which have confirmed the efficiency is turnover of staff in all authorities of China. Also within the intensified campaign for fight against corruption control is strengthened, behind a provincial link party and government, excessive independence and political weight of provincial elite which have been put in more severe conditions of need to follow the center line is limited.

Offers on prevention of corruption:

1. It is possible to win against corruption only democracy conditions. This point of view is especially widespread in the liberal environment. Alas, democracy — necessary, but too an insufficient condition of a solution. In the conditions of democracy to wage war with corruption incomparably more simply and more comfortably, but in the world there are a lot of countries with democratic regime and rather high level of corruption - for example, Italy where corruption is promoted by traditions of public administration.

2. That public servants didn't steal, it is necessary to raise their legal income.

On this thesis many projects of increase in a salary are constructed by the government

employee. However the high income - a necessary, but insufficient condition of a victory over corruption. We will take, for example, education. Many European countries face corruption in the educational sphere - usually it is direct theft of money or what at us is called kickbacks for services - a catering, the order of property. In the developed countries the government employee who takes a bribe be it the teacher or, for example, the police officer, risks to lose not so much the place of work, how many high social guarantees in case of disability or retirement. One more protection against corruption — a combination of high cost of the health insurance and expensive paid education which provide a high standard of living. Whatever bribes took the official, he all the same won't provide himself for the rest of life as the market usually doesn't offer bribes of such scale.

3. It is possible to win against corruption only democracy conditions

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4. Fight against local corruption. There are countries where corruption exists in the top echelons of power, but it is absent "below", - for example, Japan, Israel, Holland. But that is interesting - and it is a call for science about corruption - the countries where there is a local corruption, but she isn't "above", practically doesn't meet. The reasons at this paradox a set, since the fact that the corrupted "tops" reluctantly combat local corruption as it allows establishment quietly "to do the things", and finishing what over time corruption "sprouts" upward. The inspector of traffic police beginning with small bribes becomes a general with the developed behavioral norms over time. And quantitatively "bottoms" much more "tops" - to fight against local corruption simply difficult.

5. It is possible to win against theft only by rigid methods

The totalitarian modes, really, rigidly punish for bribes and kickbacks. But it doesn't rescue them from corruption at all. Remember at least the Soviet Union. Corruption has been widespread also in fascist Germany. Were bribed for release from duties, for access to the state money. Heads of the Third Reich used official position for personal enrichment, and Hitler treated it very indulgently. Goo Mann, the famous historian, the son of the writer Thomas Mann, wrote that high-ranking officials in the Third Reich had a set of apartments, estates, hunting locks.

5. From all branches of the power the most important role in fight against corruption belongs to executive power

Researches of an index of management efficiency of the World bank show that from several important factors - "a vote and the accountability", "political stability and a non-violence", "quality of regulation" and "rule of law" - has significant effect on the level of corruption just the last. At the same time quality of regulation (including quality of laws) is far not as essential as it can be assumed. And it is quite explainable. Judicial authority has to separate lawful from illegal, guilty persons from the innocent; and if the court is corrupted, what then norm? Exactly therefore what now happens in the Russian judicial system is so important.

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Internet as means of influence on consumption drugs and their analogs

Abstract. In the present article are considered by the author the Internet as means of influence on consumption of drugs and their analogs.

Keywords: Internet, drugs, illicit trafficking.

Drug trafficking – the dangerous phenomenon. The crimes connected with drugs are even more often made with use of the Internet. Acquisition of drugs on the Internet conducts to the fact that consumption of drugs can increase considerably.

Drug trafficking and abuse of them continue to develop with the increasing rates, posing serious threat of national security of our country. Drug addiction as result of drug trafficking and their analogs exerts destructive impact on a social and economic condition of the country, on spiritual life of society, on a gene pool of the people, promotes spread of deadly diseases, leads to increase in number of the crimes connected with drug addiction and drug trafficking.

The extremely important role in distribution of drugs and their analogs of various information on them among the population is played by mass media. Mass media daily accompany, inform, entertain, and also carry out other functions in our life. Life without radio, television, newspapers and magazines is simply inconceivable in modern time. The special place here by right belongs to the Internet: the global network surpasses all other mass media not only in speed of distribution of information, but also in the international scale, convenience, availability and other characteristics in its advantage.

The Internet has strongly entered everyday life of people: without e-mail neither work, nor communication with friends are inconceivable now, and the websites of a global network became full-fledged trading floors. As have shown results of research, for the last half a year nearly a half of users of a network have made purchase in online store.

Sociologists are inclined to consider Internet space as social "cyberspace" – some kind of information and communicative field created by the users interacting with each other, and which is characterized by almost unlimited freedom and anonymity of this information exchange. As recently methodical developments on use of resources of the Internet in scheduled maintenance have appeared, in this regard it is possible to allocate two directions of network activity which are differently influencing a drug addiction: pro-narcotic and anti-narcotic. Both of these directions quite extensive network resources, considerable part have them it is concentrated also in Russian-speaking space.

Pro-narcotic resources contain a huge number of WEB PAGES: advertizing of drugs and their analogs and the way of life connected with their consumption was widely adopted in a network of global communication the Internet. On search servers the statistics of the most visited sites on various subjects, and practically everywhere in the top ten one-two pro-narcotic servers is conducted.

There are servers which contain a large number of the texts which are in detail describing different types of drugs and calling for their use and also descriptions of psychodelic experiences. On many "pages" ways of preparation, stereochemical formulas, schemes of synthesis, a way of introduction, "dosage", a possibility of the combined reception of various psychoactive agents are in detail specified, advice is given how to behave during detention law enforcement bodies for possession of drugs how to evade or "deceive" test control, etc.

On many WEB PAGES the thesis about being opposite in relation to other society which is negatively adjusted on the use of drugs moves forward and the appeal to legalization of "light" drugs is carried out. Most often it is an appeal to hemp legalization: there is a set of the websites urging to legalize hemp, propagandizing her use and ideologically related subculture, so-called "Marijuana Web Ring".

Because the Internet acts as the communicative field, it is actively used as an interactive anonymous information channel. So, on the majority of the most popular pro-narcotic websites are available "chat room" – interactive pages on which communication in real time for the subjects concerning consumers of drugs is possible (how much is where to get how to use). Communication happens without any restrictions. Besides, there are numerous thematic network conferences by means of e-mail, social networks.

Anti-narcotic resources are much less numerous. Alternative anti-narcotic activity in Russian-speaking option is in a condition of development and is presented single and not always by servers, sufficient on volume. The western (English-speaking) space is quite densely filled with resources, various on the purposes and contents: from official servers of the government and international organizations to servers of initiative civil movements. Some of them contain also Russian-language sections.

It should be noted that there are professional and volume Russian-speaking websites containing a large number of the preventive information grouped in numerous sections. The orientation of this information is defined as consumers, and those who haven't begun reception of drugs (primary, secondary and even tertiary prevention) yet. Among other things, on similar "pages" information is provided to a wide range of experts: doctors, teachers, lawyers, psychologists and sociologists. These are methodical developments on prevention of addiktivny behavior; special literature on medical, legal and social aspects of addiktivny behavior; sources of financing of preventive programs; various funds providing grants on carrying out researches in the field of dependences and creation of preventive programs.

Among anti-narcotic corporate projects publicistic resources the Internet rank high. Here selections of newspaper and journal publications are, as a rule, collected, but at their structure there are also preventive sections (primary prevention), and that is important, interactive sections for open discussion of a problem. First of all, it is the Without Drugs! project winning first place on attendance, but also and many others.

Except similar corporate projects there is quite large number of the official sites of various institutions which are engaged in prevention and treatment of drug addiction. Their contents varies from professional preventive information at the state drugs medical center clinics and offices before self-advertisement of separate methods of treatment (at private clinics and commercial projects).

In virtual space there are also numerous personal and house "pages" devoted to prevention and treatment of drug addiction, and also anti-drug cultural events, often made by the "former" addicts, etc. Numerous social movements and the organizations, whose activity lies in the course of prevention of addiktivny behavior, too are presented to

networks – they use methods of primary prevention, generally being engaged in sanitary education.

And, at last, a kind of information anti-narcotic resources are the thematic sections on medical servers of the general subject having popular character.

Thus, the Internet is a powerful tool of influence on consumption of drugs and their analogs. Essential feature of a network is free and almost uncontrollable access to information both the first (pro-narcotic), and the second (anti-narcotic) type. In this regard need of acceptance of concrete measures, as in the sphere of legal regulation in this sphere and accountability of particular persons, and in the field of prevention of the considered phenomenon becomes ripe.

According to developers, "the necessity of adoption of this bill is caused by the vital requirement of rescue of the younger generation of the Russian society from narcotic degeneration and degradation which it is inevitable, at preservation of the available tendencies, will lead to millions of death connected with the use of drugs and hundreds of thousands of crimes committed by persons with drug addiction.

According to sociological researches, every second teenager learns about drugs from mass media, the Internet or certain TV programs and television movies which are the main sources of information on drugs today, including about properties of different types of drugs; euphoric feelings after reception of drugs and places of their acquisition.

Special public danger is constituted by distribution of the data promoting involvement in the use of drugs and psychotropic substances by means of the Internet. On the Internet any user, including the teenager, can easily, receive without any barriers the detailed instructions allowing in house conditions to make drugs and psychotropic substances, including of the drugs which are freely sold in drugstores.

Search engines on demand "drugs" or to synonyms give references to more than 5 thousand various Russian-speaking websites from which, by expert estimates, less than 1% are anti-narcotic. Other websites represent the resources which are carrying out promotion of drugs and a narcotic way of life.

Similar promotion and advertizing make adverse effect, first of all, on minors from them yet not created outlook and the mentality which is easily coming under influence by stimulation of interest in consumption of this potion. As a result of such promotion all new and new consumers at whom the drug addiction is formed are involved in consumption and illicit trafficking in drugs and psychotropic substances. It promotes creation of steady demand for drugs and psychotropic substances, leads to expansion of the market of their illegal sale"

Our way to opinion, lack of competent, systematic work on suppression and prevention of such crimes affects distribution of information on drugs, and also their illicit trafficking with use of the Internet.

Identification and disclosure of such crimes demands special knowledge as in the field of legal regulation of trafficking in narcotics, the criminological characteristic and prevention of drugs crime , and in the field of computer and Internet technologies.

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Criminological characteristics of criminality of migrants

Abstract. The purpose of this article is formation and development of scientific ideas of the most significant for the criminal and legal and criminological theory and practice the problems connected with crime of migrants, justification of a package of measures in fight against crime of migrants, development on this base of recommendations about improvement of the activity directed on decrease in criminal consequences of migration. By search and

justification of answers to these questions we believe expedient to proceed not only from characteristics of signs of various categories of migrants, but also from the general definition "migration" and characteristics of signs of main types of migration.

Keywords: migrant, criminological character, territorial movement, population shift, refugees.

In science and practice, there is no uniform opinion concerning the interpretation of the term "migrant". We believe that the term "migrant" is generic to all actually existing categories of migrants. Therefore, when establishing the specific content of the term is necessary to highlight its main features by comparing the interpretations of a common definition of "worker" and the characteristics of the different categories of migrants. To this end, we compare the values of the concept presented in a variety of sources.

Within the framework of the Commonwealth of Independent States gave the following interpretation of the term "migrant". "In accordance with the general meaning of the term "migrant", it means persons engaged in spatial movement, regardless of the cause of displacement, their duration and spatial boundaries" [1]. The above interpretation is given in connection with the request of the Executive Secretariat of the CIS Economic Court of the CIS. The reason was the appeal letter from the President of the Republic of Kazakhstan H.A. Nazarbayev, in which he raised the issue of discrepancies in the official bodies and the media interpretation of the Commonwealth of the term "refugee", "worker", "displaced person".

According to paragraph 10 of Article 1 of the Law "On migration", "migrant - a person who enters the Republic of Kazakhstan, and leave the Republic of Kazakhstan, as well as relocated in the Republic of Kazakhstan regardless of the reasons and duration" [2].

Clarify the terminology, you should pay attention to the interpretation of the concept of "worker", this V.A. Iontsev. He believes that the migrant - is a "person who commits mezhposelennoe territorial movement (migration) with the change of permanent residence and work permanently or for a specified period of time (from one day to several years)" [3, s.396].

Given the ambiguity of the content of the above wording, try to answer the questions raised in their comparison:

- whether the concept should be considered to include all categories of persons to migrate, regardless of the cause and duration?
- justifiably be considered migrant persons carrying out all the spatial displacement, "regardless of spatial boundaries", even if the move took place in one town item?
- does a specified term only moving persons or also persons "temporarily" in any community?
- is a common feature characterizing all migrants, compulsory change of residence?

Searching for and justification of the answers to these questions do not believe it appropriate to come only from the characteristics of the signs of different categories of migrants, but also from the general definition of "migration" and the characteristics of the main types of signs of migration.

The word "migration" comes from the Latin «migratio», meaning the relocation, movement, and is used to determine the spatial movement of wildlife [4, s.309]. According to the dictionary of the Russian language S.I. Ozhegova migration - it is moving, relocation (for example, the population within the country or from one country to another) [5, p.24].

The literature on socio-demographic questions contains several dozen definitions of migration, details of which would take many pages. Comparing the existing concepts, select the definition that can be used as the basis of a general concept for all types of migration. Such is the concept of migration can be considered in the broad sense of the word in the interpretation of L.L. Rybakovskii. This scientist, who made a significant contribution to the study on the subject of migration, noted that the displacement and resettlement are not synonymous, and therefore it is possible to consider migration as a narrow and a broad

sense of the word.

The author says: "In a narrow sense, migration is a complete form of territorial displacement, culminating in a change of domicile, ie, literally means relocation. Moving territorial - a broader interpretation of migration. In short, territorial displacement that takes place between the various localities of one or more administrative units, regardless of duration, regularity, target orientation of a migration in the broad sense of the word" [6, p.29].

The proposed treatment includes only those features that are common to all types (forms, types) migration, and that, accordingly, can and should be included in the content category of "migrant" as a general concept.

In contrast, given the wording of a number of authors argued that the term "migration" should be understood "as a set of migrations resulting from the desire of immigrants to improve their living conditions" or "totality of relationships mostly state-controlled territorial movement of people associated with the search for better living conditions and in most cases entailing the acquisition of a new legal status".

However, as noted by M.L. Tyurkin, talk about moving, "associated with the search for better living conditions", not applicable to all categories of migrants. Since the migration can be caused not only by personal reasons or motives, but "government regulation, implementation of private, public and state interests" [6, p.29]. For example, people are forced to emigrate due to the construction of new factories, roads, dams, and so on. D. Allocate and forced migration (independent species or subspecies forced) when considering these categories of the population, as prisoners of war, hijacked civilian population displaced in the special settlements, dispossessed persons deported peoples. It is noted that "Sometimes political motives for migration are stronger than all the others. The individual is ready to experience the hardships, just to remain faithful to their political convictions. Such examples history knows quite a lot "[7, p.40].

The above gives reason to believe that any single motive, cause or goal orientation of migration are not a common feature characteristic of all kinds of migrations. Accordingly, the term "migrant" is a generic term for all categories of workers, do not like to be included only motive, the reason or purpose of migration, because they are not the same for different categories of migrants.

So, if we consider the category of forced and voluntary workers, it is clear that the causes of migration are different. Forced migrants - subjects of forced migration, which is understood as "the movement of people to seek asylum" [7, p.40] or "a set of regional movements associated with temporary or permanent change of residence, with a forced, due to political and national persecution and threats, natural disasters and so on. d.". For voluntary migrants to move the search for asylum is not, and their migration itself is not due to persecution and threats.

The category of forced migrants are refugees; displaced persons (IDPs); environmental refugees; persons who are in a situation similar to the situation of refugee; deported or forcibly transferred the migrant. The term "refugee" and "displaced person" clearly defined at the international level and at the level of national legislation. The category of "internally displaced persons" in the Russian Federation - similar category of "internally displaced persons in the country," defined as a person or group of persons, who as a result of armed conflict, internal strife, systematic violations of human rights or natural or human-induced disasters have been forced to flee their homes or places of habitual residence, but have not crossed an internationally recognized state border [7, p.42]. The essential difference of their content is that the IDPs in the Russian Federation are not recognized as citizens forced to leave their place of residence due to natural or human-induced disasters. Although this category of the population, usually defined as ecological migrants (t. E. Persons who are forced to leave their homes and who move within their own country or across its border due to a sharp deterioration of the environment, or environmental disasters), is justified should refer to the category of forced migrants.

Having reviewed the conceptual description of the forced migrants come to the conclusion that because the migration is

performed by migrants for a variety of reasons (goals, motives), then the sign of the migration should not be fixed in the general concept of "migrant".

Another important aspect to be considered - an exception to the characteristics of the term "migration" feature of spatial displacements carried out within the boundaries of the village. We agree with this point of view, which is shared by most researchers.

In support of this position, we refer to the opinion of T.N. Yudina "Under the migration meant a social process as a set of statistically stable of interactions of people expressing a certain trend of social status or lifestyle of large social groups of people, the conditions of reproduction and development of each person as an individual and affect the change in the social structure and status characteristics of the different layers and groups the population of the state or region under the influence of the social movements of the population or part of it outside the state or administrative border (emphasis dissertations) for a relatively long time. The legislation of the Republic of Kazakhstan definition of "internal migration", "external migration", "international migrant", "internal migrants" are not available. In one of the most recent published work on the topic of migration, S.E. Metelev gives the following interpretation of these concepts:

internal migration - the movement of people within the same country, external - linked with crossing the state borders, it is called international migration;

international migrant - a person who commits an interstate territorial movement (international migration) in order to change the place of residence and work, either permanently or for a specified period of time (from one day to several years) [8, p.13].

As in S.E. Meteleva, most economic, demographic, international and external migration are identified. The term "immigrant" in different states have different meanings. In Italy, the Italian immigrants recognized workers returning to the country, in Japan - national citizens and foreigners who come from abroad, in the United States - aliens lawfully admitted for the purpose of permanent residence in the country and so on [9, p.93].

We consider it necessary to clarify that our work will not be considered crime of immigrants, as this person leaves the Russian Federation and under the theme of crime we are investigating migrants within the territory of the Republic of Kazakhstan. Therefore, recognizing that international migrants are both expatriates and immigrants in the analysis of crime external migrants in the Republic of Kazakhstan will be discussed it on immigrants, that is, the profit and the people are in the country.

V.V. Sobolnikov, highlighting among migrants together a panel of external workers, to treat them foreign citizens and stateless persons [9, p. 93]. We agree with this position, so in his work, considering the crime of external migrants, we will treat them foreign citizens and stateless persons.

V.A. Iontsev correctly notes that the main feature of international migration compared to internal migration are: state border crossing and its corresponding state control of both the fact of the movement across the border (in the country of origin and the country of entry), and for the subsequent stay in the country of entry [10, p.29]. Therefore, in our view, foreign nationals and stateless persons will remain the international (foreign) migrants, not only at the time of entry, but also during his stay in our country.

Permanent migration (such migration when a person changes forever the permanent residence), often also called irrevocable and fixed [11, p.22]. However, V.A. Iontsev argues that permanent migration is often incorrectly equated with irretrievable. At the same time in permanent migration it considers the relocation of migrants for permanent residence in a new locality or state, often with the loss of the nationality of the country of origin. Permanent migration is defined by him as "the totality of mezhposelennyh movements for the period, due to the relevant legislation" [10, s.389].

So we see that by defining the content of irrevocable migration, the author also uses the phrase "permanent residence". Therefore, identification of the irrevocable, permanent and fixed migration is valid.

If we try to summarize the points of view on the duration of the migration, the spread is the time interval of a few hours, one day, to weeks, months or years. In addition, the actual duration of the migration of citizens in many cases difficult to verify. Considering the above, we believe that the general concept of "worker" shall not include any indication of a specific time duration committed individual move.

Defining the general concept of "worker" and "migration", we note that a significant of the grounds, some authors include the implementation of migration "with the change of residence permanently or on a more or less long period of time" or "associated with the change of place of residence" [7, s.33]. However, if you disagree with these positions, then the concept of "migration" would exclude the majority of its contemporary forms, and, consequently, many actually existing categories of migrants would have been beyond the scope of the definition, formed considering the above features.

In this regard, he said that in the legislation of the place of residence recognizes "the place where a citizen lives permanently or primarily" [12]. "Dwelling house, apartment, official living quarters, specialized houses (hostel, hotel - shelter house maneuverable fund, a special house for single elderly, home for the disabled, veterans, and others), as well as other premises where a citizen permanently or primarily as the owner of a contract of employment (sublease), lease agreement or on other grounds stipulated by the legislation of the Republic of Kazakhstan".

We believe that the inclusion of such a definition does not allow include signs of change or change of residence in the general concept of "migration" and the general concept of "worker", as it is typical not for all of their forms and categories.

In particular, it is not considered mandatory in the definition of "labor migration", "migrant worker". Under labor migration (labor migration) in our country meant "mezhposelennye movement of the working population, have, as a rule, return character after the completion of employment. Accordingly it includes permanent, seasonal and circular migration. A special kind of it - illegal immigration "[10, s.406]. As you can see, here specifically provides that "the working population" "usually," returns to the town where had left, that is, the person does not change his domicile.

External labor migration is defined as "the voluntary movement of people legally residing permanently in the territory of the Republic of Kazakhstan abroad as well as foreign citizens and stateless persons permanently residing outside the Republic of Kazakhstan on its territory for the purpose of the exercise of paid employment." Within the framework of the Commonwealth of Independent States uses the term "migrant - worker (or worker)" in this sense - "a person residing in the territory of the Party of origin, which is lawfully engaged in a remunerated activity in the Party of employment" [13]. According to the content of these concepts, a person working at the same time in one country, while at the same time, recognizes the resident to another. This is possible only if the temporary stay in the country of employment, as the individual can not simultaneously be resident in two different places.

Considering an element migration as a "stay", we emphasize that it is meant for temporary residence (not permanently or, as in the place of residence). The law stipulates that "the place to stay - a hotel, sanatorium, rest home, boarding house, camping, hospital, other similar institution, as well as the living room is not a place of residence of a citizen, - in which he resides temporarily)" [8,p.185].

In addition, the use of the term "place of residence" as the unequal term "residence" confirmed a clear distinction in the right concepts: 1) permanently residing in Kazakhstan foreign citizen (the person who obtained a residence permit), 2) temporarily residing in Kazakhstan foreign citizen (person who has obtained a temporary residence permit), 3) temporarily staying in the Republic of Kazakhstan foreign citizen (person who has arrived in the Republic of Kazakhstan on the basis of a visa or in a manner not requiring a visa, and who has no residence permit or a temporary residence permit).

Thus, labor migration does not involve compulsory change of residence, proof of which is also a legal definition of "foreign

worker" (a foreign citizen, temporarily staying in the Republic of Kazakhstan and engaged in the prescribed manner career) and the interpretation of the category of "worker - migrant" as persons temporarily leave the state of permanent residence for employment.

Given the above, we believe that the general concept of "worker", "migration" can not contain as a mandatory feature of "change" or "change of residence", but this component include certain types of migration (eg, irrevocable, understood as the resettlement of migrants permanent residence in a new locality or state, often with the loss of the nationality of the country of origin).

On the other hand, it is necessary to allocate a sign as "stay", which has not been used in the general concept of "migrant". In our opinion, it should be included in the content of this notion, because the person is in fact not only for migrant mezhposelennyh territorial movements, but also for a temporary stay in a particular locality or state. For example, it is typical for migrant refugees, migrant workers (the content of these terms we have analyzed earlier), and also for illegal immigrants (the analysis of this concept is presented below).

Considering the concept of "illegal migrants", to determine whether the signs of "change of residence" and "stay" specific to this category of migrants.

Before turning to the analysis of features of the category of migrants will focus on the practical application of the concepts of "illegal immigration" and "illegal immigration". Many papers are used as synonyms. Therefore, in this paper we have used these concepts as identical.

At the International Conference on Population and Development was used the following definition: "Illegal migrants - are those who are in limbo, and which do not meet the requirements for entry, stay or economic activity established by the State in which they are located,".

The Agreement on cooperation of the CIS member states in the fight against illegal migration consideration terms are the following meaning: "illegal migrants - citizens of third countries and stateless persons who have violated the rules of entry, exit, residence or transit through the territory of the Parties, as well as citizens Parties who violate the rules of stay in the territory of one Party established its national law".

However, the legislation of Kazakhstan has no concept as "illegal migrants", because, in the Law of the Republic of Kazakhstan "On Migration" set term "illegal immigrant", which refers to "the foreigners or stateless persons who enter and stay in the territory of the country in violation of immigration legislation governing the entry, departure, stay and transit through the territory of the republic" [2].

In the US, illegal immigrants are considered to be foreigners (this country are all non-citizens of the USA), located in the country in violation of immigration law: illegally crossed the border without passing immigration control; who entered legally but stayed in the US longer than the permitted period; who entered legally but violated the terms of status of employment without authorization; penetrated into the territory of the United States with false documents; I do not have the right to enter the United States and have entered as a result of information hiding (deported and returned before the allowed time) [10, s.399].

We consider it necessary to note that, since migration - is the movement of individuals in different ways, it is not sufficiently accurate recognition of illegal migrants only persons who have carried out illegal entry into the territory of the Republic of Kazakhstan. So, in our opinion, it should be recognized as such person who carries out the illegal territorial movement in the Republic of Kazakhstan in any way (eg, pedestrian).

We also believe in the separation of some inappropriate wording of foreign nationals on the citizens of "third countries" and the citizens of the Commonwealth of Independent States. According to O.A. Boychenko "Illegal migrants - citizens of third countries and stateless persons who have violated the rules of entry, exit, residence or transit through the territory of the CIS countries and CIS citizens who have violated the rules of stay in the territory of the CIS, established its national legislation." But the modes of entry, stay in Russia for citizens of different countries of the CIS are very different

from each other, and at the same time, may be identical to the rules established by international treaties and agreements for the citizens of "third countries".

The development of the labor market in the country is greatly influenced by the youth. The way young people adapts to market conditions, how consistent their demands and expectations, self-esteem and aspirations with the opportunities and realities of the socio-economic environment, the future of not only the younger generation, but also society as a whole.

As the analysis of the current situation on the labor market, rural youth in the vast majority sees no real prospect of significant improvement in the quality of life in the countryside and in the cities preferred to seek sources of livelihood such that today it would provide a decent standard of living. As a result, the country is growing youth unemployment and increased its employment in the informal sector.

These and other problems accumulated in recent years, have resulted in mass migration mainly in Almaty and Astana.

At the heart of the migration attitudes part of the population of the Republic of Kazakhstan are problems of socio-economic nature, equally urgent and decisive for the representatives of all ethnic groups. At the same time for the security of the country pose a threat of nationalism and separatism in some cases, which also take place. They currently have a corrosive effect on the political stability of the society and the consolidation of all of its members and as a result should be considered as circumstances that promote the growth of crime and migration outflow.

In recent years, illegal migration and related processes have become long-term factors have an increasingly significant impact on the socio-political and economic situation in Kyrgyzstan, especially in the border areas. Being in nature in many ways forced, illegal migration significantly contribute to social, demographic and crime situation in the Republic of Kazakhstan, a negative impact on international and inter-ethnic relations, the position and prestige of our country in the international arena.

The Republic of Kazakhstan, having no experience of combating illegal migration, as well as the necessary legislative framework, under the simplified procedure of crossing the border has become a zone of attraction of migrants from regions with complex military-political, socio-economic and demographic situation.

One of the factors and conditions that contribute to illegal migration in Kazakhstan, is the conclusion of agreements on visa-free entry and exit between the former Soviet Central Asian republics, as well as between them and the Kyrgyz Republic, Turkey, Russia. It contributes to this and the presence of poorly controlled sections of the state border of the Republic. The result was fulfilled system of transfer of foreign citizens in other countries, which include their reception, accommodation, adaptation and provision of documents.

If illegal crossing of the state border (ie bypassing the posts and orders law enforcement agencies), in most cases, used as conductors locals hired migrants for a fee.

In assessing the criminality of migrants should be taken into account "in the first place, it is extremely high latency of this type of crime, and secondly, the practice of registration of crimes in this category (committed by foreigners only if the accusation by the person concerned), third, and other imperfections in the accounting system of crimes committed migrants".

Military conflicts in Afghanistan and Tajikistan, the event took place in spring 2005 in the Andijan region of Uzbekistan, related instability and the difficult economic situation of the population, have led to an influx of refugees in Kazakhstan.

The influx of illegal migrants to the republic came from almost all CIS countries, at least - from foreign countries. The main reasons for the abandonment of the former residence of migrants are economic. The local population is suspicious to visitors, which to some extent complicates the social situation in the country.

Illegal migrants - a person who arrived in the Republic of Kazakhstan voluntarily without seeking refugee status or persons who have been officially denied that living in the country without a permit and a residence

permit who do not have legal grounds to implement on its territory economic or other activity .

However, the official statistics on the quantitative movement of illegal immigrants is not conducted.

Here are the main reasons for the influx of migrants to the Republic of Kazakhstan:

the collapse of the USSR, in connection with the aggravation of these international relations;

liberal legislation, opening the border of Kazakhstan encourage illegal migration, including transit;

distribution business, a trip to the Republic of Kazakhstan for the acquisition and sale of goods;

RELATIVES citizens of the Republic of Kazakhstan with the inhabitants of other CIS countries, economic relations, closely linking partners in the private and public activities.

It should be noted that the total number of identified perpetrators of crimes in the whole country, the vast majority of crimes are committed by male persons, the number of women committing crimes slightly. Various representatives of the ratio of the sexes is due not only to the physiological characteristics of men and women, but also the specifics of the social roles performed by women.

This ratio is similar for immigrants and criminals: in the structure of crimes committed by women migrants dominate theft, consumer fraud, hooliganism and crime associated with illicit drug trafficking.

Low living standards, unemployment, lack of jobs, low wages, discrimination at work, abuse, patriarchal mores in society and lack of social support - all in a whole makes women migrate and often embark on a dangerous path of crime and delinquency.

The transition from the post-Soviet period planned to market economy has generated an unprecedented phenomenon of Soviet reality: millions of people who lost for the first time in many years, jobs, faced with competition in the labor market. Unemployment - a new phenomenon for the CIS countries. Studies have shown that women are much more likely than men to have appeared, destitute as a result of economic and social transformation in the former communist countries. As a rule, the unemployment rate is higher among women than among men; more women work, where wages are lower (70-80% is obtained from the amount that men receive).

Women often face discrimination in employment, the allocation of posts, promotion, dismissal and wage distribution.

Analysis of the ratio of women and men in the labor migration showed that the percentage of women among the "initiative" of migrants is slightly higher than among men.

In the context of the pressing problems in the country of employment prospects of finding a job with a degree in urban women are insignificant.

At the same time, as rightly pointed T. Klimova, the working conditions of women employed in social production, over the last decade hardly improved. Unsettled social conditions of women workers, lack of infrastructure in cities deprives them of the time it takes them to raise children, to increase their professional and educational level.

It should be noted that in Kazakhstan, in spite of the developed and adopted the Concept of State policy for the advancement of women, as the I.V. Korzun, are not given due attention to this problem: "We still have not formed a national mechanism for the solution of their problems, there is no law on equal opportunities, there is practically no jurisprudence to protect the constitutional rights of women in cases of discrimination based on sex".

All kinds of violence, including economic, especially in rural areas, leading to the disintegration of the family, the loss of a variety of social ties. As a result, many women are forced to migrate in search of work and the new place of residence.

The growing concern in the country is the spread of trafficking in women for the purpose of their illegal operation, carried out in the form of fraud (fraudulent) of hiring in the labor force, including the export of prostitution.

We agree with B.G. Tugelbaeva that the marginalization of migrant women, is responsible for their sale and sexual exploitation - is a social construct that reflects overall gender asymmetry in the economic and social spheres (low economic and social status

of women's unequal status in the family, a shift towards low-paid sectors of employment) and associated inefficiencies modern model of international migration.

Considering the problems of social adaptation of migrants from other regions of the country, especially in rural areas, it is necessary to emphasize that when you move them to the city is a clash between the old, familiar and new, unusual way of life, accompanied by brittle earlier stereotype. If changes in the conditions of life do not correspond to steady his stereotype, he is experiencing a lot of difficulties, fatigue, frustration, despair and other negative feelings. Conversely, according to their lifestyle, occupations of stereotypes, brings a sense of lightness, vivacity, and so on. D.

Transfer of former peasants into the city accompanied by, in addition to breaking the habitual way of life, the problems of adaptation to the new conditions of life in the context of increased psychological stress, accelerate the pace of life, and other features of urban life, which ultimately affects their future behavior.

Irregular migration significantly worsen the financial situation of the migrant population, as opposed to organized migrations caused by operational necessity, under which a migrant in most cases provided with housing, guaranteed work and therefore wages.

The point of introduction for irregular migrants is faced with problems of employment, finding housing, and so on. D. This often leads to insoluble contradictions, problems and conflict situations, stimulating growth of criminalization of society as a whole. External factors interact with the social environment characteristics themselves forced migrants. Almost all of them are in psychological stress.

The above-mentioned negative effects of socio-economic order often lead to varying degrees unsettled marginalized people on the path to crime. For more in-depth knowledge of the motivational behavior of the individual migrant, including criminal behavior, should address the problem of indoctrination of society. Natives of the country's rural indigenous nationality are more are carriers of original material and spiritual culture of the people, the positive and negative sides of the Kyrgyz mentality that has historically been formed under the influence of Islam, the nomadic way of life and communities.

Indoctrination of the population in conditions of Kazakhstan gained sovereignty, in our opinion, may be the key to success in overcoming the socio-economic difficulties of democratic reforms aimed at renewing the Kazakh society and its consolidation.

Of particular concern today is the fact that the vast majority of the country among the young people from other cities who have committed crimes in the cities, have not been previously judged. It takes a broad criminalization of society. This allows us to establish the fact that the formation of further criminal conduct of future criminal had a negative impact Nearest household environment before his arrival to the city [11, p.156].

Representatives of the fourth group who have lived more than ten years among the local population, can be considered almost local.

With regard to migrants from the CIS citizens residing in the Republic of Kazakhstan, who come into conflict with the law, the reasons they commit illegal acts coincide with the above.

As the Russian scientist A. Seyteshev, "one of the greatest failures in the reform in Kazakhstan in the last decade has been declared so-called de-ideologization of society. Company in the most part, by the government, the media has been rejected by the communist idea. Instead, public institutions have not offered any other ideology ... have been actively implanted alien ideology of profit, extreme individualism, nationalism» [12,p.192].

Within a short period of time it has lost the spirituality of the people, which included the kindness and humane world penance, community, ie Positive features of the Kazakh mentality.

The desire to make money, the dream of the "beautiful life", the ability to conduct "attractive" lifestyle, coupled with the unwillingness to overcome life's difficulties, lack of commitment, solid moral principles, selfishness is formed in some cases, criminal

behavior is not morally developed personality.

Thus, the identity of the migrant is characterized mainly by features inherent personalities of other categories of criminals. The difference between them lies in the absence of permanent residence and work in the citizenship of other states, or in the absence of citizenship.

It should be noted that the correct set by accounting and registration work of the police, customs, border authorities will contribute to improving the integration of migratory flows, as well as help define groups of migrants, including migrant criminals.

In this case, finding them (migrants) on the territory of our state will allow to carry out prevention work for the prevention of various offenses by them, including to prevent criminal activity by the internal affairs bodies.

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The subject of the Truth in a Criminal Proceeding

Abstract. In this article, the truth is seen as credible by all means worthy of full and unquestioned trust in her. And this truth is able to be only the truth, not just confirmed, even the most perfect, the evidence, but certainly certified in compliance with all other principles and guarantees of due legal procedure. By its nature, the truth in criminal proceedings is an objective truth, ie, the content of the findings of the inspector and the court about the circumstances of the case, which does not depend on their desires and impulses, and must conform to the objective reality.

Keywords: objective truth, evidence, criminal procedure, knowledge.

If you ask me whether I am convinced of her innocence, I will not say: "Yes, I am." I do not want to lie. But I am not convinced of her guilt… I do not say about guilt or innocence, I say about uncertainty of the answer to the fatal question of a case.

F.N. Plevako

Issues of the truth establishment are worked out by the proof theory which constitutes a part of the criminal proceeding science and studies the process of proof during inquiry performance, preliminary investigation, and in the court. Many scientific studies were dedicated to issues of the proof theory. Crimes as socially dangerous acts reflect in the outside world leaving their marks both on tangible things and on people's consciousness. Using these marks, preliminary investigation bodies and the court investigates circumstances of a crime. Knowledge is realized in forms established by the law.

Reflections of a crime on tangible things and on people's consciousness used to investigate circumstances of a crime in the process of criminal proceedings according to the procedure established by law become evidences. The process of knowing the essential facts and circumstances which occurs in forms established by the law takes form of proof. In the process of proof the authorized governmental bodies and officials, involving other parties to a legal process, collect, verify, and weigh evidences for proper investigation of circumstances surrounding a crime.

Establishment of real truth in a criminal case, i.e. substantiation of actual facts, establishment of their compliance with the reality, is carried out with use of evidence which is an instrument to discover the real

truth. Investigation and court can substantiate facts of the case, i.e. fact that a crime was committed, its commitment by a certain person, and guilt of the latter, only with use of evidence [Art. 76, 1].

The issue of truth is one of fundamental in the theory of knowledge (gnoseology) and is of great theoretical and practical importance. The issue of truth is also essential to criminal procedure activities. General provisions of the knowledge theory about knowability of objective reality phenomena, about of human consciousness to know facts of this reality, about practice as the basis of knowledge and standard of truth, about authenticity of our knowledge, and other important provisions of gnoseology are fully related to knowledge and nature of the truth established in a criminal case.

What does the objective truth means in the criminal procedure, what is its scope?

As is any truth, the objective truth in this sphere of social life is the highest form of subjective reflection of the objective reality, is full and severe conformity of subjective judgments with investigated facts and circumstances. Notwithstanding the foregoing, truth in the criminal procedure is of definite specific character which without converting it into the truth of special type makes difference between the truth established in the criminal procedure and the truth in any other sphere of the social life. Among such peculiarities it should be pointed at the subject of knowledge, i.e. specific range of facts related to an event, elements of a crime, people who committed a crime, and other circumstances which are to be established with regard to the criminal case; at means and methods of truth establishment; at the extent of proof (amount of evidences necessary to establish relevant facts), system of investigation and judicial actions required to receive such evidences [Art. 59, 2,].

The whole system of criminal proceedings established by the law and legal relations originating from their performance, including actions and legal relations in the sphere of proof, are subordinated to solutions of criminal procedure tasks set forth in Article 8 of the Criminal Procedure Code of the Republic of Kazakhstan.

Achievement of goals set in the course of conducted actions is the successive solution of some interrelated intermediate tasks on the way toward the goal of proof – truth achievement by preliminary investigation bodies, prosecutor, and the court.

As stated above, truth in a criminal proceeding has its own specific features. Consideration of specific features of the truth and its establishment in the criminal procedure, as striving to show its fundamental qualitative distinction from the so called apparent truth, predetermined raising an issue about naming such truth as real. However, the essence of the matter is not in the terminology, but in the intension which is put into this term. Term *real truth* is used essentially in terms of the objective truth with due consideration of its specific character in the sphere of the criminal procedure and fundamental distinction from the apparent truth.

One of the essential features of the truth in the criminal proceeding is that the knowledge of facts of the case occurs in their legal evaluation. This feature results from the fact that knowledge of the fact and enforcement of law is interrelated inseparably [Art. 61, 2].

Proof is a kind of the practical cognitive activity. That is why the proof always aims at knowledge of all essential circumstances which are important for correct decision-making in the criminal case. Proof process in a criminal case, its legal regulation, and range of admissible investigating (judicial) actions is changed and improved, their goals and objectives are to be defined, and procedure for performance of actions, equipment use, etc. is to be elaborated, but goal of the proof – truth achievement is unchanged.

Tasks of the criminal proceeding have an impact on content of the proof goal, truth content, and its substantiation. Content of the proof goal, knowledge scope is expressed in the form which provides solution of the same tasks. Therefore the goal of knowledge in the criminal procedure cannot be exhausted by establishment of definite actions, facts of objective reality.

To define the truth content correctly, it is necessary to take into account facts of the objective reality which are known in the

criminal procedure and represent phenomenon of the social life. For that reason actions must be taken for proper knowledge of their inward nature, i.e. their importance among other phenomena of the social life.

In accordance with the tasks of criminal procedure, an investigator and the court must determine the presence and level of social danger of committed actions, elements of a crime in these actions. In other words, an investigator and the court must make legal evaluation of a particular event which is a subject of proceedings in criminal cases. This evaluation of facts is one of the specific features of knowledge in the criminal proceeding.

The procedural literature not always gives consideration to this essential feature of the knowledge subject which is of great importance for truthful understanding of the truth achieved by investigative bodies and the court. Consequently, definitions of its content given by some authors actually answer the question about interrelation of knowledge results with the object of knowledge without revealing the content of these results.

M.S. Strogovich wrote: "The real truth in a criminal proceeding is full and severe conformity of objective efficacy of conclusions made by an investigator and the court about circumstances of an investigated and decided case, guilt or guiltlessness of people who are convicted of criminal offences." [Art. 308, 3].

Works of other authors contain the similar definition. From our point of view, this definition of the truth reached in a criminal proceeding puts emphasis upon its objective character.

Thus, the truth in the criminal procedure is the goal of proof and a component of common goals set in the course of the criminal proceeding.

Since the truth is the subjective reflection of objective reality, its knowledge always includes dialectical unity of two elements – objective and subjective. Circumstances of reality exist regardless of and independent from a person's will and consciousness. The objective factor – knowable reality is primary and determining.

The foregoing enables to draw the following conclusions in respect to the issue about knowledge of truth in a criminal procedure:

a) whatever difficulties are faced by agencies of inquiry, investigation agencies, prosecution authorities, and courts in the process of investigation and consideration of criminal cases, establishment of the objective truth as a matter of principle is always accessible;

b) however, this does not excludes possibilities of investigation and justice failures, but this excludes their imminence and non-elimination;

c) achievement of a relevant goal is possible only when law enforcement authorities use high efforts to establish the truth in each particular case.

Consequently, issue about the truth in the criminal procedure cannot be considered as theoretical, i.e. it is of great practical importance.

Today there are many definitions of truth. Some people believe that truth is correspondence of knowledge with the reality; some people think that truth is the experiment confirmability of knowledge; some people understand the truth as a feature of knowledge conformity, some - as knowledge utility, its efficiency; others assure that truth is the agreement.

It is most rational to adhere to the first statement which suggests the materialist interpretation of the truth. In accordance with the knowledge theory, the objective truth is deemed to be the correspondence of human thoughts, judgments, and ideas about reality subjects with these subjects as they are in reality independently on the consciousness perceiving them.

Truly speaking, sometimes there are significant differences in interpretation of this truth definition by representatives of various philosophical schools. First of all, they are related to understanding of the reality. It appears, that those people, who really believe that realness is the reality which objectively exists regardless of and independently from our consciousness, act in the right way. In conformity with this, the truth as the goal of proof in a criminal proceeding should be

understood as commonly cited objective truth, in particular such a content of investigation and judicial conclusions which corresponds with the reality reflects happened events in the right way: occurred crime, fact of its commitment by a certain person, guilt of that person, etc. As we see, the truth, veracity or falsity of knowledge, as well as of investigation and judicial conclusions, characterizes their content, correspondence or non-correspondence with facts of the reality as it is.

But to know and have a fairly confidently judgment in what extent investigation and judicial conclusions correspond with the reality, it is obviously necessary to have definite reasons for that according to the logic requirements. Evidence with the entire system of judicial guarantees for truth establishment, as is known, can be served as such reasons. This means that confidence in the truth or falsity of investigation and judicial conclusions is eventually determined by a degree of their validity.

Validity of conclusions determines trust in their veracity, if conclusions are not fully validated, though accurately as they reflect the reality, their veracity can be and must be judged with more or less probability and consequently with doubts in their veracity. As a result, probability or reasonableness of investigation or judicial conclusions must be understood not as their veracity and not as conformity of their content with facts of the objective reality, but as a degree of reasonableness of the statement that these conclusions really show the truth.

It follows from what has been said: widely popular belief that the goal of proof in the criminal proceeding is the objective truth is hardly correct. This goal must be not just the truth, but it must be the proved truth which is worthy of full and undoubted trust in it. This truth can be only the truth which is not just confirmed even with the most indubitable evidence, but which is definitely proved in compliance of all principles and other guaranties of the proper judicial and legal procedure.

The truth in a criminal proceeding by its nature is the objective truth, i.e. content of an investigator and the court's conclusions about facts in a case, as noted above, does not depend on their desires and motives and must agree with the objective reality.

By nature the truth established in a criminal case is both absolute and relative. Relativity of the truth is determined by the fact that in a criminal proceeding a crime which is a small part of the objective world is studied not in all relations and mediacy with the reality, but within certain limits necessary to solve tasks of the criminal procedure.

At the same time, the relative truth is the objective truth which reflects physical facts in a right way and as such contains a part of the absolute truth. *Parts* of the absolute truth are referred to establishment of all facts with the presence of which the law associates certain legal consequences.

The legal literature has a point of view the followers of which believe that the objective truth in a criminal proceeding can be only absolute. In particular, I.I. Mukhin advancing this view wrote: "The objective truth in a criminal proceeding by its nature is the absolute truth and cannot be the relative truth" [Art. 37-38, 4].

Followers of other view are of the opinion that absolute and relative truths as such do not exist at all, that the truth is both absolute and relative, and that the absolute truth always manifests itself only as relative truths. For instance, A.I. Trusov wrote about this as follows: "Since the point at issue is about categories of the absolute and relative truth, formulation of the question in the form *either-or* must be excluded, because there are no truths which would be only absolute or only relative. In the context of … the theory of knowledge, any objective truth is evident as relative truths from the sums of which it is formed" [Art. 113-116, 5].

We agree with authors who believe that the objective truth for achievement of which investigation bodies and court fosters their efforts, in view of proper knowledge of facts in their legal meanings, is the absolute truth and simultaneously serves as the relative truth given that the court insufficiently understands socially dangerous acts [Art. 72, 6].

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The role of the court to protect the rights of man and citizen

Abstract. This article discusses that before the courts of the Republic of Kazakhstan faces challenges that provide protection guaranteed by the Constitution of Kazakhstan personal rights and freedoms, socio-economic and political rights of man and citizen. The activities of the court to protect the rights referred to justice, while the activities of other bodies such as the protection of justice is not. The judiciary has a pronounced character of law enforcement, resulting in a form of judicial protection of the rights and legitimate interests of the most extensive and thoroughly regulated.

Keywords: court, the judiciary, the protection of the judicial power.

The sovereign state of Kazakhstan has successfully overcome the first stage of the judicial and legal reform. Its result was the adoption of the Basic Law of the Constitution of the Republic of Kazakhstan, the Constitutional Law "On the Judicial System and Status of Judges of the Republic of Kazakhstan", a package of new codified laws, while those governing criminal procedure legal, and many other laws aimed at legal support for new economic and social reorganizations in the polity.

It should be noted that the importance of the research problem, primarily due to the fact that the Constitution of the Republic of Kazakhstan 1995, p. 4 of Art. 3 Fix the proposition that "the state power in the Republic is unified and executed on the basis of the Constitution and laws in accordance with the principle of the separation of legislative, executive and judicial branches and their interaction with each other using a system of checks and balances." The Concept of Legal Policy of Kazakhstan emphasized that decisive action is taken according to the judiciary as a separate and independent branch of government will, designed to protect and defend the rights and freedoms of man and

citizen, the inviolability of the constitutional system, unified economic and legal environment of Kazakhstan. Following the adoption of 13 December 1997 Code of Criminal Procedure in the Kazakh criminal procedure legislation occurred fairly major changes that put in front of the new science of criminal relevant theoretical and applied problems. In this connection, the further improvement of criminal procedural law led to the creation of a new screening trial stage, previously unknown to the domestic criminal procedure institute - an appeal, including the merits of the appeal stage for certain categories of cases.

On 3 Congress of Judges of Kazakhstan President NursultanNazarbayev clearly identified eight priority areas of judicial reform. The most important of these, of course, is the implementation of the criminal trial by jury. [1] As an essential safeguard of the rights and legitimate interests of the citizen and the person called upon to fill the jury the true content of the principle of the independence of judges in the administration of justice on the most complex and have wide publicity in criminal matters, the principle of equality of the parties.

The court as an organ of the judiciary in criminal proceedings the Republic of Kazakhstan carries out human rights protection that is provided directly in the application of the rules of substantive and procedural law by the court.

The protection of fundamental human rights and freedoms is one of the universal - it's values to be a priority in all areas of the protection of public and political life. Correctly noted in the legal literature, that the overall scale of the humanitarian values of human rights, as well as the man himself, are central and dominate over all others [2, p. 289].

In a democracy, rights and freedoms of citizens, as well as their responsibilities, constitute a major social and political-legal institute, acting objectively measure the achievements of the society, an indicator of its maturity, civilization. He - a means of access of the person to the spiritual and material goods, the mechanisms of power, legitimate forms of expression, the realization of their interests. At the same time it is an indispensable condition for the improvement of the individual, strengthening his status and dignity. That is why the advanced countries and the peoples of the world community consider human rights and their protection as a universal ideal, the basis of progressive development and prosperity, the stability factor and stability.

The protection of human rights has gone far beyond the individual state and it became necessary in the creation of international legal institutions, yet the leading role in the mechanism of protection of the rights and freedoms of man today and in the foreseeable future is up to national institutions. One of the guarantees of human rights protection is an "effective and fair enforcement. This is due to two main reasons: 1) the application of the law - a domineering government activities aimed at the implementation of legal regulations in the life, that is, the elimination of obstacles to implementation may apply to the competent authority immediately after the protection of legitimate interests, and law enforcers should contribute to the protection of his or implementation "[3, p. 146].

It is a special place is occupied by the enforcement activities of government agencies, as in many cases it is realized through her social useful legal effect.

The enforcement activity of state bodies to ensure the effective impact of legal norms on public relations is a huge role for the judiciary, which acts as a carrier of the judiciary and the courts (judges) are elements that build the judicial system. This is especially true of the current stage, characterized by the rapid process of formation and development of the rule of law, institutions, democratic society, guarantees the consolidation of the political, economic and social rights and freedoms of citizens.

Many of the organs of the State partially or fully perform the function of human rights, but it still does not reflect their social role and purpose. The judiciary has a pronounced character of law enforcement, resulting in a form of judicial protection of the rights and legitimate interests of the most extensive and thoroughly regulated. The activities of the court to protect the rights referred to justice,

while the activity of other bodies such as the protection of justice is not. This underscores the fundamental difference from other forms of justice to protect the rights and interests, which provides an effective respect for civil (personal), political, economic, social and cultural rights.

In the judiciary there are two aspects of the law-enforcement functions:

- Ensuring the rule of law and the law in general. This means that the judiciary, allowing civil, criminal and administrative cases should be guided only by the law and make rightly, that is based strictly on the law, the decisions are thus enforcing the rule of law enshrined in the Constitution, laws, other regulations, international treaties of the Republic;

- Protection of the rights, freedoms and legitimate interests of citizens and organizations.

This function will inevitably follows from the recognition of the Constitution of the Republic of Kazakhstan man, his life, rights and freedoms of the highest value of the state. In a state of law, which seeks to build the Republic of Kazakhstan, the right to judicial protection is a guarantee in respect of all other rights and freedoms of man and citizen [4, p. 28].

The Constitution of Kazakhstan st. 78 legislated legal guarantees of human rights: "The courts are not entitled to apply laws and other regulatory legal acts infringing on the rights and freedoms of man and citizen. If the court finds that a law or other regulatory legal act subject to application infringes on the rights and freedoms of man and citizen it shall suspend legal proceedings and address the Constitutional Council with a proposal to declare that law unconstitutional. "

The courts of the Republic of Kazakhstan to carry out complex work on the protection of social and economic rights of man and citizen. The economic recovery that took place in Kazakhstan in recent years, contributed to the strengthening of social and economic rights, reduce poverty and increase employment. However, the complexity of social relations in the sphere of labor, employment, health, business, property and led to a violation of human rights, the emergence of numerous disputes and handling complaints to the judicial authorities.

Strengthening legal protection of rights and freedoms in the field of socio-economic relations facilitate the adoption of regulatory decisions of the Supreme Court of the Republic of Kazakhstan "On some questions of application by courts of law in the resolution of labor disputes", "On some issues of application by the courts of the land legislation", "On application by the courts of legislation in the resolution of disputes relating to the education of children "," On the practice of courts of law on consumer protection. " "On some issues the resolution of disputes relating to the protection of property rights to housing," "On application by the courts of some of the legislation on protection of copyright and related rights" and others.

In general, during the period of economic growth in the courts to protect the constitutional rights of citizens to private property, to just and favorable conditions of work, equal pay for equal work, to social security and recreation, a healthy environment, to freedom of entrepreneurial activity in the provision of public services, and so on .d. That is, while protecting social and economic rights, the losers often claim biased approach of judges in cases of unjust decisions allowed them [5, p. 77].

Human rights protection is provided directly in the application of the rules of substantive and procedural law by the court. However, it plays an important role in this process and the state of the judicial system:

- The decision of questions of principle to ensure the independence of judges;

- Development of fundamentals guarantees the independence of the courts; level arrangement issues of the judicial system;

- The creation of judicial bodies;

- The creation of specialized courts;

- Improving the recruitment and appointment to judicial office, and others.), Which, with appropriate issues, can create a completely different structure of human rights protection, to determine a more just from a legal point of view, the process of economic transformation.

Courts should also be discharged by the differentiation process, simplifying a number of procedures, greater use of alternative dispute resolution, such as arbitration courts, the introduction of mediation procedures, etc. [6, p.11]. In this regard, active process of specialization of the courts, established and functioning has administrative, economic, juvenile courts, worked out the possibility of creating in the courts of mediation, introduced institution of the jury, to improve the system of enforcement proceedings with the preparation of the introduction of the institution of private bailiffs, selection for judicial office, training of the judiciary. All this naturally enhances the level of judicial protection of human rights.

The judicial system of the Republic of Kazakhstan does a lot of work for the protection of human rights and freedoms, despite the difficulties of objective and subjective factors in it.

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Professional ethics of the lawyer

Abstract. This article describes the main professional ethics of the lawyer. Also portraits symbiotic interaction between morality and law. The article describes lawyer ethics as an integral part of science on the bar.

Keywords: legal, morality, ethics, lawyer.

In the legal literature much attention is paid to the problem of the combination and interaction of such important social regulators, as the law and ethics. This problem acquires an outstanding sharpness in the administration of justice, when the legal criteria for the assessment of conflict situations are insufficient and the appeal to conscience, their honour, their moral duty not only natural, but inevitable. One of the first Russian lawyers, who attracted attention to this problem was A. F. Koni in his work entitled "the Moral principle in criminal proceedings" [1] .

Morality is a particular system of regulations, rules of conduction, which regulates social relations in accordance with the established in the society criteria of good, evil, justice, honesty, integrity, righteousness, unrighteousness, etc., Enforcement of moral norms is ensured not only by the state coercion, and of public opinion authority , fear of censure from others, fear of losing respect and good reputation.

Morality and law are in a symbiotic interaction because in the system of regulation of social relations the play equally valued roles, inconceivabling in isolation from each other, complementing each other. Lawer ethics is a system of science-based understanding of the moral and ethical aspects of advocacy and their ratings.

Lawyer ethics is an integral part of science on the bar, its relatively isolated institution, as well as part of a General Lawyer ethics (along with the judicial ethics, professional ethics of the entrepreneur). The need of the provision of lawyer ethics from the ethics of other legal professions stems from the specifics of advocate's activity. The lawyer, on the one hand, carries out rights ,

freedoms and interests protection of physical and legal entities entrusted to him by the state, and on the other hand, performs the instruction of the person who is needed of legal assistance for the protection of its subjective rights, often from the same state in the person of its officials. Thus, there is the double responsibility on lawyer's head, he has in his daily work, solving the problems of contradictions between the state interests and interests of the individual.

Especially this problem appears in the area of criminal proceedings. At the person protection process ,who have done the dangerous offense ,lawyer have to make his , using all legal means , make protection of suspected or accused person. But as a citizen, the lawyer cannot condone the offender. In such cases it is quite difficult to build a relationship with the defendant, especially when he tells the attorney what had actually committed the punishable crime. Regarding such situations, A. F. Koni in his previous work noted that criminal defense is a special occasion for presentation of the requirements gleaned from the field of moral.

At the General code of rules for lawyers of countries of the European community States is said that in any legal society role of the lawyer destined for a special role. His duties are not limited to good faith performance of their duties within the law. The lawyer must act in the interests of both rights in General and those whose rights and liberties he is entrusted to protect; not only act in court on behalf of the principal, and to render him legal assistance in the form of advice and consultations [2].

In this case, lawyer imposed with a set of obligations both legal and moral, often in mutual contradiction and conventionally divided into the following categories of obligations:

— before the principal;
—before the tribunals and other authorities with whom the lawyer comes into contact, being the Trustee of the Trustee or acting on its behalf;

— in front of other lawyers;
— before the society for whose members the existence of a free and independent profession, along with compliance is the most important guarantee of the protection of human rights.

The challenge of lawyer ethics — finding a balance between all of these categories of obligations, between a professional duty of the defense attorney, lawyer and representative of the interests of society and the state. The cornerstone in the build system of ethics lawyer is the postulate of the necessity of strict observance of the principle of legality in advocacy and understanding that the fulfillment of professional duties by legal means and methods ultimately leads to the execution by counsel of his duty as a citizen. As a result, the professional duty is not in conflict with any civic duty.

The content of lawyer ethics includes:

I) moral principles which have to be followed by lawyers in the course of implementation of lawyer activity;

2) norms of morality and ethics, reflected in certain rules, formed and operating in various spheres of professional activity of lawyers and fills principles of legal ethics content, specifying them;

3) assessment of completeness of reflection in the law on advocate activity and advocacy requirements of morality, views on the degree of compliance with requirements of legal ethics in the legal community, bar associations and law firms and individual lawyers, representation of society about the institution of advocacy in General, about the feasibility, fairness in its activities; the degree of citizens ' trust in lawyers and respect of their profession;

4)methods of implementation the law society of moral requirements, develop ethics law, methods of enforcement lawyers the ethical rules [3] .

The law of advocacy contains a number of provisions that guides lawyers on the implementation of ethical rules, moral norms. Paragraph 1 of article 15 of the Law, articulating the duties of the lawyer stipulates that he is required to observe in discharging their professional duties the norms of the legislation of the Republic of Kazakhstan and the Code of professional ethics of advocates [4] . The Law, however, does not disclose the concepts of honesty, reasonableness and good

faith. To understand, you must contact the ethics law developed principles and categories.

The most important principles of legal ethics are treated as General requirements of public morality, acquires an increased load in the area of professional relations of the lawyer and some specific rules. The former includes honesty, intelligence, integrity, justice, humanism, Responsibility, respect, honor and dignity, etc. the Second group of principles are the requirements of moral character to the individual lawyer, to the means and methods of protection, respect for the law and the court as well as moral rules the relationship of lawyer and client, lawyer and colleagues, lawyer and other participants in the process and so on.

Here I wanted to cover the most basic, in my opinion, principles such as honesty and truthfulness. Fairness as a principle of lawyer ethics is the fundamental beginning of the professional activity of the lawyer in the lawyer building a relationship with colleagues, governmental and non-governmental bodies, Trustees, media

Often the concept of "fairness" used as a synonym for truthfulness. In this meaning, this concept is used, in particular N. N. Polyansky, who wrote that "the duty to be truthful ... for a member of the bar of the Corporation is submitted or should be the responsibility relating to the field of good manners Corporation"[5]. However, the truth does not exhaust the full content of the principle of honesty. In addition to messages in the implementation of advocacy only true, subjectively true information, the principle of honesty implies a subjectively honest attitude towards the expression of individual assessments, personal opinions own legal position, honest, decent, worthy, moral behavior of the lawyer in the relationship with the people around him: colleagues, Trustees, court, law enforcement, government agencies, the media, etc[6].

An important principle of lawyer ethics is the principle of respect for the honour and dignity of the man, the authority of state bodies and the legal profession. Procedural legislation in Kazakhstan contains requirements about respecting honor and dignity during judicial proceedings. For example, article 13 of the code of criminal procedure specifies that in criminal proceedings shall be prohibited the actions and adoption of decisions, degrading the honour of the participant of criminal proceedings, and treatment humiliating his human dignity or creating danger for his life and health. None of the participants in criminal proceedings may be subjected to violence, torture or other cruel or degrading treatment.

Actions which are humiliates honor and dignity of the participants in the proceedings, can be regarded as a breach of order in court, and to the person that committed such actions may be applied certain measure of influence [7]. However ,the behavior of the involved persons often may be incorrect, disrespectful, degrading or which confuse the position of other participants in the process, but from the point of view of the law it cannot be qualified as a breach of order in court. Legal penalties are not applicable here. In such cases the guiding rule should be the ethical principle of respect for the honour and dignity of the individual, the authority of the court. This principle should deter counsel from some of the comments from overly emotional responses to possible disrespectful replica of the other participants in the process, setted to respectful, calm and constructive dialogue with their opponents, despite the heavy psychological burden when consideration of complex cases, sometimes involving vital questions.

Respect of the lawyer of the honor and dignity of the principal, the authority of the court and other state bodies, professional and correct behavior in all situations ultimately contribute to strengthening the authority of the institution of advocacy, the formation of trusting, respectful relationships to the outside attorney not only citizens but also officials of public authorities, judges, prosecutors. Generally, legal ethics forms the attitude of people to the legal profession as a whole. It is based on this ethical principles of lawyers, which must be firmly rooted in their worldview, become part of consciousness. Thus, I would like to say that, if our defenders will be adhered to moral standards, if these standards firmly settled in their sense of justice, perhaps, in the future attitude to

pravonaslednikom will improve. In our time the attitude to lawyers is poor, as citizens of the Republic of Kazakhstan belong to him confidentially. Lawyers lost their status of Ombudsman, and has acquired a new intermediary between the customer and the authority. Sorry, it is beneficial to all three parties: the lawyer (he gets his fee), the client (he reaches his goal), and, accordingly, the judge. What I can offer for this problem? Change the attitude towards lawyers is possible only by changing their consciousness, which affects their actions. We must, each in his place and together, to do everything possible to change attitudes to the legal profession, strengthen its authority as a public guarantor of the rule of law and justice, independent and free from selfish interests and political sympathies.

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Urgent problems of appeals procedure of juveniles

Abstract. This article is about urgent problems of appeals procedure of juveniles.
Keywords: juveniles, appeals procedure.

In accordance with Article 8 of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on 10 December 1948, every person has the right to an effective remedy by the competent national judges in case of violating his fundamental rights which have been provided by the constitution or law. Everyone has the right that his case would be heard publicly and in compliance with all the requirements of justice by independent and impartial judges (Article 10 of the Universal Declaration) in order to determine his rights and obligations and establish the validity of criminal charge against him [1].

Generally recognized principles and norms of international law are the integral part of the legal system of the Republic of Kazakhstan, so in the modern period the state aims to provide the accessibility of judicial protection to whole citizens. However, justice must be not only affordable, but also be able to restore the violated rights effectively and timely. Only a legitimate and reasonable verdict will be fair and convincing for the juvenile offender and other citizens, and only

"legal and court decisions have legal rights and are valid for implementation". In accordance with the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 16 December 1966, every convicted offender has the right for the resentence by higher instance [2]. According to the Constitution of the Republic of Kazakhstan [3] every convicted offender the right for the resentence by a higher court established by the law, as well as, has the right to mitigate the sentence. Criminal Procedure Code of the Republic of Kazakhstan [4] provides defense lawyer and legal representatives for the minor convicted, acquitted to appeal the verdict of the court which has not yet become effective in law appellate or cassational procedure. At the same time, complaints of sentences handed down only by judges are considered in the appellate procedure. Thus, verification of legality, validity and fairness of the sentence of cassational court of is one of the main forms of a higher court judicial review for operation of courts of the first instance. However, judicial activities requires further improvement to verify the legality, validity and fairness which has not yet become effective in law of juvenile judgments.

Juvenile cases are one of the most difficult cases. This category of cases should be provided high quality consideration of effective criminal procedure law. Plenum of the Supreme Court has repeatedly drawn the attention of courts to the need for timely and qualitative consideration of cases involving minors, while stressing that the proceedings in the cases of this category should be based on strict observance of the law, as much as possible to promote the protection of the rights of minors, the appointment of fair punishment and prevention of the commission new crimes

Meanwhile, the courts of the first instance which deal with juvenile cases often breach the law. In turn, the appellate courts which consider the case on appeal, often disregard violation of the courts of first instance. Thus, illegal, unreasonable and unjust sentences of juvenile cases often come into force and enforced. Considerable amount of the appeal decisions are canceled or changed by supervisory procedure.

Therefore, introduction of the appeal procedure stage of juveniles to the criminal trial is not just relevant but also vital. The appellate instance will improve the judicial work of juvenile cases; protect more effectively rights and legitimate interests of convicted juveniles and their legal representatives. Differ from cassational instance, appellate courts examine available and recently given evidence by parties, hear juvenile offenders, their legal representatives, and other stakeholders, carry out the necessary legal action, and either approve the appeal against the sentence or make a new sentence. One of the reasons breaking the law of cassational courts is that the cassational courts mainly verify the legality, validity and fairness of the judgment "on available and additionally submitted materials of the case". Cassational instance rarely use opportunity to hear the explanation of the convicted minors, their legal representatives and other members. At the same time, juvenile offenders, their legal representatives, victims are not always aware of their rights to participate in the appellate hearing and therefore do not participate in the appeal proceedings. In this situation appellate courts violates the rights of convicted minors, their legal representatives, and other stakeholders.

So, the second court of appeal for juvenile cases should be the appellate court, not the cassation. As have already been noted, the adopted Criminal Procedure Code of the Republic of Kazakhstan provides for an appellate review of sentences handed down by judges. Meanwhile, it's very necessary to introduce stage of appeal procedure of all juvenile cases to the criminal process. The appellate courts not only examine available and further submitted evidence by the parties, but also hear the explanations of the other participants in the process, take the necessary legal action, and review the case of minors on the merits. Thus, the appellate courts not only identify whether the procedural rules or criminal law in the proceedings at the first instance have been kept or not, but also check the correctness of the decision on the merits and the proof of facts. The public prosecutor, the convicted juvenile or acquitted and his legal representative, defense lawyer of the

convicted (acquitted) must take part in appellate proceedings of criminal case. The principles of the European Court of Justice, "no one can be found guilty of not being listened to," must be adhered to in the Republic of Kazakhstan too.

Introduction of appellate procedure will assist to improve judicial work of juvenile cases. Consideration of juvenile case in the appeal procedure will provide more rapid and efficient elimination of mistakes made by the courts of the first instance, and will prevent to come into force illegal, unjustified and unfair sentences. First of all, introduction of the stage of proceedings of juvenile cases to criminal proceedings means the appeal courts of the first instance should be responsible for their judicial activities. Moreover, considering juvenile case of the first instance, the judges will be more responsible for their work, as any mistakes and violations will inevitably be revealed in the course of appellate review of cases. The activities of the appellate court is one of the most important forms to observe the work of the courts of the first instance of juvenile courts in order to observe legality, validity and fairness of sentences. The results of the appeal cases will testify the quality of the courts of the first instance, the competence of judges of juvenile cases, and their professional level. Introduction of the stage proceedings of juvenile cases will increase the level of activity of courts of the first instance and therefore - further improvement of guarantees of protection of the rights and legitimate interests of juveniles.

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The role of the Prosecutor's supervision on stages of the criminal process

Abstract. The article considers the powers of public Prosecutor on supervision of legality of pre-trial proceedings in criminal matters. The article analyzes the modern criminal procedure legislation of the Republic of Kazakhstan after its conceptual transformation. Perform of comparative analysis of powers of the Prosecutor at the pretrial stage and the further development of its procedural functions for the court.

Keywords: attorney, powers of attorney, pre-trial proceedings, registration of notifications about the criminal offense, starting pre-trial investigation, the petition for judicial decision.

The Prosecutor's office is the major law enforcement Agency of the state and occupies a special place among law enforcement agencies because of not been attributed neither to the legislative nor to the Executive nor to the judiciary branches. It is an independent law enforcement Agency which ensures compliance with the law in the state.

Under article №83 of the Constitution of the Republic of Kazakhstan the Prosecutor's office on behalf of the state exercises the highest supervision over exact and uniform application of laws, decrees of the President of the Republic of Kazakhstan and other normative legal acts on the territory of the Republic, over legality of operatively-search activity, inquiry and investigation, administrative and enforcement proceedings, takes measures to identify and remedy any violations of the law, and also challenges laws and other legal acts contradicting the Constitution and laws of the Republic. The Prosecutor's office represents the state's interests in court, and in cases, that manner and within the limits established by law, carries out criminal prosecution**[1].**

There are different opinions about the role of the Prosecutor in criminal proceedings, one of the versions that the Prosecutor is only a party charged with monitoring compliance with the norms of criminal and criminal procedure legislation during a criminal prosecution, that is why the Prosecutor, as an official in the state, should not have unspecified rights and powers in criminal proceedings. But we believe that the Prosecutor is not only the public Prosecutor, because he still performs another, far more important function – the function of representation of state interests and protection of an indefinite number of interests of individuals and legal entities. Therefore, it is necessary to maximize the ability of the Prosecutor to influence the strengthening of the rule of law in the proceedings.

The first function of the Prosecutor is criminal proceedings, i.e., actions authorized by law persons committed in accordance with the code of criminal procedure aimed to exposing the perpetrators of crime, bringing him to criminal responsibility through the initiation of criminal proceedings against him, the nomination and the indictment, the gathering of evidence. In the course of criminal prosecution to such persons may be applied measures of procedural coercion, detention and election concerning it a preventive measure.

Modern criminal procedure legislation of the Republic of Kazakhstan establishes that the Prosecutor in the criminal process has a variety of powers. He has a right to register a statement about the criminal offence and refer it to the prosecuting authority, may take over the production and conduct pre-trial investigation independently.

The Prosecutor participates in the initial pre-trial criminal proceedings and in cases of considering complaints of unreasonable refusal in acceptance of messages about the crime and cases of carried out in accordance with article №193 of the criminal procedure code supervision of the lawfulness of pre-trial proceedings [2].

The collection of evidence and a full investigation of the case, lies not on the Prosecutor, it lies on the agency of preliminary investigation and the private prosecution the burden of proving the charges lies on the private Prosecutor.

In accordance with the criminal procedure code the Prosecutor during the preliminary investigation enforces the law and resolves complaints against the actions (inaction) of officials conducting the proceedings.

When the investigation is completed, the Prosecutor in accordance to articles №301 - 305 of the code of criminal procedure checks the materials in the case, and if there are reasons for it betrays the accused to the court, the case is under the jurisdiction directs to the court [2].

Supervisory functions of the Prosecutor in criminal proceedings at the pretrial stage is very wide and necessary. In this stage the Prosecutor, representing the interests of the state, performs a public function of criminal prosecution, which consists in the fact that the crimes were uncovered, and their perpetrators brought to face justice. However, he also carries out the function of supervision over legality of investigation. Prosecutorial supervision over the legality of preliminary

(pre-trial) investigation is a mean of ensuring the admissibility and reliability of evidence.

After the adoption of the case by the court for trial, the Prosecutor's role changes. Now he ,in compliance with the criminal procedure code of the Republic of Kazakhstan, performs the function of the public Prosecutor, and all his actions related to the charges that the Prosecutor has the right to support or to modify or even drop the charges.

In court a study of the evidence is contained in the file and additionally presented by the parties.

Here is appropriate to recall the principles of the criminal process. One of them is the implementation of the proceedings on the basis of competitiveness and equality of the parties. Before discussing the question of the rights of the parties there should determined who in the court are the parties. As it is known, there are two sides: the prosecution and the defense. The defense presented in court proceedings -the accused, his counsel and representatives, civil defendant. The prosecution -is the victim and his representatives, the civil plaintiff. The Prosecutor represents the prosecution side.

Determination by the legislator the place and role of the Prosecutor in the trial stage of the case allows to understand the functions of the Prosecutor in court.

So, the Prosecutor who participates in consideration of the case by the court and the law is recognized as the prosecution, which in accordance with article №23 of the CPC is assigned to prove the prosecution presented against the defendant [2].

At the hearing the Prosecutor voiced the indictment and the process of litigation begins, parties submit evidence on each side and express their opinion on the evidence presented by the other party. Then, after judicial debate, the court retires to the deliberation room, after which you hear a sentence that includes the punishment that should continue to be in accordance with the laws executed. The court is neutral and only creates the conditions to the parties for implementing their procedural rights.

When the court made decision by the case, the parties, including the Prosecutor, shall be entitled to agree with it, and in case of disagreement - to appeal or contest.

Further understanding of the functions of the Prosecutor associated with the exercise of supervision over legitimacy of judicial acts.

Not accidentally, the criminal procedure law of many States, including former Soviet republics (Kyrgyzstan, Georgia, and not so long ago Russia), have eliminated the term «protest» from the text at all. The Prosecutor's appeal to reconsider the ruling to a higher court is called either a complaint or submission, but not protest, and it has the same legal force as the complaint of any other entity, i.e. is considered with respect a single procedure.

Thus, it should be noted that the role of prosecutors at the stages of the criminal process is great and irreplaceable, and from benign activities of employees of the Prosecutor's office related to the criminal process may depend on the decision of the court regarding the accused, and his fate. In this regard, the Prosecutor is in order to ensure the supremacy of the Constitution and laws of the Republic of Kazakhstan, protection of rights and freedoms of man and citizen, on behalf of the state must follow the main directions and content of activity of bodies of Prosecutor's office in accordance with the law of the Republic of Kazakhstan «About Prosecutor's office» [3]. To operate, the obligation imposed by law, strictly in accordance with law, fairly and honestly, recognizing the seriousness of the situation and the responsibility rests on his shoulders.

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The role and legal status of the court in modern Kazakh criminal proceedings

Abstract. This article describes the role and legal status of the court in criminal proceedings. Special attention is paid to the development of the judicial system in modern Kazakhstan and the status of the formation of the court to protect the rights and freedoms of citizens on behalf of the state. On the basis of the study analyzed some regulations on the judicial system of the Republic of Kazakhstan.

Keywords: country, law, court, criminal process, status.

The current period of reform of the judiciary is extremely exciting. For the first time in the history of constitutional development in Kazakhstan in Article 4 of the Constitution, to the law applicable in the Republic of Kazakhstan assigned regulatory decisions of the Supreme Court. This has caused an increased interest of scientists and practitioners to clarify the nature and character of regulations the highest judicial body of the country. Legal scholar S. Udartsev argues that the Constitution attempted to out- line the scope of the existing rights in Kazakhstan. This attempt is positive as a departure from the rights information in ordinary consciousness only to the regulations of the legislative and executive authorities, the official expansion for the partial subjects of law-making, it is important for legal practice, especially in today's dynamic period. First recommendation, guideline for the courts decisions of the plenum of the Supreme Court summaries of judicial practice began for the 1995 Constitution officially recognized form of normative legal acts. In its opinion, the Supreme Court there was «new activities – law-making and law regulating. An important law-making function of the courts is associated with the real right of choice of law rules, regulations governing certain relations, especially in the case of conflict» [1, 181].

Judicial interpretation becomes law-right correction value. Based on the analysis of a number of decisions taken by the researcher concludes that often in the decisions of the Supreme Court contain provisions allowing its conflict of law rules or by providing the courts, based on, for example, constitutional provisions and the provisions of the current law, to decide on the applicability of certain provisions of the law. The Supreme Court and the entire judicial system become more active factor in the evolution of a dynamic society. Doctor of law E. Abdrasulov also believes that clarification of the law given by the Supreme Court of the Republic of Kazakhstan in the regulatory decisions is, first, the interpretation, and secondly, they are official. In the present conditions of the principle of direct action of constitutional norms, scientists believe, it is possible and necessary normative interpretation of the Constitution by the Supreme Court for more effective implementation of the above principle. Moreover, according to E. Abdrasulov, despite the statements of individual researchers that «in the course of interpretation cannot create new regulations or make the existing law any

additions and changes», judicial and regulatory casual interpretation provides indications sources law, as in the results of interpretive activities contained specifying rules received during the inference of a general and abstract initial rules set out by the legislator [2, 22].

Some scientists have put forward the idea that the regulatory decisions of the Supreme Court are not a normative legal act and they are supposedly «secondary» in relation to them. It is proved by the fact that, under Article 81 of the Constitution, the Supreme Court «gives explanations on issues of judicial practice», as well as reference to the Law of the Republic of Kazakhstan «On normative legal acts», which regulatory decisions of the Supreme Court are not included in the hierarchical content of the first paragraph of Article 4 of the Constitution that «the law applicable in the Republic of Kazakhstan. Analyzing the content of the first paragraph of Article 4 of the Constitution that «the current law in the Republic of Kazakhstan are norms of the Constitution, relevant laws, other regulations, international treaties and other obligations of the republic, as well as regulatory resolutions of the Constitutional Council and the Supreme Court of the republic», Mr. Sapargaliyev and Mr. Suleimenov believe that this norm of the Constitution according to the sources of existing law is divided into: 1) the provi- sions of the Constitution; 2) normative legal acts; 3) regulatory resolutions of the Constitutional Council and the Supreme Court. Analyzing the above, it can be concluded that the regulatory decisions of the Supreme Court are not included in the second group and therefore are not normative acts [3, 26].

In the author's view, the logical, semantic and philological analysis allows you to select from three to two main groups of sources of the law in force, listed in the Constitution: 1) the provisions of the Constitution; 2) corresponding to them other normative legal acts, including regulatory decisions of the Supreme Court. Eating mentioned constitutional norm with regard to the regulatory provisions of the Constitutional Council and the Supreme Court of the Union «and» is not separation and connection, and does not differentiate the sources of the law in force in the regulations and non-regulatory decisions of the Constitutional Council and the Supreme Court, but merely establishes a list of them. The official interpretation of paragraph 1 of Article 4 of the Constitution, this Constitutional Council on 28 October 1996, stated that the existing law of the Republic of Kazakhstan is considered as a system of norms contained in accepted eligible subjects in the established order normative legal acts: the Constitution and the corresponding laws of the republic, decrees of the President , resolutions of the Parliament, its Chambers and the Government of the Republic, other regulatory legal acts, international treaties ratified by the Republic of Kazakhstan, the normative decisions of the Constitutional Council and the Supreme Court of the Republic. It emphasized that «all of these legal acts (emphasis added) are included in the current law.

The decision of the Constitutional Council on 6 March 1997 stressed that as a standard is considered «a Supreme Court ruling, which contains explanations courts on the application of legislation (its norms) and formulated certain rules of behavior of subjects in the field of justice». Such a regulatory decision, which is binding on all courts of the Republic, issued on the application in the jurisprudence of the legislation,including the provisions of the Constitution of Kazakhstan. The formulation of the concept of «existing law» in paragraph 1 of Article 4 of the Constitution and the official interpretation of the rules by the Constitutional Council did not give any reason for the separation mentioned in it normative legal acts on the regulatory and non-regulatory. Article 81 of the Constitution defines the scope of the Supreme Court, not the character and legal nature of its regulatory decisions. The content side of the regulatory decisions of the Supreme Court is defined by its name «regulatory» and becoming a part of the law in force, i.e., Article 4 of the Constitution. Arguments authors of the publication, based on the question: «Why is the Constitution of the Republic of Kazakhstan of the Supreme Court Act calls» the statutory ordinance «rather than» normative legal act?, And the subsequent conclusions that the regulatory decisions of the Supreme Court are «acts

having regulatory properties (and not normative legal acts), and only formally required in cases» were not based on the Constitution, the interpretation of its rules by the Constitutional Council and the law [4 30].

The use of the legal definition of «decree», especially with the definition of «normative» should not cause doubts in the property of the normative act, as well as not being questioned on the basis of normative decisions of the Constitutional Council, the Government resolutions, decisions of the Parliament and its Chambers. The authors of publications recognize and question the regulatory resolutions of the Constitutional Council as soon as by the grounds that Article 4 of the Constitution, they (along with the regulatory decisions of the Supreme Court) referred to statutory regulations, not a normative legal act. For the first time formulated the constitutional terminology «existing law» and the inclusion of regulatory decisions of the Supreme Court it is recognition as a source of law in Kazakhstan, the so-called case law based on judicial practice. In contrast to the classical case law when lower courts make decisions, referring to similar specific case before the others (usually higher) court Kazakh existing law includes a «generalized», «synthetic» case law, i.e. jurisprudence is not a particular case and a particular category of cases throughout the country, are not approved for use individual judge, and the highest judicial body – the Plenary of the Supreme Court. In this respect the Constitution of Kazakhstan ahead of the Constitution of the Russian Federation and other CIS countries. Thus, under article 126 of the Russian Constitution, the Supreme Court gives a «clarification on the issues of judicial practice». As you know, before the adoption of the new Constitution of Kazakhstan, the Supreme Court in accordance with the law also gave the «guiding opinions» to the courts on the application of the national law, arising during the examination of certain cases. The constitutions of the Soviet period and the Constitution of the Republic of Kazakhstan in 1993 acts of the Supreme Court do not represent, and their legal constitutional characteristics absent. The current Constitution is not by chance avoids the term «explanation» when describing the legal content and the form of the legal act of the judiciary and introduces an entirely new definition of acts of the Supreme Court 'regulatory decisions. «This requires that the quality of Kazakhstani scientists new research space of regulatory decisions of the Supreme Court in the existing law» [5, 443].

For lawyers there is no need to explain what a huge and substantial legal difference between «clarifications on judicial practice» and «the regulatory decisions of the Supreme Court». Although the factual basis for the adoption of these acts is the same – a generalization of judicial practice, the nature and content of the final legal document changed significantly. This is evidenced by Article 4 of the Law «On normative legal acts», according to which the regulatory decisions of the Supreme Court and the Constitutional Council is fixed hierarchy of normative legal acts. Note that the fixation 'is a hierarchy «does not mean finding outside the regulations, as the authors of publication, but merely indicates a particular legal effect of regulatory decisions of the Supreme Court and the Constitutional Council. It is determined by the fact that for the Constitutional Council are binding norms of the Constitution, and to the Supreme Court – the norms of the Constitution and laws (Paragraph 1 of Article 77 of the Constitution). In addition, the decision of the Constitutional Council on 13 December 2001 is definitely that «from the right to give an authoritative interpretation of the Constitution should be the legal validity of the decisions of the Constitutional Council, which is equal to the legal force of the norms that have become the subject of his interpretation». The rules of constitutional law, the Constitutional Council concludes, are used in union with the provisions of the relevant resolutions of the Constitutional Council, which paragraph 1 of Art. 4 of the Constitution recognized the source of the law in the Republic of Kazakhstan. The norms of the legislation, which became the subject of consideration by the plenary of the Supreme Court, the author's opinion should be applied in unity with the provisions of the relevant regulatory decisions of the Supreme Court. The decisions of the Constitutional Council states that since

paragraph 1 of article 4 of the Constitution assigns the regulatory decisions of the Supreme Court of the Republic of Kazakhstan to the existing law, and paragraph 2 of the same article establishes the supremacy of the Constitution and the direct effect of its norms, the Supreme Court has the right, pursuant to Articles 17 and 22 of the Constitutional Law «On the Judicial System and Status of Judges in the Republic of Kazakhstan», issue regulatory decisions on the application of the Constitution, constitutional, ordinary laws and other regulations in the judicial practice. Thus, if the Constitutional Council has the right to interpret the provisions of the Constitution in its «pure form», irrespective of their use or non-use, the Supreme Court summarizes the practice of courts of constitutional norms and gives explanations. They can be given to the interpretation of the legislation (judicial interpretation), may contain provisions relating to the settlement of conflicts between the provisions of the Constitution and the laws, regulations, legislation or other regulations, as well as the features of the application determined by the courts of legislation [6, 25].

Regulatory decisions of the Supreme Court must exactly conform to the Constitution and the laws do not contradict it, since according to Article 77 of the Constitution, a judge in the administration of justice shall be independent and subject only to the Constitution and the law. The inclusion of the Supreme Court of the bodies officially determine the content of existing law, objectively determines its role not only as the highest court in individual cases, but also as a body to form a sample resolution of court cases have information and intellectual center of the judicial system, and in case the need for regulatory corrective Enforcement courts in the event of a conflict or ambiguity and the direction of the judicial practice, based on the spirit and principles of law.

During the adoption of regulatory decisions, the Supreme Court, on the basis of a systematic analysis and comparison of the norms of the Constitution and the law fills some «gaps of law», explains the practical application of laws in accordance with their substance and the basic principles. A feature of the judiciary is that it applies to all cases and disputes in this regard; the judge must resolve the dispute, even in the absence of the rule of law. Thus, under Article 6 of the CPC, in the absence of the law governing legal disputes, the court shall apply the law regulating similar relations, and in the absence of such rules shall decide the dispute based on the general principles and meaning of the legislation. Consequently, the judicial practice on a legal basis fills the gaps of law. The Supreme Court, summarizing such jurisprudence gives explanations governing the new relationship and fill in the blanks of the legislation.

The adopted regulatory decisions of the Supreme Court focused on the consistent implementation of the constitutional principles of a democratic state whose highest values are an individual, his rights and freedoms. In December 2002 the Supreme Court, based on the constitutional norm on the right to protection, stressed that the implementation of proceedings on the principles of priority protection of the rights, freedoms and civil rights, integrity, respect for honor and dignity, the presumption of innocence, competitiveness, equality of all before law and the courts is inextricably linked to the constitutional right of everyone to obtain qualified legal aid lawyer (defender). In accordance with the Supreme Court for the first time in the normative document secured the rule that the right to defense should be implemented with the participation of professional lawyers or other persons admitted as an advocate – spouse (wife), close relatives or legal representatives of the suspect, accused, representatives of trade unions and other public associations, only on condition that their legal knowledge and the ability to provide real client qualified legal assistance.

This position was criticized authors of the publication, since, in their view, this is a new rule of law, and, in addition, define the word «able to provide qualified legal assistance», in turn, require clarification by whom and by what criteria regulatory decision expressly states that the organs inquiry, investigation and the courts (answer to the question: who? required to clarify this issue (including the defined criteria) and if the person elected by the suspect, accused, convicted as an advocate, not able to provide

qualified legal assistance, to discuss the issue of bringing to the case of a professional lawyer [7].

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Some problems of mediation in criminal proceedings the Republic of Kazakhstan

Abstract. In this article, the author studies the issues about mediation development in criminal science of Kazakhstan. Entering the "mediation" term generates a lot of controversy in the scientific community in Kazakhstan that gives possibility to study the experience of this institution by other states. It was observed by author that in practice, the inquirer and investigator refer to mediation passively, and they practically don`t use the opportunities which have been provided by legislation, although according to the procedure this institution aims to reduce the load for law enforcement.

Keywords: mediation, crime, punishment, law, criminal cases, injured person, reconciliation.

Introduction

For the present time, we can more often hear from the foreign and domestic theorists of the criminal law sciences, employees of law and order, public representatives about so-called "crisis of punishment." Many scientists of the developed western countries talk about the necessity of transition from the strategy of "war on crime" to the strategy of "harm reduction", from "retributive justice" to the

“restorative justice”. While in foreign countries (including England, Canada, USA, Belgium, the Netherlands, etc.) the non-punitive alternative methods of responding to the criminal act have been developed and spread widely already for a long time. These methods are intended to mitigate the penal conflict acting outside the traditional criminal justice system [1]. In many respects this is the result of deliberation and quite successful humanization policy of the criminal justice in developed countries, which began in the 70's. For example, according to the practice, it led to that since the late 80's the police in Europe began to have more service character - its first task was to provide service to the public (defense and protection of taxpayers). The main focus of its work was to prevent (in particular, much attention was paid to the educational work with juveniles, effective solving of the problems related to the interpersonal relationships in order to prevent the conflict, etc.). The structure of the police started to change due to the increasing demand not in the power but in the management decisions.

The idea of the famous French sociologist Emile Durkheim became popular: "the punishment makes sense to restore the trampled sense of justice only among those who did not break the law." In general, the ideas of restorative justice became well spread and various social institutions as having been intended to realize them (reparation of damages to the victim, the protection of victim’s rights, restore mutual confidence of the conflicting parties).

The proposition of "non-repressive" overcoming of the consequences of the criminal act came to the basis of the criminal policy strategy of foreign countries, and it affected to the activities of the entire system of law-enforcement authorities: the police, the judiciary and the penal system. Thus, at the first place in the fight against crime was put so-called doctrine of social protection, which means struggling with the crime must be considered first as a means to protect society, not exemplary punishment of the individual. Criminal policy based on social protection should focus more on the individual than on general crime prevention, and also includes "... situational prevention (for example, thanks to measures aimed at reduction of the possibilities for committing the offence) and individualization of criminal demonstration"[2].

In this approach, the priority is given to the social forms of influence on the offender, in particular, the institution of probation - and consequently, a number of social - legal tools to provide "situational" work. As one of the most frequently used method is mediation - conciliation of the offender and the victim. Quite deep reforms of national legislation of the various countries led to the adoption of conciliatory forms of resolution of criminal cases at all stages of the proceedings, thus created most developed institution of restorative justice in the legal sense.

It should be noted that the term "restorative justice" was introduced to the scientific and public usage of western countries to describe a range of social and psychological work, part of which is mediation. Mediation is used in developed countries, not only in probation work, but often includes, for example, in the program of psychological and social work with juveniles, is used in the earliest stages of a criminal conflict, used during the negotiations with the hostage-taking and ethnic conflicts. It should be noted that courses about mediation are included in the schedule of the law schools in western countries. Today it is widely accepted alternative measure of the criminal nature, non-repressive manner which intended to resolve the criminal conflict and compensate the harm to the victim, without bringing a criminal case to trial. Thus, there is no sharpening of criminal conflict, and social reintegration of the victim and / or the offender into society. This is fully consistent with the basic trends of the modern international criminal law field.

The wide distribution of mediation in criminal proceedings reflects not only a serious European practice, but having a considerable number of Recommendations, Declarations and Resolutions of the UN and the Council of Europe.

In contrast to developed countries, where the mediation confirmed its importance primarily in private legal conflicts, in

Kazakhstan the institute of reconciliation first got its recognition mainly in the commercial sphere.

One of the most important steps in this area is the acceptance of the law "About Mediation" dated by January 28, 2011. The document have been intended to regulate the activities of the intermediary (mediator) in civil, labor, family, and other legal relations, as well as in criminal cases of small and moderate severe. For now we can say that the courts are overloaded with such cases, it is obvious that after coming into effect of this law, such disputes and conflicts will be resolved through mediation, as a result - decreased load courts, reduced number of defendants, the improvement of the quality of justice, access to justice, particularly for vulnerable population and thereby reduced conflict in the society. In Kazakhstan there is an organization of mediators - NGO "United Center Mediation and Peacemaking" Mediation, created at the initiative of the National Consumers League of Kazakhstan, which has been working for already 12 years. It has been preparing mediators, mainly in the field of civil cases.

It seems that the most acute problem in the legal regulation of procedures is the usage of mediation in the resolution of criminal conflicts (as in the pre-trial, and the trial stages of criminal cases). At the moment, Kazakhstan is taking a great positive experience of the developed countries in this field.

Taking in consideration the dynamics of changes in modern legal policy in соответствующий Kazakhstan, it is possible to speak about appropriate availability of the political will to create the conditions for the accepting of alternative measures of criminal nature, including mediation procedures at different stages of the criminal process. So, as one of the main directions of social policy, enshrined in President decree of Republic of Kazakhstan dated by 24.08.2009 N 858 "About the Concept of the Legal Policy of Republic of Kazakhstan for the period from 2010 to 2020," which denotes the direction of "the wider acceptance of the institution of reconciliation by increasing the list of crimes subject to the possibility of exemption from criminal liability through the process of mediation by compensation to the victims of property, moral and health damage" [3].

This is a generic term in the development directions. For the full implementation of mediation in legal practice, the appropriate regulatory changes in criminal law, criminal procedure and penal laws are required.

As a prehistory of the legal regulation of mediation in criminal cases in Kazakhstan, it should be noted that the institution of reconciliation with the victim was not known to the criminal law of Republic of Kazakhstan. But in the modern Kazakh criminal law there are basic legal preconditions for mediation in criminal cases: art.67 of the Criminal Code (exemption from criminal liability due to reconciliation) [4].

However, despite the legislative fixing the conditions of conciliation and mediation, in practice, it often turns out that the investigator, the investigative officer treat mediation passively, and does not use opportunities given by the legislator. All participants in criminal proceedings do not have either information or motivation for conciliation meetings, as the law does not always require to explain their rights for reconciliation in the criminal process to the parties [5].

In many respects it can be explained that the existing criteria for the evaluation of the investigating authorities enshrined in the relevant departmental acts, contrary to attempts to give the parties more opportunities for a full reconciliation procedure [6]. For example, at the moment, one of the main criteria for a negative assessment of the investigators and prosecutors is the number of cases they terminated. This blocks the way for the development of mediation in the pre-trial stage. In the attempts of making mediation at the preliminary inquiry stage, the successful cases of reconciliation will be followed by termination of the criminal case. It will automatically degrade the rates of the quality of the investigator. It seems necessary to develop and implement appropriate systems of assessment of the preliminary investigation, which will not accept the development of the institution of reconciliation [7].

Also it seems necessary to allocate the responsibility for investigation and inquiry bodies to explain the rights of the victim to

reconciliation, in cases when they correspond to the art.67 of the Criminal Code.

It should be noted that for the present time only evidence (documents), approving the reconciliation, is the statement of the victim or his legal representative. However, it seems more appropriate to dismiss the criminal case not only based on the victim-impact statement, but also by the conciliation agreement between the parties. The legal literature has repeatedly spoken about the need to offer such conciliatory act, according to the institution of reconciliation in the criminal process. This document should reflect circumstances indicating reconciliation of the parties, for example, voluntary conciliation of both sides, the information about the order, method, amount and terms of expiation, etc. Written documents of these circumstances may include a description of the actions that demonstrate the plea, repentance of the accused (suspect), his understanding of the consequences of the offense. It can have particular importance in the criminal cases of the minors [8].

In connect with it Germany legal practice has a particular interest, whose legal system is similar to ours. German experts have been working with the problems of reconciliation with the victim for a long time (Täter - Opfer-Ausgleich (TOA) - literally "offender-victim - reconciliation") in criminal law for juvenile offenders. Prerequisites eligibility conciliation with the victim were developed in Germany as a result of the practice at project work on various "pilot areas".

Summary of practice allowed selecting certain criteria, presumably representing optimum conditions of conciliation.

- The presence of careful investigation of the case and the confession of a suspect.

- The presence of the victim, which can be personalized. Those subjects may be an individuals or legal persons.

- Voluntary participation and consent of the parties, because the peaceful settlement of the dispute may be based only on the readiness for dialogue, forcing in this case is unacceptable.

- Compliance with the principle of gravity of offense (i.e. reconciliation with the victim would be too expensive in the case of, for example, a minor offense) [9].

Even with these new developments there is a question about the criminal procedural guarantees of fulfilling obligations of the institution of reconciliation. It seems that because of the need of real remedying of the damage, the Institute of reconciliation need to change the terms of the proceedings. In particular, it can be used by the Institute of suspension of proceedings.

However, for changes in the terms of procedure, not only the analysis of the legal prerequisite, but also the conditions of the legal practice in Kazakhstan is needed. It is required to have a monitoring of number of processes, including the study of the forms and methods of management within the executive bodies with competence in the field of criminal justice. It is required to create sufficiently high status coordinated areas.

The development model of mediation in criminal proceedings requires careful study, starting from the level of legislative control (elements of which are described in this paper) to its implementation in different regions of Kazakhstan, although it is not started yet.

The necessity of deliberate and active actions is obviously as an actuality of connection to promote the ideas and practices of mediation of the professional communities which are interested in the formulation of modern and effective criminal policy in Kazakhstan.

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The moral essence of service to society and the state of law enforcement officers

Abstract. The article deals with the essence of the moral law enforcement service to the state authorities. The question of the impact of the activities of law enforcement officers for each person, to strengthen the rule of law, improving the service culture. Actualize the moral essence of the ministry of law enforcement organs of society and the state, as one of the most important factors in educating people to respect the law.

Keywords: professional ethics, a moral obligation, duty, antinormy, moral behavior, ethics category, moral principles, norms

The moral essence of the service of law enforcement bodies of the society and the state - one of the most important factors in training people to respect the law. The need to strengthen the legal education of the population is due to increase in the current role of law in regulating social relations, increased activity of the masses in the field of state and legal construction. Law enforcement specific forms and methods of their inherent carried out to raise awareness among citizens about the existing legislation provide for the training they have belief in the feasibility and social justice law, the necessity of conscious of their performance as the main prerequisite of eradicating crime and strengthening the rule of law. The effectiveness of legal education, respect for the law is largely determined by the availability of the system, covering the various categories of the population, taking into account their age, educational, professional and other characteristics, and providing for a certain purpose and consistency in learning the basics of legislation and specific legal

standards [1, 63p.].

The personnel of law enforcement agencies in efforts to strengthen the rule of law and strengthen the fight against crime should basically rely on the historical tradition of faithful service to the fatherland, moral and spiritual foundations of society, to be a worthy

representative of his people, to stand on guard of the law, of the Constitution, steadily carry out its call of duty. For the police, as a man of the state, the problem of mutual relations of the Interior with the community has always been one of the key. The complex assembly of these relationships eventually gets manifested in the form of moral readiness of employees to assist anyone who turns to him for help. After all, police officers are often in people's eyes are the only representatives of the government, which makes the police service is very responsible and demands from the employees' high personal qualities that are only strict self-education and a critical attitude to himself "[2, 78 p]. Ethics itself is an essential component of moral experience and the spiritual world of people. Virtually all specific categorical apparatus of scientific ethics is both a conceptual framework of moral consciousness. Thoughts of justice, duty, virtue, goodness not just represent the theoretical formulations, but also give us practical guidelines, define a system of moral motivators to action. And it is very important to note that "the merger" the point of view of ethical theory and moral position of consciousness is not in the everyday-situational level, and in the plane of philosophical interpretation of the human world.

Ethical Theory not only reflects everyday experience, but to a certain extent and the causes of it. Loyalty to ethical view is not only measured by how deeply we penetrate with it into the interior of the social life. The appeal of ethics lies in the fact that it is the knowledge about the actual mechanisms of social life, the state of morals and consciousness transforms into a behavioral model. As a philosophical science, and it explains the object and attempts to identify ways of changing mores, culture humanity in others. Moral education acts as a dual process. On the one hand, it involves the formation of a person has the necessary representations of the moral ideal, the moral and immoral behavior, the true content of the concepts of "good" and "evil", "honor" and "dignity", "duty", "conscience", " justice "and other categories of ethics, the moral principles and norms. On the other hand, moral education is to create a person of deep inner need to act and to act in accordance with the perceived and assimilated them to elements of moral consciousness.

Ethical knowledge - not just a condition and prerequisite of moral education, but also an important element of human spiritual culture. Law enforcement officials must know how to influence their actions (or inaction) on others, to foresee the moral implications of their actions, mindful of the moral and psychological climate in the service team, the city, the village where they are deployed, be able to force the moral authority, moral suggestion to influence colleagues and citizens. This requires a good knowledge of ethical theory, mastering which the employee acquires not only spiritual wealth, but also a loyal ally in the performance of their official tasks. An important task of moral education is to develop each employee strong moral beliefs [3, p. 124].

Moral beliefs (along with political, legal, aesthetic, religious or atheistic significant impact on all aspects of the activity and human behavior, as are those rooted in his mind the principles, norms, ideals, categories of ethics, which he considers it necessary to follow. Predestined course of conduct man and his concrete actions, moral convictions, they act as a motive, that is shown in the name of that person performs certain actions or exhibits omissions which intended to (moral or immoral, to personal gain or for the benefit of the team, society etc.) because of this moral convictions can be both positive content (highly moral), and negative (immoral, amoral) There are moral convictions worker, patriot, the builder, the defense of public order and the rule of law;. but let's do not forget, as bigots, burgers, parasites, careerists, ordinary people, criminals also have certain moral convictions, although incompatible with genuine moral and ethical values of a democratic society, the rule of law.

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Some problems of acquittal in criminal proceedings

Abstract. The article deals with some problems acquittal in the criminal trial of RK. The author shows the data of foreign practice, historical statistical facts about the number of acquittal, as well as contemporary problematic issues that arise in the judgment of acquittal and after its issuance. The author argues that one of the hallmarks of democratic justice is the percentage of the number of acquittals, decides courts, in their relation to the number of convictions.

Keywords: acquittal, criminal justice, the grounds acquittal, the defense, the prosecution, defense, appeal, protest.

Constitutional rule of law which states that the higher values of our country are an individual, his life, rights and freedoms, so the recognition, observance and protection of the rights and freedoms of man and citizen - the duty of the state is reflected Art. 8 Code of Criminal Procedure, according to which the purpose of criminal proceedings is the protection against unreasonable accusations and condemnation of the illegal restrictions on the rights and freedoms of man and citizen, in the case of fraudulent charges or conviction of an innocent person - immediate and complete his rehabilitation, as well as contribute to strengthening the rule of law, prevention crime, forming respect for the law. In the process of achieving the goals of criminal justice condemnation and justification are seen as inextricably linked sides criminal procedure.

Human rights, not retributive purpose of the judiciary perceived not enough sense of justice not only people, but also to the legal profession, including judges themselves, many of whom have legal culture was formed on the basis of opposition to natural law and positivist doctrines of human nature and relationships of rights state and the individual.

Maintaining a reasonable balance between the protection of society against crime and the protection of the rights and freedoms of individuals caught in the sphere of criminal prosecution, it has always been a difficult problem.

Any existing legal system is characterized by a disturbance of the balance, and it is often in the direction of strengthening the punitive powers of the state by infringement of the rights and freedoms of citizens.

After the adoption of the new Criminal Procedure Code of the Republic of Kazakhstan we expect a change of the grounds acquittal. Revision of the new Code of Criminal Procedure Article 376, paragraph 1, showed that the grounds acquittal virtually unchanged. Although for a long time there was criticism of the grounds, namely item 3 - "not proved the

defendant's participation in the commission of a crime."

So compared to the Code of Criminal Procedure 2001 inclusive basis acquittal - "the defendant was not involved in the crime" (... No. 2 Part 2 of Article 302 Code of Criminal Procedure), which replaced the base of "not proven participation of the accused in the commission of a crime" (Code of Criminal Procedure RSFSR 1960).

The new Code of Criminal Procedure (item 7 of Art. 35) as well as in the current Code of Criminal Procedure provided for the imposition of a court decision on the termination of the criminal case on rehabilitative grounds (n. N. 1, 2 h. 1 Art. 35 Code of Criminal Procedure) in the case of failure of the prosecutor to press charges. In these cases, it is desirable not to the imposition of the decision to dismiss the case, and the acquittal on the grounds specified by the prosecutor to drop the charges. In the sense of justice of citizens acquittal has more weight than the court to dismiss the case.

As noted by the doctor of jurisprudence, professor, IL Petruhin when compared acquittal with the bill can be seen that justification produces a stronger impact on the psyche of the judicial audience (cheers, applause or disagreement) than conviction. Acquittal - rare in judicial practice (see below.). Besides common belief that if a person brought to trial, it will certainly be condemned, so excuse perceived as a phenomenon is extremely rare, unexpected.

One of the hallmarks of democratic justice is the percentage of the number of acquittals, decides courts, in their relation to the number of convictions. Each acquittal - is one of the signs of the forces of the judiciary, which can withstand such bodies such as the prosecutor's office, the Ministry of Internal Affairs or the State Security Service and to overcome prevailing under their influence public opinion.

As Professor IL Petruhin number of acquittals is determined by a number of factors, some of which contribute to its increase, and the other - a decrease. It is related to criminal policy and the position of the superior judiciary [1, p.161].

The superior courts in different historical periods have different requirements for legality and validity of the penalty, and this is reflected in the number of excuses.

So, for all criminal cases in the USSR was justified by the courts of first instance of persons (% of sentences imposed by the courts) [1, p. 161].

Years%% justified justifiable years

1937 - 1940 -10% 1954 – 1956 - 5.5%

1941 – 1945- 10% 1957 – 1966- 2.5%

1946 – 1953- 9 % 1967 – 1970- 1.0%

If we exclude the case of private prosecution, which together accounted for two-thirds of the justified, the tendency to reduce the number of acquittals is revealed even more clearly.

Many courts have sought acquittal only indisputable cases where there is no doubt in the defendant's innocence. When such doubts were the judges preferred to return the case for further investigation, where some of them stopped.

The dynamics of the statistics acquittals determine changes in criminal policy, which attempt to guide the country to the ruthless suppression of crime and "tightening" of criminal penalties, to the humanization of the judicial repression, mitigation of punishment based on the measure of cultural and educational nature.

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Supervision of the legality of executive production

Abstract. The author in his article describes the supervision of legality of executive production. It describes the main problems, characteristics of the system of supervision of the legality in the sector of executive production.

Keywords: Supervision, legality, executive production, criminal, legal.

Exact designation of the prosecutor's office place in the system of state and legal institutes of the country has key value for definition of essence of prosecutor's office bodies, its functions and legal status, organizational construction, forms and methods of activity. A question of the prosecutor's office place in state-legal institutes system follows from the general concept of the mechanism of the Kazakhstan statehood enshrined in the Constitution of the Republic of Kazakhstan. According to art. 83 of the Constitution of RK the prosecutor's office on behalf of the state exercises the highest supervision of exact and uniform application of laws, decrees of the President of the Republic of Kazakhstan and other regulations in the territory of the Republic, behind legality of operational search activity, inquiry and consequence, administrative and executive production, takes measures for identification and elimination of any violations of legality, and also protests the laws and other legal acts contradicting the Constitution and laws of the Republic [1].

Execution of sentences is a closing stage of criminal trial in which there occurs a realization of the sentences which have entered validity, definitions and resolutions of court, and also permission by court of the questions arising both at the appeal of a sentence to execution and during his execution. When the sentence which has entered into force is turned to execution, legal proceedings on business are considered ended [2].

In this stage one of the main tasks of criminal legal proceedings – correction of the convict, and also the prevention of commission of crimes in the future is carried out. In a state policy of fight against crime important that the sentence in due time both is correctly turned to execution and it is directly executed, and only provided that the reality of inevitability of punishment for the committed crime will be provided [3].

According to art. 43 of the Law of RK "About prosecutor's office" the prosecutor exercises supervision for: 1) legality of presence of persons in places of detention, at an execution of the punishment and other measures of compulsory character appointed by court; 2) observance of the order established by the legislation and conditions of detention of prisoners in the called establishments, protection of their rights and freedoms; 3) legality of the execution of the punishment which isn't connected with imprisonment; 4) legality of execution of judgments on civil and other cases. These powers are realized through different departments and managements. For example, management on supervision of legality of judicial acts, monitors execution of the punishments which aren't connected with imprisonment except for judgments on civil cases. The department of supervision of penal correction system monitors performance of

acts of amnesty decide above called structures, and also management on supervision of legality of a consequence and inquiry [4].

Problems of supervision of legality of executive production are ensuring protection of the constitutional and protected by the law other rights, freedoms and interests of citizens, the states and legal entities, strict observance of the principle of obligation of judicial acts, strengthening of legality and order, the prevention of offenses.

Supervision of legality of executive production is exercised by check of legality of acts, actions (inaction) of bodies of executive production and their officials, private judicial performers and introduction of acts of public prosecutor's supervision in case of their illegality, participation in consideration of civil cases by courts in the sphere of executive production, check of legality of judicial acts and protest in case of their illegality [5].

For this period, the prosecutor's office is only state body which fully carries out operational – supervising function behind legality of activity of the government bodies connected with execution of punishments and appointed by court measures. Management on supervision of legality of punishments execution and rehabilitation of citizens - independent structural division at the Prosecutor General's Office of the Republic of Kazakhstan which main objective is the organization and implementation of supervision of legality of the punishment execution in places of a pre-trial detention, in correctional facilities (further IU) etc. [6].

The sentence of court has to be not only lawful and reasonable, but also not raising doubts at his execution, made in understanding and clear expressions. As the appeal of a sentence to execution and during the execution there can be different doubts and ambiguities. These issues are resolved by the judge in court session with obligatory participation of the prosecutor.

According to the instruction on the organization of public prosecutor's supervision of legality of executive production checking legality of acts, actions (inactions) of executive production bodies and their officials is carried out by studying of executive productions, carrying out check directly in body of executive production and in other government bodies. If the prosecutor has revealed violation of legality from officials of government bodies, natural and legal entities, then he petitions before court for removal of private definition, writes about it to the attention of the higher prosecutor for the purpose of taking measures to carrying out additional checks and solutions of a question of involvement of perpetrators to the responsibility established by the law, elimination of the reasons and conditions promoting violation of the law.

The prosecutor during studying executive production checks legality, timeliness and completeness of commission by the judicial performer of executive actions, taken measures for collecting in the budget of the state tax, the performing sanction, initiation of proceedings about an administrative offense against the debtor in whose actions signs of the offenses provided by article 524 and other standards of chapter 29 of the Code of the Republic of Kazakhstan on administrative offenses, transfers of materials on persons are seen is malicious evading from execution of a judgment, in criminal prosecution authorities for the solution of a question of initiation of legal proceedings.

By results of studying of executive production (business) by the prosecutor the motivated conclusion and the answer to the applicant, respectively approved and signed in the order provided by regulations of the Prosecutor General's Office on consideration of appeals of natural and legal entities are formed.

The department of the Prosecutor General's Office provides the management and control over activities of subordinate prosecutor's offices for implementation of supervision of legality of executive production, promoting increase of overall performance in this branch of supervision, carries out interaction with other divisions of the Prosecutor General's Office, the Supreme Court, the CIS, scientific and educational institutions [5].

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The legal basis of criminal procedure protection of individual rights

Abstract. The article highlights the issue of balance of interests of the individual and the state, is most pronounced in the criminal process, the example of the implementation of the legislation.

We study theoretical - legal bases as the integrity of the individual categories of state - legal science, as well as the legal basis of the principle of the inviolability of the person as a criminal procedure of the Republic of Kazakhstan.

Keywords: personality, rights and freedoms, criminal procedure, damage reparation.

Protection of the rights of the individual in varying degrees subordinate to the whole system of law. In particular, in such areas as civil law, family law, labor law, administrative law, criminal law, the protection of individual rights has an important place. A special place in the legal regulation of the rights and freedoms of the individual occupies a branch of international and constitutional law. In determining the priority of the person in the state and legal institutions of the Republic of Kazakhstan. Constitution thus established that a person, a citizen, and uniting these two concepts- the person is the most important objective value of world civilization, its history and development [1].The Concept of Legal Policy of the Republic of Kazakhstan for the period 2010 to 2020emphasizes the need to"... the maximum combination of interests of the individual and society, the use of rights in line with its social purpose" [2].

Person, provided the legal system of constitutional guarantees, which includeguarantees of the rightto a

dignifiedandsecure life, it canfully develop, operateand function in thesystem of social relations.

Toreviewthe concept ofthe individualcan be approached fromthe pointof view ofthe integrity of itsphysiologicalbeing.Here,the objectbecomes aperson asconsiderationbiosocial being, as an object oflegal protectionin favorof humanlife and health, which consistnot onlyofbiological processes, but also includepublic relations,providinghuman activityandprotectingits vital functions.

The right to life-a fundamental right, a naturaland inalienable.In proclaimingthis right, International Covenant on Civiland Political Rightsnotes that itis "theinalienable right ofevery human being.This rightis protected by law. No one shall bearbitrarily deprived of hislife "(n. 1, Art. 6). [3] InArt.3of the Universal Declarationof Human Rightsproclaims the rightof every individual tolife, libertyand security of person [4].

The right to life - a fundamental principle of all other human rights, which no one can take away under any circumstances. Nobody has the right to arbitrarily deprive a person of life, and to encroach on it. Criminal law sanctions the criminal assault on human life, establishing penalties for acts that cause harm to human life and health and the risk of such harm [5]. Moreover, the development of criminal law on the protection of the rights and interests of individuals from criminal encroachments associated with the protection and defense of the sovereignty of the Republic of Kazakhstan, its constitutional order, public order and safety.

A special rolein the considerationof this issuehavecategories such as"health" and"morality". We agree withthe authors ofscientific-legalcommentary on theConstitution ofthe Republic of Kazakhstan, believes that "the parameters determining thehealth andmorals ofthe idealsof both the individualand societyhistoricallymobile andembody thevalues of the societystableinteractionwith the new" [6].

Health involves both physical and mental health of the population. In accordance with the Code of the Republic of Kazakhstan dated 18 September 2009 "On people's health and the health care system" [7] The public policy of the Republic of Kazakhstan in the field of public health protection is based on the following principles: shared responsibility of the state, employers and individuals for the preservation and strengthening of individual and social health; classification of public health, safety, efficacy and quality of drugs as a factor of national security and others.

In criminal proceedings, the health of the suspect, the accused, put in extreme conditions. In - the first, a person is limited to the rights and freedoms (it can not take care of your health as possible while not "under investigation"); in - the second, the person is subject to procedural coercion, which in itself is an additional pressure on the mental, and the physiological state (stress, emotions, a daily life and so on). Therefore, Art. 14 Code of Criminal Procedure stipulates that "No one may be induced to participate in endangering the life or health of a person proceedings. Remedial actions that violate the integrity of the person, may be made against the will of a person or his legal representative only in cases and in the manner expressly provided by this Code "(p.6). "The content of a person against whom a preventive measure as a detention and persons detained on suspicion of a crime, should be carried out under conditions that do not endanger his life and health" (p.7) [8].

SpecialLaw "On state protection of persons participatingin criminal proceedings," the participantsof the criminalprocess,their family membersandclose relativesare provided with additionalsafeguards to protecthealthin the production ofproceedings.The lawensures the safetyof thesepersons inorder to preventunlawfulinterference incriminal proceedings[9].

The health of persons who have fallen under the rules of criminal - procedural coercion, regulated and standards Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan dated July 9, 1999 N 8 "On judicial practice in application of compulsory medical measures" [10] which stipulates that " the correct application of compulsory medical measures helps to cure or improve the health of persons who have committed socially dangerous acts in a state of insanity or ill mental illness after committing a

crime or have committed a crime and in need of psychiatric care or compulsory treatment for alcoholism, drug addiction, substance abuse, and helps prevent these persons have committed new acts, responsibility for which is set by the criminal law. "

Immunity is built as a legal category of individual human rights and freedoms, and warranty protection of the state. Based on n. 8 Art. 14 and paragraph 2 of Article 15 shows that compensation for harm caused by the violation of his rights and freedoms in criminal proceedings (including the unlawful deprivation of liberty, detention in conditions dangerous to life and health, cruel treatment) shall be compensated in order prescribed by Criminal Procedure Code (Chapter 4). In accordance with Art. 42 Code of Criminal Procedure the right to compensation arises only after complete or partial rehabilitation of persons. Code of Criminal Procedure provides that the authority conducting the criminal proceedings to bring a formal apology rehabilitated (Part 1 of Article 44). This provision is, of course, meets the requirements of the ethics of the criminal proceedings, respect for human rights.

Institute of redress is also the subject of civil - legal regulation. In accordance with Art. 923 special part ofthe Civil Code "…Statecompensatedthe damagecaused to a citizenas a result ofunlawful conviction, unlawfulcriminal prosecution, illegal applicationas a measure ofpreventive detention, house arreston his own recognizance, unlawful imposition ofan administrative penalty inthe form of arrestorcorrectional labor, unlawfulplacement ina psychiatricorOtherhospital .. ".

According to the norms of the code of Criminal Procedure (Article 39 - 42) and civil Code (922, 923) that the damage is compensated only to persons with respect to whom, it is possible rehabilitation. However, from the standpoint of the principle of inviolability of the individual in criminal proceedings, seems important, in our view, the question of whether it would be compensated for damage to persons not subject to rehabilitation. After all, legally detainees suspected of committing a crime and lawfully arrested shall have the right to security of person. And if they are in the correct application of the Code of Criminal Procedure were allowed violence dangerous for life and health, degrading the honor and dignity? Here, law enforcement officials authorized to proceedings in criminal cases, it is important to know that according to the Resolution of the Plenum of the Supreme Court of the Republic of Kazakhstan dated July 9, 1999 N 7 "On the practice of application of the law on compensation of damage caused by unlawful actions of bodies conducting the criminal process" (p. 5) and "in accordance with "Inaccordance with Part. 2 of Article13and Part.8Article 14 ofthe Criminal Procedure Codeof detainees, suspects, defendants and convicts are also entitled to compensation for the harm caused, and when in the course of proceedings against them have been subjected to violence or abuse, when the decisions or actions of the authorities conducting the criminal proceedings have been humiliated their honor and dignity or when without the need for the case under investigation collected, disclosed or distributed personal information that a person considers it necessary to keep secret, as well as when the person deprived of liberty shall be held in conditions dangerous to life and health". The normof Article 42 ofthe Criminal Procedure Codetherefore need amending and supplementing, in accordance with the Resolution of the Plenum of the Supreme Court of the Republic of Kazakhstan. If a notice explaining the damages rehabilitated or partially rehabilitated issued with a copy of an acquittal, in the ruling and even more so in the code does not say anything about the order for damages aforementioned parties.

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Lawyer mystery

Abstract. This article describes attorney secrets which are voiced by many lawyers. The article also overviews secrecy of information which is necessary guaranteed to principal and portraits preservation of lawyer secret.

Keywords: lawyer, secrets, attorney secretes, mysteries.

Protection guaranteed by the Constitution of the Republic of Kazakhstan of the rights and freedoms of man and citizen, promotion to elimination of violations of law and strengthening rule of law are responsibility of professional and high moral duty counsel. In this regard, the legal profession involves accurately and consistently comply with requirements of the current legislation, to do not violate ethical standards of conduct lawyer, to use all means provided by the law

and methods of protection applied to him for legal assistance. [1]

Institute of attorney-client privilege arose in the Roman Empire. Roman jurists prescribed presiding in the courts, so that they did not allow lawyers to take role of witnesses in cases where they are defenders.

About attorney secrets voiced many lawyers. Those who spoke about preservation of institute of attorney-client privilege, differently justified its necessity. Some have argued that "without mysteries of meeting - there is no protection, no justice." Others talked about violation of defendant's interests. From the moment when customer crossed threshold of legal advice, law firm, office - everything is a further object of attorney-client privilege. Even the fact of access to a lawyer have professional secrecy. The essence of client's request, the content of initial consultation is also the subject of attorney-client privilege. Moreover, even if initially lawyer asked not future customer but any of his family, with which subsequently concluded no agreement about business management, general rule remains unchanged - the information obtained from this relative, the fact of his conversion It is the attorney-client privilege. [2]

Attorneys secret - a constitutional unit of lawyer activity, without which the lawyer's assistance as phenomenon disappears. Secrecy of Information - a necessary guarantee to principal.

There are the following guarantees preservation of lawyer secret:

- the right of Advocate to visit his client in private and in confidence [3]

- A ban on disclosure of information by counsel, which became known to him from connection with an application for legal aid and its implementation [3]

- Prohibition of questioning as a witness defense of the suspect, accused, as well as representative of victim, civil plaintiff and civil defendant, advocate of witness - about circumstances that have become known to him in connection with the performance of his duties in a criminal case. [3]

The disclosure of attorney-client privilege is a gross violation of the law " about advocacy". It undermines the credibility of citizens, as the only protection of violated or disputed constitutional rights, freedoms and lawful interests in court is a lawyer. Undermining the prestige of the professional activities of lawyers considered such behavior, which reduces public confidence in the institution of the legal profession and denigrates title of lawyer. The lawyer should be an example of moral purity and impeccable behavior.

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Need of institute of mediation in criminal proceedings of Republic of Kazakhstan

Abstract. The article describes the need in our society also in our human right's sector of the institute of mediation in criminal proceedings of Republic of Kazakhstan. Detailed description of the meaning of the mediation procedure and it's institute helps to know about the need of its being in criminal proceedings.

Keywords: mediation, agreement, institute, rights, criminal, parties.

The duration of way to world standards and high standard of living can be reduced just by changing consciousness. Civilized man, man of the future is a man of creation, not a destroyer. We must reduce financial costs of citizens and, most importantly, their time, health , which is wasted because of offence.

A mediation resolution of criminal case can achieve these goals. A citizen, who has chosen an alternative way to settle the dispute, does not only act in their own interests, but in the public interests.

The advantage of mediation is the least financial cost; in comparison with judicial, as well as it can help to reduce the spent time of participating parties and to provide confidentiality. Since 2011 the country has a law "On Mediation" [1], however, practice of mediation leaves much to be desired, especially in terms of its application in criminal proceedings. It is known that mediation is a procedure of reconciliation of conflicting parties by their entry into voluntary negotiations with assistance of a neutral person - the mediator - in order to achieve mutual understanding and drawing up the contract, which resolve conflict situations. When it comes to disputes within framework of family relationships, in business proceedings such option is most acceptable and understandable procedurally. It lies in the fact that the two conflicting parties, if desired, instead of going to court , decide to turn to a professional mediator, who helps them to come to a mutually -beneficial agreement.

The essential difference of mediator from the judge that he resolve dispute not with his will. The meaning of mediator activity consists in summing up each of the parties to reconciliation, by agreement, conflicting parties should work out solution by themselves. Experience shows that even in these types of cases process of introducing mediation is hard. Not even if we mention criminal cases.

In the framework set by the President N.A. Nazarbayev in his address "Social modernization of Kazakhstan: Twenty Steps to the Universal Society of Labor" [2] The tasks of mediation institute should develop at an accelerated pace. This should help authorities and law enforcement agencies. Since skepticism of these individuals often defines development of alternative dispute resolution at all levels of public awareness and slows down the process of their application. Justifying the need to resolve dilemma in implementation of procedural matter of mediation beginning, it should be noted some problematic points. Hard criminal proceedings require a mandatory step: comparison of offense and its qualifications. A different approach is impossible by definition. In turn, in the case of using mediation a crime is considered on absolutely other parameters. In this case, the offense appears from perspective of a long process which has not only present (directly - time of crime), but also past and future. At the same time concept of "guilt" also loses criminal procedural interpretation ceasing to be a "point phenomenon." If defendant pleads guilty, the mediation can solve issues that are important from the point of view of society. In other words, it defines the future value framework to this mechanism responding to a crime [3].

Following. Unlike criminal process, formalized in essence, mediation takes place in an environment of open and unlimited communication, suggesting scoring emotions, etc. During the mediation procedure guided by inherent only to her base and internal regulations. Only after all speak out and an agreement is reached, case is returned to the judicial logic. This separation also allows the parties to maximize possibility of mediation, without considering it as part of criminal proceedings with characteristic of a compulsory nature. Finally, undisputed advantage over traditional litigation, and the

most attractive in mediation are voluntary; the right to choose a mediator; minimum of formalities with mediation; independent direct participation in the formulation of final decision; entirely voluntary execution of the decision.

There are well-reasoned opinion about the necessity of separation mediation from traditional criminal process. By its supporter Professor K. Cesar was suggested that if restorative justice is still established, it should not be included in criminal justice system. The danger is that restorative justice tools will not be used or will be used mainly for decorative purposes; or as restorative justice mechanisms will be turned into a punitive (what happened with many public service procedures). The best solution, of course, is establishment of an autonomous restorative justice "[4. Pp 162-167]. In turn, without being rigidly formalized mediation procedure makes it possible to avoid disadvantages of written law. to them made attention Russian author Boris Kistyakovsky, who claimed that " discrepancy between written law and the law is carried out in life, due to already very nature of both. Written law consists of general, abstract, impersonal and schematic decisions; In contrast, in life is all singly, particularly, individually "[5, P.17]. Introduction to the Kazakh law-enforcement practice of mediation techniques will allow, on the one hand, to eliminate harmful consequences of acts committed, on the other hand, corresponds to problem of general and special prevention. Reasonably question arises: to integrate new practices into existing justice system and throws her a call and change its nature? It seems that in today's world, everything changes, including - the concept of justice. On the one hand, the number of citizens' appeals to the courts is increasing every year. The more society is civilized, the more citizens are protected, the higher level of knowledge in this area. Accordingly - they often goes to court to protect their rights. Kazakhstan's judicial system is unable to cope with volume of cases received for consideration. In the interest of judicial composition recognition by society the mediation and increasing the number of calls to this institution. To this end, judge must conduct explanatory work everywhere with citizens about benefits of mediation. Otherwise, it seems that judges don't not want introduction of the institution seeing it as a competitor. This is evidenced by pessimistic statements about prospects of mediation as such the quality of training of mediators, in particular. It is clear that the quality of the mediation procedure at first may leave much to be desired. But in any case, the citizens who turned once to an alternative procedure, will evaluate advantage. In this there is no doubt. As can be seen international experience, where Institute is developing successfully as an example. Kazakhstan went on to existing.

Recommendations of the Council of Europe Committee of Ministers dated 15 September 1999 indicating that in order to avoid regulatory petty state regulation of mediation are not required by law to regulate the procedure and adopted a single legislative act regulating basic start mediation. Adopted legislative act, which regulates the issues of mediators training. It should be noted that in accordance with fundamental decision of the European Council of 15 March 2001 "On the site of victims of crime in criminal proceedings" (parag. 1, Art. 10) Each participating country should try to promote mediation in criminal cases for offenses which it deems appropriate for such measures. In some countries, mediation is applicable in cases of rape and other violent attacks. Reconciliation program held between killers and victims' families. International practice is moving towards maximum use of mediation in implementation of assistance in reconstruction of life of surviving members of families and perpetrators hitting intoxicated. Scientists also point out that during mediation initially satisfied interests of parties, and therefore society, contribute reconstructed corresponding social relations. It should be noted that conciliation procedure can not be possible to determine if offender does not admit his guilt (at least, and in the social aspect). In turn, desire to take part in mediation, as well as participation in the mediation cannot be regarded as proof of recognition of a person, of his guilt in committing a crime. Significant differences in resolution of same question are found also with regard to the right of suspect (accused) to

protection. The question is whether, and whether attorney has the right to be present at the mediation procedure? The Main Provisions of role of lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime in 1990, emphasizes that everyone has the right to seek the assistance of a lawyer at all stages of criminal proceedings. In the UN document on the basic principles of mediation have indication that the parties should have the right to legal advice before and after the recovery process. However, a lawyer in the course of mediation can only act as an observer. Returning to the subject of training of mediators, I note the following. The mediator does not have to be a lawyer, because he should not always know all legal details of what happened. Its mission is to achieve reconciliation with the least negative consequences. And this is the main point.

Consequently, there is no need to familiarize with all case materials. It is sufficient that the fact that act takes place and suspect (accused) does not deny his involvement in the crime. These information may be enough to get a competent person in charge of criminal case, to make him decide about need and feasibility of clarifying parties the right to participate in the mediation program. So, way, the need to introduce elements of restorative justice (mediation) is due, on the one hand, with humanization of criminal policy, on the other - the need to optimize process procedures. Prospects for development of mediation are seen through prism of development of restorative justice as much of its direction.

As the issue of introduction of elements of restorative justice is complex, from quality of its decision will depend destiny of meditation. We consider that it is necessary to conduct a large-scale educational work with population. At the same time it should be noted that, despite well-established system of justice, Kazakhstan has in its historical past prototype of restorative justice - biy court system. Mentally, we are ready for application of restorative justice, because, if somewhat distorted, but retained experience of solving disputes through peaceful negotiations.

The main problem hampering development of mediation remains the problem of breaking old stereotypes and introduction into public consciousness, that new institutions give new opportunities not only for lawyers, but are primarily aimed in improving the quality of life of citizens.

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Features of the preliminary investigation of the juvenile

Absract. Currently, juvenile delinquency has become one of the most acute problems. The fight against it for a number of decades, is the main task of law enforcement agencies. Despite the measures taken for the prevention of juvenile delinquency, the state and dynamics of the crimes committed by them, give grounds to conclude that the ongoing negative processes in adolescents.

Keywords: underage, criminal process, detention, preliminary inquiry.

The preliminary proceedings in the case of a minor carried out in the Republic of Kazakhstan in the form of a preliminary investigation. This also applies to the case when a part of the defendants are adults, and also when it instituted the crime of minors after they reach 18 years of age.

The special rules applicable to the period of the preliminary investigation in respect of a minor, are: the selection of the criminal case into separate proceedings; particularly the detention and a preventive measure; the procedure for calling and questioning; participation in pre-trial proceedings in a criminal case the legal representative of the suspect, the accused, and mandatory participation; the possibility of termination of the criminal prosecution of a minor with compulsory educational measures [1, p.82].

The criminal case against a minor involved in the commission of a crime together with adults, stands out in a separate proceeding in the manner prescribed by the criminal procedure legislation, if it does not affect the thoroughness and objectivity of the preliminary investigation and resolution of a criminal case in court. In each case when deciding on measures of restraint should discuss the possibility of return of the minor under the supervision of parents, guardians or other trustworthy persons, as well as officials of specialized children's institutions, in which a teenager is what these persons provide a written undertaking. Baby should ensure the proper behavior of a teenager, which consists in the obligation: 1) not to leave permanent or temporary residence without the permission of the inquiry officer, investigator, prosecutor or the court; 2) at the appointed time when summoned by inquiry officer, investigator, prosecutor and the court; 3) another way not to interfere with the criminal proceedings [2, p.143].

To a minor suspect or accused into custody as a preventive measure may be applied in the event that he is suspected or accused of committing a grave or especially grave crime. In exceptional cases, this preventive measure may be a minor suspected or accused of committing a crime of medium gravity.

About the arrest, detention or the extension of the detention of a minor his legal representatives shall be informed immediately. They have the right to participate in the hearing when deciding on the election in respect of the ward as a measure of preventive detention.

The suspect or the accused is not in custody, called the prosecutor, investigator or the court for investigation with him through his legal representatives, and if it is contained in a specialized institution for minors - through the administration of the institution.

Investigative actions involving a juvenile suspect, accused are held in accordance with the requirements of the criminal procedure. The interrogation of the suspect, the accused juvenile can not go on without a break for more than two hours, and in total - more than four hours a day. The defender, who is involved in this investigative action has the right to ask questions, and at the end of the interrogation the protocol and make comments

on the correctness and completeness of the records made in the protocol.

The interrogation of a person under the age of sixteen years or over that age, but suffering from a mental disorder or lagging in mental development, necessarily involved a teacher or psychologist who can, with permission of the prosecutor, investigator ask the adolescent issues, and after questioning the transcript and make written comments on the correctness and completeness of the records made in it. These rights prosecutor, investigator, inquiry officer explain to the teacher or psychologist before the interrogation, what is in the record.

A feature of juvenile justice is the participation of the legal representatives of the juvenile suspect, accused who are allowed to participate in a criminal case on the basis of the decision of the prosecutor, the investigator, the investigator from the first interrogation of a teenager [3, p.98]. When admission to participation in a criminal case he aware of his rights: to know what is suspected or accused of a minor; present at the arraignment; to participate in his interrogation, and with the permission of the investigator - in other investigative actions conducted with the participation of the adolescent and his or her counsel; acquainted with the records of investigative actions in which the legal representative participated, and make written comments on the correctness and completeness of the records made by them; petitions and objections, to lodge complaints against the actions (inaction) and decisions of the inquirer, investigator, prosecutor; to submit evidence; at the end of the preliminary investigation to examine all the case materials, write out any information and in any volume.

After the preliminary investigation, a juvenile accused can not present to review the criminal case, if they could have a negative impact on it, which imposed the prosecutor, investigator. In this case, a teenager representative necessarily acquainted with these materials.

Based on the requirements of international agreements, the termination of criminal proceedings against a juvenile offender can be used at any stage of the proceedings. Criminal procedural law stipulates as one of these options termination of prosecution at the stage of preliminary investigation, the application of coercive measures of educational influence [4, p.206].

If in the course of the preliminary investigation of the criminal case on the crime of minor or medium gravity is determined that a juvenile accused has committed a crime for the first time and the correction can be achieved without the use of punishment, the prosecutor and the investigator and the investigator with the consent of the prosecutor has the right to decide to terminate the criminal prosecution and instituting before the court an application for the use of a minor accused of compulsory educational measures.

Juvenile delinquency, is an integral part of crime in general, but also has its own specific features that allows you to treat it as an independent object of study of criminal procedure. The need for such allocation is determined by the peculiarities of physical, mental and moral development of minors, as well as their social immaturity. During adolescence, young age at the time of the moral formation of the person is an accumulation of experiences, including negative, which can not be detected externally, or appear with a considerable lag.

Its characteristics are inherent in the quantitative and qualitative characteristics of juvenile delinquency. This crime is compared with an adult has a high degree of activity and dynamism. People who have taken the path of committing crimes at a young age, it is difficult to be corrected and re-education and constitute a reserve for adult crime. Between juvenile delinquency and adult criminality are closely linked. One of the causes of adult crime is juvenile delinquency. Adult Crime has its roots in the time when the identity of the person being formed, is produced by the orientation of his life, when are actual problems of education, becoming a person in terms of the direction of conduct [5, p.112].

Thus, the proceedings in the cases of minors must be carried out with all the features of offender.

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The role of the investigating judge in the new Code of Criminal Procedure of the Republic of Kazakhstan

Abstract. In this article the author considers the changes in the Criminal Procedure Code, as well as problems of law enforcement in connection with the introduction of the institution of the investigating judge. The position of the investigating judge is one of the important innovations in the New Criminal Procedure Code of the Republic of Kazakhstan (which came into force January 1, 2015). Institute of investigating judge (in those or other features) exist in Belgium, Spain, France, Latvia, Switzerland and other countries. the introduction of a new figure in the criminal process (investigating judge) - is a huge step in the realization of basic human protection principles laid down in the Constitution of the Republic of Kazakhstan

Keywords: the investigating judge, the new Criminal Procedure Code, authorizing preventive measures, the admissibility of evidence

On July 4th, 2014 was adopted, and on January 1st, 2015 came into force the new Criminal Procedure Code of the Republic of Kazakhstan, which replaced the Code of Criminal Procedure of the Republic of Kazakhstan 1997.

Since the beginning of the new Code of Criminal Procedure of the Republic of Kazakhstan gone more than a year, but in spite of this, in this scientific article, I would like to consider the characteristics of the rules relating to the institution of the investigating judge and the problems of enforcement.

Institute of investigating judge (in those or other features) exist in Belgium, Spain, France, Latvia, Switzerland and other countries. In Germany, a similar function, specific to investigative judges, district judges operate. According to the Criminal Procedure Code of Latvia functions of investigating judge directed specifically at ensuring the constitutional rights and freedoms of the individual in criminal proceedings [5].

According to paragraph 47 of article 7 of the Criminal Procedure Code of the Republic of Kazakhstan "The investigating judge - a judge of the court of first instance, the communication provided by the Criminal Procedure Code of the Republic of Kazakhstan authority in the course of pre-trial proceedings." The investigating judge (judges) shall be appointed from among the judges by Chairman of the Court [1].

The powers and the general conditions of implementation of the investigating judge provided for in Articles 55 and 56 of the Criminal Procedure Code of the Republic of Kazakhstan respectively.

It is worth noting that the range of issues under consideration by the investigating judge is extensive. In Part 2 of Article 56 of the Criminal Procedure of the Republic of

Kazakhstan Code specifies that issues related to the competence of the investigating judge considered them alone, without a court hearing, however, as we see later in parts of the same article in paragraph 3, mandatory court hearing provided to consider some of the types of questions. These are the questions: authorizing detention, house arrest authorization, authorizing the extradition arrest, prolongation of detention, house arrest, extradition arrest bail application, authorize the seizure of property.

The hearing necessarily when considering the implementation of the physical evidence, perishable or long-term storage which until resolution of the criminal case on the merits requires significant material costs, and to deposit in the pre-trial proceedings of the victim and witness testimony [1]

The legislator has not determined the number of investigating judges, or the percentage of the district court. Accordingly, this issue must be resolved in each case, depending on the number of judges, the analysis of statistical data for past years [2].

It is worth noting that prior to the introduction of the new Code of Criminal Procedure of the Republic of Kazakhstan, a working group of judges of district and municipal courts had been established to prepare the legal documents of samples submitted by the investigating judge. It was necessary in order that the designated investigative judges to more thoroughly prepare for the application of the new legislation had the opportunity to exchange views on emerging issues, develop uniform practice in the application of the law [2].

Investigating judge judgment may be appealed by the suspect, his defense counsel, the legal representative, the victim, his legal representative, representative, and may be appealed by the prosecutor regarding sanctioning the measure of restraint in the form of a suspect's detention, extradition arrest, house arrest, bail or extension detention or house arrest; failure in giving sanction to the suspect's detention, extradition arrest, house arrest, bail, or to refuse to extend the period of detention or house arrest; the cancellation or refusal to repeal a measure of restraint authorized; the imposition of any failure in the seizure of property; the exhumation or refuse to do so; to declare international investigation or refuse to do so; forced a person to a medical organization for the production of forensic and (or) judicial-psychiatric examination or refuse to do so; on the treatment of collateral in favor of the state or refuse to do so; complaints against actions (inaction) and decisions of the public prosecutor, criminal prosecution bodies; to authorize or refuse to authorize the inspection, search, seizure, personal search.

Further, the judge of regional or equivalent court, within three days from the date of receipt of the complaint, protest the court shall verify the legality and validity of the investigative judge's decision. After hearing the arguments of the parties, having considered the submissions shall be made one of the following motivated decisions: on leaving the decision of the investigating judge of the district or equivalent court without change; to amend the decision of the investigating judge or the abolition of the decision of the investigating judge and the imposition of new regulations. It should be noted that the judge's ruling regional or equivalent court handed down as a result of the complaint, the protest shall enter into force from the date of announcement.

According to article 136 of the Criminal Procedure Code of the Republic of Kazakhstan "If there are sufficient grounds to believe that the suspect, the accused would abscond from criminal prosecution bodies or court or hinder the objective investigation of the case or the court proceedings, or will continue to engage in criminal activity, as well as to enforce sentencing authority conducting the criminal proceedings within its authority has the right to apply to these persons one of the measures of restraint provided for in Article 137 of the Criminal Procedure Code of the Republic of Kazakhstan (house arrest and proper behavior; personal surety; serviceman under the supervision of the commander of a military unit; return a minor under supervision; bail; house arrest; detention) [1].

Turning to law enforcement standards regarding institution of the investigating judge, it should be noted that in article the judge of the district court number 2 of Bostandyk

district of Almaty "First experience of application of the new Code of Criminal Procedure by the investigating judge", was noted that the investigating judge had refused to authorize a measure of restraint in the form of detention against Sh. suspected of committing a crime under Article 188 part 1, Article 24 paragraph 3, Article 188 part 2 of the Criminal Code of the Republic of Kazakhstan, as a sanction for the offense of which he is suspected, does not exceed 5 years. Sh. has a permanent place of residence, his identity is established, no previous convictions, the stolen property was returned in place of victims and damages caused by the crime, is not available.

Prosecution authority did not provide sufficient grounds for the Court elected in respect of the suspect's remand in custody. Decision of measures of restraint contained a set of common phrases, like «he could disappear from prosecution body or he might to continue engaging in criminal activity». However, prosecution authority did not provide objective evidence to the court [3].

According to part 1 of article 147 of the Criminal Procedure Code of the Republic of Kazakhstan "Detention as a preventive measure is applied only to the sanction of a judge and only in respect of a suspect, accused of committing a crime for which the law prescribes a penalty of imprisonment for a term not less than five years. In exceptional cases, this preventive measure may be applied to a person suspected, accused or defendant of a crime for which the law prescribes a penalty of imprisonment for a term of at least five years, if he has no permanent residence in the territory of the Republic of Kazakhstan; not established his identity; they violated previous measure of restraint or coercive procedural measure; he tried to escape and fled from the bodies of criminal prosecution or trial; he is suspected of committing a crime in an organized group or criminal community (criminal organization); He has a previous conviction for previously committed grave or especially grave crime; there is evidence of continuing their criminal activities. [1]

Authority of prosecution incorrectly applied the concept of "he does not have permanent residence in the territory of the Republic of Kazakhstan" and carried to this category of persons who do not have permanent residence in Almaty. In the decision indicated that "he has no permanent place of residence in Almaty", while the suspect is registered in Talgar [3]. Next, this article stated and other misuse and distortion of the rule of law prosecution authority.

In conclusion, it is worth noting that now the rights of persons involved in criminal proceedings, the judge can control from the first day of registration of the application, which ensures the protection of citizens' rights and disciplines, and in many ways the criminal prosecution authorities. Therefore, the emergence of a new figure in the criminal process in the name of the investigating judge - this is a huge step in the realization of basic human protection principles laid down in the Constitution of the Republic of Kazakhstan [4].

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Issues of admissibility of evidence in light of the new criminal procedure legislation of the Republic of Kazakhstan

Abstract. In this article the author considers the main innovations of the Institute of evidence in connection with the introduction of the new Code of Criminal Procedure of the Republic of Kazakhstan. The evidence in the criminal case should have shared their inherent properties. Each piece of evidence used in proving must be primarily considered relevant to the case. Only in this case with the evidence of possible further work, check its admissibility, the validity, reliability, identify circumstances confirmed evidence as a fact established by the case and its influence on the correct resolution.

Keywords: the admissibility of evidence, deposition testimony, the investigating judge, remote interrogation, the implementation of criminal policy

In the Address of the President of the Republic of Kazakhstan N.A.Nazarbayev to the people of Kazakhstan January 17, 2014 "Kazakhstan's way – 2050: common aim, common interests, common future" was stated: "As we move towards the top 30 developed countries, we need an atmosphere of creativity, fair competition, rule of law, and high standards of legal culture"[1].

In the Address of the President of the Republic of Kazakhstan N.A.Nazarbayev to the people of Kazakhstan December 14, 2012, it was noted that we need to start the reform of the Criminal and Criminal Procedure Law, prepare and submit to the Parliament draft of 4 new Codes: Criminal Procedure Code, Criminal Code and Code of Administrative Offences. Adopting these key legislative acts conceptually will modernize the criminal justice system and will bring our right to a level that allows to adequately respond to current challenges [2].

On July 4, 2014 was adopted a new Code of Criminal Procedure of the Republic of Kazakhstan, which entered into force January 1, 2015.

The main purpose of the introduction of the new edition of the Code - simplifying and improving the efficiency of the criminal process and bring it into line with international standards and the most complete protection of citizens' constitutional rights.

It is worth noting that in the new Criminal Procedure Code it is about changing the initial stage of the criminal process, which has a positive impact on the observance of citizens' constitutional rights and rules out a large volume of events prior to instituting criminal proceedings.

In accordance with the new Criminal Procedure Code, since the registration of the application, messages, or the first urgent investigative actions in the Unified Register of pre-trial investigation (ERDR) investigation begins, which means collecting and securing evidence.

Evidence relevant to the proper resolution of the criminal case, shall be established by the testimony of the suspect, accused, victim, witness, by the witness who has the right to protection, expert, specialist; expert opinion, specialist; physical evidence; protocols, proceedings and other documents[10].

The judge evaluates the evidence, guided by the law, checking compliance with the rule of law, establishing the procedure for collecting and securing evidence, admissibility and relevance of the case.

Admissibility - suitability, compliance with the law regarding the sources, as well as the procedure for finding, fixing and examination of evidence.

In the criminal proceedings was introduced a new procedural figure as a “witness, who has the right to protection”. It’s a person who has not yet found a suspect, but which, in a statement, reporting a criminal offense indicated as the perpetrator of a criminal act. From that moment, a person has a number of essential rights, for example: refusing to give evidence, the right to counsel prior to the first interrogation, the right to familiarize with the case materials, the application requests for the production of expertise, a confrontation with those who testify against him, etc. [5].

According to Article 298 of the Criminal Procedure Code "Preparation of the indictment": “The person performing the pre-trial investigation, after getting acquainted with the criminal case materials, the participants of the process and resolution of their claims is an indictment. If a person is suspected of committing several criminal offenses, a description of each is carried out in chronological order, starting with the criminal offense committed earlier in time than the others” [10].

The investigation will drawn up a brief indictment, which will include details about the suspect's face, described the act committed, qualified listed evidence collected in the case and procedural costs. After the approval of the prosecutor of the act will be considered as an accused person. Decision on the termination of pre-trial investigation on non-rehabilitating grounds and must necessarily be approved by the prosecutor [5].

In section 6 of the Criminal Procedure Code of Kazakhstan was introduced the article “Peculiarities of interrogation by the investigating judge of the victim or witness” and “Peculiarities of interrogation using the scientific and technical resources in the video mode”.

This will provide a legality of evidence to be used as evidence in cases where these persons will not be possible to interrogate in the main proceedings (stay abroad, the planned travel outside the country, possible death due to severe disease condition, etc.).

After the investigation and sending the case to the court, the victim and the witness, whose testimony was deposited, at the hearing are not called.

The introduction of the deposit of evidence procedures, providing the possibility of lawyers to contact the investigating judge to ensure their authority on the collection of evidence deserves approval and support. These changes will strengthen the competitiveness of the process of law [3].

Entry into force of the new Criminal Procedure Code allows the use of some additional institutions, significantly simplifying the criminal proceedings, as well as developing the beginning of competitiveness and equality of the parties. Several lawyers have expanded powers in terms of gathering evidence, as well as providing them with specific safeguards against interference in their activity on the part of the prosecuting authorities [3].

As for the “Remote interrogation” (Article 213 of Criminal Procedure Code), the questioning of the victim and the witness may be carried out using the scientific and technical means, in video mode. The person is called in the body of pre-trial investigation of the area or areas on the territory of which he resides or is in the process of questioning the participants in the procedural action live directly perceive the testimony of the interrogated person, as a protocol. This type of examination performed at the impossibility of arriving persons for health or other valid reasons, to ensure its security, the interrogation of a minor or a minor, as well as to comply with the terms of the investigation and court proceedings, including for cost savings.

These two institutions significantly affect the efficiency of pre-trial investigation and trial, exclude negative impacts on the mental condition of minors, and will save time, participants in the process and the state budget.

The abolition of the stage of criminal proceedings, is justified by the need to simplify the judicial procedures and the removal of the conditions for the possibility of abuse, the so-called pre-investigation checks, during which the persons involved in the orbit of the criminal proceedings were “uncertain” procedural status, and collected evidence in doubt in terms of admissibility in evidence [3].

In Article 92 of the Criminal Procedure Code states that, in some cases during the collection, study and evaluation of the evidence used in the course of proceedings of scientific and technical means there is a need for the participation of persons with special knowledge. Such persons are the experts invited to participate in [5].

The new Criminal Procedure Code, in turn, supplemented by Article 117 of the "Conclusions and reading specialist", which is a significant change in the Institute of evidence.

In Part 3 art 112 Criminal Procedure Code was added that the evidence given by the suspect during his preliminary interrogation as a witness can't be considered as evidence and used against his wife (husband) or close relatives, as well as put the basis for the prosecution of the suspect.

In the criminal proceedings was introduced procedural figure "investigating judge". He is endowed with a number of powers at the stage of pre-trial investigation, which are disclosed in the article 55 of a Criminal Procedure Code. The investigating judge must not prejudge questions which, in accordance with this Code may be subject to judicial review in the resolution of the case on the merits, for example, it does not make conclusions about the proof or lack of proof of guilt, the admissibility of evidence and does not address issues related to sentence.

In developing the new Criminal Procedure Code was used the experience of developed countries, and the aim was to ensure the principle of the admissibility of evidence.

If the suspect has not exercised his right to refuse to testify before the first interrogation, he shall be warned that his testimony may be used as evidence in criminal proceedings, including when it is followed by a refusal by this testimony.

The most important element of the state legal policy is a criminal policy, the improvement of which is carried out by an integrated, coherent correction of criminal, criminal procedure and penal law as well as law enforcement. The priority of the development of criminal procedural law is further consistent implementation of the fundamental principles of criminal proceedings, aimed at protecting human rights and freedoms[4].

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Prosecutor's supervision over execution of the legislation on juveniles in the Republic of Kazakhstan

Abstract. This article describes supervision of prosecutor over execution of the legislation on juvenile in the republic of Kazakhstan. Also portraits some of the problems and gives us detailed information of prosecutor's supervision.

Keywords: rights, juvenile, children, prosecutor.

Protecting the rights and legitimate interests of children from interstate problems has become a global problem worldwide. By United Nations it was realized back in the mid 50-ies, the twentieth century, when the Declaration of Rights of the Child (1959) was adopted. Since then, international community requirements of protection of rights and legal interests of children tightened.

By The UN Convention on the Rights of the Child (1989) was expanded the legal regulation of child protection, indicated by its basic directions, formulated minimum legal standards.

One of the major problems in dealing with interest of the President of the Republic of Kazakhstan, the authorities and society at all levels is the demographic security of the state. Within framework of national projects and programs shall take steps to financial security for families and children of first years of life. Of course, this is very important, but it is equally important to protect the child throughout period of minority. In the country for this purpose, a minimally adequate legal framework and system of bodies exercising control over the implementation of legal provisions related to the protection of the rights and legitimate interests of minors [1].

The development of theme of improving the quality of children's life, Nazarbayev has focused repeatedly in media on the necessity of formation in children of healthy lifestyles, development of creative, scientific and professional potential of young people, of search and support talented children. A significant role in solving the tasks given to the prosecuting authorities. Materials of prosecutor's checks show that the violations in the sphere of observance of legislation on minors are massive. In this connection it is necessary to increase efficiency of regulatory and supervisory authorities, including prosecutors.

In the last decade, wrongful conduct of minors has become widespread. The transformation of the social system in the Republic of Kazakhstan has destroyed the foundations of former system of upbringing and education of younger generation, has worsened situation of children and opportunities for their livelihood and development of family and the state, led to a sharp increase in the number of children who are unable to obtain necessary education and training. It should be noted that adolescents account for one tenth of criminal offenses. In the structure of their crime dominated grave and especially grave crimes.

Neglect and abandonment of children - one of the most disturbing features of modern Kazakhstan society. The reasons for this phenomenon are decline in living standards, deterioration in the adult mental health population, distancing from school children with a difficult life, destruction of traditional education system, criminalization of society. Continued growth in a number of parents who do not perform their duties. In order to protect the rights and legitimate interests of minors in the country established a system of bodies of different departments. It includes:

guardianship authorities, commission on juvenile affairs and protection of their rights, Ombudsman for Children. The Prosecutor's Office currently occupies an extremely important, if not dominant position in the system of these bodies. It is independent with its status, security and observation, as opposed to regulatory authorities exercise constant supervision (supervision) for law enforcement status, which not only regulates the rights of minors, but also establishes the mechanisms for the implementation of those rights to enforce them. The prosecutor's office carries out advocacy function in relation to an indefinite number of minors and children who have no legal representatives or do not fulfill their responsibilities for the upbringing [2].

Prosecutor's supervision over execution of minors and youth law is a separate, specific activity of prosecution refers to supervision of execution of the laws in cross-sectoral areas and it is designed to ensure actual implementation of the legislation on protection of the rights and legitimate interests of minors and young people, suppression and prevention of juvenile delinquency. All these factors determine relevance of theme of graduate studies.

It should be noted, that for the protection of the rights of minors are engaged by only specially designated prosecutors. General Procecutor of RK commits to pay attention to these issues in activities of all sectors of public prosecutor's supervision:

- in supervising over observance of the rights and freedoms of man and citizen;
- when supervising bodies engaged in operational investigative activities,- preliminary investigation and inquiry;
- participation in examination of cases by the courts and supervision over legality of court decisions;
- with overseeing compliance with the law in the activities of bailiffs;
- with overseeing compliance with the law in places of detention, and institutions executing punishment not connected with deprivation of liberty.

Thus, the subject of prosecutor's supervision over observance of the Juvenile Law are:

- the rights and interests of minors in various areas of the state, economic, cultural and family life on the part of the relevant authorities, institutions, organizations and enterprises;
- the rights and interests of minors by parents of persons carrying out education of minors;
- the rights, freedoms and interests of juveniles during investigation and court cases about their crimes, offenses or cases protection of their interests;

Identification of causes and conditions, which being a violation of the laws, contribute to commission of minor crimes and offenses or crimes and offenses aimed at violation of the legitimate rights and interests of minors. [3]

Attorney General's Office states - participants of the CIS signed a number of multilateral agreements on cooperation, including in fight against corruption, to protect the rights and legitimate interests of minors, the fight against terrorism and extremism, as well as in the fight against trafficking in human beings, bodies and human tissues.

- Experience has shown that in modern conditions the most common:
- violations of housing rights of minors;
- their rights to security of person;
- labor rights, employment and establishment of order and of working time;
- right to education.
- In addition, the practice known many facts:
- violation of the order of living space sale and exchange, where the interests of adolescents are violated;
- Absence of fulfilling the requirements of the law on guarantees of preservation of the living space of children, who in reason of certain circumstances, brought up in children's homes, educational institutions;
- in hiring violated statutory quotas established jobs, restrictions on working time restrictions to the admission of certain work;
- violated the procedure and terms of payment of allowances for children;
- numerous procedural violations of the established procedure in the investigation of cases involving crimes committed by minors. [4]

The prosecution of implementing this activity is that, using the powers of supervision over the observance of the Constitution, as well as the correct and uniform application of

other laws applicable in the territory of the Republic of Kazakhstan:

- to provide guarantees of the rights and legitimate interests of minors;
- to intensify efforts to fight crime and juvenile delinquency;
- identify and eliminate the causes and conditions that contributed to them;
- to achieve a return to honest labor life of every teenager stumbled.

To summarize, it should be noted that the protection of the rights and freedoms of minors is a strategic objective of any society and the state. And prosecuting authorities play an important role in ensuring the rights and freedoms of minors. The human rights prosecutor's function is aimed at addressing shortcomings of the legal system of the state. In the case of "silence" of law or contrary to norms and values of society prosecuting authorities have to be almost the only tool guarantor and safeguard the rights and freedoms of minors.

The basis of understanding of children's rights is the recognition of the child's personality, which has the same dignity as the adult. The difference is that an adult can own to defend the interests and defend their rights, while the child is forced to wait or ask for help from those who are ready and shall ensure compliance with its rights. [5]

Protecting children's rights is intended to be a conceptual point in the current situation of childhood. In the case of protection of the rights and freedoms of minors and the system of law enforcement bodies of Kazakhstan prosecuting authorities play an important role historically, realizing the function of supervision over the implementation of the legislation on minors in order to ensure law and order in society, protection of their rights and freedoms against criminal and other encroachments. This feature is one of the main functions of the Office of Public Prosecutor of Kazakhstan and implemented in the framework of general supervision.

Attorney Powers include both his rights and his duties. Said correlation of powers due to the fact that detection of violations of the law the prosecutor is obliged to exercise their rights and to eliminate the revealed violations. And the activities of prosecutors characterized by a set of powers to perform effectively the duties to identify and address violations of the law. It is extremely necessary to concentrate in one unit of the General Office of Public Prosecutor of Kazakhstan (and, accordingly, prosecutors in the regions), all areas of public prosecutor's supervision of the juvenile. This is due, on the one hand, the specificity of protection of the rights of the social and age groups of population, requiring a systematic, comprehensive approach, on the other - eculiarities of the child's legal status.

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The necessity of introducing in the criminal proceedings of the Institute of the investigating judge

Abstract. In article the questions concerning need of introduction of institute of the investigative judge are considered. The concept of the investigative judge reveals. Problems of criminal trial which can be resolved with introduction of institute of the investigative judge are specified. Based on statements of a number of prominent processualist scientists, the legal status of the investigative judge according to norms the criminally –procedural code is estimated.

Keywords: investigative judge, judicial control, principle of competitiveness and equality of the parties, powers of the investigative judge.

With acceptance the new criminally – procedural code in domestic legal proceedings the institute of the investigative judge is entered. It is necessary to believe that this phenomenon result of the legal reforms which are carried out in our country on the basis of the principle of humanity. The institute of the investigative judge best of all promotes realization of the principle of competitiveness and equality of the parties in criminal legal proceedings.

In the criminally procedural code the investigative judge is defined as the judge of court of the first instance who is carrying out the powers provided by the Code during pre-judicial production. In turn Zinchenko I.A. defines the investigative judge as the judge of the first instance to whom along with implementation of justice on criminal case the additional powers connected with realization of judicial authority (judicial control) in pre-judicial production are imputed. That is a distinctive feature of the investigative judge is that is the judge of court of the first instance and differs from other judges in powers in the sphere of pre-judicial production and calling to exercise judicial control.

Misunderstanding in concepts between "the investigative judge" and "a forensic investigator" occurs in the theory among foreign and domestic lawyers. The institute of the forensic investigator is entered in the Russian Empire according to the Judicial Charter in 1864, based on the European experience of institute of the investigative judge. A.A. Trefilov specifies that "the forensic investigator is a judge who before consideration of the case by court in essence accepts this case to production, carries on preliminary investigation, carries out investigative actions, collects proofs and takes part in the solution of a question, whether about that case will be considered further in court in essence. Whereas the investigative judge – the judge who is not the person carrying on preliminary investigation; thus such judge exercises judicial control in pre-judicial production".

Thus, the difference between the forensic investigator and the investigative judge is obvious and consists in various powers and the carried-out activity.

Introduction of institute of the investigative judge in criminal legal proceedings has a number of positive lines. Same prove also active discussions on this matter. By the way, A.V. Smirnov speaking about need of introduction of institute of the investigative judge allocates some reasons:

"The first is that the party of criminal prosecution cannot control effectively itself, whether it be departmental control or public prosecutor's". I believe, this statement is very fair as both the prosecutor and chiefs of investigating authorities represent the

accusatory party and are interested in removal of a conviction by court. Whereas delegation of power on authorization of actions which significantly affect constitutional rights and freedoms of citizens to the investigative judge provides objective judicial control of criminal prosecution.

Also it should be noted the fair approval by Muratova N., allocating some purposes of judicial control: "The purposes of judicial control in pre-judicial production are: first, elimination of violations of the criminal procedure law, secondly, ensuring compliance with the rights, freedoms and legitimate interests of participants of criminal legal proceedings and other persons, thirdly, restoration of the violated rights and freedoms of citizens in pre-judicial production. Specifics of forms of judicial control in pre-judicial production consist in its implementation in conditions as open competitive process (consideration of complaints and petitions), and the closed competitive process (receiving a judgment about application as a measure of restraint detention, etc.). Introduction of a position of the investigative judge will allow to provide effectiveness and efficiency of judicial control at this stage".

The second reason why the investigative judge is necessary, claims A. V. Smirnov: "on preliminary investigation we actually have no equality of the parties as judicial proofs are only one formed here – the accuser. Protection actually can only ask the procedural opponent about familiarizing with business of its proofs or their fixing by means of investigative actions". And with introduction of institute of the investigative judge the lawyer has the right to petition before it for reclamation of any data, documents, subjects necessary for rendering an appropriate legal aid and protection of interests of the suspect accused of the witness having the right for protection, in case of refusal performed by inquiry or rejection the decision on it within three days. That provides to the lawyer opportunity to collect proofs and to claim necessary information. Besides the new criminally – procedural code provides possibility of the lawyer to petition before the investigative judge for purpose of examination if by body of criminal prosecution satisfaction of such petition it was unreasonably refused or on it the decision within three days is not made. Also the lawyer has the right to petition for the compulsory drive in the body conducting criminal trial, the witness who is earlier interrogated by it which providing an appearance for evidence difficult. Similar innovations and reference of consideration of similar petitions to powers of the objective and not interested in outcome of the case investigative judge as much as possible will provide realization of the principle of competitiveness and equality of the parties in criminal legal proceedings.

Besides need of control over the party of criminal prosecution and ensuring equality of the parties I.L. Petrukhin allocates additional problems inherent in criminal trial. In particular he notes: "High level of satisfaction of petitions of prosecutors and investigators not a sign of great success of prosecutor's office and bodies of investigation, but testimony of low efficiency of judicial control of investigation of crimes. Reasons here a little:

First, high office load of judges of a regional link.

Secondly, assignment of the same function on the investigator, the prosecutor and the judge".

Certainly, these conditions reduce efficiency and objectivity of consideration and permission of petitions. Besides at the judge of the charge which satisfied the petition of the party for restriction of constitutional rights of the citizen the prejudiced opinion on the accused is formed.

Whereas existence in court of the investigative judge facilitates load of the judges considering criminal case in essence in view of the fact that from now on they should not consider petitions and complaints to actions (inaction) and decisions of the investigator, body of inquiry, the investigator and the prosecutor and also to authorize procedural actions. In addition the new criminally–procedural code provides one of the bases of removal of the judge his participation on this case as the investigative judge and consideration by it of complaints and protests to resolutions of the investigative judge.

The reasons considered by me are urged to prove need and efficiency of introduction of institute of the investigative judge for the new code of criminal procedure. I believe, this institute will positively affect control of pre-judicial trial and only promotes realization of the principles of criminal legal proceedings.

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Equality of the parties as a principle of criminal proceedings

Abstract. The article examines the legal nature of the principle of judicial proceedings on the basis of equality of the parties as a basic guideline and start the criminal process the Republic of Kazakhstan. Actualized need for further improvement of legislation defining the legal regime of judicial proceedings on the basis of equality of the parties in criminal proceedings. Consider the need to expand the provision of arms began to advocate the right to express their objections to the indictment, in the form of defensive conclusion.

Keywords: the principle of judicial proceedings on the basis of equality of the parties, the criminal proceedings for prosecution, protection function, the administration of justice.

Human rights form a set of principles and rules governing certain social relationships. Hence the need for knowledge of the principles and norms of disclosure laws inherent in this field of human relations. Research Institute of the rights and freedoms

of man and citizen replenished and the area of criminal - procedural, characterized by applying to the individual state coercion, in which the latter are subject to significant restrictions of freedom. The legal status of the individual, which is based on the natural and inalienable rights and freedoms also includes a robust system of protection and enforcement of these rights. Norms of the Constitution of the Republic of Kazakhstan established the fundamental rights and freedoms of man and citizen, the guarantee of their implementation, including responsible parties liable for their compliance and implementation . [1]

These rules should be fully implemented. The legal status of the individual must be guaranteed by the current legislation, provides a strong mechanism for the protection of their rights, freedoms and legitimate interests.

The doctrine of the principles is an essential part of the criminal justice theory. The level of its elaboration, according to AV Grinenko gives an indication of the state of legal science in general, as well as the law enforcement culture [2.21]. This view is difficult to disagree. The democratic construction of the criminal process , ensuring that the rights and legitimate interests of citizens in criminal proceedings based on the principles enshrined in the Constitution and the Criminal - Procedure Law. The doctrine of the principles is an essential part of the criminal justice theory. The level of its elaboration, according to AV Grinenko gives an indication of the state of legal science in general, as well as the law enforcement culture [2.21]. This view is difficult to disagree. The democratic construction of the criminal process, ensuring that the rights and legitimate interests of citizens in criminal proceedings based on the principles enshrined in the Constitution and the Criminal - Procedure Law. An analysis of the criminal - procedural principles shows that most of them (competitiveness, rule of law, security of person, equality of human and civil rights before the law, etc.) are guaranteed by the Basic Law of the country, and these are the general legal principles, that is an expression of the nature and the essence of a democratic state of law. These principles recognize the man, his rights and freedoms are the supreme value and the property of the state. They must act in the framework of an integrated system of criminal procedure in all its stages.

One of these principles is the principle of the legal proceedings on the basis of competitiveness and equality of the parties. adversarial principle characterizes such a construction of the trial, in which the functions of prosecution, defense and administration of justice are separated from each other and are carried out by various agencies and officials (Art. 2, Art. 23 Code of Criminal Procedure) [3]. This principle is inseparable from the procedural equality of the parties, which is its basis, because it is endowed with equal rights and obligations of the parties gives the opportunity to compete in front of a court.

The principle of equality of the parties in the criminal process has its own specific features. The implementation of this principle in its entirety to create a mechanism of an objective consideration of the case .

Structurally, the adversarial process is a rigorous differentiation, that is, the prosecution function (pre-trial investigation, prosecute them, picking accusatory evidence, the prosecution in the court), the protection function (gathering exculpatory evidence, the protection of the court) and the trial function (determination of the degree of culpability, the choice of penalties).

The court :

1) is not a prosecuting authority, does not act on the prosecution or the defense, and does not express any interest was , in addition to the right to interest;

2) maintaining objectivity and impartiality, creates the necessary conditions for the implementation by the parties of their procedural obligations and exercise of the rights granted to them;

3) establishes procedural decision only on evidence, which participated in the study, on an equal basis was provided by each of the parties;

4) on the request of a party, help it to obtain the necessary materials in the manner prescribed by the Criminal Procedure Code of the RK;

5) provides the parties the right to participate in the proceedings on the first,

appeal and cassation instance; the accused and his counsel admitted in the proceedings, in order of supervision, according to newly discovered circumstances.

In our opinion, this is a clear differentiation of the defense and prosecution functions, as well as the role of the court that best guarantees the realization of individual rights in criminal proceedings. However, analyzing the existing in Kazakhstan's criminal procedure problems, we can conclude that for the legitimate interests of the person are sufficiently protected, the legislator needs a lot more work .

Current trends of criminal - procedural legislation of the Republic of Kazakhstan aimed at guaranteeing that the rights and freedoms of citizens, as well as the realization of the constitutional principles of justice and criminal proceedings are increasingly based on the direction of protecting the rights of persons involved in the process of orbit, the pre-trial stage. Maximum high degree of protection of the rights and legitimate interests of the person, the more the person involved in the orbit of criminal justice is the hallmark of a democratic and legal state.

In a preliminary investigation and judicial examination of court cases any citizen involved as suspect, the defendant and the defendant by the Constitution of the Republic of Kazakhstan and the Criminal - Procedure Code of the Republic of Kazakhstan have the right to be protected from criminal persecution. The inherent, natural right to the protection of the competitive process occurred structure when severe charges must confront adequate protection.

Thus, the presence in criminal proceedings requires the accusation against the opposition to protect him. The fundamental approach to the right to protection arises from the norm Part 2 of Art. 13 of the Constitution of the Republic of Kazakhstan, according to which "Everyone has the right to qualified legal assistance...". The right to defense is enshrined in Articles 26 and 28 of the Code of Criminal Procedure [1].

The use of opportunities provided by the law to defend both himself and with the help of a professional defense counsel (lawyer), the individual in criminal proceedings there is a guarantee of compliance and the protection of its rights and legitimate interests.

Participation of the defender in preliminary investigation raises its objectivity, allows for a more comprehensive assessment of imputed episodes , and sometimes a whole to come to the conclusion that the innocence of the accused . The main task of the defense , participates in the preliminary investigation is to establish the facts of compliance with all procedural rules and the clarification of the circumstances justifying his client or mitigating his guilt .

Professional protector is obliged to oppose any attempts to pressure on freedom and in any case does not waive requirements professional debt and ethics. On this requires not only a defender of professional duty, but also an active law advocacy. Excluding the impact of foreign activities defender - a general rule, do not allow interference government bodies, public organizations and individuals officials. The question now is whether these established rules of law are working, and if so, what position a lawyer during the preliminary investigation stage in reality.

Distribution of the adversarial principle, which exists in criminal proceedings, at the preliminary investigation stage makes the whole criminal process more efficient, ensuring the protection of the rights of its members in the early stages. However, despite the fact that Kazakhstan's legal system, enshrines the adversarial principle in criminal proceedings through the criminal procedure law, the adversarial principle does not apply to pre-trial criminal proceedings So at the preliminary investigation stage of criminal cases are instituted and terminated on the initiative of the Prosecution and Investigation. Thus, part of the functions of the court is concentrated in the hands of the Prosecutor's Office, the preliminary investigation and inquiry. That is, the rights and freedoms can be restricted without the consent of the judiciary enshrined in Paragraph 2 of Article 16 of the Constitution of the Republic of Kazakhstan: "Arrest and detention shall be allowed only in cases stipulated by law and only with the approval of the court, with the provision of the right to appeal...". This provision is a direct

indication of the investigative and investigative (inquisitorial) the principle of the criminal proceedings at the stage of pre-trial proceedings, as the bodies of inquiry, preliminary investigation and prosecution are not limited in their actions and make up a whole in the system of criminal prosecution and the prosecution. At this stage of the criminal proceedings are possible costs.

If we make our own analysis, we see that a number of norms of Code of Criminal Procedure is contrary to the provisions of Article 23. Thus, the provisions of Art. 23 Code of Criminal Procedure are in conflict with Art. 24 and Part 1 of Art. 34 Code of Criminal Procedure stipulates that criminal prosecution authorities (prosecutor, investigator, body of inquiry, investigator) must identify the circumstances, not only the incriminating but also the exculpatory, not only aggravating, but also mitigating his responsibility and punishment. Thus, the prosecution is not separated from the protection, and the investigation body carries two defense and prosecution functions. And if there are grounds under Art. Art. 35, 36 of the CPC - and the resolution of the case. Consequently, the officials and authorities carrying out a preliminary investigation, carried out all three functions, that is fundamentally contrary to the principle of competition.

Further, there can be no question of equality of the parties during the preliminary investigation. For example, even a cursory analysis of the rights of the victim and the accused does not allow to conclude that they are equal. Especially as n . 45 Art. 7 of the CPC as opposed to hours. 1 tbsp. 23 Code of Criminal Procedure refers to the principle of adversarial litigation.

There can be no question of equality of the parties, at the stage of preliminary investigation , the suspect , the accused , the defender does not compete with the investigator, prosecutor, and humbly request them to declare. Implementation of persons belonging to these rights is made dependent on the discretion of the prosecution authorities. As you know, at the end of the investigation bodies of the preliminary investigation (inquiry) constitute an indictment (charges) protocol. Defender does not represent any document in which the position of the defense would be recorded, assessed the evidence, that there is a criminal case. The position in law that the prosecutor should be directed not only to the indictment with the materials of the criminal case, and the written opinion the defense in the case, to some extent eased further and the work of the court in deciding on the appointment of the main trial, and provided implementation of the principle of equality and the adversarial principle.

According h. 3 Article 23 of the burden of proof brought against the accused the charges entrusted to the prosecutor, the defense opposes the obligation to use all the means provided by the law and how to protect the defendant (part 4 of article 23 of the Code of Criminal Procedure). Although declaratively approved the procedural equality of the prosecution and defense. But what may be in the same position on the one hand two powerful public prosecution system, and on the other - for the right to the public in the form of a bar association. The lawyers in our country will never have equal rights with law enforcement or judicial authorities. For example, to initiate criminal proceedings against judges or prosecutors is extremely difficult. For lawyers, the law applies both to ordinary citizens. Lawyer - the opponent of those in power, so it is often tried, and are trying to act as a self-imposed excitation of criminal cases, and the denial of their excitation. So, for example, or in investigative practice, the right of citizens to be protected does not provide the prosecution authorities and the different ways used declination detainee to abandon the assistance of counsel (a high level of pay for legal assistance, proof of guilt, and the ineffectiveness of protection, etc). Such an infringement of the status of the defense gives us reason to raise the question of strengthening its independence and the expansion of procedural rights.

It is in violation of the equal and adversarial process, namely leveling a defender and his legal authority and there is a risk to comply with the interests of individuals, guarantees its integrity, as defender (especially professional) - it is a criminal procedural safeguard the rights and freedoms of the

individual in criminal proceedings. Thus, the violation of the adversarial principle, we find every time when the role of defender of his procedural rights and obligations in any way, limited.

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Legal regulation of publicity in criminal proceedings

Abstract. The article examines the legal nature of the principle of transparency as a fundamental guideline and start the criminal process of the Republic of Kazakhstan. Actualized the need for further improvement of the legislation defining the basic elements of a mechanism for implementing public. The questions of the need to identify ways to increase openness in criminal proceedings.

Keywords: the principle of transparency, prosecuting function accusations protection function, the administration of justice.

In many countries of the world, "the right to a public hearing" in court cases raised to the level of constitutional principle. This is not surprising, because international experience shows us that the transparent and public trial - is an effective means of social control over the judicial activities. The public nature of court proceedings contributes to the objectives of Article 6 § 1 European Convention on Human Rights, namely a fair trial [1].

Publicity and go through the secret history of the world of criminal justice. It is no coincidence these two procedural institute remain in the focus of the international law. So, on the basis of Article 6 § 1 European Convention on Human Rights to claim 1 or Article 14 of the International Covenant on Civil and Political Rights, the court may consider the case in closed session [2]. At the same time press and public may be excluded from all judicial proceedings or a part thereof for reasons of morals, public order or national security in a democratic society, and where the interests of juveniles or the protection of the private life of the parties, or - to the extent that in the opinion of the court, is strictly necessary - in special circumstances where publicity would prejudice the interests of justice.

In addition, the court may consider a

criminal case in a closed session in order to protect the interests of any minor whose rights may be violated in the case of an open trial in which the minor is a victim or a witness.

The form of the proceedings of cases of crimes committed by persons under 18 years of age, shall be considered and the UN Standard Minimum Rules relating to the administration of juvenile justice (The Beijing Rules) [3], clause 8.1 which provides that the right of a minor to confidentiality must be respected at all stages in order to avoid causing harm to her or him by undue publicity or by the possibility of damage to reputation. These rules of international law in accordance with Art. 4 of the Constitution are binding for the Kazakh justice.

The principle of transparency, enshrined Art. 29 Code of Criminal Procedure is constitutional provision that everyone has the right to be heard in court. However, this provision cannot fully reveal the contents of the principle of openness in criminal proceedings.

Publicity of the trial is one of the most important constitutional guarantees of human and civil rights in criminal proceedings. Given the importance attached by the international publicity - legal acts, it must be enshrined in the basic documents as a fundamental principle, that would be a fundamental guarantee of its strict compliance enforcer.

According to the decision of the Supreme Court of the Republic of Kazakhstan "On the observance of the principle of publicity of legal proceedings on criminal cases" under the publicity of proceedings is to be understood not only for an open trial, but also to ensure participation of the parties, the possibility of the presence of other persons not involved in the case. Transparency requires access to participants in the process to all materials of the case, including, obtained in the course of search operations, to the instructions of the prosecutor, according to the preliminary investigation (except as provided by law). In addition, the guidelines include public proclamation of judgment, notice and familiarize parties with the received complaints of other participants in the process, the awareness of time and place of the hearing in any court, the creation of a single database entered into force verdicts and decisions of courts and free access to them, the availability of information on the performance of judicial acts.

In addition, the guidelines include public proclamation of judgment, notice and familiarize parties with the received complaints of other participants in the process, the awareness of time and place of the hearing in any court, the creation of a single database entered into force verdicts and decisions of courts and free access to them, the availability of information on the performance of judicial acts. Thus, good compliance with the principle of openness in criminal proceedings and contributes to the implementation of the principle of inviolability of the person, because It provides safety, non-disclosure of personal and family life of the defendant. For example, the balance of this ratio emphasized norm Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan dated December 6, 2002 N 25" On the observance of the principle of transparency of proceedings in criminal matters" [4], according to which" insubordinate presiding entails application of the measures under Art. 346 Code of Criminal Procedure , and in cases of violations of constitutional rights to privacy, personal and family secrets of the perpetrators can be brought to justice established by law".

In Art. 29 The CPC found that the trial of criminal cases in all courts and in all courts occurs openly. Limitation of trial publicity is allowed:

1) to non-disclosure of state secrets;

2) in cases of minor offenses;

3) in cases of sexual offenses, other cases in order to prevent the disclosure of information about the private life of the persons involved in the case;

4) in cases where this is required by the security interests of the victim, witness or other persons participating in business, as well as members of their families or close relatives;

5) when considering complaints against actions and decisions of the body conducting the criminal proceedings.

Limitation of trial publicity can spread to the entire period of court proceedings or that part, which investigates the above mentioned circumstances, as shall be specified in the

decision. If in respect of the individual defendants are the reasons for holding a closed trial in connection with the protection of state secrets, but these circumstances do not apply to the other defendants, the court may allocate from the criminal case into separate proceedings another criminal case, which is to be examined in a closed court session. If the allocation of the case will affect the comprehensiveness, fullness of his studies and permits the production of such action, in accordance with Part. 4 Art. 49 Code of Criminal Procedure is not allowed. In this case, the court, in accordance with Part 1 of Art. 29 Code of Criminal Procedure, decide whether to hold a closed trial on the whole case. In accordance with Art. 403 Criminal Procedure Code the court decision on the publicity of the trial, taken during the trial, a separate appeal and protest are not subject to objections against them can be summarized in the appeal or protest filed against the verdict (ruling) of the court rendered on the merits.

The verdict of the court and the decision taken in the case, in all cases, be announced publicly .

The Normative Resolution of the Supreme Court of the Republic of Kazakhstan dated December 6, 2002 N 25 "On the observance of the principle of publicity of legal proceedings in criminal cases," found that "violation of the criminal process principles, including openness , depending on its nature and materiality, entails recognition held manufacturing invalid, the abolition of the decisions made or the recognition of materials collected at the same time do not have evidence of strength". In this regard, the courts ordered to prevent cases of illegal restrictions of transparency, to provide free access to the courtrooms of all stakeholders and members of the media. The Supreme Court has fixed that transparency ensures the availability of participants in the process to all materials of the case, the publicity of the proclamation of the court decision, notice and familiarize parties with the received complaints of other participants in the process, the awareness of time and place of the proceedings in any court, and on the performance of judicial acts.

The limits of transparency in the pre-trial stage of the proceedings in accordance with Art . 205 Code of Criminal Procedure defines the body conducting the criminal proceedings, and in the hearing - the court. The Court , at the request of a party or on its own initiative, the appointment of the main trial, with reduction in the resolution of the relevant reasons, must decide whether a public or private hearing.

Submit petitions to limit the publicity of the trial at the stage of the main purpose of the trial (preliminary hearing), and during the main trial may only actors. Other persons, including representatives of the media, are deprived of this right.

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The legal nature of the principle of openness in criminal proceedings

Annotation. The article examines the legal nature of the principle of transparency as a fundamental guideline and start the criminal process of the Republic of Kazakhstan. Actualized the need for further improvement of the legislation defining the basic elements of a mechanism for implementing public. The questions of the need to identify ways to increase openness in criminal proceedings.

Keywords: the principle of transparency, prosecuting function accusations protection function, the administration of justice.

In manycountries of the world, "the rightto a public trial" court caseselevated toa constitutional principle. This is not surprisingbecausethe world experienceconvinces usthat thetransparentand publicproceedings- is an effectivemeans of social controlover the judicial activities. The public nature ofthe proceedingsto the aims ofArticle 6 § 1European Convention on Human Rights, namely a fair trial[1].

In manycountries of the world, "the rightto a public trial" court caseselevated toa constitutional principle. This is not surprisingbecausethe world experienceconvinces usthat thetransparentand publicproceedings- is an effectivemeans of social controlover the judicial activities. The public nature ofthe proceedingsto the aims ofArticle 6 § 1European Convention on Human Rights, namely a fair trial[1].At the same timepress and public maybe excluded from alljudicial proceedingsor a part thereoffor reasons of morals, public order or national security ina democratic society, and where the interests ofjuveniles or theprotection of the privatelife of the parties, or- to theextent thatin the opinionof the court, is strictly necessary-in special circumstanceswhere publicity would prejudicethe interests of justice.

In addition,the court mayconsidera criminal caseina closed sessionto protect the interestsof any minorwhose rightsmay be violatedin the case ofan opentrial, in whicha minoris avictim or a witness.

The form of the proceedings of cases of crimes committed by persons under the age of 18, is considered and the United Nations Standard Minimum Rules relating to the administration of juvenile justice (The Beijing Rules) [3], paragraph 8.1 of which provides that the right of minors to Confidentiality shall be respected at all stages in order to avoid causing harm to her or him by undue publicity or because of potential damage to reputation. These rules of international law in accordance with Art. 4 of the Constitution of the Republic

of Kazakhstan to the Kazakh justice are required.

The principle of transparency, enshrined Art.29Code of Criminal Procedureisconstitutional provisionthatthe courthaseveryright to be heard. However,that provisioncan not fullyreveal the contentsof the principle ofopennessin criminal proceedings.

Publicityof the trialis oneof the most importantconstitutionalguarantees ofhuman and civil rightsin criminal proceedings.Given theimportance attached bythe internationalpublicity-legal acts, it mustbe enshrined inthe basic documentsas a fundamentalprinciple,which would bethe mainguarantee of itsstrict complianceenforcer.

According to the decision of the Supreme Court of the Republic of Kazakhstan "On the observance of the principle of publicity of criminal proceedings" under the publicity of court proceedings should be understood not only for an open trial, but also to ensure participation of the parties, the possibility of the presence of other persons not involved in the case. Publicity involves the availability of participants in the process to all the case files, including received in the course of search operations, to the instructions of the prosecutor, according to the preliminary investigation (except as provided by law). In addition, the guidelines include a public declaration of judgment, notice and to familiarize parties with the received complaints of other participants in the process, awareness of time and place of the hearing in any court, the creation of a single database entered into force verdicts and decisions of courts and free access to them, the availability of information on the performance of judicial acts.

It is interesting correlation principle of publicity and privacy of the individual in criminal proceedings. On the one hand the publicity of the trial suggests openness and transparency of the actions of the judges and the entire judicial system, on the other hand "excessive publicity" leads to a violation of privacy of the accused. Thus, good compliance with the principle of transparency in the criminal process and contributes to the implementation of the principle of inviolability of the person, as It provides safety, non-disclosure of personal and family life of the defendant. For example, the balance of this ratio emphasized norm Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan dated December 6, 2002 N 25 "On the observance of the principle of publicity of criminal proceedings" [4], according to which "insubordinate presiding entails application of the measures under Art. 346 Criminal Procedure Code, in cases of violation of constitutional rights to privacy, personal and family secrets of the perpetrators can be brought to the statutory responsibility. "

In Art. 29 Code of Civil Procedure of Kazakhstan found that the trial of criminal cases in all courts and in all courts is happening openly. Limiting the publicity of the trial may be: 1) to non-disclosure of state secrets; 2) in cases of offenses committed by minors;
3) in cases involving sexual crimes, in other cases in order to prevent the disclosure of information about the private life of the persons involved in the case;
4) in cases where it is required by the security interests of the victim, witness or other persons involved, as well as members of their families or close relatives;
5) when considering complaints against actions and decisions of the body conducting the criminal proceedings. [5]

Limiting the publicity of the trial can be extended for the duration of court proceedings or that part, which examines the above mentioned circumstances, as shall be specified in the decree. If for certain defendants there are grounds for holding a closed trial in connection with the protection of state secrets, and the other defendants, these circumstances do not apply, the court may allocate from the criminal case into separate proceedings another criminal case, which will be reviewed in a closed court session. If the selection of the case will affect the comprehensiveness, fullness of his studies and permits the production of such action, in accordance with Part. 4 Art. 49 Code of Criminal Procedure is not allowed. In this case, the court, in accordance with Part 1 of Art. 29 Code of Criminal Procedure, decide whether to hold a closed trial of the case in general. In accordance with Art. 403 Code of Criminal

Procedure a court ruling on the issue of publicity of the trial, taken during the trial, a separate appeal and protest are not subject to objections against them may be set out in the appeal or protest filed against the verdict (ruling) of the court, handed down on the merits.

The verdictof the court andthe decisiontakenin the case,in all the casesannounced publicly.

The Normative Resolution of the Supreme Court of the Republic of Kazakhstan dated December 6, 2002 N 25 "On the observance of the principle of openness of court proceedings in criminal cases" found that "the violation of the principles of criminal procedure, including publicity, depending on its nature and materiality, implies recognition held manufacturing invalid , the abolition of the decisions made or the recognition of materials collected at the same time do not have the strength of evidence. " In this regard, the courts ordered to prevent illegal restrictions of publicity, allow free access to the courtrooms of all stakeholders and members of the media. The Supreme Court has fixed that transparency ensures the availability of participants in the process to all the materials of the case, public proclamation of judgment, notice and to familiarize with the parties received complaints of other participants in the process, awareness of time and place of the proceedings in any court, and on the performance of judicial acts.

The limitsof transparencyin thepre-trial stagesof the proceedingsin accordance with Art.205Code of Criminal Proceduredefines theauthorityconducting the criminal proceedings, and in the hearing- the court. The Court, at the request ofa party or onits own initiative, the appointment ofthe maintrial, with reductionin the resolution ofthe relevantreasons, must decide whethera public or privatehearing.

Making the application forthe limitation ofpublic hearingsonthe stage ofthe mainpurposeof the trial(preliminary hearing), and in the courseof the maintrialshall be entitled toonlyactors. Other persons, includingthe media, deniedthat right.

With respect to the media in the Resolution of the Plenum of the Supreme Court of the Republic of Kazakhstan dated May 14, 1998 N 1 "On some issues of application of the legislation on the judiciary in the Republic of Kazakhstan" [6] found that courts should bear in mind that the principle of publicity of the trial is to enable all citizens, including non-parties to the process of the subject court case, be present at his hearing. It should therefore be deleted as contrary to the principle of transparency cases of unjustified refusal to media representatives present in the courtroom. The media should not prejudge in their reports the results of the trial before the decision or sentence in force or otherwise influence the court. Failure to comply with this requirement shall result in liability of those responsible for interference in judicial activity and contempt of court. By prejudging the results of the trial in relation to the said provision of law to be understood as media reports, directly or indirectly, to the creation of public opinion about the correctness of the position of one of the parties to the trial and about the legality and fairness of the forthcoming judicial decision only if the Court has determined solutions.

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The concept and essence of prosecutorial supervision

Abstract. This article discusses the concept and essence of prosecutorial supervision in the Republic of Kazakhstan. Speaking about the importance of prosecutorial oversight and gives it definition.

Keywords: prosecutor's office, prosecutor, court, law.

Public prosecutor's supervision is a highest supervision which is exercised by the Chief prosecutor and other prosecutors of the state to watch process of implementation of laws, at all stages of activity of legal entities, people, also human rights bodies (to analyze, premature investigation, consideration of a problem by court, and performance of others the requirement the order of court).

Bodies of prosecutor's office even if are connected functionally with three types of the power, but to one aren't subject. Such peculiar condition of prosecutor's office in government institution gives the chance to balance types of the power and to carry out them in action as the separate type of the state work leaves public prosecutor's investigation.

Firstly, public prosecutor's supervision is a special and only type of the state work which the state, social, and other organizations, legal entities, except prosecutor's office can't make in any way.

Secondly – public prosecutor's supervision is carried out by the Republic of Kazakhstan. Importance of these rules is defined by how the prosecutor carries out investigation by both definition of offenders, and undertaking of measures for guilty of an offense.

Thirdly, public prosecutor's supervision– a special type of the state work. And feature from other state works is check of saving of the Constitution of RK, performance lawful the requirement, and coincidence of legal acts to the law [1].

According to the big encyclopedic dictionary the prosecutor in French of "procie", and in Latin "забучусь" is a stately person of body of prosecutor's office. In court it represents interests of the state.

Public prosecutor's supervision differs in other directions of the state work, especially in performance state functions by purpose of.

Some investigations which are assigned to bodies of court and separate state bodies make only one department of this work.

For state bodies is a work of division and performance; for bodies of court is justice of court. The public prosecutor's power has the feature which distinguishes it from the state and judicial authority. When performing public prosecutor's investigation, doesn't change the decision of other bodies with the decisions, except listed in the law, doesn't undertake a measure for offenders and on the contrary, demands to destroy an offense of judicial authority, government body. Public prosecutor's supervision doesn't disturb work of administrative work, but thus investigates an offense. The subject of the highest investigation of implementation of the law, order, decree is the Chief prosecutor of the Republic of Kazakhstan and his subordinates.

Importance of public prosecutor's supervision- it is carried out by management of the president on behalf of the state, it submits only to the Chief prosecutor of the Republic of Kazakhstan [2].

Public prosecutor's supervision works for all areas, the government, all ministries and departments, and to their subordinated departments, all productions, despite the owner of property and social the organization and citizens of the state who has no citizenship, and foreigners.

Public prosecutor's acts which are based the law and entered by the rule correspond to all bodies, the organizations and citizens [3].

Importance of public prosecutor's supervision is defined by our role of the social right.

And so, importance of public prosecutor's supervision is carried out by the President on behalf of the state, and submits only to the Chief prosecutor of the Republic of Kazakhstan.

Public prosecutor's supervision works for all areas, the government, all ministries and departments, and to their subordinated departments, all productions, despite the owner of property and social the organization and citizens of the state who has no people, and foreigners [4].

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The investigative judge - as the factor of the system controls and counterbalances

Abstract. In this paper the author reveals peculiarities of judge's investigating activity at a stage of prejudicial inquiry. Reveals the features of activity the investigating judge as the basic factor in the system of controls and counterbalances.

Keywords: investigative judge, criminal process, the subject of criminal proceedings, a sanction.

Introduction of the institution of the investigating judge in criminal proceedings shows the commitment of Kazakhstan generally accepted international standards in providing a more full implementation the principle of equality and the adversarial principle, improve protection efficiency of the rights and freedoms of citizens.

Concept for a legal policy of the Republic of Kazakhstan for the period from 2010 till 2020 an important task define the further development of the principle of the adversarial prosecution and the defense in the criminal process, to which conducive the activities of the investigating judge in a criminal proceedings is to subject of a separate criminal justice [1].

In February 2007, Head of the State in his Address to people of Kazakhstan has been expressed a principled decision on transfer of powers to the court to sanction the arrest, which laid the beginning of introduction of a new model of Kazakhstan's proceedings.

The introduction of judicial authorization of arrest and house arrest in Kazakhstan since 2008, was progressive step in the development of national legislation, since the human and civil right to freedom and personal inviolability is of paramount importance, and their compliance with and respect is one of the main tasks of a legal state.

In line with the development of an optimal model of judicial proceedings with the adoption of the Law "On introducing amendments and additions to some legislative acts of Kazakhstan in the application of restraint measures in the form of arrest, of house arrest", imposed by into action from 30 August, 2008, first time in Kazakhstan sanctioning of arrest was transferred to the courts.

Delegation of authority for the issuance sanction on arrest to courts was convincing evidence of the development of legal policy of Kazakhstan in accordance with international standards on human rights. In particular, judicial procedure for sanctioning of arrest provided for the norms International Covenant on Civil and Political Rights of 1966, ratified by Kazakhstan.

The priority of criminal procedural of law defining the concept of a legal policy of the Republic of Kazakhstan for the period from 2010 to 2020, is subsequent consistent implementation the fundamental principles criminal justice, aimed at protection of human rights and freedoms.

Effective implementation of judicial control of pretrial proceedings phase and the actual creation of a complex due process guarantees of rights and freedoms of the individual in the criminal process objectively is inconceivable without the institution of the investigating judge.

Head of State Nursultan Nazarbayev, speaking at the VI Congress of Judges dated 20 November 2013, noted that portion the development of judicial of specialization, we are only at beginning. Introduction of the institution investigating judges will enhance role of courts in the control of pretrial proceedings. Also to expand the circle investigative actions sanctioned by a court. [2]

The Institute of the investigating judge with those or other peculiarities exist in France, Belgium, Spain, Latvia, the Netherlands, Switzerland and other countries. Row of powers specific to investigating judges, district judges perform in Germany.

For example, according to the Criminal Procedure Code of Latvia functions of the investigating judge directed specifically at ensuring the constitutional rights and freedoms of the individual in the criminal process, and not on the gathering evidence and investigative preparation of materials for of the court.

In forming of evidence only by the prosecution shall can not be provided legal equality of the parties. The task of of the investigating judge is to exercise of judicial control without acceptance of over the functions of prosecution. The investigating

judge intended to ensure equality of opportunity parties of the process, judicial protection constitutional rights of the individual, protection against unfounded accusation and condemnations, from unlawful restrictions on the rights and freedoms of man and citizen, starting with the pretrial stage of criminal proceedings.

When administered sanctioning by a court of arrests back in 2008 the Chairman of the Supreme Court K.A.Mami evaluating the transfer of sanctions the courts as an important testimony of commitment that States to follow the universally recognized standards in the area of human rights protection, has noted, that annually sanction for detention was issued by the prosecutor submitted for approximately the twenty one thousand, of which the punishment by by deprivation of liberty, condemned only a third part of them, indicating that detention in pretrial stage of the criminal process, a certain part of persons without a necessary. Kairat Abdrazakovich expressed his opinion that under the new law, of such people will be much smaller, as this is important for the fate of a particular person issue would be dealt by a court transparently.

Thus, judicial authorization of arrest is regarded accordance to with participation of between prosecution and defense, and, therefore, only in this case more fully implemented the principle of adversarial judicial processand the enhances the role the lawyer as the parties on pre-trial stage. After all, publicity and competitiveness of the parties contributes to the effective protection of of rights of participants process and is further guarantee of observance of rights citizens.

Judicial order of the control pre-trial contributes to a more effective protection of of rights and freedoms of citizens, since the court, as a body that separate from the prosecution and defense not associated an accusatory installing and departmental interests, capable of realize the protection of the rights and freedoms of citizens on principles of equality and competitiveness of the parties . The investigating judge does not prejudge the issues of of evidence or culpability. The activities of the investigating judge aimed at ensuring the realization of the rights parties to criminal proceedings in the the pretrial stage.

The investigating judge has the right to instruct the prosecutor carrying out checks on the reasons the statement of the suspect use of illegal methods of conducting an investigation (inquiry), observance of rights participants in the process, in case of revealing the admitted infringements of the law, the investigating judge has the right to pose the question about bringing guilty persons respective liability of of the private issuance of the decision.

Thus, already at the stage pre-trial proceedings enshrined the right participants in the proceedings for the implementation of crucial principles of judicial proceedings - the adversarial principle. Introduction of the institution of the investigating judge refers to one of the stages of criminal justice of consecutive development in Kazakhstan. For the first time in Kazakhstan at the legislative level defines the status of this new subject of of legal proceedings, which is enshrined in Part 3 of of Article 54 of Code of Criminal Procedure.

By the investigating judge is judge of a district or equivalent court (except for specialized inter-district juvenile courts, specialized inter-district criminal courts, specialized inter-district of military courts for criminal cases), to the powers which ascribed a judicial enforcement of the rights, freedoms and legal interests persons in criminal proceedingsappointed from among the judges of this court chairman, with rights reassignment.

Concept of Legal Policy of the Republic of Kazakhstan for the period 2010 to 2020 provided for the creation of conditions for the expansion of applying other of measures of restraint, except arrest of, in particular a pledge that has found its realized in new Code of Criminal Procedure.

Criminal procedure Kazakh legislation aimed at restrained and weighed relation to the application of preventive punishment as of detentionsince the new Criminal Code provided ample opportunities of application of alternative of punishments to imprisonment.

Thus, for in point 8 of Article 148 of Code of Criminal Procedure the legislator has provided the duty of of the investigating judge,

along with sanctioning as a preventive measure of detention and determine amount of mortgage. According to the art.145 Code of Criminal Procedure, amount of the bail fitted on affairs on suspicion of committing a crime of small, medium or a grave crime. The suspect, the accused or any person may at any time to post bail in the amount specified in the ruling of the investigating judge to authorize detention. Exceptions to this rule are only the suspect (accused) of committing particularly serious crimes and on grounds specified in subsection 9 of Article 148 of Code of Criminal Procedure. Category of persons in respect of which bail as a preventive measure not applied, has an exhaustive list. About acceptance margin makes an appropriate protocol clarifying the pledgor or the suspect and the accused of their duties. The pledge applicable as collateral appearance suspect, accused in of pretrial proceedings body of and under the right grounds returns to the pledgor.

Thus, by the legislator prerequisites were created for wider of application the pledge as alternatives to a stricter types of restraint measures. Moreover, based personality, family and material condition of of a suspect (accused or defendant) represented by the law the right the body leading the criminal process to reduce amount of mortgage.

In addition, to the powers of the investigating judge applies also examining the application of defense counsel examination appointment, if body of criminal prosecution been unreasonably refused to satisfy of such petition or if the application of defense counsel in pretrial proceedings are not examined within three days.

In considering on the appointment of of expertiseaccording to st.272 Criminal Procedure Code, the investigating judge ascertain outlet questions, including expert offers a defense side to submit in writing issues of, listens to them the opinion of participants of the process. In addition, the a litigant, by the initiative of is appointed by the the examination, is entitled to present as objects of of expert research objects, documents that are the investigating judge may exclude a reasoned decision. The lawyer also have the right to to petition the investigating judge on the appointment certain of Experts the presence in the production of expertise. The described procedure permits petition of lawyer on appointment by the investigating judge of examination with all evidence indicates of realization equality and adversarial.

Consideration on sanctioning seizure of property by the investigating judge also directedfirst of all on observance of the rights the persons involved in into orbit the criminal proceedings. Judicial practice reveals that there were facts of imposing criminal prosecution bodies of arrest on the property just based on the assumptions interconnection with the source of acquisition of the property criminal actions of the guilty person. About the significance of inclusion of of this issue in permission of the powers of the investigating judge is said statistics on the disposition by the courts in just 6 months in 1157 of requests for seizure of property. With the handover of sanctioning seizure of property in the powers of the investigating judge, the parties have possibility in the hearing to present evidence in support of their arguments on the validity seizure of property. The investigating judge examines the bases confirming the legality of said action, observance of rights of the parties and of third parties whose interests have been affected in connection with the seizure of property.

Consideration on sanctioning arrest on the property by the investigating judge also directedfirst of all on observance of the rights of persons involved in into orbit the criminal proceedings. Judicial practice reveals that there were facts of imposing the criminal prosecution authorities of arrest on the property just based on the assumptions interrelation with the source of of acquisition of property criminal actions the guilty person. About the significance of inclusion of of this issue in permissions the powers of the investigating judge is said statistics on the disposition by the courts in just 6 months in 1157 requests for seizure of property. With the handover of sanctioning of seizure of property in the powers of the investigating judge, the parties have possibility in the hearing to present evidence in support of their arguments on the merits of seizure of property. The investigating judge examines the bases

confirming the legality of said action, observance of rights of the parties and of third parties whose interests have been affected in connection with the seizure of property. Also necessary to mention the practical significance of such action as the deposit of of indications victim or witness by the investigating judge. Especially in of the judicial practice in cases of human trafficking injured in court questioning is of great complexity, as many of them Being citizens of the of other states, leaving even before the the trial on various life situations arising. This applies to for seriously ill persons who who are unable to get out of the medical institution towards youth and juvenile interrogation whichconsidering the specifics of of psychophysical peculiarities of their of development and the traumatic effect of the investigative and of the judicial of the situation also presents a certain complexity.

By a general rule, when depositing by readings accordance with part 3 of of Article 217 of Criminal Procedure Code interrogation by the investigating judge made in the presence of the prosecutor, the suspect, his attorney, the law allows the participation of other participants in the proceedings [3].

Depositing of indications may be also be effected without the participation of the suspect, who is not called for questioning in case the if the presence of the suspect under interrogation threatens the safety of a victim or witness.

Criminal Procedure Law provided a lot of opportunities of the questioning of a victim and witnesses while maintaining of confidentiality to ensure their security, is often used in criminal proceedings committed as part of of a criminal group, which allows the participation of the suspect (the accused) in conducting interrogation and shall safeguard the rights of the suspect or accused to question witnesses against him as provided by paragraph e) of Part 3 of Article 14 of the International Covenant on Civil and Political Rights ", ratified by the Republic of Kazakhstan November 25, 2005.

A view to ensuring the safety of participants of the trial when depositing by readings order of article 217 of the Criminal Procedure Code, the investigating judge shall be entitled to interrogation of the victim (witness) by the rules of art. 98 Code of Criminal Procedure no announcement of of data on the identity of of the protected person using a alias, in under conditions precluding getting to know of the protected person for the rest of the voice and presence of external data, without the visual observation its other party litigation, including the use of technical means in the video communication mode by of remote of interrogation, provided in Article 213 of the Criminal Procedure Code. In this case, the suspect (the accused) has the right submit their issues to the victim (witness)in writing by. Indications questioned by the in this manner shall be announced in the presence of faces of all stakeholders without specifying information on the protected person. For 6 months of 2015 considered by 135 petitions for the deposit of evidence.

The judicial function is on consideration and resolution of procedural issues on pre-trial proceedings offers equal opportunities party of charge and defense guarantee the reliability of forensic evidence, because the evidence becomes are known to both parties in the adversarial methods for their production, to reduce applying restraint measures restricting the rights and freedom of citizens, becomes real the possibility of "lawyer" of the investigation.

The powers of of the investigating judge for the Verification of of pretrial proceedings in subsequent stages of development of criminal justice will widenwhat characterizes translational and consistent development of the criminal proceedings. So, the transfer of further investigative judges sanctioning features unspoken of investigative actions, searches, inspection of residential premises capable of ensuring soundness, legality manufacture indicated actions. Currently, these powers are are provided to the prosecutor.

Empowerment investigating judges contribute to the optimization efforts to comprehensively practical application of the norms regulating the manufacture of investigatory actions restricting citizens' right to personal inviolability guaranteed the identification and elimination of violations of in the earlier stages proceedings.

Expansion of features of the investigating judge is one of the the directions

on implementation of institutional reform of President Nursultan Nazarbayev in ensuring rule of law and the strengthening of guarantees of protection of citizens' rights in criminal proceedings.

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Legal basics of mediation development in Kazakhstan

Abstract. The author describes in his article the main and important basics ,legal basics of mediation development in our country . In Kazakhstan there are different problems which touches the right’s of human . So that mediation defines as a method of compromise which privates law conflict.

Key words: mediation, conflicts, rights, justice.

Today in our society rises various conflicts. The right is the tool of solving conflict situations in the society on the basis of universally recognized norms and principles of law that are standards of right and good. These postulates reveal the essence of law. As you know, the courts are the primary bodies which are carries out functions of restoration of social justice. However ,now new institutions are aimed to conflict resolution. It's a mediation. Mediation can be defined as a method of compromise between the parties to private law conflict.

Since ancient times, conflicts and disputes in the Kazakh steppe was resolved peacefully. There was the court of biys, which decided disputed issues, and in a fairly democratic and fair form. Kazakh people since ancient times inherent peacefulness, justice, conflictnet, i.e., Kazakh people have always led such a lifestyle, in which basis lays morality, respect for elders, compromise, and morality. Nomadic law "Zhargy", as a system of rules of human behavior in traditional society, were based on custom, morality and the protection of the interests of the people. Biy is a developed and efficient judicial

system, based on existing customs and traditions and implemented the most respected members of the genus. The Institute of biys covers ethics, politics and diplomacy, particularly paying attention to moral side of all human actions.

Mediation (lat. mediatio – mediation, eng. - mediation) is a process of joint decision of participants of the conflict, the chances which success due to special procedural conditions and professional assistance of the mediator in the implementation of cooperation between the parties towards a settlement of the dispute. Mediation can be compared with the "improved form" which is widely known as mediation and conciliation procedures, hence, the fact that mediation for many centuries, is peace, is obvious. To date, the world practice shows that mediation has a wide application in a variety of situations, ranging from disputes in the sphere of big business and ending with the resolution of family conflicts such as divorce and division of property. According to the international statistics passed through mediation 30 – 40 % of all disputes, and a positive result is achieved in 85% of cases. And this is not surprising, as mediation allows the parties to find a way out of the impasse while incurring minimal financial and time losses, maintaining partnerships, friendships, and without causing damage their reputation

One of the many benefits of mediation is the guarantee of complete confidentiality of the procedure itself, what happens and what they say remains a mystery, and the documents and written materials drawn up by the mediator are destroyed. The main function of the mediator is that of all the possible results he contributes to the most favorable: developing strong single point of view of the parties, the mediator shall not have the right to enforce their view on the solution of the problem that leads to high conviction of the parties in the validity of results of the negotiations. In addition, the resultant consensus can also affect their personal relationships; it includes circumstances that would never were talking in formal legal procedures such as litigation, which is one of the reasons for the strength of agreement [1].

Mediation is aimed to minimizing the material and moral losses of all the parties to the conflict and, if necessary, satisfactory and comfortable coexistence in the future. Instead of finding the guilty and proving his innocence, the mediator sets the parties at a joint solution. One of the most important differences between mediation and litigation is the involvement to each of the parties to the decision-making process. During dispute settlement by mediation the decision by the participants themselves, and the mediator, if necessary, controlling the progress of the procedure and consistently while remaining neutral towards the parties, supporting them in finding ways to reach a mutually acceptable agreement. Thus the negotiation process itself always remains hidden and can not be disclosed. The sustainability of a settlement agreement is achieved through the orientation on the interests of each party.

Great interest is the experience of applying mediation is in the field of collision of interests of big businesses . For the past several decades, American corporations have successfully used it in its activities, resorting to litigation only after attempts to find a mutually acceptable solution through mediation. This allows them to save hundreds of millions of dollars on the lawsuits. The largest corporations (General Electric, Motorola, Toyota and many others) recognize that over 50 percent of disputes resolved through mediation. Mediation in business is an effective method of early, without red tape, and dispute resolution. With its help it is possible to overcome quickly , and sometimes to avoid conflict of paralysis, inhibiting the activity of enterprises, and sometimes entire industries. As examples of points of application of mediation in business can be leaded to mediation of the conflicts at the enterprising between individuals, departments; mediation at the resolution of problematic situations between the parties long-term contracts between partners in a partnership; between the members of the collegial body, between bodies of legal entities[2].

In a world practice, mediation is one of the ways of alternative dispute resolution, which successfully developes over the last 25 years in the USA, Austria, UK, Norway and Australia.

Mediation received legislative status in countries such as USA, UK, Argentina, Australia, Austria, Sweden, France, Germany, Norway, Italy, Spain, and is part of the judicial process. Some categories of cases not examined in a court without undergoing the procedure.

For example, in the UK, there is the regulation according to which the disputing parties should resort to mediation, and only if the attempt was unsuccessful, they can appeal to the court. In April 2007 in the UK was adopted by the 41st amendment to the Rules of the Civil code, enacted in 1999, strengthening the role of mediation as a compulsory pre-trial process.

European Convention of the protection of human rights and fundamental freedoms provides the adoption of cases for trial only after ineffectual attempts to settle the dispute in alternative ways. Obligations on mediation wgich are contained in the Agreement on partnership and cooperation of members of the European Union, which proclaims the priority of mediation in the settlement of all disputes [3].

In other words, mediation is a kind of a triangle, the vertices which are: law, Economics and psychology. Man is very delicate and vulnerable creature, which is essential that weren't affected by his personal emotions. For example: the four friends created LLP, but one of them wants to leave the company in the public service. Two of them agreed to share the person who is leaving, and the fourth does not agree and does not want to accept his share. What to do in this situation? Go to the court, but it's pointless and not profitable for the person who goes into public service. Here we are faced with the triangle of law, Economics and psychology.

Four other psychology, the proportion is a law, the financial costs of dispute settlement-economy. Here's the obvious and simple application of mediation in everyday life. Kazakhstan has adopted the law on mediation on 28 January 2011, It entered into force on 1 September 2011 in Accordance with clause 1 of article 1 of the Law the scope of application of mediation are the disputes (conflicts) arising from civil, labour, family and other legal relations with participation physical and (or) legal entities, and also considered during criminal proceedings in cases of crimes small and average weight, unless otherwise established by the laws of the Republic of Kazakhstan. Some exceptions provided by paragraphs 2-4 of this article.

In relation to criminal proceedings it is proved that the mediation more effective in case of relatively serious offences, if victim in a strong emotions. In addition, the organization of mediation leads to a significant cost of time and other resources, which is also a reason for the expediency of its application in the resolution of the most serious criminal conflicts. Therefore, the Law provides the possibility for the development of mediation to expand the scope of its application.

We believe that without the mediation problems among large and medium-sized companies can ot be solved in conflict situations between companies, and between employers and subordinates. Of course, the conflicts have been and always will be, but more expedient and profitable to them if they will be solved without publicity. Because of the case in the courts make public, in addition, the processes can take years. In the courts there will always be a winner and a loser, in this scenario touches on the personal emotions of a person. And instead of resolving the conflict, it will flare up more and more. The most important and the main goal of mediation is to resolve the conflict that both parties were satisfied. Mediators seek a compromise

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The activity of the court and adversarial of parties in criminal proceedings

Abstract. The article deals with the activity of the prosecution and the defense in the trial. The court's activity should be in an effort to establish the truth. When there is no dispute between the parties in court, the adversarial principle loses its significance.

Keywords: court, defense, truth.

Article 23 of the Criminal Procedural Code of the Republic of Kazakhstan regulates clearly enough the concept of the functions of prosecution, defense and settlement of the case by the court, and establishes the distinction between them. This article specifies that the criminal proceedings are based on the principle of equality of parties and adversarial prosecution and defense. Criminal prosecution, defense and resolution of the case by the court are separated from each other and are the powers of the various bodies and officials.

Consequently, the justice is administered only by the court; prosecutor is responsible to support the public prosecution before the court; Defense attorney is responsible to clarify the circumstances justifying the accused or mitigating his responsibility.

An unusual aspect of the implementation of protection function is that its activity extent is defined not only by the activity of the prosecution, but also whether the defendant actually committed the alleged offense. If so, then the defense, regardless of the intensity of the charges can carry protection for tactical reasons passively, as a means not prohibited by law. In some situations, the protection is more profitable to choose this form of implementation of the function, use of tools (e.g., he refuses to examine witnesses), which relate to unforbidden methods. Both belong to the passive methods.

Passivity as a tactic option of protection must be distinguished from a passive misuse, poor execution of the function.

Defense attorney, in realizing his function plays low key role in solving cases (he is responsible to make an informed and legal decision in the court), i.e. it's very convenient for the trial, because defense attorney "does not burden" to take procedural decisions aimed at obtaining additional evidence and not "complicate" the process of evaluation. However, it should be noted that this technique may adversely affect the judgment, the assessment of evidence and the prosecution to deprive work actively. The Court is interested in the parties' maximum activity, since in this case the activity is a guarantee of impartial judgment.

In the main proceedings the protection function is complex, and this is due to the fact that the prosecution function has advantage of the unequal position of the prosecuting authorities and the protection of the pre-trial stages. The prosecutor presents all legal evidences in the court, in some cases evidence of power and their content has already been defined, therefore, as a rule, their evaluation is predetermined too. Such status is opposed to a right of the accused and his defense attorney to declare for the prosecuting authorities, for example, a request for obtaining evidence and the right to an annex to the indictment list to be summoned to the hearing persons. Defender has such information, perhaps he might be informed well but this information is only alleged and consequently it reduces the degree of his reliability, and in comparison with preliminary investigation bodies which will be included to the evidence data during the trial. Such a restriction leads to a violation of equality of the parties, both at pre-trial stage, and often at the trial stage.

Charge function should be carried out actively, which will serve as a guarantee of impartiality of the court and implements the principle of equality and adversarial of parties.

Comparing the elements of the prosecution to the defense, it follows that one

of the characteristics of the principle of equality of parties and adversarial proceedings is to implement the functions of the prosecution and defense during the court proceedings aimed at obtaining and examining evidence.

The defense party is not required to take care of the provision of evidence by the prosecution, and protection of the statement in the opinion of the judicial situation settled by the courts, it is acceptable to the court's discretion.

The principle of equality of parties and adversarial realized due to the fact that the charge function should be carried out only in an active way, which does not allow a court to assume this function. The cases of passive and low-quality execution of their duties, can be attributed when the evidences obtained during the preliminary investigation haven't been presented, requests for the taking of evidence in the trial haven't been applied all in all has a negative impact on the completeness of the study the circumstances and prevents a reasoned decision by a court.

The criminal procedural legislation provides that defense is allowed to use all legal means which do not contradict him, and this includes the use of tactics of passivity, as has been mentioned above, however, the charge must be carried out only in the manner permitted by law, and based on the fulfillment of active action.

According K.H.Halikov's point of view "judiciary activity when using the powers granted to the court in order to achieve its tasks is of great political and legal importance. Without the activity of the court, there cannot be genuine exclusivity, no real fullness of his power on the application (implementation) of the law.

The passivity of the court nullifies and essentially negates both exclusivity and incompleteness of its powers. Passive judiciary provides irresponsibility and impunity of the top leadership when it creates arbitrary and even commit crimes against the citizens of their state, as the latter are deprived of the possibility of the actual start or maintain a lawsuit against their abusers. It is clear that in such circumstances, before the passive vessels scales will always tend towards the top leadership, regardless of the capacity in which they act - the prosecutor or the defendant, plaintiff or defendant. In addition, the passivity of the court called upon to explain and justify the interference of the judiciary, even in cases manifestly criminal administrative arbitrariness and lawlessness of law enforcement or other government agencies and officials against citizens. In these circumstances, the court has the right to use its powers, as a rule, only in those cases where the "Active administration" considers it necessary to apply to the court for the application of penalties for recalcitrant. In contrast to this court activity provides exclusivity and fullness of its authority on the application of the rule of law [1, p. 21-22].

A.S. Koblikov believed that "adversarial in criminal trial involves active participation of the court in the investigation of the case, establishing of the truth. The court is responsible for a fair resolution of the case. It relies on the assistance of the parties, competing in a procedural dispute covering deal with their own, often opposing, positions. But it leads the process and must resolve the matter objectively and impartially. Justice cannot depend on which party has been found stronger [2, p. 38].

It doesn't mean of course, that the court should always be active. Some scientists believe that the court should be passive, because when the court active it takes over the functions of the prosecution and defense, and thus makes it passive in the proceedings. According to I.L. Petrukhin's point of view, the active role of the court is the attribute of inquisitorial process [3, p. 130].

According to N.A. Abdikanov's point of view, prerequisite's of adversarial trial caused activity of the parties with leading role in the court process. Court creates conditions to compete the parties, controls the legitimacy of behavior of participants of the process, critically evaluates researching evidence in terms of affordability, reliability, legality of their receipt, seeks new evidence at the request of the parties. Supervises the course of the trial, directing the proceedings in fact determine the direction of the test events, eliminates everything from the trial, which has no relation to the trial [4, p. 150].

No court condemns to inactivity, but on the contrary, the court requires the prosecution and the defense to total activity, while keeping them space to perform any action provided for by law in the case of poor implementation by the parties of their procedural functions. And therefore, actively involved in the court process evidence, should be attributed to the position of the court in adversarial proceedings.

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Mediation - the art of resolving conflicts

Abstract: This article describes mediations as the art of resolving conflicts. Conflict itself is a kind of disagreement; with the help of mediator this disagreement can be solved. The article gives detailed information about mediation which is the topical theme nowadays.

Keywords: Mediation, agreement, mediator, parties.

The conflict is disagreement, clash of opposing views, parties, and forces. What do you need to solve differences? It is an objective view from outside. For what and why use services of a mediator.

Word "mediation" comes from Latin medius, medium, and means "middle". Mediation - a process, in which involves an impartial third party that helps disputants or conflicting parties to understand the differences between them, understand the nature of any differences and resolve them as possible. Its feature is that the mediation procedure is not intended to judge the parties by determining that one of the parties of conflict is rights, and the other is guilty. The mediator is looking for a solution that will reconcile to satisfy both sides; develops common positions on key aspects of the dispute.

The main thing to aspire in mediation is to achieve mutually beneficial and peaceful agreement that satisfies both parties, and reducing the level of conflict. Unlike the trial, there is no «guilty" or "innocent" parties in mediation. Since the principles of this law does not provide for punishment of criminals by imprisonment, but the protection and restoration of human rights and freedoms. In other words, mediation seeks as much as possible not to go to court.

It is important the desire of the parties to resolve the conflict in a peaceful way. If one of the parties want certainly its opponent to

complete the conciliation procedure left with nothing, or whether it deliberately delays - all this will not lead to the success of mediation. But, of course, plays a key role identity mediator. No wonder we call mediation - the art of resolving conflicts.

The mediator, as a carrier of art, should primarily be neutral. Mediator carefully identifies the interests of each side; it carries a kind of objective monitoring of the conflict. The main task of the mediator is a kind of immersion parties to the conflict "in the situation." For what he need knowledge and skills of a psychologist and it is not talking about that every mediator is always professional, certified psychologist ,but mediator knowledge specificity of human thought, the possibility to predict the next step to resolve the conflict.

However, in my opinion, mediator should have legal education because in the heart of the conflict are always legal contradictions. Intermediary function - to understand all the intricacies of relationship between the parties, and the presence of professional knowledge in the field of law will allow him to establish more accurately their interests.

The work of the mediator is not a business activity; it can work in parallel in any area. Payment of a mediator is negotiated by mutual agreement.

Mediation procedure is used only when there is agreement between the parties on the use of mediation, the parties entered into before the dispute arose, or after its occurrence. At the same time, the existence of an agreement on the use of mediation, as well as presence of an agreement on the provision of mediation procedure and the associated direct holding of this procedure is not an obstacle to access to the court

We can say that the involvement of an intermediary - a safe situation for the settlement of the dispute. However, the legislation provides for the application of mediation in disputes only in civil, labor, family and other legal relations, as well as in criminal cases small and medium severity.

Thus, mediation is an effective form of alternative dispute resolution. According to international statistics, through mediation are 30-40% of all disputes, with a positive result is achieved in 85% of cases.

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Some aspects of the forensic classification of environmental crimes

Abstract. In article were the general characteristic of judicial examinations in the Republic of Kazakhstan is considered. Features can be congenital and are caused by the profession intended or negligent external influences.

Keywords: examination, ecology, classification, offenses, criminal penalty.

Many famous criminology scientists, particularly R.S. Belkin, O.M. Vasilyev, I.F. Gerasimov, E.G.Dzhakishev, B.M.Nurgaliev, O.N. Kolesnichenko, A.A.Isaev, V.A.Obraztsov, V.G. Tanasevich, M.P. Yablokov and others pay attention to the necessity of building forensic classification of crimes for the formation of more effective special methods of environmental crimes investigation.

Until now, in the science it is still dominated position about that individual methods should be developed on criminal and legal basis, that is, to the basis should be put the classification by type of crime (species methods). Less common classification is the so-called tribal classification on the basis of which is developed method of investigating crimes, united by one chapter of the Criminal Code of the Republic of Kazakhstan. At the same time, the distribution of crime by separate chapters CC of RK, the relevant species and varieties, chiefly serve to the needs of the substantive law [1, 24 c.]..

In the forensic science discussion regarding to the classification of crimes concerns mostly the problem of correlation of criminal legal and criminalistic classification. The essence of the problem, according to some criminologists, is that in criminal legal norms, though is displayed essential for the classification characteristics and properties of crime, but each of them being a complex phenomenon are much wider than their criminal and legal entity. Optimal classification of crimes provides the right solution of the question about the grounds of classification.

In scientific literature are shown different classifications. For example, all enshrined in CC of RK environmental crimes, scientists are divided into general and specific compounds [1. p. 24]. To the group of general character crimes, scientists attributed the offences provided by dispositions art. 324, 343 CC of RK. /As environmental crimes of special character is considered the acts, which are provided in the dispositions of the remaining articles of chapter 11 of CC of RK (art. 325-342 CC of RK) /

Environmental crimes are offered to differentiate as the three-tier classification:

1) criminal violations of environmentally relevant activities (art. 324; 325; 326; 327 CC of RK);

2) crimes that infringe on individual elements of the environment (art. 328; 329; 330; 331; 332; 333; 334 CC of RK);

3) crimes that infringe on the objects of flora and fauna (art. 335, 336, 337, 338, 339, 340; 341; 342 CC of RK) [3. p. 12.6 4. pp. 89-91].

In addition, help to clarifying the nature of the social danger of the act in question, the delimitation of other (non-environmental) crimes from mentioned type of crime, environmental crime delimitation between themselves within the system may and the following classification proposed by Z.A. Umerbaeva [5. p. 49].

According to her opinion, environmental crimes can be divided into the following groups [6].:

1. Environmental crimes with unspecified object of crimes:

-Violations of ecological requirements to economic and other activities (art. 324 CC of RK);

-Violations of ecological requirements in the production and use of ecologically potentially hazardous chemical, radioactive and biological substances (art. 325 CC of RK);

-Violations of safety rules when handling microbiological or other biological agents or toxins (art. 326 CC of RK);

- Failure in taking measures to eliminate the consequences of environmental pollution (art. 346 CC of RK).

2. Environmental crimes with concretized object of a crime. Depending on the characteristics of the object are divided into environmental crimes involving encroachments on:

1) Protection of water:

- Pollution, clogging and the depletion of water (art. 328 CC of RK);
- Marine Pollution (art. 330 CC of RK);

2) Protection of the atmosphere:

- Pollution of the atmosphere (art. 329 CC of RK);

3) Protection of the land and subsoil:

- Land damage (art. 332 CC of RK);
- Violation of the rules of protection and use of mineral resources (art. 333 CC of RK);

4) Protection of flora and fauna:

- Violation of veterinary rules and the rules, established to deal with plant diseases and pests (art. 327 CC of RK);
- Illegal extraction of fish resources and other water animals and plants (art. 335 CC of RK)
- Illegal hunting (art. 337 CC of RK);
- Violation of the rules of fauna protection (art.338 CC of RK);
- Illegal handling of rare and endangered animals and plant species (art. 339 CC of RK);
- Illegal felling of trees and shrubs (art. 340 CC of RK);
- Destruction or damage of forests (art. 341 CC of RK);

5) Protection of specially protected natural territories and natural objects:

- Violation of the regime of specially protected natural territories (art. 342 CC of RK).

Without prejudice to the scientific and practical significance of mentioned criminal legal classifications, yet it should be noted that with forensic point of view is not less interesting represents the classification of offenses in the area of environmental protection, reducible by scientists - environmentalists. By D.L. Baydeldinov are highlighted ecological offenses depending on the nature of the object: 1 - on land, 2 - water, 3 - wood, 4 - mountain offenses, 5 - offenses by the protection and use of wildlife (fauna), 6 - air security offenses [7. p. 15].

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Method of investigation of a crime related to drugs

Abstract. One of the most important global problems of our time is the illicit traffic in narcotic drugs, psychotropic substances or their analogues. This issue poses a serious threat to the entire international community, as has long gone beyond the borders of individual states. Statistical data show a steady increase in the number of recorded crimes specified direction. For example, 175 241 of such crimes, of which 5178 is committed by organized groups, in 2008 the total figure reached the mark 232 613 crimes were registered in Russia as a whole in 2005 (7207 of them - groups), and up to four months 2009 - already 86 855 crimes. However, their detection is about 67%.

Keywords: prophylaxis of drug addiction, narcosituation, rehabilitation, application-oriented approach of prophylaxis of drug addiction.

Drugs - substances that cause when they use drug intoxication, to which a person very quickly gets used and begins to experience a constant and growing need for their use, which leads to disease of addiction and irreversible changes in the human central nervous system. For crimes related to drug trafficking are illegal manufacturing, purchase, storage, transportation, transfer or selling of narcotics or psychotropic substances; theft or extortion; inducement to consumption; illicit cultivation of illicit crop plants containing narcotic substances; Organization or maintenance of dens; Illegal distribution or fake recipes or other documents that give the right to obtain narcotic drugs or psychotropic substances[4]

In addition, Kazakhstan is attractive for transit of drugs, foremost, by virtue of the liberal system of crossing of the State boundary the citizens of states-participants of the newly independent States, of weak technical equipped control - admission points, ramified network of transport highways.In spite of execution of all pre-arranged events within the framework of realization of Plan of events of Program of fight against drug addiction and drug dealing in the Republic of Kazakhstan on 2009 - 2011, ratified by the decision of Government of Republic of Kazakhstan from May, 27 2009 № 784, partly did not assist forming of the integral system of counteraction of drug addiction and drug dealing in a country[5].In - first, it is related to that drug addiction continues actively to

spread to the international scene. The second reason of insufficient efficiency of the realized program was that in her the complex of measures was not envisaged on consolidation of efforts of state and public institutes.[1]Thus, it is necessary also to accent attention of public organs of the relatively age-related threshold of narcodependent persons, because exactly juvenile, youth drug addiction is most dangerous and has ruinous consequences in subsequent. Juvenile and youth drug addict, as a result, results in falling of birth-rate and bearing children, being invalids that for frequent does not need to the parents - drug addicts, and also to the high death rate exactly among young people. Stake of narcodependent persons in age from 14 30 to from the incurrence of persons, practising upon narcotic facilities and psychotropic substances, 49,2% makes, namely 23036 persons from that 20423 are on age 30 from 18 to. Consequently, the theme of drug addiction in society remains actual, must rise constantly and to find the due decision at state level[5].

For Kazakhstan in a short-term and medium-term prospect the problem of the drug dealing and height of drug addiction can in earnest affect the next important spheres of society.

In a social sphere is a threat to maintenance of healthy gene pool of nation.

According to data of Committee on legal statistics and special учетам of the General prosecution (on the state on 30.06.05), there are 51633 persons in an account, practising upon narcotic facilities and psychotropic substances, that on 8,6 % anymore as compared to an analogical period 2004, including 4866 women (on 4,1 % anymore) 3942 minor (on 218,2 % anymore), including 14 to inclusive - 771 (on 294,1 % anymore). Causes the special alarm circumstance that grows number narcodependent among women and minor.For Kazakhstan in a short-term and medium-term prospect the problem of the drug dealing and height of drug addiction can in earnest affect the next important spheres of society[4]

In a social sphere is a threat to maintenance of healthy gene pool of nation.

Foregoing confirms the necessity of development of the branch program of fight against drug addiction and drug dealing taking into account the lacks of the previous programs. In accordance with what the Branch program of fight was worked out against drug addiction and drug dealing in Republic of Kazakhstan on 2012 - 2016 (further is Program).The program answers the substantive provisions of Decree of President of Republic of Kazakhstan from February, 1 2010 № 922 "About the Strategic plan of development of Republic of Kazakhstan 2020 to" in that a fight against the drug dealing and drug addiction is certain one of priority aims of plan of development of Republic of Kazakhstan, by the being components of medium-term prospects, where the special attention will be spared to the collaboration in the field of fight against international terrorism, religious extremism, international drug dealing and illegal migration[5]. By important priority in the field of providing of safety on a medium-term prospect there will be participating in the decision of complex of the problems related to Afghanistan, including suppression of narcotraffic, and also decline of drug addiction on 15% to 2015.[2]The Program beneficiaries it is been:

1) population, including young people, children and teenagers :

2) specialists working in the field of decrease in demand on drugs;

3) specialists of law enforcement authorities, participating in suppression of illegal turn of drugs;

4) specialists of social block.

Drug addiction is one of important problems of society, causing necessity for the acceptance of the active operating under organization of prophylaxis of abuse of substances.[1]

The prophylaxis of drug addiction has three levels: primary, secondary and tertiary.

A primary prophylaxis depending on drugs has a goal to warn beginning of the use persons earlier their not using. She is mainly social, most mass, oriented to the general population of children, teenagers, young people and aims to decrease the number of persons there can be diseases at that, her efforts are directed not so much on warning of development of illness, how many on forming of ability to save or fix a health.The aims of

prophylactic activity on this stage of becoming of the state system of prophylaxis of abuse of substances and drugs it is been:

1) change of the valued relation of children and young people to the drugs, forming of the personal responsibility for the behavior, stipulating a decrease in demand on substances in a child-youth population;

2) stopping of involving of children and young people from the reception of drugs due to propaganda of healthy way of life, forming of antinarcotic options and prophylactic work, conducted together with the workers of establishments of education[2].

A prophylaxis envisages the early warning of doing drug and height of drug addiction among children and teenagers and based on that there are personality of minor and three basic spheres in the center of her, in that his vital functions will be realized: family, educational establishment and leisure, including the микросоциальное surroundings related to him.

Secondary prophylaxis. In many cases only not enough warning of involving of new persons in the consumption of drugs, there is a necessity of application of secondary prophylaxis.

A secondary prophylaxis of dependence on drugs is electoral, oriented to persons, trying drugs, or on persons, having signs of the formed dependence on drugs in her initial stage. His necessity appears in those cases, when a disease can arise (prophylaxis for high-risk groups) up or when it arose up, but did not attain the peak of the development.The aim of prophylaxis is not only warning of involving of new persons in the consumption of drugs but also before exposure of narcoconsumers, decline of incurrence of the persons already engaged in narcotic subculture. An effective instrument in this sphere is administrativepractice[3].

A tertiary prophylaxis of dependence on drugs is mainly medical, individual and oriented to the contingents of sick, dependency upon drugs. She is sent to warning of further abuse drugs by patients or on reduction of future harm from their application, on helping to the patients in overcoming of dependence, on warning of relapse of disease for patients disusing drugs[4].

A tertiary prophylaxis of drug addiction is a medical, spiritual rehabilitation.All work must be lined up in the system, that accepts drug addiction as illness and provides a help to the needing citizens in form functional "chainlet" consisting of to a:

1) primary informatively-consultative help,

2) primary medical, psychological, social diagnostics,

3) narcologicalmedicares,

4) psychology-sociology and spiritual rehabilitations.

Gaining end comes true by the decision of next basic tasks :

1) decline of prevalence of unmedical consumption of drugs;

2) timely exposure of reasons and terms, assisting distribution of unmedical consumption of drugs and organization of complex events on their effective removal;

3) organization and realization of events on forming for the consumers of drugs and persons, apt to their use, motivation to treatment and rehabilitation;

4) organization and realization of prophylaxis of drug addiction with enhanceable high-risk groups;

5) organization of antinarcotic education and educating within the framework of realization of the main and additional educational programs.

The renewed standard of organization of narcological help is ratified, a normative legal act is worked out and accepted, regulating realization of MCP both in the conditions of permanent establishment and in ambulatory terms. The aim of prophylaxis is reduction of scales of unmedical consumption of drugs, forming of negative attitude toward the consumption of drugs and substantial decrease in demand on them.

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Problems of pre-investigation and interrogation in legal enquiry arrangement

Abstract. This article is about problems of pre-investigation and interrogation in legal enquiry arrangement.

Keywords: pre-investigation, interrogation.

In the activity of the bodies of Internal Affairs of the Republic of Kazakhstan there are serious problems associated with the small number of experts, expert agencies insufficient funding, weak material and technical equipment.

These circumstances have a negative impact on the work of the DIA units and, above all, on the procedural terms of consideration of the materials and the investigation of criminal cases, the timing of the investigation and arrest for which prolonged by 30-35 % annually, or suspended production on them.

Since last year 4077 criminal cases were suspended under paragraph 8 of Part 1 of Article 50 of the RK Code – regarding the appointment of the relevant examinations. In the current year on this basis have been suspended 2411 criminal cases.

In connection with the dislocation of the Regional Scientific and industrial laboratories of the Center of forensic examinations only in the large cities of the country, the staff of the remote units of Karaganda, East Kazakhstan, Almaty, Aktobe and Kostanai regional DIA are forced to turn to the expert agencies, located at 300-600 km away, which leads to cost of significant budget and time.

In our opinion, to law enforcement agencies would be better to open additional branches of expert institutions.

As practice shows, in RNPL Central strength element often appointed forensic investigations in narcotic drugs, psychotropic substances and precursors. In criminal cases involving the marketing of drugs, a comparative analysis of seized drugs should be mandatory. However, the special equipment needed for this study is only available in expert institutions of Almaty, Astana, Karaganda, Kostanai, Atyrau and Ust-Kamenogorsk, which is not enough for the annual investigation over 5,000 criminal cases involving drug trafficking.

Serious difficulties in the absence of DIA possibility of molecular-genetic (genomic) expertise in the regions.

The analysis shows that from year to year the number of designated genomic expertise increases. For example, in 2011 the number was 449 against 138 in 2010, and the last 7 months of the current year already - 373.

However, every other thing on which such examination shall be appointed, because of the duration of its production is completed with delay of the CCP.

In addition, due to the proliferation of crimes related to the use of science and technology, there is a need for the study of objects of computer technology, forensic Phonographic (phonoscope) examination and examination of counterfeit products. However, such studies are not available in all RNPL Central strength elements, and the experts and the methods for establishing a limitation period of writing, forensic and technical examination of the electronic copies of documents and studies related offenses in the Internet at all.

Nor are experts with knowledge in the field of theology, which includes all issues related to the interpretation of any religion.

Psychological and philological and religious examination conducted only in Astana, Almaty and Shymkent.

The lack of experts in this field does not allow open expert institutions in the west of the country where registered offenses against religious extremism.

In our opinion, we need a more intensive exchange of experience in the production of theological expertise with foreign countries and the CIS, which is in the process of harmonization of criminal law and criminal procedure law.

In some regions, there are no experts even for traditional forensics, auto technical and the explosion of technical expertise.

In addition, the old methods of expert studies do not allow an objectively investigation of the accident. Thus, the speed of the car experts set of wheels on the stopping distance transport. Modern cars are equipped with "ABS" that prevents wheel slip when braking, leading to lack of braking track on the roadway. For this reason, the experts' conclusions are justified by accident participants questioned the incident.

There are problems on the interaction with the expert institutions of the Ministry of Health.

ATS employees are faced daily with the problem of the lack of forensic experts in many rural areas of Aktobe, West Kazakhstan, Pavlodar, Karaganda, Kostanai and North Kazakhstan regions.

Stationary forensic examination to all law enforcement agencies conducted only in the only Republican Clinical Psychiatric Hospital, located in the city of Almaty. For this reason, its production has been delayed for 5-6 months or more.

Another important question, which in practice is often faced investigators and investigators - this is a conflict of laws.

Article 61 of Chapter 12 of the Code of the Republic of Kazakhstan "On Public Health and the Health Care System" provides procedural order of appointment and made only forensic, forensic psychiatry and forensic drug testing.

However, in accordance with the requirements of Article 489 of the CPC designation of complex psychological and psychiatric and psychological examinations of juvenile suspects and the accused is mandatory.

This gap has contributed to the problems associated with ensuring the completeness and quality of criminal investigations, as psychologists can not answer all the questions posed by reason of their participation in the expert studies as a specialist, not an expert.

In this regard, the Ministry of Internal Affairs sends a letter to the Ministry of Health to assist in the legislative regulation of this issue by extending the list of conducted examinations and making the appropriate changes and additions to the above-mentioned Code.

Or, indicating the Prosecutor General of Kazakhstan on January 10, 2012 number 1/15 "on the appointment of certain types of forensic examination" required to exclude the appointment of forensic investigations in cases where the cause of death were perinatal outcome, an incurable disease of old age or achievement (confirmed physician), provided that the circumstances of its occurrence were evident and are not of a criminal nature.

However, according to Article 241 of the Criminal Procedure Code to determine the cause of death is mandatory assignment and production of forensic corpses. In this connection, the practice in this regard is ambiguous.

In our view, the main legislative gap associated with the conceptual direction of forensic activity - is the lack of alternative opportunities examinations.

In the CIS countries the practice of alternative assessments is fully justified. For example, currently in the Russian Federation has a wide network of state forensic institutions.

Familiarization with the laws of foreign countries (UK, USA, Germany, etc.) also shows the activity of judicial expert agencies of various state bodies: Justice, police, defense agencies, as well as special services, which provides de-monopolization of forensics and serves as proof that the expert status, independence in the investigation of the case is not determined by the departmental affiliation institution of judicial review.

In our view, the issues of expert support to be addressed comprehensively, taking into account the experience of studying abroad.

The first steps in the creation of alternative assessments have been made. In January 2012, the CPC introduced a framework to allow the use of expert opinions as evidence.

Novels such a positive impact on the efficiency of criminal investigations, especially in the manner trial proceedings, in which the court has directed nearly 24 % of criminal cases (in 2011 - 21 %).

Forensic units of the Ministry of Internal Affairs in the current year conducted more than 61 thousand studies, including fingerprint, trasological, ballistic, handwriting, etc.

In this case, the financial police assigned to the police department - 21 trials, prosecutors - 20, KNB - 14, MES - 5 and the courts - 4.

The vast majority of expert opinions (78%) were used as evidence in the court, petitions participants in disagreement with the results of studies have not found guilty convicted.

For example, during the investigation of a criminal case on the fact of the riots that took place in December 2011 in the city of Zhanaozen, in withdrawn from the bodies of the dead and wounded eight bullets conducted forensic ballistic experts of Ministry of Internal Affairs investigation, which found the source of the evidence in the case.

The analysis shows that often the criminal prosecution authorities are still unable to fully exploit the opportunities procedural expert opinions.

In our opinion, one of the main reasons for this situation is the lack of legal and organizational requirements and official procedures governing the use and production of the conclusions of the expert. The same position is held by the Ministry of Justice and the Attorney General's Office.

In this regard, the Ministry of Justice proposes to make appropriate amendments to the legal acts regulating the mechanism of production of research specialists or develop new regulations.

The Ministry of Internal Affairs believes it appropriate to the Rules of the State Register of techniques of forensic studies , approved by the Government of the Republic of Kazakhstan on 4 June 2010 number 515 be amended associated with the possibility of forensic specialists officially guided by standardized methods developed by the Center for Forensic Department of Justice.

As we all know, our criminal justice system is currently under reform.

Working group to develop the new Code has studied the experience of reforms in 2005 of the legislation of the Republic of Turkey. Interesting is the fact that the criminal proceedings are conducted in an electronic format using the national network information data (UYAP). These technologies enable the sharing of information, the purpose and results of examination between the investigation and expert specialists. A police officer or prosecutor appointed expert via e -mail (direct evidence) over time in the same way is an act of examination, which speeds up and simplifies the process of investigation with minimal effort and expense.

We believe that this experience deserves attention and possibly implement it in our country.

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Problems of the theory of judicial examination: methodological aspects

Abstract. In the present article the author considered questions of problems of the theory of a judicial examination, namely methodological bases**.**

Keywords: judicial examination, conclusion of an expert, proof.

The aspiration to search of optimal variants of the solution of problems of methodological ensuring preliminary investigation and court not with well-known scientific and technical knowledge promoted formation in jurisprudence of the independent direction of the scientific analysis constituted at the present stage of the development in the general theory of judicial examination. At the same time, and it should be stated with regret, development of the new direction of the theoretical analysis of judicial and expert activity has revealed existence of different views among scientists on character and a form of generalization of a scientific basis of judicial examination. From recognition her as independent science (theory) before denial of the independent status by means of ascertaining of the theoretical beginnings of judicial examination as a component of other sciences - such is a range of the judgments which are available in special literature on the matter. The stated situation causes need of the further scientific analysis and specification of such conceptual provisions of the theory of examination as a subject, object, tasks, system and methodology for identification not only degrees of their scientific institutionalization, but also a possibility of effective application as instruments of cognitive activity in jurisprudence. "Special scientific knowledge - area of special knowledge which maintenance is made by the scientific knowledge realized in techniques of judicial and expert researches", and "a technique of judicial and expert research - system of the methods applied when studying objects of judicial examination to establishment of the circumstances relating to a subject of a certain sort, a type of judicial examination".

Thus, by production of expert research by the expert having special scientific knowledge techniques of judicial and expert research which are entered in the State register of techniques of judicial and expert researches of the Republic of Kazakhstan have to be applied.

Production of judicial examination is a procedural form of use of special scientific knowledge, and the expert opinion - an independent type of proofs.

Judicial examination, being the instrument of the scientific knowledge used for attraction in legal proceedings of achievements of science and technology demands continuous reconsideration of the applied conceptual framework. In this plan her such conceptual provisions as a subject, objects, tasks, and also the existing system of expert knowledge which classification by classes, childbirth and types

demands search of the new criteria considering real requirements of practical activities need specification. To one of such criteria can serve the methodology of the proving knowledge used for the solution of specific expert objectives and giving the chance to reduce all set of the classes of examinations offered in the theory from nine to four main: criminality, judicial medico-psycho physiological, judicial economic, judicial technical.

The procedural legislation adopted in the Republic of Kazakhstan, in general having apprehended the main ideas of earlier operating institute of special knowledge, has made to him some changes which assessment can't be recognized as unambiguous. As a positive factor of the made changes it is possible to call more detailed regulation of questions of appointment and production of judicial examinations in the criminal procedure law, and also earlier not provided in the civil procedural legislation the right to the expert to give written consultations (explanations).

At the same time a number of innovations raises more questions instead of a real explanation of an essence of separate procedural provisions. For example, the Code of criminal procedure, giving definition to the concept "special knowledge", at the same time enters for the characteristic of the judicial expert the new term – "special scientific knowledge", without opening his essence. If to mean that according to the formulation of this law special knowledge is a knowledge, "acquired by the person in the course of a vocational education", then there is a question: in what their fundamental difference from special scientific knowledge? It would seem, the distinction which externally doesn't have essential value in conditions when the law the concept of the judicial expert is limited only to the instruction on application of special scientific knowledge by him, leads to different interpretation both in the theory and in practice of essence both special knowledge, and legal status of the subjects possessing them - experts and experts. From there are numerous facts when the expert opinion as the proof on business may contain any information including which isn't demanding production of expert research. In other words, in expert practice often there is a mixture of the knowledge demanding scientific justification (it and examination has to differ), and the knowledge which is within the competence of the expert.

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Features of survey of material evidences research of traces of breaking

Abstract. In the present article the author considered questions of survey of material evidences at research of traces of breaking.

Keywords: Material evidences, the expert - the criminalist, preliminary research.

The main objective of survey of material evidences, at research of traces of breaking - to make general idea about the studied objects and to develop the plan of further research. The success of the subsequent research and correctness of a conclusion of the specialist criminalist in many respects depends on quality of expert survey.

In a stage of expert survey the specialist criminalist performs necessary measurements and photographs a general view of the object presented as a material evidence. If necessary for the best review of traces the object can be dismembered or taken to components. In the course of survey of traces of breaking optical and measuring devices are used.

Studying traces in a survey stage, the specialist criminalist establishes their classification value. He has to define what mechanism of their formation, whether they were formed as a result of a break, pressure, sliding or cutting. Depending on results of such studying the corresponding methods and means for their further research are chosen.

Main objective of preliminary research - establishment of the mechanism of a examination that in itself is preparation for experimental and comparative researches.

One of important elements of the mechanism of an examination is the direction of the movement of the tool of breaking. Need of definition of the direction of the movement of examinations object often arises at research of traces of sliding as without establishment of this circumstance the criminalist can't start production of experiments with observance of all conditions of an examinations The following problem of preliminary research at examination of traces of breaking is definition of the most probable position of the tool in relation to a barrier (a frontal corner) at the time of tracks . Establishment of this circumstance considerably facilitates process of further research, especially his experimental stage.

Thus, already in the course of preliminary an research it is possible to establish whether the trace of sliding has been formed at position of the tool with a tilt angle big or smaller 90 °. Defining inclined position of the tool at the time of tracks , it is necessary to consider structure and hardness of a tracks surface. Formation of traces of sliding on fragile or very soft objects can not be followed by emergence of cross rollers even when the tilt angle of the tool of breaking is more than 90 °. The most essential problem of preliminary research of traces of cutting and traces of sliding is definition of counter position of the tool at tracks.

Despite the simplicity, a way of definition of coal of a meeting at formation of traces of sliding and cutting through the distance relation between routes to distance between features on the tool of breaking has an essential shortcoming which consists that definition on routes of features on the breaking tool always has probable character. Therefore at calculation of counter position of the tool of breaking in such a way it is necessary to consider all possible options. If the trace doesn't contain two routes which substantially differ from others, then application of this way is impossible.

Thus, the main objective of preliminary research at identification examination of traces of breaking is definition of the mechanism of a tracks . As we saw, such research has not the general character, and is in-depth, detailed study during which the expert uses various special equipment.

In cases when identification of the tool of breaking at this stage of criminal examination isn't required, the expert solves a problem of all research.

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Judicial ballistics and judicial and ballistic examination

Abstract. In the present article the author considered questions of judicial ballistics and is judicial – ballistic examination.

Keywords: ballistics, examination, ballistic examination, it is judicial – a ballistic examination.

Ballistics - science about motion of bodies, thrown in space, based on mathematics and physics. She researches, mainly, the movements of the shells which are let out from firearms, rocket shells and ballistic missiles.

Ballistic examination is a type of the expertise which is carried out for research of firearms, ammunition to him and traces of their application for the purpose of establishment of the actual data important for investigation of criminal case and judicial proceedings.

Purpose of ballistic examination definitions of a way of his production, establishment of the fact and a way of modification of a design of the weapon, the fact of his use to destination after cleaning make in cases of need of classification of the withdrawn weapon, establishments of serial number of the weapon.

Examination of ammunition is engaged in establishment of a way of production of cartridges and their separate elements, definition of a look and type of cartridges and the weapon for which they are intended of their suitability for firing, and also the solution of many other problems of diagnostic and identification character.

For carrying out research besides the resolution on purpose of examination and object of research it is necessary to send other objects influencing circumstances of a use of weapons on the scene and also case papers in which data on these circumstances are reflected (photo tables, protocols of survey and withdrawal). All objects presented on research have to be packed and issued with the obligatory indication of the place, time and circumstances of their receiving.

Objects of ballistic examination are:

- firearms, his details and mechanisms, and also belongings to him;
- the shooting devices (construction guns, signaling devices), the gas and pneumatic weapon;
- ammunition and cartridges to firearms, the shooting devices, and also their parts (sleeves, caps, bullets, etc.);
- the materials, tools and mechanisms used to production of firearms, ammunition, their separate elements and also equipments of ammunition;
- the shot bullets and shot sleeves;
- traces of application of firearms;
- materials of criminal case (protocols of inspection of the scene, phototable, etc.);
- the samples received in the course of carrying out examination (within expert experiment);
- material situation of the scene.

Problems of ballistic examination share on identification and not identification.

At the solution of identification tasks issues of establishment of group accessory and individual identification are resolved.

In the first case is established:

- belonging of objects to firearms or ammunition;

- type, a look, model of the firearms presented for examination;

- type, a look, model of the ammunition presented for examination;

- type, a look, firearms model on traces on the shot bullets, shot sleeves, and also on traces on a barrier;

- belonging of the presented details to concrete firearms;

- belonging of the presented parts to concrete ammunition;

- fire nature of damages.

In the second case is established:

- identification of firearms on traces on bullets and sleeves;

- mutual accessory of a bullet and sleeve to one boss;

- accessory of details to a concrete copy of firearms;

- identification of the tools and mechanisms used to production of the weapon, ammunition and also equipments of ammunition.

Problems not of identification character are subdivided on diagnostic, situational and reconstruction.

Enter a circle of diagnostic tasks:

- determination of serviceability of firearms and ammunition and their suitability to production of shots;

- establishment of a possibility of a shot from firearms without pressing a trigger under certain conditions;

- establishment of a possibility of a shot from firearms certain cartridges;

- establishment of a possibility of maintaining from the weapon of systematic aim firing.

Situational tasks:

- establishment of a distance, direction, shot place of production;

- definition mutual an arrangement of the shot shooting and injured at the time of production;

- definition of quantity of shots and sequence of formation of fire damages.

Identification of the destroyed marking designations belongs to reconstruction tasks.

The issues resolved by ballistic examination:

- at research of firearms (an equipment, technical condition, ballistic characteristics):

Whether the concrete subject belongs to firearms if yes, that to what look, a sample (model)?

What type, sample (model) of the weapon possess the presented details (parts); whether they are details of a concrete copy of the weapon?

Whether regularly presented weapon if isn't present, then in what malfunctions what reason of their emergence and how they influence a possibility of his use consist?

Whether the weapon is suitable for firing?

By what way (industrial, self-made) the weapon or its separate details is manufactured?

Whether changes are made to the weapon device if yes, that what and for what purpose?

Whether shots without impact on a trigger (are possible from the presented weapon at certain or under various possible conditions)?

What initial content of the destroyed marking designations on the weapon?

- at research of ammunition (cartridges) and their elements (an equipment, technical condition, ballistic characteristics):

To what look to type, (sample) the presented cartridges from what weapon they are intended for firing belong?

By what way (industrial, self-made) cartridges or their separate elements are made?

The presented elements (bullets, sleeves, pyzh, caps) belong to look what cartridges (type, a sample)?

Whether cartridges are suitable for firing?

- at research of traces of a shot (weapon traces on bullets, sleeves and other elements of ammunition; shot traces on objects):

From what weapon of a look (sample) of a shots the presented bullet?

From what weapon of a look (sample) the shot is made by a cartridge which sleeve is presented?

Whether a shots the presented bullets is from the same weapon?

Whether the presented sleeves belong to cartridges, shots by which are made from the same copy of the weapon?

Whether the presented sleeve belongs to the boss, a shot by which it is made from the concrete weapon?

Whether the presented bullet is a shots from a concrete copy of the weapon?

Whether damage on object is fire?

Shot from look what weapon what shell of a look has formed fire damage?

What of fire damages on object are entrance and output.

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Forensic recommendations of interrogation

Abstract. This article is about forensic recommendations of interrogation.
Keywords: forensic, recommendation, interrogation.

The interrogation, according to many practical workers, is one of the most sophisticated resources of proving and it is very important during the interrogation take into account the scientific positions of interrogation tactics, tactical methods that have developed by many years of investigating authorities and summarized in scientific works of forensic scientists [1-9].But in our view, we should pay attention to the recommendations that, unfortunately undeservedly ignored. Taking into account these recommendations, in preparing and conducting the interrogation will contribute to its effectiveness and efficiency. To forensic recommendations we should include:

1. for each interrogation there should be an individual approach and a desire to establish psychological contact with interviewee;

2. in interrogations necessarily be taken into account physiological factors;

3. strive to create maximum conditions for the free narrative;

4. there should be statement of tactically correct formulated questions;

5. at drawing up the protocol need to seek to completeness and objectivity of fixing testimonies;

6. in the assessment of each interrogation should present a critical analysis and evaluation of evidence in conjunction with other materials of the case;

7. necessary to comply with the requirements of tactics - staged interrogation, its planned development.

We will analyze each of these recommendations:

1. Everyinterrogationrequiresan individual approach from the investigator.Interviewee differs not only by procedural status, but also by age, intelligence, by their mental characteristics, temperament, etc.Neglect of individual qualities of people

(witnesses, victims, suspects, etc.) can lead to negative consequences, when even a conscientious honest witness does not give fully the information, which he have in his own. One of the components of the concept of "individual approach" is a psychological contact. This is a universal method in the tactics of investigative actions, which presents a professional communication with feedback. Criminologists consider psychological contact as a system of communication based on trust: the information process in which people are able and willing to receive the information emanating from each other.Psychological contact presents by itself a dynamic, located in the development process, where participants exchange information, and constantly adjust their behavior according to the situations of interrogation.The whole interrogation procedure is accompanied by this process and therefore it cannot be considered as the interrogation stage. At the same time the contact relationships do not arise from concessions of the investigator. On the contrary, during the formation of the contact there goes a struggle for the psychological initiative in cooperation.Therefore, the formation of psychological contact contains elements of psychological struggle, which is one of the sides of individually-psychological approach, involving humanity, sensitivity and accuracy in relations with the defendants. The investigator is essentially engaged in that struggle, what is happening in the inner world of man.

Prerequisites for the formation of a psychological contact with the interviewee, for the optimization forms of communication are the professionally important qualities of the investigator:

Intelligent quality. They are discursive and intuitive thinking. Discursive thinkingworks in clearly limited area, where it is known that it was required to prove. Discursive thinking is accompanied by verbal formulations. Intuitive thinking - an indispensable element of the investigative creativity, this is the culmination of the creative process, a sort of crest of the wave, where complete and holistic, simultaneous presented as a retrospective and the prospect research, it is an element of intelligence.

The main characterological qualities are perseverance, independence, patience, self-control, integrity, consistency, commitment, determination, flexibility, initiative and courage.The psychophysiological quality - the main ones are: balance, ability to concentrate, mental endurance, a significant amount of attention, switch ability, quick orientation in the new environment, "noise immunity" (the ability to work in the presence of extraneous irritants).

The activities of the investigator during the formation of psychological contact in the framework of interrogation are subordinated to a number of goals.

The main goal of psychological contact is to obtain truthful and complete information about the circumstances of under investigative offense and also the transfer of the contact relationship to adjacent investigative actions, for example, to check testimonies at the scene, investigative experiment, confrontation and identification, which are attended by a person in a state of psychological contact with the investigator.

Thus, the psychological contact - a product of the creative activity of the investigator, arises as a result of the application of scientific methods system. The formation of psychological contact involves an individual approach.

2. Recommendations about the necessity to registration psychophysiological factors come from the process of formation testimonies. The process of formation testimonies is composed of: 1) receiving and storage of information; 2) its impression and conservation; 3) reproduction and transmission of information to a person producing the interrogation; 4) reception, elaboration and procedural fixing information by interrogators; 5) repeated witnessing. This process from perception to the transmission of information always has psychological character. On the entire its range the human psyche is influenced by many objective and subjective factors, whose actions ultimately, somehow affect the completeness and reliability of the testimonies.

As subjective factors operate: when a person has a pathology in the sense of organs, that is, he is blind, deaf, nearsightedness, farsightedness, color blind, hard of hearing,

etc.; when a person has a certain profession, experience, knowledge, affecting to the completeness of information perception by his senses; when a person is in the emotional, mental state (severe excitation, anxiety, fatigue), arbitrariness or involuntariness , the presence or absence of interest to the observed and so on.

Actions of all these factors, specifically studied by science forensic psychology, should be well known to the investigator. He also needs to know based on the data of forensic psychology tactical methods that allow easing the harmful effects of these factors on the completeness and objectivity of testimonies, revive the memory about perceived, regularize reproduction of stored in the investigator's memory information.

The objective factors include temporal, spatial. However objective factors hindering perception of investigated event or parts are adverse weather conditions, observer's distance from place of event, the short duration of this event or observation, illumination, daytime or evening or at nighttime, bright or bad lighting in motion or in rest, and so on.

Investigator obligatorily should take to account all listed factors to exclude possible distortions in the preparation testimonies.

Capturing and preserving received during the perception information are a necessary condition of formation testimonies.A crucial role belongs to the memory, a person's ability to capture and hold perceived material. Perceived image is held in the memory of man - this is a property of the brain. But the degree of memorizing is different. Depends on the volume of perception, focusing of attention, interest of person to that object.Talking about the crime - from all subjects - the best memorization can be has the perpetrator, least of all - the witness. If a witness gives detailed, circumstantial testimony, the investigator must necessarily figure out by what it is caused.Maybe professional memorization, for example, when the driver-witness describes in detail the car in which arrived criminals - or tailor witness describes in detail the clothes of the criminal - in all these cases it is natural.

On perception and filling affects the emotional state. Therefore it is quite understandable when the victim cannot testify after the attack. But there is possibility of psychophysiological reaction called reminiscence when fright passes, emotions smoothed and memory come back. Then the victim can remember everything.Depending on the subject of capturing the memory is divided into auditory, visual (image), motor (motional), verbal-logical, emotional. Like perception, memorization of events can be involuntary and voluntary. Remembering (equally as reproduction) in which there is no specific goal to remember something called the psychology of involuntary; in cases where the aim is to memorize, there is need to speak about arbitrary nature of capturing.

To the processes of memory, especially in involuntary memorization, significantly affect human emotions caused by a criminal event. By psychologists established that the events deeply disturbing feelings of the interviewee force him repeatedly revisit to the event of the crime and thereby contribute to the consolidation of the forthcoming examination material in the memory.

Significant impact on the reproduction of the circumstances of the observed event provides time when after a certain period, occurs forgetting the details of the situation. It is considered that how the longer the time period between the dates of the events of the crime and testimonies, the more intense will the process of forgetting. However, the intensity of forgetting largely depends on a number of conditions, in particular from the setting the interviewee, his interests, the nature of the memorized material, etc.

The intensity of the information loss under the influence of time is selective. It also depends on the age of the interviewee, his memory features, and level of development, profession, interests and a variety of other circumstances. More firmly impressed in memory the events and circumstances, which mechanism is understandable to the interviewee.

Reproduction and transmission of information in the interrogation: to giving testimony in the interrogation always precedes the recollection of circumstances related to the criminal event served as a basis to call for an interrogation.

Sometimes memories about the event of crime occur at an earlier stage in the process of capturing and storing information.Interviewee revisits to the circumstances of the crime, restores them in its memory, not infrequently talks about the incident with others. Reproduction is a kind of repetition of the perceived, which contributes strength of remembering and storing information about a crime in the memory of the interviewee.

3.The recommendation to create conditions for a free narrative acquired procedural form (p.3-4 art.210 CPC of the RK). It is used at the primary interrogation, and mainly in the initial stage of the investigation, although it is not excluded other situation. Stage "free narrative" has meaning not only as information, but also intended to goals of tactical nature. It allows investigator under conditions of the time deficiency at the initial stage to examine the identity of the interviewee, by observing him during his free narrative. Formed conceptions of the personality features of the interviewee are necessary to determine the tactics of interrogation at a later stage of question-answer form.

4. Analysis of the literature shows that special attention should be had part of interrogation, which follows the free narrative - "Stage of issues." The wording of questions has of great importance. Questions should be clear and specific. No-leading questions cannot be set (p.4 art.210 CPC). Asked questions may be basic, additional, clarifying, detailing, reminiscent, exposing, control. Which of these questions the investigator asks - depends on the situation. Questions should be encouraged to answer and must be such that from them the interviewee could not retrieve the information, but should dig into his memory.Following to the basic rules of asked questions, contributes not only to getting truthful testimony, caught in a lie, but also to "revitalize" the forgotten details of past events. The main questions the investigator puts before free stage of interrogation occur at the primary interrogation after asking personal data, clarifying the rights and responsibilities to the interviewee, for example, "What can You say?"

Complementary - these are questions asked with the purpose to fill the received testimonies, eliminate existing gaps in them.

Clarifying questions can also be given with the aim to detail the testimony, but more often - to concretize the received information.

Reminiscent questions have aim to revive the memory of the interviewee, cause in it one or another associations. Reminiscent questions are usually given a few to facilitate the process of sequential anamnesis.

Control questions are asked in order to verify testimony or to obtain data for such verification.Questions should be clear, specific, understandable and relate to the subject of interrogation. Their logical consistency and validity are important.

Thus, the main feature that characterizes the interrogation as a source obtaining new information on the case lies in the fact that during the interrogation the investigator is faced with an abundance of disparate information. Its task - to systematize this information, find its key, system generator elements put forward the system of questions, restoring "carcass" of investigated event, by part of events to restore the event as a whole, give to the individual fragments of events an adequate interpretation.

5. Completeness and objectivity of fixing have considerable importance. Not always in the course of interrogation, the investigator can understand what is said by interviewee, what is the value of provided by the interviewee information.If were provided completeness and objectivity of fixing testimonies, he (the investigator) has the ability to later analyze everything, to assess received testimonies as evidence. In difficult situations to ensure the completeness of fixing together with the investigator may be present at the interrogation assistant - intern, operative, the second investigator of COS, who will help make the interrogation report.

6. A critical analysis of the interviewee's testimonies is independently from their procedural status - one of the requirements of valuation activities. There should be no prejudice that only a witness giving truthful testimonies, and the suspect is lying, may be situations where witness gives false information due to honest error or

intentionally, the suspect repents and his testimonies are truthful, etc.The necessity to analyze the received information and its comparison with other materials of the case - such intellectual activity of the investigator during the interrogation will help not only to determine in the tactics of conducting, but also to avoid errors, necessity of carrying out additional or repeated interrogation, to establish by itself in the right direction of the investigation.

7. Interrogation, like all other investigative actions, by the technology holding has to consist of three stages - preparation, work and final. Each of these steps, of course, should be planned.

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About categories of forensic tactics

Abstract. The article below researches questions about scientific section of criminology, which include following categories: tactic, tactical combinations, tactical (forensic) recommendations, tactical operations, investigative situation, tactical decision.

Keywords: tactic, tactical combinations, tactical (forensic) recommendations, tactical operations, investigative situation, tactical decision.

Of tactics - a central concept in the forensic literature of this concept are different definitions [1], but a common understanding prevails tactic as the most efficient and effective course of action, or the most appropriate course of action the investigator (inquirer) during the collection, research, evaluation and use of evidence in the investigation of crimes. The literature devoted to the tactics are different classifications [2]. There are technical and forensic and tactical (tactical and forensic) techniques: the first - is

the use of techniques of criminalistic and technical facilities (eg, receptions shooting the scene, revealing techniques using papillary lines dactylo powders and so on.) And methods of using the provisions of forensic science art (eg, trace detection techniques based on research of the mechanism followed by formation), etc. Second - it's techniques of organization and planning, and preliminary judicial investigation, preparation and conduct of certain proceedings (for example, techniques to prepare for the search, the methods of formation of psychological contact, etc.). There are other classification. Tactics can be verbal and non verbal, such as verbal tactics are widely used in interrogations, confrontations, verification of testimony on site (in these investigative actions required to combine questions with the methods of observation); cognitive tactics - used during the investigative experiment; tactics exploratory nature - are used for inspection, search, etc. Give an exhaustive list of the tactics that are used or may be used in the conduct of investigative actions incomprehensible task. The use of tactics related to a number of conditions. The most important conditions for the use of tactics is their legitimacy, affordability, and accessibility of scientific justification for the entity authorized to use them. The main piece of legislation regulating the use of tactical and forensic techniques as well as techniques of forensic technology tools, is the Criminal Procedure Code of the Republic of Kazakhstan. [3] The rules governing the admissibility of the application of the general principles of tactics - is, first, the requirements of completeness, thoroughness, objectivity, speed and activity of the investigation. Secondly, it is the rules governing the rights of citizens, the observance of which the investigation of crimes and the trial is guaranteed by law. Third, it is the norm, indicating the limits of the case studies on actual use beyond tactics - on the application object (actual), in time and in space.

An important condition for the use of tactics is their accessibility, the possibility of using each investigator Operations Officer, a judge. Of tactics should not go beyond the scope of professional knowledge and skills of employees, should not require for the realization of special knowledge. It should be said about another subject to the application of tactics. It can be defined as the line of application of this technique in a particular situation the moral demands of society as ethical administration. Application tactic should not insult or humiliate the dignity and honor of the procedural act, creating a danger to life and health, accompanied by disclosure of intimate details of his life, and so on. N.

Tactics are designed to provide the most complete and effective implementation of the methods and means of forensic technology, the tasks of legal proceedings disclosure, investigate crimes. Therefore, in practice, the content and quantity of applied techniques to come from the target. Thus, the order of the investigative inspection of objects in the scene should provide for the application of technical means not just fixing the situation and traces, but their detection, seizure, let alone solving the problems of understanding the mechanism of incident, etc; an investigative experiment requires the use of tactics to ensure maximum use of camera and video capabilities in the production of this action, and receptions held in the dismemberment of experience on the stages, etc. Or search tactics, which significantly affects the use of search instruments and the nature of these devices, which leads to the use of appropriate tactics, keeping the psychological factors of behavior being searched - defines another set of tactics. Thus, in the practice of all investigative actions the investigator uses more than one tactic, and a combination thereof. **Tactical combinations** - a certain combination of tactics, pursuing goal to solve a specific problem of the effective conduct of investigative action and the resulting investigation and for this purpose the situation developing in the course of this investigation. It should be noted that the forensic widely interpret the content of this concept, seeing it not only as a combination of techniques, but also as a combination of investigative actions [eg, 8, p.168]. It seems that the combination of investigative actions more consistent with carrying out tactical operations.

In addition to the reception, **criminal tactics and develops recommendations**.

Tactical forensic recommendation - it is scientifically based and proven practice advice, but in the whole organization and tactics of each investigation. All investigative actions envisaged Code of Criminal Procedure, based on the nature of each, can be differentiated on the search, verbal, cognitive, modeled, integrated (combining cognitive character with search actions). Recommendations may be common to all investigative actions, Those which are applicable to all investigative actions, regardless of the situation and the circumstances of the case, for example, the recommendation of a phased investigative action, ie, the process of investigative action should consist of the stages - preparation, work and final. Each investigative action the investigator must prepare. How is the training, how long to cook - depend on what investigative actions of the investigator to be done - for the crime scene investigation training in minutes; for the interrogation of the accused it can last throughout the procedural period prescribed Code of Criminal Procedure detention, etc.

Recommendations can also be special - designed for a specific situation, including the related procedural, ethical conditions for the conduct of investigative actions, such as the need to create a psychological contact with the interrogation. Since there are limits and other cognitive capabilities of each investigative action, the recommendation can relate to different combinations of tactics, united by a single concept for the effective conduct of investigative actions, for example, in preparation for the understanding of the importance of the search of the surprise factor. Recommendations may relate to the use in the production of a particular procedural action of certain technical and forensic tools, the recommendations may be directed to the definition of the membership action, their functions, receptions management course of the investigative action, etc.

Forensic recommendation refers to the number of significant concepts. You can not equate the concept of "tactic" and "forensic recommendation." Forensic recommendation carries the elements of compulsion, as it offers the most appropriate procedures of the derogation from which complicates or eliminates the goal. Forensic recommendations formulated as a result of centuries of development of science and advanced investigative practices for the most organized and tactically expedient production of the proceedings of the investigator to obtain, study and use of evidentiary information.

Given the growing trend towards professionalism of criminals and organized action in the commission of a crime in the past two decades it has become the practice of conducting investigative team set of measures - several types of investigative actions, combined other actions (searches of the suspects, the use of criminal records to determine the origin of found objects , victims searches, queries, etc. Generalization of existing such practices is reflected in the notion of **"tactical operation"**. This category is more significant for the forensics section "Methods of investigation of certain types of crimes." In tactical operations have the use of specially developed organizational, tactical and technical, operative investigation and other forensic tools and techniques of neutralization to counter criminal investigation.

Tactical features of individual investigative actions, the investigation as a whole, determined by the complexity of obtaining and securing evidence in terms of active resistance on the part of the criminal investigation, organized crime groups and corrupt accomplices. The set of circumstances at a particular point of the investigative action or investigation, which should be considered when designing and implementing a program of further investigation or change the course of the investigative action to reflect the notion of **"investigative situation"**. Category is significant not only for forensic tactics, but also for the forensics section "Methods of investigation of certain types of crimes." Accounting Investigation situation allows the investigator to take a right decision to apply the necessary tactics in the framework of the investigative action, hold the proper tactical operation. The formation of the investigative situations affect the objective and subjective factors. Main objective factors: the collected, or not at this point of the investigation

evidentiary information and guidelines; found evidence to convict the offender information; technical and forensic tools, tactics and techniques used in the investigation of crime; the level of interaction with the investigator's body of inquiry, in other operational devices. Subjective factors: the psychological state of the investigator or person conducting the inquiry, the level of their training, life and professional experience, analytical skills opposing entities; behavior of the parties (the investigator, the investigator, investigators, specialists, experts, suspect, witness, victim), their cooperation or opposition to the investigation, etc.

You can select the following types of investigative situations:

• Depending on the stage of investigation - the original, the next and final;

• in relation to the possibility of achieving the goal of the investigation or investigative action-favorable and unfavorable;

• respect between the parties - conflict and conflict;

• The most typical - repetitive, typical;

• folding in reality in the investigation of the criminal case - specific. Investigation situation - the category of dynamic, changing in the course of investigative actions, and in the course of the investigation.

The development of the psychology of the investigative activities and challenge the use of forensic science in developing data management theory put on the agenda the question of the study of the concept of tactical solutions, its grounds, objectives, processes, adoption and implementation of important practical as the "O" forensic tactics. This refers mainly to the tactics of the investigator in a conflict situation, the prospects for use in these conditions, the theory of reflection, as well as the legality of the use of intuition as a basis for decision-making. Thus, the tactical decision - a choice of the purpose of tactical impact on the investigative situation as a whole or its individual components, on the progress and results of the investigation process and its elements, the definition of methods, techniques and means to achieve the goal. With tactical decisions related categories tactical risk. Tactical risk is an integral part of the investigation process. The task of the investigator is to choose the strategy of lowest risk, to anticipate the negative consequences of their decisions and to minimize the risk as much as possible. Minimizing the risk of tactical available in the following situations: to change the tempo of investigation and the investigation prior to the change in the investigation of the situation favorable direction; choose a different psychological situation, especially given the impact of external factors; change the structure of tactical combinations, namely to introduce new evidence the person; involve in the process of investigation operative worker to provide a more intense effect on the person questioned; the investigator may use the knowledge of the theory of reflection. By reflection is meant imitation of reasoning one participant to another. Each participant is trying to think of other. A task investigators is to surpass his opponent and using the tactical decisions to beat him. If unable to use the above options should abandon tactical risk. Cause Action investigators in a tactical risk may be: a) information uncertainty of the situation, the lack of data for decision-making; b) the limited time, particularly in the investigation of crimes "without delay", the detention of the offender in the act and in other situations; c) the investigator's belief in the success of their actions in terms of risk; g) the need to eliminate the contradictions in the testimony of the persons questioned. When deciding about actions at risk the investigator must determine positive results. Accordingly, the risk of isolated reasonable (rational) and unfounded. Rational risk is considered when the desired result is achieved at the lowest cost. Wrong calculation of any action could worsen the situation that existed before deciding on action in a tactical risk.

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Judicial examination in the Republic of Kazakhstan

Abstract. In article concepts of examination are studied. examination as independent investigative action, understanding on a basis and according to the decision of the investigator sought to find any crime and special signs on a body of the suspect, victim or witness. Authors have drawn conclusions on searches of traces for their detection.

Keywords: The code of criminal procedure of the Republic of Kazakhstan, search, detection, a crime, special signs on the suspect's body, the victim, the witness

The examination has a lot in common with personal search. But according to the Criminal Procedure Code of the Republic of Kazakhstan they are considered as two separate investigations. The task of the personal search includes finding objects, perhaps hidden by criminal in clothes, shoes, and other places. Other places mean- bags, briefcases and other similar items, where evidencecan be hidden and they are searched, as they were foundfrom a detainee. The concept of a personal search according to the article of Criminal Procedure Code of the Republic of Kazakhstan also includes the search for hidden evidence in the mouth, hair and other parts of the body. However, our understanding of the search in the parts of the body belongs to the tasks of the examination. If during the search is assumed that the installation was being searched hide objects in his body or clothing, shoes, then the examination of a person can sometimes be unaware of the presence of his body traces of the crime, but, nevertheless, the penetration into the human body should be under examination, as the procedural aspect, there are differences. Personal search can be carried out without an order and without a warrant in the following cases: during the arrest or detention, during the search. In such situations, does not exclude the possibility of human rights violations being searched. When examination legislator provided guarantees the validity of penetration into the human body, in this connection, consider during the arrest or detention, during the search personal search, if necessary, can be combined with examination

According to the Criminal Procedural Code of the Republic of Kazakhstan Examination is a kind of investigative survey [1]. This investigative action is essential in the investigation of homicide, assault, rape, kidnapping, smuggling of narcotic drugs or other prohibited objects, arson, traffic accidents, poaching, and many others crimes.

The following definition is given in forensic literature: examination - an independent investigative action, realizing on the basis and in accordance with the decision of the investigator aimed to discover any crime and special signs on a body of a suspect, victim or witness [2-6].

The legislator considers advisable to differentiate from the inspection of the scene, the corpse, the subject of a survey. The regulation of these types of inspection was insufficient for examination. Additional requirements need to be introduced. According to 223 article of Criminal Procedural Code of the Republic of Kazakhstan: the mandatory imposition of the investigator production inspection, prohibition investigator present at the examination of a person of the opposite sex, if a survey is accompanied by exposure of the examined, an indication of the inadmissibility of the action, degrading the examined or dangerous to life, health, the need to obtain the consent of a victim or witness for examination, forced their examination is conducted under the authority of the prosecutor re established.

All witness's testimony about the features inherent in the investigation and its difference from all other kinds of investigative examination.

Let us consider what is included in the task of inspection.

The first task is to establish special signs on examined body. Special features can be congenital and caused by profession, intentional or negligent external influences. Congenital signs are considered like the presence of a sixth finger, "harelip" birthmark, warts, double teeth abnormalities of bone structure and others. Caused by profession it means the exterior changes on the human body related to his work. For example, we can see blotches of coal on the skin of miners; calloused thickening in the palms of glassblowers; we can find calluses on the fingers of hairdressers and cutters, workers in the chemical industry can suffer from nail disease, etc. In addition to professional signs should include surgery due to illness of a person being examined, i.e. the presence of scars, piercings, stitches on his body. Intentional or negligent external actions may be different. For example, the presence of tattoos, traces of plastic surgery, etc. It should be noted that the distinctive features can be catchy. They drew attention in the preparation of orientations to search the criminal or missing...

The second objective of examination is to detect, control, seizure on the body of an examined person traces of the crime. Their list is quite extensive. They include injuries sustained in the commission of a crime. These traces can be either on the body of a victim or on the body of an offender - teeth, nails, knives, scissors, forks marks, etc. Traces of crimes include-layering: traces of the material situation of the criminal event (soil, paint, glass, plants, drugs, flour, cement, etc.). Traces - liquids of another person (saliva, semen, blood, sweat, and others.) Traces of weapons and means used to commit a crime (gunpowder particles, soot, explosives, fuels and materials of glass), and others. The objectives of the survey include the detection of traces of the so-called "chemical traps."

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Object and subject of judicial examination in the theory and practice of a judicial expertology

Abstract. In the present article the author considered object and a subject of judicial examination in the theory and practice of a judicial ekspertology.
Keywords. Object, subject of judicial examination, judicial expertology.

Judicial examination – the procedural action consisting in research by the expert (the owner of special knowledge) at the request of the investigator (court) of material evidences, other material objects and materials for the purpose of establishment of the actual data and circumstances important for the correct permission of a criminal or civil case.

Establishment of relationship of cause and effect between the made act and the come negative consequences requires carrying out judicial examinations. Concepts of a subject and object of judicial examination are among key in the theory and practice of a judicial ekspertology . More than forty years there are discussions among scientists-criminalists concerning concrete definition of concept of a subject of judicial examination. It is possible to allocate about seven points of view of different authors on this matter. The first point of view is based that such scientists as G. M. Nadgorny, N. P. Yablokov equate a subject of judicial examination to a subject of the relevant judicial and expert branch of knowledge. Other scientists, such as M. Ya. Segay, consider that the subject and object of judicial examination have identical concepts. R. S. Belkin, V. M. Galkin D.Ya.Mirsky identify an examination subject with her result and the purpose. V. V. Aksenova, L.E.Arotsker, I.L. Petrukhin understand set as a subject of judicial examination resolved by examination of tasks or issues: the authors adhering to the fifth point of view V. D. Arsenyev, V. G. Zablotsky consider a subject of judicial examination from a position of the theory of knowledge; they understand as a subject of judicial examination as "the parties, properties and the relations of object (the main and auxiliary) which are investigated and learned by means (methods and techniques) of this branch of examination for the solution of the questions important for business and falling within the scope of the relevant branches of knowledge".

In modern literature most of authors allocate that it is different concepts. Having analyzed the offered options, it appears, that the subject of judicial examination can be defined as the actual data important for the investigated case, established on the basis of special scientific knowledge. Other scientists identifying a subject and the direct purpose of examination (R. S. Belkin, V. M. Galkin, Yu.K. Orlov, A.R. Shlyakhov) claim that her subject are the facts (actual data, facts of the case) which are subject to establishment by means of examination. In the last publications on a case in point of the similar point of view Ya.V. Komissarova who understands as a subject of judicial examination "existing as part of objective reality the steady, typical phenomena, the facts, circumstances established by science and practice which can

be investigated by means of special knowledge" adheres.

Proceeding from the above, the subject of judicial examination can be presented in three levels:

On the first - the subject of examination is considered as establishment of the facts (actual data, facts of the case) by means of special knowledge of the expert and the research of case papers (objects of examination) conducted by him.

On the second - an examination subject already is "information obtained as a result of research by the person possessing special knowledge about the object presented by the investigator or court" which serves for establishment of the above-stated facts.

At the third level the subject of examination is treated even more deeply: he is understood as the parties, properties and the relations of objects investigated by the expert by special methods and means for the purpose of obtaining information, to the necessary investigator or court for establishment of the facts having evidentiary value. Therefore, a subject of concrete expert research will be the properties of object determined by a task of the investigator or court in the form of questions.

The concept of object of examination should be considered from the point of view of science and practice. In relation to concepts of science of judicial examination, the object of judicial examination is a sort (look) of objects, any class, category of the objects which are characterized by the general properties. In practical expert activities - it is the certain subject (objects) arriving on research to the expert. It, generally material evidences. Treat them: displays of people and animals, objects, mechanisms, units, parts of these objects, substances, materials, products, documents and printing products, corpses of the person and animals and their parts, various objects of a vegetable and animal origin, etc. Besides, belong to objects of examination events, the facts, the phenomena and other non-material objects which need of studying in the course of investigation demand special knowledge and carrying out expert research. However studying of these events, the facts, phenomena and other non-material objects is carried out by research of material data carriers about them.

Having analyzed definitions of object of examination, R. S. Belkin has drawn a conclusion that "material educations (material objects) and processes can be objects of judicial examination. Objects (material evidences, samples and their complexes), documents, people, animals, corpses, vehicles concern to the first". To the second – various processes (the phenomena, events, actions).

Understand objects of a material world which properties allow the expert to establish the facts relating to an examination subject on the basis of his special knowledge as the general concept of object of examination. According to D. Ya. Mirsky, the general object – "the concept designating theoretical set of one and all data carriers which are investigated during production of judicial examinations". Besides the general concept of object of examination as data carrier differ a generic term (specific), concrete and direct objects. The patrimonial (specific) object is a set of the objects possessing the general signs. The patrimonial (specific) object plays an essential role at differentiation of separate childbirth (types) of examinations. The individual and unique object defining specifics of concrete expert research is called as concrete object. The direct object of research is allocated because the same material data carrier can be object of different types of examinations. In this regard it is advisable to define those parties, properties of object which are exposed to research.

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Detection and research of microobjects

Abstract. In article the general characteristic of classifications of mikkroobjekt in criminalistic is considered by science. To be provided by authors recommendations of detection, fixing, to withdrawal of traces of hands, footwear, teeth, tools of breaking, bullets, sleeves, traces of gunpowder, explosives, etc. from the scene.

Keywords: traces of hands, inspection of the scene, microenvironment, detection, examination

But in criminal investigation practice the situations can be faced when there are no orthodox traces, but crime is solved - criminal is uncovered with the help of such material traces which are difficult for identification by criminalist working together with the detective officer on the scene due to their (traces) microscopic sizes. But been directly or indirectly linked to the crime circumstances, criminal or his victim, weapons, tools of the crime they become criminally valuable and even can play a role of the evidences within the process of establishing the facts and circumstances of the crime. We are talking about such traces which can be referred to the micro objects. The interest to various kinds of fine and finest objects was taken by the criminalists long time ago. Even G. Gross in his time declared the necessity of collection of the dust-like particles. But for the last three decades forensic value of the micro objects rapidly increased.

For the last century forensic science developed such branches as tracology, legal ballistics, criminal explosive science, etc.; within this scientific branches the recommendations are given regarding to identification, fixation, withdrawal these traces (traces of hand prints, shoes, teeth, brake-in tools, bullets, shells, traces of gun powder, explosives, etc.) from the crime scene. Methods of research of these objects were developed; it is known what circumstances could be established with the help of handprints, brake-in tools, bullets, gunpowder traces, explosives, etc., all process' participants are aware what their role in the general subject of testimony.

In cases of murders, injuries, rapes, thefts, traffic accidents there are always remains material traces. These traces are various on origin nature, mechanism of genesis, sizes, etc. Carriers of these traces can be various elements of material scene of the crime: criminal, his cloth, shoes, murder weapon, means used by the criminal, victim, his cloth or shoes, victim's personal belongings; if the crime occurred inside or outside - traces remains on the floor, ground, furniture, etc.

This can be explained by the following reasons:

1) general development of forensic equipment and as a result investigative authorities are equipped better with more advanced scientific and technical means; 2) new expert methods,

which enable research of small amounts of substances and materials (electronic microscopy solution methods, etc.); they provide "obtaining" of the information from the micro particles which was totally unavailable earlier;

3) often can be noticed the absence of the traditional traces such as fingerprints, shoe's prints, damage of brake-in tools; traces also can not be identified due to professional criminal's actions [1. p.45].

At the same time micro objects could be found in many cases as a result of skilled performance of detective officer and experts during the process of investigation. One of the peculiarities of the micro objects - impossibility of their total destruction by the criminals and this circumstance significantly increases the role of micro objects other material evidences. There all good reasons to presume that value of the micro objects will continue to increase in the struggle against crime in the future.

The classification of the micro objects in forensic literature are divided on the origin source. On this reason they can be divided on three groups: 1) organic origin; 2) nonorganic or mineral origin; 3) mixed origin [2. p.4]..

The first group includes hairs of man and animals, fibers of phytogenic or zoogenic tissues, particles of various grains, plants, etc. Micro particles of various metals and alloys (silver, coper, iron, aluminium, etc, as well as particles of soft coal, silicified sands, cement, asbestos, etc) are referred to the second group.

Third group is formed by the micro particles which consist of substances of organic and mineral origin such as soil or dust.

Micro objects can be distinguished on microtraces and microparticles. If micro object is separate from carrier of the traces it is called micro particles, micro traces are the micro objects which are not separated from the object-carrier of the traces. Microtraces can be the traces of the application, inclusion, overlaying or intrusion. Traces of the overlaying are, for instance, micro particles of the hairs, cellular elements or other particles of human body as well as textile fibers "overlaying" the weapon of the crime within the contact to cloth and body of the victim. Such traces can be reserved during several month. Traces of inclusion as a fines particles of metal and other objects can be found in the cloth, human body, floor cover, homeware, etc. Overlaying traces often occurred in such cases when overlaying substance or trace carrier has adhesive features. Overlaying traces can be formed by liquid or semi-liquid substances as well as dust, ash, etc. Intrusion traces occurred within the penetration of some liquids (blood for instance) in the fabric, paper or other objects.

Identification and much less research of micro objects requires not only experience and skills but usage of different devices. That is why the target of the detective officer is correct identification of the subjects which can contain traces and their timely withdrawal with precautions which exclude losses of individual micro particles or contamination of the trace carrier with the foreign traces. The research of withdrawn by the detective officer carriers of the traces (cloth, etc.) is provided by the expert. Depending from the character of micro particles identified, their nature, composition, structure expert review can be provided as complex with participation of chemists, processing specialists, biologists, microbiologists, botanists, medicolegists, etc. Participation of dedicated specialists in the process of expert review is established by the leading expert, whose task was to identify micro object on trace carrier provided by the detective officer. Trace carrier of micro object can be cloth (shoes) of the criminal or his victim, outwash from the hands and other parts of the victim or criminal, weapon of the crime, interior details of the crime scene and many others.

Let us review examples when identification and research of micro objects allowed to direct investigation on object oriented search of the criminal and approve his guiltiness; in other case it allowed to established vehicle which knocked down a pedestrian.

As for the first example bodies of two women after sexual abuse were found during insignificant lag time (less than a day) in one of the suburbans of city M. In order to set out the lead of attack of both woman by same single criminal the following reasons were considered: approximately one and the same

time (11 p.m. of local time), one area of crime scene, both women had traces of stifle (choke) by hands' fingers. Detective immediately sent women's cloth withdrawn from the crime scene for the expert review of materials and substances before sending them to mortuary. Cloth in both cases was packed in accordance with methodical requirements. Expert had the following questions: if there are foreign overlayings on the clothes of the victims, what is their nature and purpose. During research of clothes of women expert found micro objects represented by particles of metal chips. Comparative research of these particles with the help of electronic microscope «Stereoskan» indicated that cavities and edges on the surface of the chips formed by the contact with cutter have the same distances and configurations; micro x-ray and spectroscopy analysis indicated similar elemental composition of metal of the chips. During expert's review period and measures of inquiry three more lethal rapes of women took place. Workers from the plants and workshops nearby the crime scene went through the operative process. During arrest of the criminal his clothes were withdrawn and sent through identification expert review which helped during his uncovering.

There are plenty of examples which will draw the value of micro objects within the process of establishment of circumstances of criminal case about murder, rape, theft, traffic accidents, etc., it is necessary to notice that situations are very difficult when practical workers use micro particles as evidences (no witness or traditional traces). It is critically important to timely and correct withdraw the objects from crime scene surface of which during the crime can carry micro overlaying. There are examples when criminal avoided amenability due to neglected recommendation of criminalists regarding to the value of micro objects and rules of withdrawal.

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Forensic medical examination of living persons

Abstract. In the present article the author considered questions of a forensic medical examination of living persons.

Keywords: forensic medical examination, survey, forensic medicine.

The forensic medical examination of living persons on frequency wins first place in medico legal practice and is carried out in very various occasions arising in criminal, civil and administrative cases.

Main types of examination is the following:

1. Examination of injuries for: establishments of existence, character and weight of harm to health; definitions of extent of loss of the general and professional working capacity.

2. Examination of a state of health.

3. Examination of disputable sexual states, crimes and other sexual actions;

4. Examination of establishment of age;

5. Other types of examination: an exception or paternity proof and motherhood (in cases about disputable paternity, motherhood and in cases of substitution of children); determination of alcoholic intoxication; identification of the personality, etc.

The forensic medical examination of living persons is made under the resolution of investigation authorities or by definition of court. On criminal cases of private charge expertise can be carried out in the direction of bodies of inquiry (militia) or court.

The forensic medical examination at determination of weight of harm to health on frequency wins first place in medico legal practice and is carried out in very various occasions. If researches are conducted by the forensic scientist under the resolution of representatives of investigation authorities and inquiries or by definition of court, then in these cases they have character of examination and are made out in the form of "Expert opinion". In other cases, so far as concerns causing a little harm to health and the victim appeals with the complaint directly to court as so-called "private charge", criminal cases aren't brought and preliminary investigation isn't conducted. In such cases in the written directions given in departments of militia or in district courts make survey of the victims and results make out in the form of "The act of medico legal survey".

According to the Code of criminal procedure of the Republic of Kazakhstan for establishment of character of injuries carrying out a forensic medical examination is obligatory.

Survey of the victims, defendants and other persons is carried out in special department of Bureau of a forensic medical examination. In cases if the victim is on hospitalization which can continue a long time, survey can be carried out in the place of treatment. Expert conclusions about damages are based on the objective data obtained at survey of examination and studying of originals of medical documentation (medical records of the inpatient, medical records of the outpatient). The correspondence examination only according to medical documents, that is without corporal appearance of the victim, is allowed in exceptional cases. The investigator has the right to be present at production of any examination including medico legal, at survey of the suspect or victim. An exception is only survey of the person of other floor.

The forensic medical examination is preceded surely by an identification surveyed, clarification of circumstances of causing damages, fixation of complaints and other information important for giving medical certificate; acquaintance to materials of criminal case and original medical documents. In case of need the expert declares to the representatives of judicial investigating authorities who have appointed examination, the petition for representation in his order of additional materials. The forensic scientist, estimating character and duration of a trauma or violations of the functions connected with damage has to proceed from the objective data established in the course of carrying out survey. At the same time such feature as an exacerbation of the previous diseases after infliction of harm to health, and also other consequences arising owing to casual circumstances, specific features of an organism, shortcomings at delivery of health care is surely considered. In similar cases the forensic scientist is obliged to note in the conclusion nature of the come deterioration or complication of a state of health of examination and his causal relationship with concrete injury.

The technique of carrying out a forensic medical examination of living persons in many respects is defined by an occasion in which it is carried out the purpose and problems of examination. At the same time, survey of the victim passes through a number of consecutive stages:

1) acquaintance with facts of the case;

2) studying of medical documents;

3) poll of examination (collection of information about receiving damages);

4) survey of examination 5) carrying out special researches;

6) drawing up the expert document.

First of all, the forensic scientist studies the resolution of the investigator or definition of court. The investigator also gives to the expert an opportunity to get acquainted with the materials of criminal case necessary for making the conclusion. The place and time of an event who and under what circumstances has sustained damage becomes clear. Features of the injuring subject to which damages have been caused are specified.

Medical documents are part of case papers and have to be presented in the order of the expert in the form of originals. Medical records (out-patient and the inpatient) contain data of rather initial picture of damages which character can change as a result medical manipulations, processes of healing and development of complications. Besides, during acquaintance with medical documents nature of the provided medical care becomes clear. Explanations of examination are necessary for clarification of their compliance or discrepancy to objective data. The solution of the matter is one of important problems of many types of examination of living persons. During collecting data on a trauma, the forensic scientist has to ask only questions, necessary for carrying out examination, not state doubt in truthfulness of explanations examination of these or those circumstances concerning an essence of events in connection with which expertise is carried out. Depending on features of a concrete case the following methods can be used:

1. X-ray research - the most often applied method in practice of a forensic medical examination of living persons - allows to carry out diagnostics (at suspicion on a fracture of bones or for establishment of the prescription which was traumatized on a bone callosity), and also to find alien objects in a body; besides, by means of this method it is possible to judge a form of bullets, nature of dispersion of fraction, of features of an arrangement of metal applications at the edges and in a damage circle, and in some cases even to define the direction and the course of the wound channel and to establish the direction of the operating force at blows by blunt objects.

2. The microscopy - allows to reveal damage details, and also foreign particulates, pollution, to express prescription of causing damages.

3. The photo (illustrative, research or imprinting) - which gives an exact idea of a damage arrangement, and research, besides, allows to reveal features of the damages which are poorly defined or even not distinguishable with the naked eye;

4. Chemical research - defines the gunpowder remains in the field of an entrance fire opening on skin and clothes of the victim, establishes availability of toxic agents in biological liquids and allocations of the victim, and also a chemical composition of allocations from wounds and contents of cellulitis at suspicion on their artificial origin.

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Role of natural, exact and legal sciences in judicial handwriting examination

Abstract. In the present article the author considered a role of natural, exact and legal sciences in a judicial handwriting expertise

Keywords: Handwriting examination, hand-written objects, handwriting .

The fundamental basis of a judicial handwriting is formed by three big blocks of scientific disciplines:

- provisions of sciences of a natural profile and psychology;
- provisions of the exact sciences – mathematics, theories of recognition of images, probability theory, etc.;
- legal, including legal sciences.

Provisions of natural sciences and psychology as it was already noted, form natural-science basis of judicial handwriting examination, and the leading place among branches of knowledge on which scientific bases of research of handwriting are under construction, belongs to anatomy, biomechanics, physiology of higher nervous activity, physiology of movements, psychology.

On the basis of provisions of these sciences the motive anatomy of process of the letter which gives the chance by result of the letter is studied – manuscripts to make idea of what types of movements are used in the course of the letter by what links of the motive device they are carried out. Process of the letter – the motive act, difficult and thin on coordination, therefore the problem of research of management of him in a judicial handwriting is one of the most difficult. The mechanism of the letter and management of written and motive process are studied from the point of view of those his features which reflect identity, stability and a variatsionnost, and also selective variability of skills of the letter and shown in the manuscript.

In a judicial handwriting the purposes research of the mechanism of the letter and problems of management isn't limited to it norm, i.e. process of the letter in usual conditions. By production of examination of handwriting the documents executed in various unusual conditions and an unusual state (in the dark, in moving transport or in a condition of a stress, intoxication, etc.) can be objects of research. Very often the expert should investigate the manuscripts written by consciously changed handwriting for the purpose of masking.

Research of the mechanism of the letter and features of management in these cases allows to study an origin, volume and nature of the changes coming in handwriting, to estimate a possibility of his conscious distortion by the particular writing persons. In this regard in development of a judicial handwriting , except the sciences noted earlier, the great value is got by separate sections of psychology, neuropathology and psychiatry.

Problems of perception, memory, reproduction have a direct bearing on such cases as conscious change, and, in particular, imitation handwriting or the signature of other person. At research of the manuscripts containing pathological changes of handwriting it is better to reveal and study them clinical data of the violations coming in the letter mechanism in connection with a disease help.

Use of these natural sciences and on their basis further development of problems of a judicial handwriting put the last on a strong scientific basis. The judicial handwriting as branch of knowledge includes the necessary data which are result of development of other sciences, and also specially developed for the purposes of judicial examination of handwriting.

In development of a judicial handwriting mathematical theories and approaches, automation of research processes, use of the modern computer equipment and tools have great methodological value. The statistical nature of many the hand writing of regularities has predetermined wide use of provisions of probability theory and mathematical statistics in development of theoretical concepts and methods of expert research the handwriting of objects. In a basis of development of many methods, now in use in scientific researches and production of examinations, probabilistic approach and the statistical analysis are put.

The criminal and the theory of judicial examination – science of a legal profile, is same the nature and a judicial handwriting . Therefore basic provisions of criminal and science about judicial examination in the form of their general doctrines and theories enter a circle of the knowledge fundamental to a judicial handwriting it is the theory of criminal identification, the doctrine about criminal diagnostics, the doctrine about a subject, object, tasks, methods of judicial examination, etc.

Any subject judicial and expert field of knowledge is directly connected with the public relations regulated by rules of law which predetermine specifics of the objects of expert research getting to the sphere of investigative and judicial proof on concrete categories of affairs. In this case are the hand-written texts and signatures which are available in different documents. Types of documents to a certain extent depend on nature of cases which are investigated in different types of legal proceedings – criminal, civil, etc.

Specifics of hand-written objects cause an orientation of the corresponding scientific developments in the field of a judicial handwriting. For example, relevance of creation of theoretical bases and methods of judicial handwriting examination of signatures was dictated by practical requirement of all types of legal proceedings as signatures in them are always present at quality of the object essential to proof in the course of investigation and consideration of concrete affairs.

In this regard fundamental value buys the standard material containing a legal regulation of judicial examination, and also the relevant provisions of branch legal knowledge. Standard sources, is the substantive and procedural branch law, and also the Law RK "About Judicial and Expert Activity". For subject expert fields of knowledge provisions of legal branch scientific disciplines and, first of all, the theory of proofs in criminal, civil processes, and also many others, belonging to legal status of participants of process and, first of all, the expert, to his rights and duties, forms of participation of the expert in process at various stages of legal proceedings have fundamental value.

The legal regulation of examination as evidentiary facts predetermines requirements to which all expert activity, including activity of the handwriting expert has to answer. In the Law the basic principles of judicial and expert activity to which are referred are formulated: legality, observance of the rights and freedoms of the person and citizen, the rights of the legal entity, and also independence of the expert, objectivity, comprehensiveness and completeness of the researches conducted with use of modern achievements of science and technology in practice can be used only those scientific methods which place in a technique of examination is accurately defined. These are, as a rule, the methods which have undergone experimental and practical testing.

In structure (hierarchy) of methods of a judicial handwriting the general gnoseological base is formed by a method of materialistic dialectics. In relation to this concrete field of knowledge it in unusual way refracts in all-informative (private) and special methods. All-informative methods have a general meaning for all sciences, however they concern a piece of knowledge not in general, and his some certain party. By the nature these methods can be logical and empirical (natural-science).

Typical examples of all-informative logical methods – the analysis, synthesis, comparison, analogy, a hypothesis, extrapolation, mental experiment. Treat group of empirical: supervision, measurement, description, comparison, natural-science experiment, modeling (physical and mathematical), etc. All these methods, in turn,

are realized in the special methods developed in relation to the purposes and objects of concrete science, in this case – a judicial handwritting

Due to the great value in development of a judicial handwritting of natural-science methods we will stop on their features.

The supervision method assuming purposeful, systematic perception of object of knowledge for detection of its essential properties and the relations is very widespread in criminalistics. In system of methods of a judicial handwritting he possesses one of important places. In a judicial handwritting his association with other methods, i.e. use in a complex of informative means, application of tool and technical means, mathematical processing of results of supervision is characteristic of modern scientific developments. A specific form of supervision in a judicial handwritting is the synthesis of practice which is of very great importance for definition of scientific researches, improvement of expert activity.

Measurement as a method of research of the quantitative party of the properties studied the hand writing takes the increasing place in system of informative means of a judicial handwritting, especially during creation of methods of research small-volume the handwritings of objects – signatures, short records concerning which use of qualitative and descriptive (traditional) signs isn't enough for the solution of a problem of examination. For research of these objects of property of handwriting are studied at the quantitative level, i.e. will be parameterized (are algoritmizirated allocated and measured).

The description as a research method in a judicial handwritting acts as means of fixing of the results received by means of other methods and as means of their systematization.

The comparison method consisting in at the same time correlative research and an assessment of two and more objects possesses very important place in expert knowledge, especially in the course of the decision identification judicial почерковедческих tasks. However this method is widely used also in scientific developments, for example, it is of very great importance for identification of a ratio of properties and signs when studying their change under the influence of various "forcing-down" factors for development of methods of the solution of diagnostic tasks.

The experimental method is a method of research by means of which artificial reproduction of object or his statement in the certain conditions answering to research objectives is reached. Considering handwriting as result of the written and motive function based on a functional dynamic complex of skills, criminalists by means of experiment learn regularities of formation and manifestation of the main properties (qualities) of handwriting – his identity, stability, variation, selective variability. Experiment in a judicial handwritting became effective means of identification as rigidly determined, and probabilistic statistical regularities. Very closely he unites with modeling.

Modeling – creation and use of models with the informative purpose – was strongly included into a judicial handwritting from matematizatsiv this field of knowledge. Model – "such mentally represented or financially realized system which, displaying or reproducing object of research, is capable to replace it so that her studying gives us new information on this object". Mathematical modeling which various aspects are in details considered in special literature is especially developed in a judicial handwritting. On his basis many methods of research and an assessment of signs intended for the solution of identification and diagnostic problems of examination of handwriting are under construction. So, for example, development of methods of an assessment of coincidence of signs of handwriting was preceded by pilot studies of frequency of occurrence of signs of handwriting in certain objects, and also use of probabilistic models for an assessment of originality of a combination of these signs in handwritings of different persons. In a judicial handwritting also figurative (physical) modeling of objects, in particular – small-volume, allowing to put by means of computer technologies object in the conditions convenient for high-quality and quantitative studying of its properties is used.

Special methods and techniques of judicial handwriting examination are very

numerous: qualitative and descriptive, graphic, tool, quantitative (model), computer, complex.

Characteristic features of system of methods of judicial handwriting examination are:

a) plurality of the used special methods, computer and tools and methods of research;

b) broad attraction and adaptation of methods of other sciences: physiology, biomechanics, psychology, mathematics, technicians;

c) the complexity of approach to knowledge of object providing detection of its versatile properties: structural and geometrical, spatial and orientation, dynamic.

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Features of judicial and accounting examination within a judicial expertology

Abstract. In the present article the author considered features of judicial and accounting examination within a judicial ekspertology

Keywords: Examination, it is judicial – accounting examination, accounting.

Judicial and accounting examination represents expert research which purpose is establishment of the circumstances necessary for drawing up the conclusion on a criminal or civil case.

The main normative documents regulating an order and the bases for purpose of examination are: Criminal procedure and civil and procedural code. Bodies of inquiry, the prosecutor or court within investigative or trial can initiate carrying out examination, at the same time the area of research is limited to those economic operations (and their reflection in the account) which became object of interest of bodies of investigation.

At purpose of judicial and accounting examination during investigative process the resolution in which are specified is formed:

• bases for purpose of examination

• the expert to whom production is entrusted

• questions on which it is necessary to provide expert opinion

• the materials transferred for research.

As the judicial expert can be attracted both specialists of the state specialized organizations, and the persons which aren't them, but on condition of possession by them the qualification level of the expert and passed certification as the judicial a certain specialty expert in the order provided by the law. The

court (investigating authorities) has the right to address the expert only in questions within the examination charged to him. There are situations when the expert can't take part in process, for example, at establishment of personal interest in outcome of the case or in case the expert is in any dependence (office, related) from the claimant or the defendant.

During examination the chartered accountant analyzes the documents provided to him, registers, a way of conducting accounting regarding existence of the distorting factors and a way (the place, time) distortions, gives an assessment to coherence of accounting operations. Often the following tasks are set for experts:

• identification of the signs of distortion of data of accounting influencing indicators of economic activity

• a reconstruction of the distorted records of the account

• search of existence in accounting records of contradictions

• studying of a possibility of existence of the double account

• reflection of presence of the facts of plunder

• justification of target use of means (legitimacy of expenses)

• assessment of completeness of receipt of material values

• determination of correctness of reflection of accounting operations

• establishment of signs of evasion of taxes, falsification of documents, etc.

The structure of documents which can be requested from the enterprise for studying by the expert depends on that what authenticity of registration data raises doubts at a consequence (court). In case of withdrawal of originals of documents investigation authorities the protocol of dredging is formed and when carrying out examination the judicial expert has to be convinced that the documents provided to him are received on the basis of the resolution about carrying out withdrawal.

Carrying out search of doubtful documents, the expert first of all pays attention to technical research of documents (authenticity of the seals and signatures), checks observance of numbering at the interconnected documents, identity of paperwork (compliance the machine writer of forms, the used paper), existence of information communication (existence of the account cash warrant for delivery of means in the sub report on travel expenses demands existence of the traveling certificate, the expense report, the order on business trip). After carrying out full research of all provided documents, the expert makes the written conclusion in which states motivated answers to all questions raised before him.

Often, the conclusion represents the act consisting of the prolog where data on the body which has appointed examination are specified, facts of the case are briefly described, information on the expert, the transferred materials is specified; the research part containing the description of the process with the indication of the used assessment methods, help data, participation in investigative experiments; final part where the conclusions of the expert in a being of the questions posed which aren't assuming double interpretation are specified. The conclusion is formed in duplicate, one of which remains at the expert conducting research the second is given to the establishment appointing examination. In case of need the expert can be recruited in judicial proceedings for interrogation or an explanation of sense of the conclusion. It is necessary to understand that outcome of the case also depends on how the sense of provisions of the act will be informed court.

As the conclusion is based on special knowledge of the expert, can be sources of both direct, and indirect demonstrations depending on facts of the case. At decision-making the court has to estimate coherence of the expert opinion with other proofs on business, objectivity of a statement of the facts, observance of all legal procedure by drawing up the conclusion, correctness of the technique applied when carrying out research and a set of other nuances. In case the conclusion isn't clear or isn't full, the expert can be called for evidence or purpose of repeated examination is possible).

Nevertheless, it is necessary to mention one way of use of judicial examination, but already for the benefit of the taxpayer. It is no secret that requirements of the tax inspection

about repayment of shortages not always are reasonable, however, the inspection statement in which the evasion sum from payment of a tax in especially large size is recorded, involves not only financial losses, but also criminal liability. In that case it is necessary to prove the fact of lawful calculation and timely execution by the taxpayer of the obligations prior to initiation of legal proceedings. At the attentive accountant idea of the maintenance of claims of tax specialists often arises already during check therefore it is possible to allocate disputed issues. In this situation it makes sense to involve the third-party expert to obtaining the conclusion about correctness of calculation and timeliness of payment of a tax at once. It is necessary to formulate very carefully the questions turned to the expert, competently formulated questions – the key to success. As the period of pre-judicial settlement is short, and the tax inspection is often not inclined to discuss legitimacy of the made complaint, a possibility of the solution of a question in a pre-judicial order is improbable therefore when receiving on hands of the act of tax audit it is expedient to submit a claim about recognition of the act of tax audit by invalid, supporting its received the expert opinion.

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Some problems of judicial examination at the present stage

Abstract. Some problems of judicial examination at the present stage.
Keywords: judicial examination, expert research, expert activity.

Judicial examination is applied field of knowledge and activity. Her existence, a subject and borders are defined by needs of civil society for use of special knowledge at the solution of law-enforcement tasks in criminal, civil and administrative processes. The course of expert research differs from all other creative researches of scientific and practical character, features of scope of application in expert persons - experts, the special scientific knowledge, namely the sphere of criminal, civil and administrative legal proceedings. Legal application of results of expert activity defines specifics of problems of her appointment and production. In the present article it would be desirable to focus attention on problems of involvement in process of the private licensed experts and legal security of judicial experts in general.

Relevance of a subject of this article is caused by existence of a complex of the debatable questions connected with a real assessment and appropriate application by the system of scientific knowledge created for the long period of development in the field of judicial examination. Having arisen initially in criminalistics science, the considered system of scientific knowledge includes the data which are creatively processed for needs of legal proceedings today from various branches

of humanitarian, natural and technical science among which data of criminalistics are only one of components of expert logical knowledge along with data of medicine, psychology, physics, chemistry, biology, etc.

The aspiration to search of optimal variants of the solution of problems of methodological ensuring preliminary investigation and court not with well-known scientific and technical knowledge promoted formation in jurisprudence of the independent direction of the scientific analysis constituted at the present stage of the development in the general theory of judicial examination. At the same time, and it should be stated with regret, development of the new direction of the theoretical analysis of judicial and expert activity has revealed existence of different views among scientists on character and a form of generalization of a scientific basis of judicial examination. From recognition her as independent science (theory) before denial of the independent status by means of ascertaining of the theoretical beginnings of judicial examination as a component of other sciences - such is a range of the judgments which are available in special literature on the matter.

The analysis of practice of purpose of judicial examinations shows that generally judicial and expert researches in criminal, civil and administrative processes are appointed in bodies of judicial examination: Center of judicial examination of the Ministry of Justice of the Republic of Kazakhstan and his territorial divisions; The Center of forensic medicine of authorized body in the field of health care of the Republic of Kazakhstan and his territorial divisions; specialized divisions of government bodies and the organizations to which functions production of judicial examination according to the legislation of the Republic of Kazakhstan is referred. Appointment and production of examination by the persons possessing the state license for implementation of judicial and expert activity or in a single order, is practically not carried out, owing to the conservative relation of judges and law enforcement officers in this connection, traditionally and everywhere purpose of judicial examination is made by courts and law enforcement agencies directly in bodies of judicial examination.

It should be noted that existence of a possibility of appointment and production of judicial examination, not only the staff of bodies of judicial examination, but also persons, out of system of bodies of judicial examination, on legal grounds, is the considerable, progressive, positive factor allowing to realize democratic principles of equality and competitiveness of the parties in trial. The court bases the proceeding decision only on those proofs, participation in which research has been on an equal basis provided to each of the parties. The parties choose during legal proceedings the position, ways and means of her upholding independently and irrespective of court, other bodies and persons. The court according to the petition of the party renders it assistance in receiving necessary materials in the order provided by a procedural law.

Relevance of statement, discussion and solution of problems of scientific character in the analysis of judicial and expert activity is caused also by need of due ensuring protection of constitutional rights and legitimate interests of citizens of the Republic of Kazakhstan at appointment and production of judicial examination. Stated, in particular, it is satirized in connection with a possibility of production of judicial examination before initiation of legal proceedings at objective absence at citizens of the rights of the participant of process. On the brought criminal cases in the considered aspect deserve attention of standard of the criminal procedure law, allowing a possibility of compulsory production of judicial examination concerning witnesses and the victims with their placement to medical institution, for example in cases of need of establishment in the matter of a mental condition of the called participants of process.

Judicial examination, being the instrument of the scientific knowledge used for attraction in legal proceedings of achievements of science and technology demands continuous reconsideration of the applied conceptual framework. In this plan her such conceptual provisions as a subject, objects, tasks, and also the existing system of expert knowledge which classification by classes, childbirth and types

demands search of the new criteria considering real requirements of practical activities need specification. To one of such criteria can serve the methodology of the proving knowledge used for the solution of specific expert objectives and giving the chance to reduce all set of the classes of examinations offered in the theory from nine to four main: criminalistics, judicial medico-psycho physiological, judicial economic, judicial technical.

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Stages of carrying out expert research

Abstract. In the present article the author considered questions of carrying out expert research**.**

Keywords: expert research, experimental samples, separate research.

We will begin for a start with concept of expert research. Expert research-syllabic process in which his separate stages are interconnected and interdependent. In this regard, from the methodological point of view, in this uniform process it is possible to allocate basic elements which form stages of carrying out expert research.

In structure of expert identification research four main stages differ:

- preparatory;
- separate research;
- comparative research;
- an assessment of the received results and formation of a conclusion;

In some cases the technique of examination joins one more stage – receiving experimental samples.

The expert's tasks at a preparatory stage:

– to get acquainted with the resolution, to understand the questions posed and to define their relevancy to his competence;

– to perform preliminary inspection of the presented objects to note whether packing is broken, whether are available on her the witnessing requisites and signatures (the investigator, the expert, witnesses); after opening of packing to examine her contents, to check compliance of investments to requisites;

– to study case papers, first of all with in what conditions of detection, fixing and withdrawal of objects of research and samples for comparison are reflected; to be convinced that for examination those objects which have been found or received during investigative actions have arrived;

– to estimate a representativeness and comparability to the studied objects of comparative samples; at a large number of the presented objects to group them for more

systematic research;

– to prepare technical base of research;

– to define a research order, sequence of application of necessary methods (techniques);

– at insufficiency of the presented samples or case papers to send inquiry for additional materials or samples with the indication of conditions of their receiving.

At a stage of separate research:

– it is carried out qualified (with use of technical means) survey of each object, is formed his characteristic to destination, to design and functional features;

– by application in the beginning of nondestructive methods is established what changes have resulted from a criminal event what traces, fragments belong to direct object of research with object;

– the general and private signs of object of research come to light; on them the traces of the same name are found, signs of the last are studied, stability is noted them (or instability); the mechanism and conditions of formation of traces is defined;

– the same operations are performed also concerning samples, the marking of signs becomes.

As a result of separate research there has to be a clear idea of system of the signs in total individualizing each object.

Comparative research, as a rule, consists of two stages: the first – comparison of the general signs therefore it is possible to draw a conclusion or on distinction of objects, or on their belonging to one sort, a look and group; the second – comparison of private signs on the basis of which the expert can draw a conclusion on existence or absence of identity of objects.

Comparative research is most often conducted by means of special optical devices (for example, microscopes of various modifications).

Expert opinion. Examination comes to the end with pronouncement of the conclusion, to □ □ □ □oe surely has the written form. Mostly the structure of the conclusion consists of introductory, research and final parts. Expert opinions traditionally have the appendix in the form of phototables, schemes, calculations, charts.

Conclusions – the summarizing part of the conclusion containing answers to the questions posed. It is clear, that those conclusions have the highest evidentiary value, precisely, definitely, certainly, unambiguously and categorically confirm (or deny) existence of the fact interesting a consequence.

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Abstract. This article deals with legal laws of forensic technology, the issues about organizational support of technical-forensic work, problems of supplying forensic units' workers with technical tools, and denotes the most significant, legal, organizational and also methodological problems of forensic technology.

Keywords: forensic technology, legal, organizational, methodological problems, technical tools, the investigation of the crime, law enforcement agencies.

Organizational and methodological problems of crime techniques are wide enough and by having a high degree of autonomy, can be divided into separate categories. Relatively special reference to the scientific basis of crime techniques in a number of legal, organizational and methodological tasks, can be noted, that is the basic scientific category in relation to all other specified groups, making improper attempt to put it into one series with them. Talking about general issues of the forensic technology, it can be allocated, first of all, problems of differentiation of the range of problems of the given discipline. It is right to adhere to proven above the division of problems of forensic techniques into legal, organizational and methodical.

Furthermore, analysis of the practice shows that the priority of legal problems of forensic technology indicate 42% interviewed by law enforcement bodies, and the other 22% of respondents pay attention to the organizational aspects, and the rest 36% of respondents believe that the most important methodological problems is in the using of means and methods of forensic technology in the process of disclosure and investigation of crimes [1].

Analyzing the legal issues with criminological aspects, it should be noted, that it is necessary to define the last as a ‘special knowledge` [2]. Indeed, the current level of development of the science and technology advances when dealing with technical and forensic tools demanding a high level of professionalism in operating with them, which the investigator may not have in case of being workload with his own legal challenges.

By denoting the most significant to our days, legal problems of forensic technology, we have to note such an important part of the technical and forensic work as an organizational maintenance of such activities. Specialists note that the technical and organizational support to the forensic work should include the following issues, which generally can be distinguished in the following groups:

- supplying the relevant units of law enforcement by technical means, maintaining the level of their performance;
- personnel work - preparation and retraining of employees, dealing with technical and forensic activities, certification issues [3].

As the analysis of practices shows, we can not emphasize the any one of these groups of tasks - either the first or second groups are roughly equal in importance (there were in priority the organization of technical and supply issues of forensic tools in their work indicated 54% of respondents, whereas the level of training were more important for 46% of our employees).

Although, largely supply level of technical means depends on the material factors, in this regard, there are certain organizational reserves. As for example, there is a urgent issue to timely maintenance and repair the existing techniques. At the present times, there is a situation where employees working on forensic units technology find themselves difficult to operate and maintain. Of course, maintain a certain level of technology in operating state can provide the operator itself, but in fact, it is not a simple task to maintain a criminalist working in a condition of highly sophisticated equipment. It is clear that law enforcement agencies can not fully solve routine maintenance tasks of hardware by themselves. This communication is becoming urgent task of attracting service center companies and firms, which produce this technique.

Probably, we should to solve this tasks by conducting negotiations in department level with firms-manufactures and regions. In this context, it becomes urgent task to train forensic services. It would be useful to appropriate training for data services in basic laboratory businesses for training routine

maintenance and minor repairs of technical means.

In this regard, the role of specialist quietly rises as a person, who professionally does criminalistic activities. In the aspect of technical and methodological problems in working of forensic practitioners, there is a low level of methodological support in regions which have a place to be at this very high centralization of employees training.

The problem of excessive centralization in the technical and forensic training associated largely with the material factors - available in the central regions of the corresponding basis - the scientific and technical base for training. In forensic circles and also noted the relevance of the problem standardization: certification and expert techniques. The article marked the most significant, legal, organizational and methodological problems of the forensic technology, solutions which, of course, ambiguous, but the proposed options will help to specialists in solving the problems of technical and forensic security investigation crimes.

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Tactics of minors interrogation

Abstract. This article describes methods and tactics of minor interrogation. There are basic tactics and methods which help to prevent crime among minors.

Keywords: minors, tactics, minors, investigator, crime.

Relevance of this subject is caused by a tendency of growth of development of crime among minors in the Republic of Kazakhstan. According to information given by Committee about legal statistics and the special accounting of the Prosecutor General's Office of the Republic of Kazakhstan, about eight thousand minors who have committed crimes annually come to light, from them nearly a half is brought to trial. For the last eight years on the republic more than 70 thousand minors are placed in the Centers of temporary isolation, adaptation and rehabilitation of minors for neglect and homelessness, from them about 10 thousand are issued in orphanages and boarding schools. In this regard for optimization of investigation of the crimes committed by minors and with their participation application of psychological knowledge is actualized.

Minors concede to adults in ability to realize an event in general, can not always allocate the main thing, paying attention only to those facts which are interesting to them or have made strong impression. They more often than adults are mistaken at determination of

distances, sequence of actions and events; forget the apprehended events quicker. Possess the increased emotional excitability and unbalance, fast changes of mood and behavioral reactions are inherent in them [1].

At the same time degree of expressiveness of the specified features has individual character and is defined by conditions of development and education of the teenager [2].

Before the interrogated minor meets the investigator, he has to pass conversation with the psychologist, because as the facts that investigators having got used to work with adults are often known begin to intimidate the child, sometimes without understanding that then the child just doesn't make contact with anybody, it promotes isolation of the child owing to what he shows irritability, the depression, melancholy, mental neurosis begins.

The investigator, preparing for interrogation of the minor, has to pay special attention to extent of development of the child or the teenager, influence on him of adults, features of his character. Preparation for interrogation of the minor has to be made even more carefully, than interrogation of adults. By preparation for interrogation of the minor the investigator has to execute a complex of actions:

1) To resolve an issue of the place and duration of carrying out interrogation. It is expedient to interrogate children of younger age in a situation, habitual for them: at school, child care facility, sometimes at their place. On the contrary, at the age of 15 - 17 years the official situation of the place of interrogation exerts positive impact on minors: like a sense of responsibility, they will tell the truth rather. Minor accused (suspect) it is interrogated in a study of the investigator or in a temporary detention center if he is detained or taken into custody. Considering fast fatigue of the child, his inability long time concentrates on the same object, the investigator shouldn't tighten interrogation. If interrogation nevertheless is long, then it is expedient to arrange special breaks during which juveniles should give an opportunity to distract, have a rest behind game, to calm down. Duration of interrogation of minors of the witness and victim of the Criminal Procedure Code directly doesn't limit while interrogation of minors of the suspect and defendant can't continue without interruption more than two hours, and in total – more than four hours a day [3].

For the suspect and the defendant evidence is the right therefore if they give long evidences, then it is their initiative. For the witness and the victim evidence is a duty that creates prerequisites for violation of their rights long interrogation.

2) To define day and time of interrogation. Interrogation of the minor witness (victim) has to be made as soon as possible after a crime event to exclude abandonment of circumstances of an event. Besides, relevance of urgent interrogation consists that minors (especially juvenile) quite easily give in to suggestion therefore can imperceptibly change for themselves own perception for statements of other persons to which they talked prior to interrogation.

3) To obtain information on the identity of the minor. For establishment of psychological contact and definition of tactics of interrogation it is necessary to obtain information about interrogated, his traits of character, a focus of interest, hobbies. For this purpose it is necessary to study carefully materials of criminal case, to interrogate parents or lawful representatives, teachers and other persons.

4) To define a circle of participants of interrogation (the teacher, parents, lawful representatives of the minor, the defender). It is necessary to invite for participation in interrogation minor accused (suspect) of his parents only when the investigator, despite ongoing efforts, can't come with interrogated psychological contact. It is expedient to make interrogation of juveniles with participation of the teacher.

With participation in interrogation of the teacher, and also lawful representatives it is necessary to be convinced in advance that nature of their relationship with the minor won't affect negatively for interrogated. These persons have to be warned about inadmissibility of any hints, leading questions, instructive tone, irritation concerning the minor [4].

The defender who has the right to ask him questions participates in interrogation of the minor suspect, defendant. It should be noted that participation of the defender in criminal legal proceedings is obligatory if the suspect, the defendant is a minor [3].

5) To make the plan of interrogation of the minor. At the same time it is necessary to think over carefully formulations of questions which should be set.

The order of a summons for interrogation as the victim or witness of the minor who hasn't reached sixteen years, summons is carried out through his parents or other lawful representatives. Also call the minors of the suspect and the defendant who aren't held in custody.

On structure of interrogation of the minor not especially differs from interrogation of the adult except that the witnesses (injured), haven't reached 16-year age aren't warned about criminal liability for refusal or evasion from evidence and for giving obviously false testimonies. Before interrogation the investigator explains interrogated need truthfully to tell all known to him on business.

At a preparatory stage the investigator has to come with interrogated psychological contact. Some features have the subsequent stages of interrogation: free story and answers to questions.

Usually free story of the minor is sketchy, confused and inconsistent. Therefore it is recommended to apply the policy strokes helping interrogated to maintain a statement thread. For this purpose the investigator with the maximum care has to send his story to the necessary course. Asking questions, it is important to be convinced that interrogated correctly understood their contents, and if it necessary to divide a question into slightly more concrete and simple.

Upon termination of the free story the questions directed to specification and addition of indications can be asked the interrogated minor. Questions have to be exact and clear [5].

False testimonies of minors, besides conscious refusal to tell the truth, can speak the auto-suggestion increased by influence of adults what minors don't realize, can be a fruit of their imagination or a consequence of unmotivated desire to lie. At imagination in testimonies of minors the lie is stirred with the truth or the thought-up illogical details [6].

Also minors can give false testimonies and for other reasons, for example, feeling of solidarity, fear, shame, threats from accomplices, etc. and it is important to apply the policy strokes directed to change of his position with this account. The policy strokes applied at the same time have to be based only on belief methods. One more means of exposure in lie of juveniles are methods of emotional influence because means of logical belief can be ineffective as owing to misunderstanding interrogated the fact of exposure, and owing to "spirit of a contradiction" peculiar to children and leading to stubborn repetition of obviously senseless lie.

Repeated interrogation taking into account the next moments also can appear effective. If on repeated interrogation the child (teenager) word for word repeats earlier these indications, using at the same time expressions, not peculiar to his age, the investigator has the right to assume that such indications are result of influence of the adult.

It is expedient to make the protocol of interrogation of the minor - having finished interrogation, but not during him. Drawing up the protocol can frighten the minor, generate isolation, influence contents of the given evidences with its officiality.

Interrogation of juveniles in necessary cases has to be followed by the sound recording which is precisely transferring his speech, reflecting an expressional and emotional situation of interrogation.

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Some questions of trasological examination

Abstract. In the present article the author considered some questions of trasological examination.

Keywords: examination, trasological examination, breaking, breaking tools.

Use by criminals of tools of breaking for overcoming of various barriers is connected with formation of the traces specific depending on a type of the used tool, properties of material of a barrier and way of breaking.

Breaking is understood as penetration with a criminal intent into the locked room or storage by means of inactivation of the locking device, destruction of walls, a floor, a ceiling or other barriers. Unlocking of the lock the tried key or a master key also belongs to breaking.

The tools of breaking and tools used by burglars usually are classified on: a) specially made in criminal intents; b) adapted for breaking commission; c) the ordinary tools used for daily needs; d) the objects which have incidentally appeared in the burglar's hands.

At impact of tools and tools on various barriers there are superficial or volume traces. The first when breakings meet seldom. As a rule, they are formed due to stratification on the cracked barrier of various substances (paint, a rust, etc.) which were on the breaking tool. It is possible to find the peeling traces arising at contact of the tool of breaking with the barrier covered with any substance even less often. It is recommended to direct all objects with traces from breaking tools to trasological examination. For the solution of identification questions transfer to the order of experts also breaking tools (if at the time of purpose of examination they are withdrawn). Tools have to be presented in the original.

When it is impossible to direct to examination a subject (object) with traces of tools of breaking or tools, molds from these traces are represented. Besides, traces need to be recorded on a large-scale picture of the cracked object.

The objects directed to examination, molds, tools of breaking have to be packed so that when transporting to guarantee their safety against damage or loss. Packing of the received molds is important. Each of them needs to be turned in a white paper and to place in a box with a soft packing material (cotton wool, foam rubber, etc.). On packing the place of detection of a trace, his type and date of withdrawal, other inscriptions certified by an impress of a seal is specified. Trasological examination resolves such questions as establishment of separate circumstances of commission of breaking, some characteristic signs of the identity of the burglar, identification of tools of breaking and tools on their traces on the cracked barriers.

The following questions are raised for the trasologii expert: whether the lock sent to

examination is serviceable; the lock by means of a master key or the tried key is unlocked; whether it is possible to open the lock without violation of a control insert; in what situation (opened or closed) the lock has been damaged; what type of the tool of breaking has left marks on a barrier (on a door, a window, etc.); from what party destruction of a barrier - with internal or external was made; by what way breaking is made; whether not one tool has left the marks found on different scenes; whether the person, judging by a way of breaking, possessed certain professional skills and with what; whether breaking by means of the tool presented for examination is made?

Trasological examination represents researches - it is researches of traces displays, fragments, scraps, the splinters which are formed as a result of damages or destructions of various objects locking and the fixing devices, and also some products bearing on themselves traces of industrial, handicraft or self-made production

Trasologichsky examination are carried out:

- for establishment of group accessory and identification of various objects on their traces displays (for example, establishments of the person in the wake of his hands, legs, teeth);

- for establishment of accessory of parts to a whole (for example, splinters of farny glass - a headlight of this car);

- for the purpose of diagnosing of the mechanism and conditions of a examination , determination of relevancy of traces to the taken place event, properties and signs of the object which has left a mark, establishments of circumstances at which the mark has been left.

Depending on objects of research and solvable tasks allocate the following types of expert trasological expert researches:

Dactyloscopii researches (research of traces of hands) are made for establishment of the person in the wake of his hands, sex determination, age and other features of this person, the number of the persons which have left marks of hands, detection of some features of behavior of the person on the place of an event of a crime, etc.

The strong object which is affected by the tool, as a rule, is deformed or partially collapses. During the pressing or blow the tool solid material experiences strain. She can be less or more some limit, the concrete material depending on mechanical properties. If loading is small, after her removal material takes the initial form, that is a trace at once or over time disappears. If force of influence of the tool has surpassed the corresponding limit, then there will be an irreversible plastic deformation to formation of the volume trace corresponding to a relief of contact part of the tool. With further increase in loading (force of pressing or blow) depth of a trace will increase and at the edges of him there will be a destruction (shift, a break) of track material to reflection of a configuration of contact part of the tool. The contact surface of track object is reflected in the basis (bottom) of a volume trace back on a relief and is mirror by situation. Completeness and quality of reflection are caused by many factors: force of impact of the tool on object; degree of expressiveness of a relief on track part of the tool; hardness, plasticity and structure of track material. The plasticity more small structure track material is higher, the small signs of track object will be displayed better. Fragile barriers under the influence of tools of breaking and tools, as a rule, collapse and very seldom on the separated particles it is possible to find the traces reflecting any characteristic signs of tools of breaking or tools.

FIRST STAGE OF DETAILED RESEARCH

The trace (a mold from a trace) is in detail investigated for data acquisition, allowing to localize the site of a surface of the checked tool corresponding to him. The trace configuration, his sizes, features of a bottom and edges are studied. According to these data the track mechanism, in particular the direction and size of the made effort is specified. Data on the general structure of a trace form the basis for definition like (type) of the tool by which it is formed. Most often it happens perhaps when in a trace any typical, standard type of the tool is displayed. Upon termination of the analysis of a trace of his part are compared with parts of the checked tool. As a result of this comparative research the expert has to answer questions:

1. Whether this trace could be formed by the presented tool that is whether the checked tool has at least one site of a surface which can leave a mark with the same general structure?

2. If this tool could leave such mark, then what part? On coinciding general signs it is required to localize that site of the checked tool which can form same, as well as investigated, a trace and to exclude thereby all his other parts which it can't be made in general.

3. Under what conditions the studied trace could be formed by this site of the tool? (if necessary it is possible to make experiments).

After the solution of the called questions the expert has a total judgment approximately such conditional type: if the studied trace is left the checked tool, then had to participate in formation of a trace such of his parts, and position of the tool at the time of a track was such as under other conditions to form these traces it is impossible. It is also a result of the first stage of detailed research.

SECOND STAGE OF DETAILED RESEARCH

Here actions of the expert have other sequence. If earlier the analysis of objects began with a trace, then now it is more expedient to study in detail an estimated contact surface, to reveal all private signs of her external structure. These signs of the tool generally will also be taken into account at detailed comparative research with the purpose to check, are observed or are absent in a trace of display of those details which are available for the corresponding part of the checked tool and which if to consider their features, could or had to be displayed on this material. The studied details are compared on their configuration, the sizes and a relative arrangement.

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The value of specialized knowledge in the consideration of environmental offenses in civil proceedings

Abstract. In the article the forms of application of the special knowledge are analysed at consideration of ecological offences on civil cases. Such forms, as judicial examination, consultations, revisions, audit of and other, are shown, their distinction is investigational.

Keywords: special scientific knowledge, expertise, consulting, expert, specialist

Environmental problems in the Republic of Kazakhstan, as in most countries of the world, are currently being considered in conjunction with the economic and social problems. In order to establish the damage caused to the health and life of the population; costs to eliminate the impact of pollution and other necessary evidence it is advisable to involve experts of different specialties.

Contribution to the study of the problems of use of special knowledge at investigation of the crimes made known criminologists -A.N.Ahpanov, A.F.Aubakirov, GA Abdirova, S.F.Bychkova, E.G.Dzhakishev, Zh.R.Dilbarhanova, S.E.Erkenov, A.S.Zhienbaev, A.Kalimova, G.A.Mushatova, B.M.Nurgaliev, K. N.Shakirov and other scientists. Detailed studies of the forms of use of special knowledge in criminal proceedings conducted AA Isaev, SP Varenikovoy [1, 2].

In our research we focus on the procedural forms of use of special knowledge in civil proceedings. Forensic examination in civil proceedings, as well as criminal, is Odno form of use of special knowledge to solve encountered in the civil proceedings, questions. the terms "special knowledge" used in the legislation and the scientific literature, "special scientific knowledge" and "special knowledge". The Code of Criminal Procedure Art. 7 claim 5 concept of expertise is given such an explanation - is not well-known in the criminal trial of the knowledge acquired in the course of face training or practices used to

address the criminal justice problems; special scientific knowledge in the Code of Criminal Procedure Art. 7 p. 6 interpreted as an area of expertise, the content of which consists of scientific knowledge realized in methods of forensic investigations. With this interpretation of these two concepts is difficult to accept. The civil procedural law do not have any explanation on the concept of "specialized knowledge", but it can be assumed that the legislator involves similar content. The term "special knowledge" in procedural and

criminological literature indicate the process of cognition, the process of cognitive activity of the expert, the specialist. The concepts of "expertise" and "special knowledge" are inextricably linked and this relationship can be shown in the interpretation Sakhnova TV She writes: "... the expert operates specialized knowledge, learning

(Installing) new circumstances, the relationship between them and evaluating them. Conclusion expert - the result of the knowledge of how specific activities they carried out "[5, c.14].

Special knowledge within a particular criminal or civil case solves the problem of communication of physical evidence with the other circumstances of the case, ie, It solved the problem of proof, and the expert is based on the previously developed methods and techniques, but it is not excluded in the framework of a specific examination of previously unknown objects to develop a new research method to solve the problem to the expert.

In civil proceedings used several forms of expertise. Existing legislation allows in addition to the forensic specialist to attract to participate in proceedings, consultation (explanation) specialist. There are such forms of application expertise as a translator involved in various legal proceedings, teacher participation in the interrogation of a minor. Legislator implies the use of such forms of expertise, audit, audit. So, in flocks of CPC RK states that the grounds for removal expert or specialist is its participation in the production of the audit, the materials of which have served to go to court or are used in consideration of the civil case. Although the jurisprudence of the audit (audit) are widely used, for example, in cases of bankruptcy, failure to return credits, in cases of non-payment, etc., but the use of these forms of expertise is not legally regulated. A similar situation is observed in the criminal procedure legislation.

Thus, part 2 of article 122 Code of Criminal Procedure provides for the right of law enforcement agencies to require the production of audit and other checks, and in flocks of CPC RK noted that the reason for the withdrawal of the expert or specialist is its participation in the production of the audit, the materials of which have served for the court or

appeal used in the consideration of the civil case.

Engaging experts to participate in the proceedings possible in the study of documents, investigation of physical evidence in conducting on-site inspection, playing sound recordings, video demonstrations, film materials and their study. All of the proceedings conducted by the judge or by the court and, where necessary, appropriate experts skill can be brought to support on the use of technical means in the course of the following, or a proper evaluation of the results obtained by the judge or the court's discretion. For example, a judge can to involve accountants or experts specializing in technical and forensic study documents that in the minutes of the court session appears as a specialist or when the vehicle study may be brought engineer STO employee, an expert in the study of accounting documents, specializing in autotechnical conducting the examination, but in this case, acting as a specialist, etc. Another form of use of special knowledge as consultation (explanation) includes a number of specialist assignments by either party of a civil case, and if that is necessary to fulfill the judge orders (the court). Consulting an expert can be given orally and in writing. After the announcement of the explanation the expert may be questioned.

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Basic concepts of the theory criminalistic identifications, diagnostics and situalogiya

Abstract. In the present article the author considered the basic concepts of the theory of criminal identification, diagnostics and a situation

Keywords: criminal identification, diagnostic testing, criminal diagnostics.

Methodological basis of identification, including its compliance defined (the set, established standard) to characteristics diagnostic and situational examinations is the theory of criminal identification (identification), diagnostics (recognition) and situation (establishments of an event).

Identification serves one of the main means of search of truth in criminal legal proceedings when there is a need for

establishment of communication of the suspect, the objects belonging to him and other objects with the investigated event on the remained traces and other displays.

In criminal practice close concepts are used: individual, group (patrimonial) identification, groups , establishment of group (patrimonial) accessory, differentiation, classification research, attribution, authenticity establishment.

Identification – establishment of the fact of identity by mutual comparison of object and its display.

In the theory and practice of criminal identification distinguish two forms of reflection: financially-fixed a and psycho physical The first is connected with imprinting of signs in the form of material traces and changes. Psycho physical the form of display has subjective character and consists in imprinting of a mental image of object in memory of the person.

Criminal diagnostics distinguishes a condition of objects, learns events, the phenomena, processes.

The word "diagnostics" of the Greek origin also means "recognition", "distinction", "definition". Each of these terms which aren't synonyms is capable to characterize one of aspects of this difficult process. To distinguish – means to establish a certain similarity to already known. In criminal this establishment of similarity of the studied c situation some standard model. To distinguish - to mean to separate, difference this situation from others to it similar.

With the accounting of it the general problem of criminal diagnostics is treated as establishment of objective truth by studying and an explanation of properties and conditions of object.

The most typical tasks is the following:

1. Diagnostic researches of properties and a condition of object at his direct studying.- research of properties of object,;

- definition of the actual condition of object, existence or what-libo lack of deviations from his normal parameters;

- establishment of an initial condition of object;

- definition of the reasons and conditions of change of properties (state) of object.

2. Diagnostic researches of properties and condition of object for his display.

- definition of degree of informational content of a trace;

- establishment of properties and a condition of object at the moment opened displays;

- definition of the reason of change of properties or condition of object.

3. Researches of mechanisms, processes and actions on results (objects, displays).

- definition of structure of the mechanism;

- establishment of compliance of actions to special rules;

- definition of conditions;

- definition of the place of action, position of participants;

- definition of other conditions under which there was an event.

Criminal situation establishes a complex of various signs, objects of private situations of which there is a complete picture of all studied event which establishment of the mechanism demands application of the most various judicial examinations.

Object of such examination is the studied event, and object - a situation of the place of incident.

The questions relating to perfect actions on time, conditions and other circumstances of their carrying out that results in need of identification of causal and functional communications are solved:

1. Whether there is a causal communication between A yes B?

2. What reason of approach of the phenomenon of B?

3. What consequences of the phenomenon A?

4. Whether the reason A, either a consequence of B, or causal communication between the phenomena A yes B the certain called properties possesses?

5. What of the phenomena – A or B – has occurred earlier?

6. Whether there was an opportunity to prevent a consequence?

7. Whether the defendant had an opportunity to expect these consequences?

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Production of examination in court

Abstract. In the present article the author considered questions of production of examination in court.

Keywords: court, judicial examination, purpose of judicial examination.

Judicial examination is the most qualified form of use of special knowledge in legal proceedings. Carrying out examination is the procedural action consisting of three stages: purpose of examination, production of examination, assessment and use of the expert opinion.

At the solution of a question of purpose of examination it is necessary to consider not only the importance at present, but also possibility for any reasons of need for production of examination in the subsequent. That is the possibility of establishment of certain circumstances others, besides examination, procedural means not always exempts court from the solution of a question of purpose of examination. This issue has to be resolved proceeding from a concrete situation. The court appoints examination according to the petition of the party or on the initiative. Each person participating in business, having the right to present to court questions which have to be put before the expert. Finally the circle of questions is defined by court. As the expert the person who isn't interested in business having special scientific knowledge can be called.

Production of examination can be entrusted:

- to the staff of bodies of judicial examination;
- to the persons which are carrying out judicial and expert activity on the basis of the license;
- in a single order to other persons according to requirements of the law.

If the party evades from participation in production of examination or makes difficulties on her carrying out, and based on the circumstances of a matter without participation of this party expertise can't be carried out, the court, depending on that what party evades from examination and also what for her she matters, has the right to admit the fact for which clarification examination has been appointed, established or disproved. About purpose of examination the court takes out definition which can be appealed or protested. In definition of court the expert has to be warned about criminal liability for making obviously false conclusion. For carrying out examination samples are represented. About receiving samples motivated definition is taken out. Samples can be received by the judge personally, if necessary - with participation of the doctor or other expert, or at the request of the judge the doctor or other expert. The received samples are packed and sealed up. Examination is made in court or out of court depending on nature of research or impossibility or difficulty of delivery of objects for research in court session. Reliability and admissibility of objects of expert research guarantees court.

Examination is appointed by the judge, body (official) in which production there is a case of an administrative offense when the circumstances important for business can be received as a result of the research of case papers conducted by the expert on the basis of special scientific knowledge.

Existence in business of acts of audits, checks, the conclusions of departmental inspections, and also the official documents made by results of the researches conducted by experts during procedural actions doesn't exclude a possibility of carrying out examination on the same questions.

The judge, body (official) in which production there is a case of an administrative offense can appoint examination according to the petition of the parties or own initiative.

Production of examination can be entrusted to the staff of bodies of examination or other persons meeting requirements of the present Code. Production of examination can be charged to the person from among offered by the parties. The requirement of the judge, official about a call of the person to which production of examination is entrusted is obligatory for the head of the organization where the specified person works. Preparation in court of materials for production of auto technical expertise and an order of their representation to the expert. If the decision on purpose of examination is made in preparatory part of court session, then questions are usually raised for the expert-auto technician in final part of judicial examination. In such cases two definitions are taken out. The period between these two procedural actions of court is used for preparation of the materials presented to the expert as basic data for research. Only the court is engaged in preparation of materials. The options are prepared by the state accuser, the defender, the defendant, the victim.

The persons participating in the business having the right to be present at production of examination except for cases when such presence by production of examination out of court can interfere with normal work of experts. In case of presence by production of examination out of court of the persons participating in business, obligatory participation of the bailiff is defined by court. At an assignment of production of examination to body of judicial examination the court directs definition about purpose of examination and necessary materials to his head.

The head of body of judicial examination will organize production of examination, establishes terms of her production, exercises control of high-quality carrying out expert research and ensuring safety of objects of examination.

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Separate problems of use of the polygraph

Abstract. In the present article the author considered questions of use of a polygraph.
Keywords: judicial examination, polygraph, legitimacy, method, admissibility limit.

The existing disputable positions on legitimacy of use of a polygraph as one of nonconventional methods of receiving criminalistics significant information are analyzed. The available problems are systematized and the interrelation is noted them.

Everyone the person lives in defined to the Wednesday surrounding, reacts to any here. Each personality is original and demands to herself an individual approach. Quite often traditional methods don't work. And here it is necessary to show activity and to look for new lawful approaches to maintaining a consequence.

The criminalistics as science doesn't exist separately from other sciences. In number closely she can call medicine, in particular physiology on which and work of a polygraph is based. As shows the analysis of various sources, application of a polygraph in law-enforcement presents to activity from the moment of initiation of procedure before acceptance of a final decision and its realization itself multilevel process in which course of execution inevitably there are many difficulties and problems. By criterion of proximity of the reasons and similarities of possible ways overcoming all these difficulties and problems can be divided into six main groups: 1) moral and ethical; 2) standard and legal; 3) organizational; 4) methodical; 5) psycho physiological; 6) terminological.

Throughout many decade poll with use of a polygraph as one of nonconventional methods of receiving criminalistics significant information, is a subject of consideration of criminalists. Considering a question of introduction in criminalistics practice of polls with use of a polygraph, a number of prominent lawyers, among R. S. Belkin noted that for this purpose it is necessary to resolve an issue about moral admissibility of a polygraph method. This problem still was practically not considered in domestic to criminalistics, and in many respects the future psycho physiological inspection on a polygraph depends on her decision.

Considering a question of whether application of a polygraph for fight against crime is moral, M. S. Strogovich wrote: "We reject similar ways because they, being given pseudoscientific shapes, in essence, have nothing in common with original science and can produce only mistakes, perverting a reality Such receptions in legal proceedings resolutely contradict elementary ethical standards and humiliate human dignity of those who are subjected to similar tests". I.F. Panteleev, A.M. Larin and some other authors were so categorical.

Consideration of moral and ethical questions of application of a polygraph is important also on that to the reason that the main the emphasis in criticism of opponents of this method had and it is the share of the moral side of the problem.

The essence of moral aspect when carrying out polygraphological research consists in to allowing violation of the basic constitutional rights of citizens, in particular on integrity of human beings. The constitution Kyrgyz the Republics declares inviolability of dignity of the person and his private lives. Respectively, without voluntary consent any person can't be subjected to scientific, medical or other researches. This situation provides obtaining the written consent to carrying out polygraph logical test in the case considered by us. It is also necessary to consider that, irrespective of results of research, the person only examined has to agree to disclosure of results of a poligraphological checks.

As for a standard problems in general, the general contours of the problem given are clear to all. At her mention usually begin to speak about need of adoption of law on a polygraph. The law is necessary, however it is impossible to forget that there are such standard and legal aspects which are very difficult to stating in the general law as they have especially local character and can change

depending on a situation in which the polygraph is applied.

Today at discussion of future law on a polygraph the main the emphasis is placed on legal definition a condition at which it is possible to apply a polygraph, without violating the rights of citizens. At the same time exists much more difficult legal a question: how to be with results inspection on a polygraph if they have accusatory character? Where legal criteria and possible borders of their application? All know well that fear of people before a polygraph, his critic from various public institutes, and also the possible abuses connected with his use arise not at the level of initiation of application of a polygraph, and in connection with realization the results received with his help.

It is possible to achieve, for example, permission to test on a polygraph of judges or deputies how it is sometimes offered recently, but what we will do with results if they have accusatory character? What specifically a can be applied by these results and within what legal framework they can be used? How it is correct to establish that which would define the correct use of these results? In a it is the standard and legal problem which is slowing down expansion of use of a polygraph. It is obvious that systemically it will be difficult to overcome it within the uniform legislation. At the same time, depending on the purposes and tasks it can quite be solved locally, for example, within only one department. The main thing – clearly and precisely to state all necessary administrative procedures connected with application of a polygraph in the separate normative document.

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Trends in the development of judicial expertise in the Republic of Kazakhstan

Abstract. The author of article considers actual problems of judicial and expert activity in the Republic of Kazakhstan. As this article shows current state of scientific and methodological activity of judicial examinations in non-state legal agencies of the Russian Federation and its tendencies. It defines the only (unique) structure for all types of judicial and expert establishments.

Keywords: judicial activity, new types of expert knowledge of training. Scientific expert knowledge, examination, prosecution expert, expert, law enforcement agencies, qualification, profession, equipment, samples, methods.

Decree of the President of the Republic of Kazakhstan Nursultan Nazarbayev "On further reforming the law enforcement bodies of the Republic of Kazakhstan" dated 22 April 1997, provided for the removal of the production function of the forensic examination of the prosecution with subsequent transfer to the Ministry of Justice. Thus, the foundations were laid for a single expert system within a single department. In order to implement the Decree of the title in the same year it adopted the Law "On Judicial

expertise", which confirmed the function of the judicial examination only for the Ministries of Justice and Health, within their competence. Further improvement of the expert system is enshrined in the newly adopted Law of the Republic of Kazakhstan "On the forensic activities in the Republic of Kazakhstan" dated 20 January 2010 [1].

Issues of improvement of forensic activities devoted to the special decree of the Government of the Republic of Kazakhstan "On establishment of the State Institution" Centre of Forensic Department of Justice of the Republic of Kazakhstan "dated August 11, 1997 № 1245; "On approval of the Instruction on the use of funds from the sale of fee-based services provided by the Centre for Forensic Department of Justice of the Republic of Kazakhstan" dated March 31, 2000 № 486; [1-4] "On signing the Agreement between the Ministry of Justice of the Republic of Kazakhstan and the Ministry of Justice of the Republic of Belarus on cooperation in the field of forensics, "dated July 26, 2000 № 1122; "Some questions of judicial review" of 7 November 2001 № 1414; "On Approval of Rules for the Treatment of objects forensic" of June 4, 2010 № 512; "On approval of the formation and use of the State Register of forensic experts of the Republic of Kazakhstan" dated June 4, 2010 № 514; "On approval of the formation and use of the State Register of techniques of forensic investigations of the Republic of Kazakhstan" dated June 4, 2010 № 515; "On some issues of licensing forensic activities" from November 16, 2012 № 1454; "On approval of the standard of public services for forensic activities" from December 31, 2013. [3-5] An important era in the development of the Republic of Kazakhstan, including expert activity, the Head of State is to determine the priorities set out in the "Strategy" Kazakhstan - 2050 ".

However, in fairness it should be noted that in addition to carrying out union expert functions in one agency at the legislative level fixed measures of a different order. For example, in Art. 80 of the new Code of Criminal Procedure of the Republic of Kazakhstan dated July 4, 2014, comes into effect from January 1, 2015 (hereinafter - the Code of Criminal Procedure) states that "as a specialist to participate in criminal proceedings can be instituted are not interested in the person, possessing special knowledge. " These legislator teachers, psychologists and physicians. [5] In addition to these persons, h. 2, Art. 80 Code of Criminal Procedure states that "as a specialist to conduct research and provide an opinion may be called an authorized officer or a law enforcement unit of a special state body of the Republic of Kazakhstan." Thus, in the new Code of Criminal Procedure, compared with the current, expanded the circle of persons who may be involved as a specialist [6].

At the same time, I consider it appropriate to consider the possibility of establishing teaching groups composed of highly qualified experts of our countries, that could undertake the training of young specialists in the relevant fields [4,5]. It is advisable to consider also could present experts who could share their experience with novice generation of expert staff. Implementation of the above measures will make a substantial contribution to the protection of the rights and freedoms of man and citizen, which stand guard over the law enforcement agencies and the courts of the Republic. At the same time, the role of the Forensic Center of the Ministry of Justice of the Republic of Kazakhstan is not less important, as we provide them with work in expert studies [4].

In determining the Kazakhstan Government policies and guidelines of the reform program in the field of forensic activity, as well as strengthening the profession of court experts, research excellence and international standards in the field of forensics and development of forensic activity, reform of the justice system as a whole, it would be desirable to address such topics as professional and independent expert in particular, and, consequently, a fair trial. Every citizen of the Republic of Kazakhstan has the right to a fair trial. It follows that the examination should be impartial and independent. Litigants are entitled to procedural safeguards in relation to the examination, and the right to ensure that the examination was considered as part of the

adversarial principle. Of course, much depends on the skill level of experts and experience, which, as we know does not come immediately [1-2-6].

This is due to the fact that now an aspiring expert, who has passed the qualifying examination, virtually no experience, just proceed to the study of materials of different complexity. For example, in France the examination of criminal cases assigned to two experts. In the courts of England and Wales as if in the course of cross-examination, the lawyer will be able to demonstrate that the experience and qualifications of the expert, shall we say, untenable, this will affect the credibility of the expert report or a judge may cross-examine the expert as a "hostile witness". But an expert with years of experience over the years formed a kind of "gut feeling", based on practical experience, which will not get lost in the moment. In our opinion, the study of these complex examinations as political or social resonance, it is necessary to entrust experts specialized in critical studies [3]. As in many Western countries, for example, to limit their deadlines. The study of international experience in the field of forensic activities and the allocation of a very important and necessary, of course, the correct approach to the development and improvement of forensic activities in Kazakhstan, but also a need to develop their own creative side, ie constantly invent something new, adapted to our conditions of development and mentality. For example, following the example of consultation in health care workers, which in case of a difficult situation together confer and discuss the diagnosis and treatment of patients [4-5]. The expert activities as there are difficult situations in dealing with certain tasks where they have to decide one way or another expert, tasked with the study [4].

The evolution of scientific ideas from the development of the theoretical foundations of forensic science in the formation of an independent forensic examination - a natural way of thinking about the expert practice and the creation of public and private teachings on the subject, objectives, content and methodology of the general theory of judicial ekspertizy. Pod influence of new scientific ideas and theories that have arisen in an era of scientific and technological revolution, there was a qualitative leap in the development of methodological foundations of forensic embracing her general theoretical and methodological problems. It has defined the task of intensifying research in the field of forensics by combining the theory, techniques and practices in the framework of cognitive structure. As a result of considerable research and search activities were created preconditions and developed methods to address legal, forensic, administrative and other tasks to be implemented in the area of legal activity on the basis of information technologies. Significant results were obtained in relation to the forensic activity. At the heart of the intensive development of information technologies laid the continuous increase in the flow of data coming to man.

Before forensics as a science is a whole range of problems, among them a central place takes the practical development of its scientific and technical fields. At the same time great importance is attached to the introduction to the theory and practice of the most efficient and accurate methods of research [3-4].

It is also not a small plays an important role training experts. For example, in Ukraine that according to Ukrainian legislation forensic examinations can be carried out by experts of state expert institutions and experts working on their own (individual experts), which on a professional basis are engaged in forensic activities (Art. 7 of the Act). As to public and private experts nominated almost the same requirements. Based on the provisions of the law, legal experts may be persons with relevant higher education, education and qualification level not lower than the expert, are adequately trained and qualified as a forensic expert in a particular specialty (ch. 2, Art. 10 of the Act). In addition, the law also provides that a forensic examination (except for forensic species) may be involved experts who are not employees of the state expert institutions. In accordance with the requirements of the law, they must also have the appropriate higher education, education and qualification level not lower than a specialist to be trained in state specialized expert institutions of the Ministry of Justice of

Ukraine, to pass a certification exam in Central expert-Qualification Commission of the Ministry of Justice of Ukraine and qualify court an expert in a particular specialty, in the manner prescribed by this Law (Art. 3 of Art. 10 of the Act), and to be introduced in the State Register of certified court experts (Art. 9 of the Act). The above-mentioned legal acts in general, the procedure for access to the profession of court experts, in particular govern the procedure for the passage of and training in order to qualify as a court expert by their further certification, as well as confirmation of qualification of the assessor. In accordance with the Regulation, the preparation of the state forensic experts Research Institute of Forensic Expertise of the Ministry of Justice of Ukraine, held in these expert institutions. As a rule, such a specialist is credited to the state institutions.

For the preparation of an expert, a corresponding individual plan of lectures and practical work. Because of experts with more than five years of experience of the expert work in the relevant specialty, fixed Training Manager, which is responsible for providing methodological assistance in the preparation, giving clarifications on issues related to the research process, the immediate practical exercises, joint exit to familiarize themselves with the object of study (in the case of the object outside expert institution), as well as assisting in the drafting of reports and abstracts on the procedure and special issues. The final part of the training of the assessor is to review project reports and essays by experts who did not participate in the preparation of the expert. Implementation of the plan of training and positive reviews, prepared by an expert.

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Latent crime: concept and essence

Abstract. In article the problems connected with latent crime and its prevention are in a complex analysed, studied history of institute of latent crime.

Keywords: crime, latent crime, prevention of crimes

In criminology, the part of criminality that for some reason is not reflected in the criminal judiciary statistics and does not become the object of criminal judicial proceedings. In latent criminality, crimes remain unknown to the authorities who have the duty to institute criminal proceedings because the criminals conceal their actions or because the victims and witnesses are unwilling to appeal to the authorities. Latent criminality also includes crimes that became known to officials or the competent authorities but were not registered because of the shortcomings of the system of crime accounting or as a result of negligence on the part of the officials.

The level of latent criminality differs for different crimes and is minimal for serious crimes (for example, assaults upon life or health of a person); the level is somewhat higher in connection with such forms of crime as theft. The existence of latent criminality makes crime analysis more difficult and adversely affects crime prevention.

One of the most pressing issues of our time, affecting essentially all aspects of social life and, in particular, poses an imminent threat to the implementation of economic reforms, social destabilization factor is the steady growth of criminal manifestations, the increase in the share structure of the crime of grave and especially grave crimes, organized crime and proliferation corruption. This state of affairs actualizes the efforts of law enforcement agencies to ensure control over the crime, its prevention. However, a prerequisite for this is the knowledge of the true extent of crime, handling performance of its actual state, not just the part that is reflected in the official data of criminal statistics.

Latency - the concept that defines the property crime in large part be hidden, incompleteness expressed in its official registration.

Latent crime - a crime, the details of which are not reflected in official statements.

The structure of delinquency includes hidden and concealed crime.

Crime hidden part is formed by the crimes and their various collections that are committed, but which have not become known to law enforcement agencies and the court.

Chastprestupnostivklyuchaet concealed crimes and their combination, which became known to law enforcement authorities, but who for various reasons are not reflected in the crime statistics (the actual failure to examine allegations of crimes, incorrect assessment acts as a non-criminal, and so forth.).

On the mechanism of formation distinguish latent crime:

undeclared - committed, but which are not stated in the law enforcement agencies;

unaccounted for - a statement to law enforcement authorities, but they have not been investigated and have not been registered;

unidentified - due to negligence, incorrect qualifications and other reasons has not been established or events of the crime.

Organized crime - a complex system of organized criminal groups with a large-scale criminal activities and the creation of such activities for the most favorable conditions, using both its own structure with management and other functions for maintenance of these units, their activities and external interactions, as well as government agencies, civil society .

Qualitative characteristic of Crime:

the nature of crime is determined by what number of the most serious crimes in the structure of crime, as well as those, what characteristics of the person who commits a crime, he also points to the danger to the public in crime. A direct measure of public danger is the average severity of the crime, and an indirect index of criminal records;

Crime structure - the proportion and ratio of individual types of crimes in general in a given region over a specified period;

dynamics of crime - a change of state, the level and structure for a given period of time (year, 3,5,10 years, and so on. d.).

The dynamics of crime as a socio-legal phenomenon influenced by social factors that affect the social nature of crime and its danger to the public and legal factors (crime detection, the inevitability and so on. D.). Relative indicators: the growth rate of crime, the rate of growth. stey and other circumstances, as well as the choice of means. After the occurrence of a certain setting behavior occurs "delay" - correlation installation with social norms, consequences. May occur refusal to commit a

crime. If the act of "delay" does not occur, the mechanism of criminal behavior will be "rolled" - installation realized immediately after the occurrence. Such is seen in persons who are not accustomed to weigh the situation and think about the consequences.

For deciding nastupaetstadiya its execution - just a crime. Possible deviation of the actual implementation of the planned solutions under the influence of various factors. At the stage of post-criminal behavior analyzes incident occurred as consequences disposes acquired by criminal means, hide traces of the crime, is taking steps to ensure that it is not exposed and brought to criminal liability public.

Thus, summing up the above, a latent crime, in my opinion, should be understood set of actions that would not imply criminal law response and impact on the part of producing pursue and prosecute the perpetrators to justice. Specific features of delinquency are undetected (unidentified) and unaccounted for multiple offenses authorities to prosecute and bring the perpetrators to justice, leading their registration and accounting, as well as non-disclosure (incomplete disclosure) acts by the investigating authorities.

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The Court as a judicial power in the Republic of Kazakhstan

Abstract. This article deals with the concept of the judiciary and its indications. The judiciary is the main instrument for the protection of constitutional rights of citizens. The judiciary is one of the main components of the foundations of the state, one of the levels of democratic development

Keywords: court, constitutional rights, judiciary.

Article 76 of the Constitution of the Republic of Kazakhstan stipulates that the judicial power shall be exercised on behalf of the Republic of Kazakhstan in order to protect the rights, freedoms and legitimate interests of citizens and organizations [1].

The judiciary is an independent branch of the government. Judicial power belongs only to the courts, the authority to resolve their competence, problems arising from the application of the law, and the implementation of these powers through the constitutional, civil, criminal and administrative proceedings in compliance with the procedural forms and guarantee the rule of law and justice; judges' decisions are legally represented by the permanent judges. Justice in a legal state is only the judiciary. No one can convert the responsibilities of the court. In law enforcement the court is guided only by the law and does not depend on the subjective effects of the legislative or executive power. The independence and legality of justice is an important guarantee of the rights and freedoms of citizens, legal state as a whole [2, p. 99-108].

Indications of the judiciary are:

Firstly, the judicial power is exercised by the state bodies and expresses political will.

Secondly, the judicial power belongs only to the courts - the state bodies formed in accordance with the law, formed from people who are capable on the basis of appropriate training and their personal qualities to carry out justice and implement judicial power in other forms. Judicial power in the Republic of Kazakhstan belongs only to the courts presided by the judges. In accordance with the Universal Declaration of human rights of 1948 every person must be guaranteed the right (on the basis of complete equality), to ensure that his case will be heard publicly and with the requirements of justice by an independent and impartial judges [3, p. 12].

Thirdly, the exclusivity of the Judiciary - it's following indication. The judicial power is exercised only by the courts. most important function of the judiciary - the administration of justice belongs only to the court according to the Constitution of the Republic of Kazakhstan; only the court may declare the person guilty and penalize him...

Fourth, independence, self-sufficiency are the main characteristics of the judiciary. The independence of the judiciary means that the Court does not share the judicial function with any other bodies, and the court's decision does not require anyone's sanction or approval. The courts, exercising judicial power, form an independent branch of government. The separation of the judiciary means that the courts form a system of state bodies which are separate from other state structure, system, and are not subordinate to anyone in the performance of their functions. Judicial independence is primarily expressed in the independence of judges. According to Article 77 of the Constitution, judges are independent and they are subject only to the Constitution and the law. This means that judges are not subject to any outside influence. In their decisions they have to follow only the Constitution and the law. So, as the laws and other legal acts must not contradict the Constitution (article 4 paragraph 2), the judges have the right and are responsible to follow the law if only it complies with the Constitution (Art. 78) [1]. This expresses the independence of the judiciary from the legislatures and the courts' authority to implement judicial control over the content of the laws. Before applying the law to resolve the particular case, the judge must make sure it does not contradict to the constitutional regulation.

At the same time the subordination to the Constitution and the law guarantees the independence of judges from unlawful influence, as well as a guarantee for the citizens from arbitrariness on the part of the judge in doing justice.

The Constitution establishes and other guarantees of the independence of judges, which are specified in the Constitutional Law of the Republic of Kazakhstan "On the Judicial System and Status of Judges". Among the guarantees of judicial independence can be distinguished: a) status, which determine the constitutional and legal status of the judges; b) organizational, concerning the organization of the judicial system and the creation of courts; c) financial; g) procedural, i.e., defining the rules of justice.

Fifthly, the procedural order of activity is an important feature of the judiciary. The procedural order specifies only the law. The law regulates in detail the rules of court actions and decision-making of specific cases. The single system of administration of justice designed to ensure the legality of all the activities of bodies, to implement the judicial power, the legality, validity and fairness of judicial decisions, the protection of the rights of persons whose interests are affected in varying degree.

Sixth, the objectivity and impartiality are the important social characteristics of the Court activity. Partial court is not able to carry out justice. It perverts the idea of justice and can abuse of power. The partiality under the influence of any forces trying to influence judges is especially dangerous.

The impartiality of the judiciary, which is manifested in the lack of commitment to any of the parties, the ability to relate well to their claims, and the personality and to act only in the interests of truth and justice based on the law and conscience are fundamental requirement of the moral and legal characteristics. The judiciary which is unable, or not trying to act impartially, doesn't deserve society's confidence. Those who embodies in

these conditions are deprived of authority and the moral right to judge others.

In the legal democratic state there is a rule according to which the state itself, as well as citizens' associations, and individual personality should be free to relate their actions lawful. But the collision of their interests, different understandings of rights is inevitable that creates legal conflicts. Adoption of the representative bodies of law, the performance of the executive authority of the laws alone cannot prevent such conflicts and to ensure strict observance of the rights of all its stakeholders, i.e., ensure the rule of law. This task is performed by the courts - an independent member of the government, which with their specific means and a special device protect the rights and freedoms of people, confirm the law and justice. The most important task of the judiciary, to protect human rights, requires democratization of the judicial process and citizens' right to judicial review of the actions of officials.

The judiciary acquires truly universal character, or becoming a member in implementing of all functions of the state, and at the same time gains independence from the other branches of government. The rule of law with a cutting edge is directed toward the executive, from which comes the main threat to human rights and freedoms. This threat is balanced by the legislature, the host democratic laws and courts that apply the rule, essentially controlled by the executive branch. An independent judiciary, thus becoming the core of the rule of law and constitutionalism, the main guarantee of freedom of the people.

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Classification crime in criminal law in the republic Kazakhstan

Abstract. In this article the authors considers the classification of crimes in Kazakhstan, their various criteria, providing responsibility for the crimes.

Keywords: criminal law, crime, the classification of crimes, Criminal Code, offense, prison, liability.

The classification of crimes can be put to various criteria. First off all, the crime can be classified by the criteria of the object of the crime. Depending on the object of the crime special part of the Criminal Code is divided into chapters, each of which concentrated certain group norms providing responsibility for the crimes encroaching on the same generic object (crimes against the person, the family and minors, constitutional and other rights and freedoms of man and citizen, etc.). The value of this classification is not only in that it facilitates the use of the Code enforcers, but also makes it possible to correctly determine the socio-political nature of each individual action, and helps to qualify the deed. For example, the Criminal Code provides for liability for the violation of intellectual property rights, "Crimes against property" of the Criminal Code, while the Criminal Code providing responsibility for such crimes placed in the chapter "Crimes against constitutional rights and freedoms of man and citizen". It follows that if the victims of these criminal acts under the Criminal Code can be found only a natural person (the generic object of these crimes are constitutional rights and freedoms of man and citizen), the Criminal Code of the Republic of Kazakhstan to protect intellectual property rights is not only physical but also legal individuals, as here the legislator has defined a generic object property relations.

Secondly, the criterion for the classification of crimes can be a form of guilt. All criminal acts are divided into intentional and reckless. The assignment of a crime to intentionally or negligently entail serious legal consequences: the impact on the determination of the nature and degree of public danger (careless crimes cannot be considered serious or very serious, relapse is recognized only in respect of intentional offenses, only intentional form of guilt can be the preparation of a crime and attempted crime), to punish (premeditated crimes usually are punished more severely), the order of serving it, exemption from criminal liability and punishment, and others. Sometimes the basis for the classification is placed motive for the crime, for example, self-interest (the confiscation of property may be imposed in cases stipulated by the Criminal Code, only for committing acquisitive crime).

Thirdly, the basis for the classification of crimes may be the nature and degree of public danger of the act. It was on this division of criteria built on the category of crimes in article 10 of the Criminal Code. All acts provided by the Special Part of the Criminal Code are classified according to the nature and degree of public danger on minor offenses, less serious crime, serious crimes and especially grave crimes.

Minor offense shall be deliberate actions for committing of which the maximum punishment provided by the Criminal Code does not exceed two years' imprisonment and negligent acts, for the commission of which the maximum punishment provided by the Criminal Code does not exceed five years in prison.

Misdemeanor shall be deliberate actions for committing of which the maximum punishment provided by the Criminal Code does not exceed five years in prison, as well as negligent acts for the commission of which is punishable by imprisonment for a term exceeding five years.

Serious crimes shall be deliberate actions for committing of which the maximum punishment provided by the Criminal Code, does not exceed twelve years in prison.

Particularly serious crime shall be deliberate actions for committing the Criminal Code which is punishable by imprisonment for a term of more than twelve years or the death penalty.

The division of crimes into these categories allows for a more differentiated approach to persons in conflict with the law, when deciding on bringing them to justice, qualification of the offense, sentencing and exemption from criminal liability and punishment.

Thus, the preparation of a crime of minor or medium gravity does not entail criminal liability. In the criminal procedure is not intended attack on a minor offense. Making a

minor offense for the first time due to accidental coincidence of circumstances is a circumstance mitigating criminal responsibility and punishment. In imposing a sentence for multiple offenses of minor gravity could apply the principle of absorption of less severe punishment by more strict. In the case of a suspended sentence for minor offense court in sentencing to decide whether to cancel or the preservation of probation, while committing the crime in such cases that category entails the abolition of mandatory probation. Under appropriate conditions, in the case of a crime of small or moderate person can be exempted from criminal liability in connection with active repentance; reconciliation with the victims; inability to recognize a person dangerous to society by virtue of its subsequent good conduct; the expiration of the two-year (with a minor offense) and five years (for the crime of medium gravity) limitation period from the date of commission of the offense or the expiration respectively three and six years limitation period from the date of entry into force of a judgment of conviction. Parole from serving a sentence for crimes of small or average gravity may be used for serving half (one third for minors) of their sentences. Persons serving imprisonment for a crime of minor or moderate, the court can replace the non-served part of the punishment with a milder punishment. Repayment of a criminal record in respect of persons convicted of these crimes to prison, perhaps for three years after serving his sentence, and for juveniles - one year. Juveniles convicted for the first time for a crime of minor or medium gravity may be exempted from punishment with application of compulsory educational measures.

Felony punishable following legal consequences: the recognition of relapse dangerous or particularly dangerous; parole from serving a sentence at the end of at least two thirds of its term (juvenile - at least half of the term); exemption from criminal liability in connection with the expiration of ten (juvenile - a five-year) limitation period from the time the crime was committed or from the date of conviction in force; cancellation of conviction in respect of persons sentenced to imprisonment, after six years (juvenile - three years) after serving his sentence.

When particularly serious crimes possible recognition in the actions of a person especially dangerous recidivist; the death penalty or life imprisonment; Departure of the term of the imposed punishment of imprisonment in the prison; parole from serving a sentence at the end of at least three-quarters of his life (in relation to a minor - two thirds); exemption from criminal liability in connection with the expiration of the fifteen-year limitation period from the date of commission of the offense or the entry into force of conviction; cancellation of conviction in respect of persons sentenced to imprisonment for eight years after serving his sentence, and for juveniles - three years. Persons sentenced to imprisonment for the most serious crimes serve their sentence in a penal colony.

If convicted of a serious or especially serious crime, taking into account the person guilty, the court may deprive him of his honorary, military, special or another title, class rank, diplomatic rank or qualification class, and if these titles, rank, rank or grade assigned by the President of the Republic of Kazakhstan, make him an idea of their deprivation. Have the intention to commit a very serious or serious crimes is one of the essential characteristics of this form of participation, as a criminal community (criminal organization).

In some cases, the legislator takes into account several classifications of crime. So, it cannot be exempted from criminal liability a person who actively contribute to the prevention, disclosure and investigation of crimes committed by organized group or criminal community, if that person has committed a serious or especially serious crime against the person; It cannot be used delaying punishment for pregnant women and women with young children if the women were sentenced to more than five years for grave and especially grave crimes against the person. Here, as we see, we are taken into account not only the category of crime, but also the object to which it is a crime encroaches, and in the latter case, and the term of the punishment.

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Extraterritorial - that is located outside the territory

Abstract. In this article the authors considers applicability of the Criminal law outside the territory of Kazakhstan, the state border sets.

Keywords: criminal law, criminal liability, principles, crime, Criminal Code, territory, boundaries, extraterritorial.

In the case of a crime on the territory of the Republic of Kazakhstan shall be subject to criminal responsibility of the citizens of Kazakhstan, foreigners and stateless persons. An exception to this general position shall be considered the question of criminal liability of diplomatic representatives of foreign States and other citizens who enjoy immunity. Applicability of Criminal Code of Republic of Kazakhstan has 2 principles:

- In time
- In space

The Action of Criminal Code in Time

The criminality and punishability of an act shall be defined by the law which was in effect during the time of the commission of that crime. The time of the commission of a socially dangerous act (failure to act), irrespective of the time of the emergence of consequences, shall be recognised as the time of the commission of a given crime.

Application of criminal law has always limited by territory. This is due, firstly, with the implementation of the main tasks of the Criminal Code - protective and warning. Secondly, it ensures the implementation of the most important principles of criminal law - equality before the law and the courts, the inevitability of responsibility, the rule of legality. The principle of territoriality is to ensure that a person who commits a crime on the territory of the Republic of Kazakhstan, shall be liable under this Code

The state border is set:

Land - from the characteristic points and lines of the relief or clearly visible landmarks;

Water area - on the outer limit of the territorial sea of the Republic of Kazakhstan.

Airspace boundaries are vertical surface, passing over land and water territories, including territorial waters.

Part 3 of Article 6 Criminal Code regulates the liability for crimes committed on vessels navigating or flying the flag of the Republic of Kazakhstan. If the crime is committed on a ship registered at a port of the RK but located in open water (Under the open sea we understood the water surface located outside the territorial waters of any state, and which is in common use of states.) or air space liability arises under the Criminal Code of RK. Military aircraft and warships of the Republic of Kazakhstan are always considered as part of its territory, regardless of their location, during their stay in the open sea or in airspace, in the territorial waters of another State or during the stay in a foreign port.

In the case of a crime on the territory of the Republic of Kazakhstan shall be subject to criminal responsibility of the citizens of Kazakhstan, foreigners and stateless persons. An exception to this general position shall be considered the question of criminal liability of diplomatic representatives of foreign States and other citizens who enjoy immunity. In part 4 of Article 6 of Criminal Code defined that criminal responsibility of this person in the case of committing crime on the territory of Republic of Kazakhstan it shall allow in accordance with international law. According to article 28 of the Decree of the President of the Republic of Kazakhstan having the force of the Law from 19 June 1995 "On the Legal Status of Foreign Citizens in the Republic of Kazakhstan" such persons shall be expelled outside the Republic of Kazakhstan. The immunity of Representations of foreign state means that placement of a diplomatic representatives are inviolable. The authorities of the State have no right to enter them, except with the permission of the head of the diplomatic representation. Diplomatic immunity of representatives of a foreign state is that they have inviolability: they can't be detained or arrested, they can't be judged. Persons enjoying the right of diplomatic immunity are ambassadors, Charges d'Affaires advisers, military attaches and their assistants and deputies. Personal inviolability and immunity from criminal jurisdiction also extends to the family members of these persons, provided that they live together with them and are not citizens of the host country. The territorial principle of criminal law in space is complemented by the principle of citizenship, according to which, if the citizens of the Republic of Kazakhstan commit crimes outside the Republic of Kazakhstan, they are responsible under the criminal law of Kazakhstan, for their actions if they are not punished by the sentence of the court of the State where the crime was committed. If the citizens of the Republic of Kazakhstan, as well as stateless persons who commit crimes outside the Republic of Kazakhstan, have not been convicted in the State in whose territory the act considered a crime, they are subject to criminal liability under the laws of the Republic of Kazakhstan. According to Article 7 Criminal punishment in this case can't exceed the maximum punishment provided by the law of the State in whose territory the crime was committed. Part 3 of Article 7 of the Criminal Code regulates the question of liability of servicemen of military units stationed outside Kazakhstan. Committing a crime of such persons in a foreign country entails criminal liability under the laws of the Republic of Kazakhstan. Foreigners who commit crimes outside the Republic of Kazakhstan shall be subject to liability under the Criminal Code of RK in cases when the crime is directed against the interests of the Republic of Kazakhstan, and in cases stipulated by international treaties of Kazakhstan, if they have not been convicted in another Member State and subject to criminal prosecution on the territory of the Republic of Kazakhstan (part 4 Article 7 of the Criminal Code). Such criminal consequences of committing a crime as a criminal record, repeatedly, the recognition of relapse, which occurred on the territory of another State, does not have a criminal legal value in case of a crime on the territory of the Republic of Kazakhstan. It also named like Extraterritorial Application of criminal law.

Extraterritorial - that is located outside the territory. In the legal literature of recent years used the term "extraterritoriality". In legal literature, the extraterritorial effects of the law often characterized as a property of private law capable of regulating relations involving foreign element. This is due to the fact that outside the territory of the state is more likely to go private law. Going beyond the national boundaries of public norms is viewed more as an exception. The extraterritorial effect of the criminal law can be defined as the ability to use existing criminal law to a person who committed a crime outside the territorial jurisdiction of the State, with a mix or international regime, the territory of a foreign state.

However, it is clear that the establishment of the limits of national legal rules can take place both through domestic and through international law. In fact, we are talking about different possibilities and varieties of establishing the limits of their action. Specialties of domestic and international legal regulation establishing the limits of national legal provisions are similar. The difference concerns primarily areas of regulatory impact. For domestic law is better to limit another legal rules for international law is most characteristic of impact-oriented setting restrictions for the national legal order. Extraterritorial Act takes place in cases where the law recognizes the possibility of applying the legal rules of the State to the individuals and organizations who are abroad. So, the form and procedure for conducting foreign trade transactions defined by the legislation of the Republic of Kazakhstan regardless of the place of transactions. Criminal liability of citizens of Kazakhstan on the Kazakhstan comes to the laws in cases where the offense is committed by them abroad, and they have not been convicted in a foreign country.

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Cybercrime in the Republics of Kazakhstan

Abstract. This article tells about policy in the field of information crimes, id.est cybercrime. Nowadays in the Republics of Kazakhstan this type of crime is not quite widespread, as in the countries of Western Europe, but begins gradually to spinup. In this connection in the republic measures are undertakento exposure and suppressthis type of crime.

Keywords: cybercrime, crime, punishment.

Nowadays our life is closely connected to information technology and the Internet. People use computers for different purposes - system and application programs,

correspondence with various emails and get online information, banking, investment management, purchase products. On the one hand information technologies help to form the present era of the civilized societies, on the other handtheyarisethreat and danger.[1]

Crime which is used in computer technology (cyber-crime) - is an international important phenomenon that is direct dependent levelwhich allow them to introduce, develop and use modern computer technologies. Cyber crime is committed with the help of information technologies; it's a kind of crime which uses the crime punishment method.Cyber criminals differ from criminals in real life for not using of traditional knives and weapons. Their arsenals are information weapons, to enter the network system, to destroy and modify program structure, to obtain illegal information and to stop for a while computer system.

Firstly, in accordance with development of modern information and computer technology their functional opportunities increase and so it will be difficult to find evidence process of cyber crime. Unlike other traditional types of crime, cyber crime victims do not feel that they are in danger, or if they recover that they are in trouble, it could be too late to inform law enforcement bodies about it. Secondly, experts in identifying and investigating crimes connected to cyber crime are incompetent in technical knowledge. Thirdly, there are few or even no protections in computer systems or networks and in such situations; there is a big opportunity for cyber criminals to be success or to be invisible.

Lately, cyber crime has been used in terroristic aim, it means that with the help of computer system and network it is very convenient to useterror method against state bodies, corporations and people:

It is cheaper to commit cyber terroristic act than to buy weapons;

to provide to stay invisible ;

numerous objects for attack;

toattackat a distance;

to impress as many people as possible in comparison with terrorism.[2]

If we consider that most computer crimes are committed in global computer and internet systems and in the last decades in legislative and law enforcement experiments of different countries corresponding to this new type of crime international relations have been developed. In 1996 in Paris expert group involving in Economic relations and development of organization work gave definition to computer crime. They told that "Computer crime is any illegal, ill-bred or prohibited crime connected to amendment or transfer automotive information the definition computer crime for the first time in the history of our country have been appeared as a conception criminal group informant in the Criminal Code of the Kazakh SSR. At that time the definition computer crimes had been in part 6 "Economy crimes" of the Criminal Code of the Kazakh SSR[3].

The important part of state legal policyis crime policy, and to develop it we should realize criminal code and criminal code of implementation, and complex usage and interconnectivity correction.

Evaluating the present state of criminal law, in total active development had been provided. Present Criminal law is fighting against crime; it protects people's rights and freedom, state and society's rights and criminal and legal protection. Further development of criminal law should be provided considering former double vector of criminal policy.First of all, stimulatingconcerns to people who commit mild and not serious crimes for the first time, socially weak groups of society – pregnant and single women with minor children, juveniles, and old people.

Nowadays processes connected to political and economical changing of the Republic of Kazakhstan directly influence to information security situation. In addition it directly influence to information security situation. We can divide these factors into political, economical and organization technical. To research the present situation of information security its level in Kazakhstan doesn't correspond to people's, society's and state's requirements and demands.To providetimely, clearandavailableinformationto Statebody, namely to protect state information resources, to identify corresponding of technical instruments requirements and develop home protection methods.[5]

It gives an opportunity to define different categories of type model of criminals, to know their peculiarities to describe and identify criminals and sometimes to capture them, to increase circle of suspicious person.

We can show computer criminals dividing them into the following categories:

- Illegal person entering to computer information;
- Organized group memberswho planned earlier to realize illegal entering to computer information;
- Individuals using their authority to enter illegally into computer information;
- Individuals who have permission to komputer realizing to get information illegally.

Nowadays information about criminals will be obtained mainly by two special information groups.

I.Descriptive information from other resources of a criminal and to track down criminals and capture.

II.Information got through research criminal's personal details and psychology.

So we can divide criminals into any group formation.[6]

At present time despite of spreadingthis type of crime activity to the territory of Kazakhstan, it is described that it's difficult to provethe absence of required legal, organized and technical instruments, appearance of new methods of committing crimes, usage of TV and communicative technologies and persistent growth system.It is necessary to develop new normative legal base, to realize technical innovations, to spread widely, to seek new samples and methods of opposite activities, to prepare organization against crimes and violations in the field of information technology.

Above mentioned problems can cause threat to state's information security and legally provide information in this field.It is still a great problem in formation of the necessity of individual legal field –the information field in the Republic of Kazakhstan.

Lately ithas beenactual to exchange information globally and to participate equally in the process of sortinginternational information security. The necessity to require national interests demands to increase activity of state bodies in the frame of present international organizations services.

So, present situation of information security describes the following threats:

1) violation of information system work of most important information objects, namely different and state and non-state information support their infrastructure;

2) modern information and communication technologies' production and usage level doesn't correspond to society's objective needs;

3) threats to harm people's interest and disinformation possibilities can influence to society consciousness and state institutions; etc.

Taking into account transborder description problems inproviding information security, equally correspondinginternational exchange principles demand to develop internatonal cooperation.

The main tasks are to prepare legal norms ordering intercountries relations in global information infrastructure field, to preventusage of information and TV communication technologies, identify, stop and destroy terroristic and other criminal purposes,to develop mutual activity and combine internationally standards and national certificate system between the Republic of Kazakhstan and foreign countries law enforcement bodies.Due to other countries, transnational corporations, different informal structures, toidentifysecret influence on society's consciousness especially through social nets and to conduct purposeful policy in order to preventit, and to fight with spreading other negative ideological signs of terrorism, religion and ethnicity to society through mass media system.[7].

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Particularly serious crime shall be deliberate actions for committing the Criminal Code which is punishable by imprisonment for a term of more than twelve years or the death penalty.

The division of crimes into these categories allows for a more differentiated approach to persons in conflict with the law, when deciding on bringing them to justice, qualification of the offense, sentencing and exemption from criminal liability and punishment.

Thus, the preparation of a crime of minor or medium gravity does not entail criminal liability. In the criminal procedure is not intended attack on a minor offense. Making a minor offense for the first time due to accidental coincidence of circumstances is a circumstance mitigating criminal responsibility and punishment. In imposing a sentence for multiple offenses of minor gravity could apply the principle of absorption of less severe punishment by more strict. In the case of a suspended sentence for minor offense court in sentencing to decide whether to cancel or the preservation of probation, while committing the crime in such cases that category entails the abolition of mandatory probation. Under appropriate conditions, in the case of a crime of small or moderate person can be exempted from criminal liability in connection with active repentance; reconciliation with the victims; inability to recognize a person dangerous to society by virtue of its subsequent good conduct; the expiration of the two-year (with a minor offense) and five years (for the crime of medium gravity) limitation period from the date of commission of the offense or the expiration respectively three and six years limitation period from the date of entry into force of a judgment of conviction. Parole from serving a sentence for crimes of small or average gravity may be used for serving half (one third for minors) of their sentences. Persons serving imprisonment for a crime of minor or moderate, the court can replace the non-served part of the punishment with a milder punishment. Repayment of a criminal record in respect of persons convicted of these crimes to prison, perhaps for three years after serving his sentence, and for juveniles - one year. Juveniles convicted for the first time for a crime of minor or medium gravity may be

exempted from punishment with application of compulsory educational measures.

Felony punishable following legal consequences: the recognition of relapse dangerous or particularly dangerous; parole from serving a sentence at the end of at least two thirds of its term (juvenile - at least half of the term); exemption from criminal liability in connection with the expiration of ten (juvenile - a five-year) limitation period from the time the crime was committed or from the date of conviction in force; cancellation of conviction in respect of persons sentenced to imprisonment, after six years (juvenile - three years) after serving his sentence.

When particularly serious crimes possible recognition in the actions of a person especially dangerous recidivist; the death penalty or life imprisonment; Departure of the term of the imposed punishment of imprisonment in the prison; parole from serving a sentence at the end of at least three-quarters of his life (in relation to a minor - two thirds); exemption from criminal liability in connection with the expiration of the fifteen-year limitation period from the date of commission of the offense or the entry into force of conviction; cancellation of conviction in respect of persons sentenced to imprisonment for eight years after serving his sentence, and for juveniles - three years. Persons sentenced to imprisonment for the most serious crimes serve their sentence in a penal colony.

If convicted of a serious or especially serious crime, taking into account the person guilty, the court may deprive him of his honorary, military, special or another title, class rank, diplomatic rank or qualification class, and if these titles, rank, rank or grade assigned by the President of the Republic of Kazakhstan, make him an idea of their deprivation. Have the intention to commit a very serious or serious crimes is one of the essential characteristics of this form of participation, as a criminal community (criminal organization).

In some cases, the legislator takes into account several classifications of crime. So, it cannot be exempted from criminal liability a person who actively contribute to the prevention, disclosure and investigation of crimes committed by organized group or criminal community, if that person has committed a serious or especially serious crime against the person; It cannot be used delaying punishment for pregnant women and women with young children if the women were sentenced.

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Applicability of the Criminal law outside the territory of Kazakhstan

Abstract. In this article the authors considers applicability of the Criminal law outside the territory of Kazakhstan, the state border sets.

Keywords: criminal law, criminal liability, principles, crime, Criminal Code, territory, boundaries, extraterritorial.

Applicability of Criminal Code of Republic of Kazakhstan has 2 principles:

- In time
- In space

The Action of Criminal Code in Time

The criminality and punishability of an act shall be defined by the law which was in effect during the time of the commission of that crime. The time of the commission of a socially dangerous act (failure to act), irrespective of the time of the emergence of consequences, shall be recognised as the time of the commission of a given crime.

Application of criminal law has always limited by territory. This is due, firstly, with the implementation of the main tasks of the Criminal Code - protective and warning. Secondly, it ensures the implementation of the most important principles of criminal law - equality before the law and the courts, the inevitability of responsibility, the rule of legality. The principle of territoriality is to ensure that a person who commits a crime on the territory of the Republic of Kazakhstan, shall be liable under this Code

The state border is set:

Land - from the characteristic points and lines of the relief or clearly visible landmarks;

Water area - on the outer limit of the territorial sea of the Republic of Kazakhstan.

Airspace boundaries are vertical surface, passing over land and water territories, including territorial waters.

Part 3 of Article 6 Criminal Code regulates the liability for crimes committed on vessels navigating or flying the flag of the Republic of Kazakhstan. If the crime is committed on a ship registered at a port of the RK but located in open water (Under the open sea we understood the water surface located outside the territorial waters of any state, and which is in common use of states.) or air space liability arises under the Criminal Code of RK. Military aircraft and warships of the Republic of Kazakhstan are always considered as part of its territory, regardless of their location, during their stay in the open sea or in airspace, in the territorial waters of another State or during the stay in a foreign port.

In the case of a crime on the territory of the Republic of Kazakhstan shall be subject to criminal responsibility of the citizens of Kazakhstan, foreigners and stateless persons. An exception to this general position shall be considered the question of criminal liability of diplomatic representatives of foreign States and other citizens who enjoy immunity. In part 4 of Article 6 of Criminal Code defined that criminal responsibility of this person in the case of committing crime on the territory of Republic of Kazakhstan it shall allow in accordance with international law. According to article 28 of the Decree of the President of the Republic of Kazakhstan having the force of the Law from 19 June 1995 "On the Legal Status of Foreign Citizens in the Republic of Kazakhstan" such persons shall be expelled outside the Republic of Kazakhstan. The immunity of Representations of foreign state means that placement of a diplomatic representatives are inviolable. The authorities of the State have no right to enter them, except with the permission of the head of the diplomatic representation. Diplomatic immunity of representatives of a foreign state is that they have inviolability: they can't be detained or arrested, they can't be judged. Persons enjoying the right of diplomatic immunity are ambassadors, Charges d'Affaires advisers, military attaches and their assistants and deputies. Personal inviolability and immunity from criminal jurisdiction also extends to the family members of these

persons, provided that they live together with them and are not citizens of the host country. The territorial principle of criminal law in space is complemented by the principle of citizenship, according to which, if the citizens of the Republic of Kazakhstan commit crimes outside the Republic of Kazakhstan, they are responsible under the criminal law of Kazakhstan, for their actions if they are not punished by the sentence of the court of the State where the crime was committed. If the citizens of the Republic of Kazakhstan, as well as stateless persons who commit crimes outside the Republic of Kazakhstan, have not been convicted in the State in whose territory the act considered a crime, they are subject to criminal liability under the laws of the Republic of Kazakhstan. According to Article 7 Criminal punishment in this case can't exceed the maximum punishment provided by the law of the State in whose territory the crime was committed. Part 3 of Article 7 of the Criminal Code regulates the question of liability of servicemen of military units stationed outside Kazakhstan. Committing a crime of such persons in a foreign country entails criminal liability under the laws of the Republic of Kazakhstan. Foreigners who commit crimes outside the Republic of Kazakhstan shall be subject to liability under the Criminal Code of RK in cases when the crime is directed against the interests of the Republic of Kazakhstan, and in cases stipulated by international treaties of Kazakhstan, if they have not been convicted in another Member State and subject to criminal prosecution on the territory of the Republic of Kazakhstan (part 4 Article 7 of the Criminal Code). Such criminal consequences of committing a crime as a criminal record, repeatedly, the recognition of relapse, which occurred on the territory of another State, does not have a criminal legal value in case of a crime on the territory of the Republic of Kazakhstan. It also named like Extraterritorial Application of criminal law.

Extraterritorial - that is located outside the territory. In the legal literature of recent years used the term "extraterritoriality". In legal literature, the extraterritorial effects of the law often characterized as a property of private law capable of regulating relations involving foreign element. This is due to the fact that outside the territory of the state is more likely to go private law. Going beyond the national boundaries of public norms is viewed more as an exception. The extraterritorial effect of the criminal law can be defined as the ability to use existing criminal law to a person who committed a crime outside the territorial jurisdiction of the State, with a mix or international regime, the territory of a foreign state.

However, it is clear that the establishment of the limits of national legal rules can take place both through domestic and through international law. In fact, we are talking about different possibilities and varieties of establishing the limits of their action. Specialties of domestic and international legal regulation establishing the limits of national legal provisions are similar. The difference concerns primarily areas of regulatory impact. For domestic law is better to limit another legal rules for international law is most characteristic of impact-oriented setting restrictions for the national legal order. Extraterritorial Act takes place in cases where the law recognizes the possibility of applying the legal rules of the State to the individuals and organizations who are abroad. So, the form and procedure for conducting foreign trade transactions defined by the legislation of the Republic of Kazakhstan regardless of the place of transactions. Criminal liability of citizens of Kazakhstan on the Kazakhstan comes to the laws in cases where the offense is committed by them abroad, and they have not been convicted in a foreign country.

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Prevention of economic crimes

Abstract. In this article the authors considers the classification of crimes in Kazakhstan, their various criteria, providing responsibility for the crimes.

Keywords: criminal law, crime, the classification of crimes, Criminal Code, offense, prison, liability.

More than a year ago in Kazakhstan conducted a large reform of the law enforcements involved in the investigation and prevention of financial and corruption crimes. Functions of the investigation of economic crimes attributed to the jurisdiction of the Committee of state revenues, corruption - to the Agency for Civil Service.

And if the activities in the field of prevention of corruption we are talking often enough, the work of the Economic Investigation is covered not so active.

Today the priority tasks of the Economic Investigation is the prevention and investigation of crimes in the sphere of illegal business activities, gambling, suppression of facts pseudo-entrepreneurship, and illegal bankruptcy, counterfeiting, illegal alcohol, counterfeit and fish products, petroleum and petroleum products, non-ferrous and ferrous metals. Moreover deals with the prevention and investigation of crimes in the financial, in the financial-credit, budgetary, fiscal and customs areas, facts of smuggling drugs and other prohibited items, as well as countering the financing of terrorism and religious extremism.

For example, in 2015 in Almaty region registered more than 700 economic crimes. Suppressed the activity of the underground plant for the production of counterfeit money value of two thousand tenge. June 13 2015 during the activities detained citizen of Kazakhstan, two citizens of Uzbekistan, each of them a little more than 20 years old, that group of persons by prior agreement for the past three months in the city of Almaty and Almaty region were engaged in the manufacture, storage and sale of counterfeit two thousandth bills.

During the search, the place of residence of detainees seized and impounded 225 bills totaling $ 450 thousand tenge, 11 sheets of A-4 size, which were brought form color printer of bank notes.

Verdict of the district court of Almaty region defendants were found guilty of committing an offense and they sentenced to five years imprisonment each in a penal colony.

So as not to commit such crimes need to intensify preventive work, namely the involvement of journalists to write and show

where it leads. Also very important to the work of social organizations and academics. For example, in the Faculty of Law at Al-Farabi Kazakh National University there are student clubs that work to improve the legal literacy of the population, including schoolchildren.

Faculty teachers are trying to carry out practical lessons in law enforcement and in the courts of the city of Almaty.

Bringing the "zero tolerance" to the crimes is the most important relationships part of citizens and law enforcement agencies.

In order to activate the work of teachers and students should have legal education. Wide promotion among students, interviews and outreach about the kinds of liability for certain illegal actions that are typical of youth and adolescent protection offenses, concepts of administrative, civil, criminal liability in the field of economic crimes. Holding a mass of legal, educational, agitation and propaganda work among adolescents.

Law enforcement agencies should work actively for the prevention of crimes in the area of economic crime, involving journalists, activities in conjunction with community organizations.

Scientific researchers should analyze and find solutions for the prevention of crimes. Develop educational materials on prevention to law enforcement.

In my opinion if you combine all of these chains as a youth activity + open Law enforcement services + and highly qualified researchers is possible to find solutions for the prevention of crimes in the sphere of financial and economic crimes.

I am confident that Kazakhstan citizens will not all tolerant of crimes and it will be zero tolerance to all forms of crimes.

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Legalization of money or property received in criminal way as one of the types of criminal offense in the sphere of economic activity

Abstract. In this article the authors considers the classification of crimes in Kazakhstan, their various criteria, providing responsibility for the crimes.

Keywords: criminal law, crime, the classification of crimes, Criminal Code, offense, prison, liability.

Legalization of money or property, or in other words money laundering or property, is one of the types of criminal offenses in the sphere of economic activity which occur daily worldwide. There are many ways and schemes of commission of this offense. The sense of

money laundering or property is giving a lawful look to money or property, which is received in illegal way. Generally this type of criminal activity is made by use of financial operations.

The history of "money laundering" began in the USA in 1920-1930 and is connected with name of the famous American gangster Al Capone. His income gained by commission of criminal activity was legalized through specially open laundries. This income was officially made out as revenue of a network of automatic laundries. As services of laundries were paid in cash it was impossible to establish, how many people used this service. Income gained in the criminal way mixed up with the income received from laundries, in such way this money turned into lawful money. After that way of legalization of money there was a concept of money laundering. This way of money laundering is one of schemes of legalization of money and after that case other schemes and ways of money laundering were thought up.

In legal practice the term "money laundering" was used in the USA in 1982, in case on drug traffic. And therefore initially the concept of "money laundering" was connected only with crimes connected with drugs. Now the concept of money laundering or property is connected not only with income from drug traffic, but also with other crimes.

Today there is an international organization directed on fight against money laundering. In 1989 according to the solution of "Big seven" countries - Great Britain, Germany, Italy, Canada, USA, France and Japan, was created a Financial Action Task Force (FATF) [1] . FATF is engaged in development of international standards in the sphere of counteraction to laundering of criminal income. At the moment 35 countries and 2 organizations are the members of FATF, and 20 organizations and 1 country are the observers.

Recommendations of FATF (The Financial Action Task Force) for national legislations – 40 main recommendations submitted on counteraction to financial crimes.

For the first time recommendations were developed in 1990. Further they were repeatedly reconsidered and supplemented, for example in 1996 and 2003. Today these recommendations are the international standard on counteraction to money-laundering. On their basis national legislations are under construction. Recommendations of FATF have to be used and applied in fight against money laundering by all countries. The main of them:

- law has to consider money laundering as a criminal offense;

- bank secrecy shouldn't interfere with implementation of recommendations of FATF, etc. [2].

Money laundering — giving of a lawful look to possession, use or order of money or other property received as a result of commission of crime, e.g. their transfer from shadow, from informal economy to official economy to have opportunity to use these means openly and publicly. In official documents "legalization (laundering) of the money or other property received in criminal way". Thus the form of money can change as with cash to non-cash, and on the contrary.

Traditionally process of money laundering consists of three stages. At the first stage (placement stage) there is a placement of illegal income in financial institutions. The second stage (transformation stage) consists in carrying out financial operations which purpose is concealment of a criminal origin of the income. At the third stage (integration stage) the "cleared" capital comes back to the criminal in the form of money, property or property rights [3].

Placement — is a transfer of cash in mobile financial instruments, territorial removal from places of their origin. Placement is carried out in traditional financial institutions like credit organizations, participants of securities market, nonconventional financial institutions, retail trade, including outside the country.

Transformation — is a separation of criminal income from sources of their origin by difficult chain of the financial operations directed on masking of the checked trace of this income. If placement of criminal money took place successfully, i.e. it wasn't revealed, it becomes much more difficult to open further actions for their washing. Various financial operations are stratified one on another with

purpose to complicate the work of participants of system on counteraction of legalization of criminal income directed on detection of the criminal income and persons legalizing them and also on suppression of this activity.

Integration — is the last stage of process of legalization which is directed on giving of visibility of legality to criminally received capitals.

There are certain ways of money laundering. Ways of money laundering have to be controlled by government bodies. The next ways of money laundering are most known: combination or mixing, smuggling, division of means, structuring capital, false accounts.

Mixing. Money received in criminal way mixes up with income from legal businesses and is located into accounts of the company in banks. Often in this way are used the companies which are actively working with cash as parkings, laundries, car washes, etc. Usually in such business in many cases it is impossible to trace or consider quantity of a flow of clients and therefore it is impossible to determine precisely the sum of the gained income from these kinds of activity. In this case it will be easy to mix illegal money with income received from these kinds of activity.

Smuggling. In different countries of the world counteraction of legalization of income gained in criminal way is developed in different degrees. In one countries control over legalization of money is developed, in other countries control over money laundering rather can be weak. In this case this way can be used by criminals for money laundering. Smuggling to cash is an illegal movement of cash from the country with the developed financial control to the country with weak control. After transportation cash is located into accounts of banks, often offshore and anonymous accounts that don't reveal names of the clients. After that money can be transferred to accounts of usual banks in the countries with the developed control or be used directly by means of cash cards, checks and other similar tools.

When smuggling cash, money is often transferred to offshore zone. Offshore zone — is the territory of state or its part within which for the nonresident companies the particular preferential mode of registration works, of licensing and taxation, as a rule, provided that their business activity is carried out outside this state. The list of offshore zones is approved by the government [4].

Crushing. Large volume of cash received in criminal way breaks into a set of the small sums which by means of intermediaries turn into financial instruments (preferably anonymous): deposits, savings certificates, checks, etc. Operations with such sums usually aren't traced controlling bodies, unlike introduction on the deposit or transfer from the account into the account of larger sums.

Raund-tripping is seport of capital from country with subsequent return in the form of direct foreign investments. The capital received by illegal methods is taken out from country, at the expense of is formed investment fund, a trust or other company which legally buys assets in the initial country. Raund-tripping is the traditional scheme for laundering of corruption money of officials and income of businessmen hidden from the taxation.

According to the Criminal Code of the Republic of Kazakhstan legalization (laundering) of money and (or) other property received in the criminal way belongs to criminal offense in the sphere of economic activity. In the criminal Code of the Republic of Kazakhstan the following concept of legalization of money received in the criminal way is given: involvement in lawful turnover of money and (or) other property, received in the criminal way, by means of transactions in the form of conversion or translation of the property submitting the income from criminal offenses, concealment or concealment of its original character, a source, location, way of order, movement, rights for property or its accessories if it is known that such property submits the income from criminal offenses, and possession and use of this property or mediation is equal in legalization of money and (or) other property received in the criminal way [5]. Also this concept of legalization of income gained in the criminal way is given in the Law of the Republic of Kazakhstan "On counteraction of legalization (laundering) of income gained in the criminal way, and to financing of terrorism" August 28, 2009 [6].

Legalization (laundering) of money and (or) other property received in the criminal way is specified in the article 218 of the Criminal code of the Republic of Kazakhstan. According to this article this criminal action is punished by a penalty at the rate of three thousand monthly calculation index or corrective works in the same size, or restriction of freedom for a period of up to three years, or imprisonment for the same term, with confiscation of property. The same act made by a group of persons by previous concert, repeatedly and the person with use of the official position are punished by a penalty at the rate of five thousand monthly calculation index or corrective works in the same size, or restriction of freedom for a period of up to five years, or imprisonment for the same term, with confiscation of property.

Same acts in large sizes is considered by the made person authorized on performance of the state functions, or equated to it by the person, either official, or person, holding responsible state position if they are interfaced to use of official position by it, criminal group especially serious crime and it is punished by imprisonment for a period of three till seven years with confiscation of property, or with lifelong deprivation of the right to hold certain positions or to be engaged in a certain activity.

For effective fight against legalization of money a state policy in the sphere of counteraction of legalization of income gained in the criminal way have to be developed. Also, from government bodies there have to be a special control of ways and schemes of money laundering.

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Powers of Attorney for initiation of proceedings on newly discovered facts (A modern interpretation of the question)

Abstract. Article is devoted to the prosecutor office for applying for renewal of production of newly discovered circumstances. Considered to be a modern criminal procedure legislation of

the Republic of Kazakhstan, after his conceptual reform. A comparative analysis of the powers of the court and the prosecutor at the stage of the resumption of criminal cases.

Keywords: newly discovered evidence, the prosecutor, the powers of the prosecutor, petition for resumption of production.

Initiation of production in view of newly discovered circumstances - one of the essential guarantees of proper administration of justice and the protection of constitutional rights and interests of the convicted, acquitted, and other persons involved in the case. Smooth functioning of this stage of the process contributes to the establishment of objective truth in the case, correction of errors made by the court and the restoration of violated rights and legal interests of citizens. Meanwhile, this production as before remains the least developed in the procedural theory, and in the current criminal procedure legislation, which is still not precisely regulated by the competence of one of the most important subjects of this stage of the proceedings - the prosecutor. This can lead to significant practical errors.

Reviewing the activities of the prosecutor in the evaluation stage as a form of supervision of the legality and validity of entered into legal force of court decisions in criminal matters, we should recognize that its competence to initiate proceedings in view of newly discovered on the circumstances of the case is determined mainly by the Law on the Prosecutor's Office of the Republic of Kazakhstan in 1995 year and the head 53 of the Criminal Procedure Code of the Republic of Kazakhstan. Article 502 of the CPC states that the right to apply for the commencement of the newly discovered circumstances belongs to the prosecutor. This is the initiation of a special production, during which permit the investigation to establish the specific circumstances of the case, despite the fact that it has a court verdict, entered into force.

Prosecutor’s activities to institute such proceedings is divided, according to V.S. Posnik, on two stages: a) prosecutor’s preparing information about newly discovered facts; b) the decision to initiate production or refuse it [1]. In general, the assertion that the reopening of the case in view of newly discovered circumstances may be made only on the initiative of the prosecutor is not disputed by anyone [2]. Modern criminal procedure law gives a fairly complete list of reasons, giving the prosecutor the opportunity to start to make the decision on the initiation of proceedings in view of newly discovered circumstances of the case. These reasons include: the application of citizens, including the members in the case of the process, officials of organisations, as well as data obtained during the investigation and consideration of other criminal cases.

In this application from the citizens about the presence of the new circumstances of the criminal case in which the judgment was held, no doubt can be considered a way to protect participants in the process of their constitutional rights and interests, the need for protection which makes a special emphasis Code of Criminal Procedure. In particular, setting the grounds for a review of court judgments and decisions which have entered into force in 499 article of criminal procedural law gives a list of them, including defined a violation of constitutional rights and freedoms of citizens, which were admitted during the investigation or the judicial proceedings or incorrect application of the law, which resulted in a miscarriage of justice in a criminal case. In the chapter addressing to the need of review of a decision, determine the fate of the criminal case, is based on the need to protect and restore the violated constitutional rights and freedoms of citizens in the field of criminal justice. Such an approach is quite timely, relevant and tactically correct. Any wrong decision in a criminal case undoubtedly has the most negative impact on the understanding of the rightly judgment, affects the formation of a society’s respect to the law and justice, gives or not the confidence to pursue issuance of equitable judgment in a criminal case, even if it took force, executed or enforced.

All of this ultimately reflects the aspiration to solve the major issues of justice: to seek condemnation of the perpetrators of crimes and correct decisions, which can be

judged innocent or wrongly acquitted guilty of committing a crime. Ultimately it solves the problem of protecting the interests of individual victims of a crime. There are many tasks, that can be defined for stage revision entered into force by court decisions in criminal matters, and they must be dealt with simultaneously. For maximum coverage capacity of such a revision the best formulation is the formulation of the need to protect and restore the constitutional rights and freedoms of citizens by the methods and techniques of supervisory review proceedings and supervising production in view of newly discovered circumstances.

The Criminal Procedure Code stresses that the prosecutor has the right to petition for initiation of newly discovered evidence in the case. Analyzing the current legislation, we conclude that the institution of such a special production is rather the responsibility of the public prosecutor, because if there is a sufficient reason and a cause for the beginning of production of newly discovered facts, he, in his official position, is obliged to fight for the truth and to seek correction of any violations of the law.

Referring to the analysis of the beginning of the public prosecutor's activity on the excitation of the proceedings in view of newly discovered circumstances. After receiving the application or report, the prosecutor checks the reason for the production of excitation due to newly discovered circumstances. It examines the statements and reports, familiarizing them materials, analyzes the information contained in them, checks the validity of the applicant's allegations about the opening in the case of new circumstances and performs other actions that contribute to making the right decision. If you received a statement or report, which refers to the existence of a court judgment, rendered in connection with the circumstances referred to in paragraph 1-3 of the second part of Article 499 of the CPC, the court by it's decree brings proceedings in view of newly discovered circumstances and shall undertake the checks, seeks a copy of the judgment and a certificate court of it's entry into force.

If the statement and the report point to other unknown circumstances to the court about sentencing, the definition, which by themselves or in conjunction with the previously established circumstances, suggests the innocence of the convicted person or to commit them to a different in the degree of seriousness of the offense than that for which he was convicted, or the guilt of the acquitted person or persons against whom the case was dismissed, the court shall send the materials to the prosecutor for organization the investigation. When investigating newly discovered circumstances may be made in compliance with the rules of the Criminal Procedure Code, the interrogations, examinations, expert analysis, seizure and other investigative actions. If the statement and the report raises the question of the resumption of the case to the detriment of the convicted, acquitted or the person dealing in respect of which it was the court dismissed, the prosecutor finds if the statute of limitations for criminal responsibility is expired, then checks, were the reported details known by the court which rendered the judgment or ruling. If the court knew about them, the criminal case is not subject to renewal. While checking the information the prosecutor has the right to request the necessary materials and obtain explanations from the persons who participated in the process during the investigation, the trial of the case, to find out, executed if the sentence in respect of which raises the question of revision, if it was executed, to what parts it belongs and etc. If the prosecutor does not provide grounds for initiating a request for initiation of the newly discovered circumstances, he should render a reasoned decision.

According to Article 503 of the CPC regulation shall be communicated to the stakeholders who are entitled to appeal against it in a court. This is another story of the modern criminal procedure legislation, indicating the expansion of the court to control the functions of the legality of the activities and decisions of the prosecutor, affecting the fate of the criminal case. The law clearly states that such a prosecutor's decision could not be appealed to a higher prosecutor, namely the court, that is authorized to resolve the question of the resumption of production in view of newly discovered circumstances. Further

activities of the court is to address the issue of the fate of the criminal case, in the light of new circumstances discovered by him, does not clearly defined in the law. It turns out that the court must decide on the fate of the criminal case on the basis of the applicant's argument that the prosecutor refused. And appealing the refusal of the prosecutor to initiate legal proceedings for the resumption of criminal proceedings, the applicant thereby raises the question of the court to verify the legality of the refusal of the prosecutor and at the same time for judicial review in view of newly discovered circumstances of the case.

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The moral content of intecrity

Abstract. This article discusses the role of morality in society and as protected by modern legislation and moral qualities of the individual. The identity provided by the legal system of constitutional guarantees, including guarantees of the right to inviolability of the person, can fully develop, work and operate in the system of social relations. In the Republic of Kazakhstan, the interests of the individual industry regulated system of domestic law and protected a certain degree of immunity. The challenge is in this case to make the Constitution with its focus on the identity of the true, really existing Law to a system of measures - legal, organizational, moral - to create in society a deep respect for the rights of the individual.

Keywords: personality, morality, morality, rule of law, legal consciousness, legal culture, personal integrity, moral harm, compensation of moral harm.

Special attention in democratic States are given the spiritual health of its citizens. Unfortunately, in Kazakhstan, in this direction the progress is not significant. The reasons, in our view, explain our "depressed" self and consciousness. For many decades, people and especially his "opinion" on the rights and freedoms trampled, moreover, punishable by law. It has been more than ten years of democratic construction, but the internal properties of a person change so quickly, especially if their expression of these properties is found in the use of power. This property has deeper roots, and a basis as a ground for them are the values of spirituality and morality.

Spirituality and morality are inseparable, as inseparable part and parcel of the status of the individual also fall within the scope of the immunity. As spirituality and morality as the intangible personality traits play a crucial role in the life of the state.

Moral and ethical characteristics of the person are to some extent a projection of the functioning in society of morality the spiritual world and its activities. It reflects their essential characteristics and peculiarities, mediates their demands, goals, objectives, and approaches to the problems of life, uses them as important landmarks in the selection and justification of own decisions and attitudes [1, p. 32].

A feature of the modern historical development is that the problem of moral development of society, problems of activating the human factor, increase of civic responsibility is most closely affect the processes of democratization taking place in all spheres of society, the state of law and order and, ultimately, on the achievement of the goal of building a just and humane society in which the state can only be legal.

The morality of form in the current a long time the human values, requirements, norms, responsibilities taken and performed voluntarily. The main categories of morality are the concepts of morality, good will, duty, love, respect, etc. however, morals are religious ideals, and also customs and traditions, not degrading. Separate standards of morality requiring public provision, receive the sanction of the state. For example, the constitutions should be fastened in such important principles as protection of the rights and freedoms of the person, property, nature, intolerance of offenders, the protection of human dignity, etc. the Rules and principles of morality, as a rule, have a positive effect on the right, strengthen it and constantly improve. They have a great influence on the formation of new laws based on them generated codes, various regulations, etc. Morality becomes the parent of the public and individual legal consciousness, which form a set of ideas and feelings expressing the attitudes of people, social communities to the existing or desired law.

The sense of justice is one of the forms of social consciousness. Like other forms of social consciousness: morality, religion, art, science, philosophy — consciousness acts in a particular way the spiritual understanding of reality. The consciousness in the spiritual culture inherent in relative autonomy. Legal opinions, ideas, theories, feelings as if living an isolated life, independent of Economics, politics, the state and even positive law. Changes of the last sets, of course, certain parameters for the development of sense of justice, but never able to radically rebuild and especially to eliminate the source of cultural-historical sense of justice. Therefore, the sense of justice is very independent, holistic and as if even "ryadopolozheno" the law of the phenomenon to be studied as a special object of legal theory through which the theory of law "come out" on such intimate matters as the nature of law, its Genesis, cultural specifics of legal regulation within the framework of a particular civilization, deformation of legal behavior, the sources and causes of crime and other social pathologies, etc. Being in a sense a direct source of law, sense of justice finds expression in the legislation that has an impact on the process and results of law-making. Through legal consciousness and, thanks to him, the legislator, captures the spirit of its era and reflects it in legislation.

Legal rules in turn have an impact on the development of legal consciousness of citizens, the formation of correct ideas about the legal principles and norms, legal relationship, responsibility.

The most important aspect in this question is that the sense of justice plays a regulatory role in the process of prevoiusly, including in resolving legal cases, adoption law enforcement acts, as well as all types of specific legal decisions. The fact that the enforcement of legal rules, a significant part of people (different in different conditions) is carried out deliberately, by the internal beliefs, just evidence of the regulatory role of legal consciousness. The higher the level of legal consciousness, the more it manifests its role of bringing behavior in line with goals and the will expressed in the law, the stronger the rule of law. Evaluation of the results of operations and

every decision in the legal field is also produced with the assistance of legal consciousness. The result of evaluation is the recognition of the behavior (activities) lawful or unlawful, and if unlawful conduct is made a special subject of the bodies in the service or in connection with the service is a violation of law. Thus, legal consciousness is an integral component of law and pravorealizuyuschie activities, acts as a mechanism or tool.
It is hard to disagree with the fact that the legal state actually established when the law would meet the ethical requirements, the ideals of humanism, to resist immoral tendencies. Study of the political, economic and other social spheres has shown that the reform process has been a fundamental miscalculations. Attention was not adequately drawn to the discussion of the moral side of reform, their influence on the fate of individual people and the population as a whole. Apparently, here we can talk about the phenomenon of "disillusioned consciousness" that occurs between a future and the available. The erosion of moral values and spiritual values, the residual principle of allocation of funds for the development of education, the decline of prestige of intellectual labor, the commercialization of art leads to the weakening of interest in the acquisition of knowledge necessary for the profession, and to the weakening of moral principles in all spheres of life. In the legal field is also a critical situation that affects the state of the law, sharply limits the ability of-the cultivation of moral and legal qualities of the citizens.
The formation of the democratic status of the individual also contributes to culture, in particular the right culture. Legal consciousness of the personality is formed not only on the amount of legal knowledge, attitude to the existing law from the point of view of its usefulness, fairness and acceptability to the individual, but also due to the quality of law, its culture [2, p. 63].

As the legal consciousness, legal culture is divided into the legal culture of society, of a group (collective) and individual legal culture (personality). The highest level of legal culture of the individual is a legal activity. It shows, firstly, the willingness of the individual to an active conscious, creative action, as in the sphere of legal regulation and in the sphere of implementation of law, and secondly, zakonodateli (or legality) of behavior (activities), which lies at the basis of the belief in the necessity of enforcing the law as the Supreme value.
No less important feature of the modern period in Kazakhstan is improving the culture of law. After all, the statement in the life is really a legal state – the process is very complex and for a long time, especially in the state, which for decades existed in a totalitarian regime. There is a deep breaking and the transformation of the entire complex of existing social relations, covering the main spheres of social life. Therefore, along with the change in the structure of power in our state, political and legal reformation should radically change the attitude of the individual to the law, the state, power that is one of the conditions of democratic transformations.

As we mentioned above morality, as one form of social consciousness, is no less important for the study link. The dialectical unity and difference of morality and law ambiguously appears in a different socio-historical conditions. In a society where socio-political contradictions are in this historic time their balances (for example, economic relations support the welfare of people) where people will not every day thinking about how to feed your family, won't look at a neighbor with eyes implacable enemy, envious of others ' well-being, significantly increases positive moral component in human relationships. Contribute to the creation of a moral atmosphere in the society and a General liberalization of social and cultural life, expansion of social-democratic and ideological freedoms of citizens, the rise of culture, etc. In such a case of mass moral consciousness quite accept the efforts of the authorities on the legal consolidation of this social status. In this situation, the fight against crime more successful, "criminal morality", the way of life of the underworld receive universal condemnation, and the moral and legal consciousness of society, in principle the same.

Modern law protects the moral (mental and physical) qualities (functions) of the individual, and in case of their infringement

(application of moral harm) establish measures of legal responsibility. Moral or physical suffering form non-pecuniary damage., This may include: humiliation, irritation, depression, anger, shame, despair, physical pain, lameness, discomfort, etc. experienced (suffered, experienced) victims committed against him the offence. In the totality of moral and physical suffering are moral damages, which in the presence of other necessary conditions must be compensated in monetary form. To maintain its existence and lead a decent life, the victim applies for such paid services, which forces its state of mutilation, and performs other related state expenses. Using the terminology of civil law, he shall bear the costs for restoration of their violated rights to a full and decent human life. These costs are the actual damages of the victim. Losing my old job, he still loses the income (profit target), which not lost would be if his health had not been impaired. In General, it incurs losses which are recoverable in full. This example shows that organic harm can be offset by compensation for moral and property damage caused by damage to the body, i.e. indirect damages.
Compensation of moral harm is one means of protecting non-material assets and personal non-property rights. In the Normative resolution of the Supreme Court of the Republic of Kazakhstan of 21 June 2001 No. 3 "On application by courts of the legislation on compensation of moral harm, it is stated that "the inviolability of the person should be attributed to moral rights and the benefits, violation, deprivation or which derogation can entail causing to the victim moral damages." [3].

According to Kazakhstan legislation kompensiruet moral damage caused in criminal proceedings. Thus, under Normative resolution of the Supreme Court of the Republic of Kazakhstan No. 3 and in accordance with paragraph 1 of article 922, paragraph 1 and 2 of article 923, paragraph 3 of article 951 of the Civil code regardless of fault of the causer at the expense of the state Treasury (funds of Republican and local budgets) shall be compensated compensation for moral damage in monetary terms caused to the citizen as a result of:

- unlawful bringing to criminal responsibility;
- publications of the state bodies of acts that do not meet the legislative acts;
- illegal application as a preventive measure of detention, house arrest, recognizance not to leave;
- illegal imposition of an administrative penalty in the form of arrest;
- illegal placement in a psychiatric or other medical institution etc.

In article 14, 15 of the criminal procedure code of Kazakhstan fixed the rate of compensation of harm, caused to the citizen by illegal actions of the body conducting the criminal proceedings. In article 44 and 47 of the criminal procedure code established that claims for compensation for moral damages are imposed in civil proceedings. In the Resolution of Plenum of the Supreme court of the Republic of Kazakhstan from July 9, 1999 N 7 "About practice of application of legislation on compensation of harm caused by unlawful actions of the bodies conducting criminal procedure" establishes the procedure of compensation for moral damage [4]. Thus, in particular, the Resolution States that "while meeting the requirement on elimination of consequences of moral damage in the operative part of the resolution in accordance with article 44 of the criminal procedure code must be indicated what concrete actions and by whom they should be done in order to refute the previously common information about the person in connection with unlawful criminal prosecution. In necessary cases, the decision may contain the message text, which is published in printing or disseminating by radio, television and other media" (p. 6).

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Procedural problems of improvement activities a defense attorney in criminal proceedings of the Republic of Kazakhstan

Abstract. This article discusses problems and ways of improving the activities of defense counsel in criminal proceedings of the Republic of Kazakhstan. As well as improving the quality of legal education, including ensuring the independence of the bar governing bodies and the state guarantees the constitutional right to have a legal representative.

Keywords. Lawyer, counsel, legal proceedings, criminal procedure, advocacy, the investigation.

The law of the Republic of Kazakhstan "On advocacy", first formulated the main principles of organization and activities of advocacy, have substantially improved the efficiency of the functioning of the legal profession as a whole and strengthened the organization of its activities. At the same time, many problems remain unresolved and require further consideration.

Among the measures to improve the status of the Institute of professional protection, it is necessary to envisage further expansion of the powers of the defender, giving written advice and certificates (duly certified) the imperative forms, the adjustment of the procedural provisions of the defender with the position of the public Prosecutor and etc.

Another problem impeding the adequate protection of the human rights law methods, are organizational factors. Today the outflow of personnel from remote settlements led to the fact that nearly fifty district legal consultations of professional defenders at all, and more than sixty districts, only one lawyer [1, Pp. 123-130].

In our opinion, one of the reasons for this situation is poor policy in terms of acquisition of hull defenders through state licensing.

The creation of this Institute it was assumed that the regulation of personnel matters of the state body (Ministry of justice) will create a sufficient reserve for the formation of a full bar structures, able to provide the public with quality legal assistance at the required levels. It's no secret that one of

the aims of licensing was the desire to eliminate the monopoly of the bar associations on the admission of new members. However, in practice this innovation the expected results have not brought. Although in regional centers and large cities, competition has increased, the overall situation has not improved. In our view, the problem of providing citizens with qualified legal help, you can solve by changing the order of formation of the profession. For these purposes it is necessary to abandon licensing of advocacy and carry out the admission of new members by testing in relevant commissions established under the Presidium of the Collegium of advocates. On the one hand, this allows to regulate the number of lawyers in legal counseling and lawyers ' offices, avoiding overloaded in some and incomplete in others, and with another - to raise the quality of provided legal aid, since, in contrast to the licensor, the legal Corporation is interested in to the bar got a professionals with a wide erudition, high legal and General culture, extensive experience in the legal industry.

There is a question on specification of status of a trainee lawyer. Today they do not have the right to participate in criminal proceedings, as current legislation does not stipulate the presence of a trainee license to practice law. However, there are the following organizational and legal conflict. If the Prosecutor's office interns and young professionals of the organs of inquiry and investigation will not preclude the participation in criminal cases on a consequence and in court, pupil advocates, this activity is prohibited by law. That is, initially declared the inequality of the prosecution and the defense [2, p. 67].

Seriously complicates the situation and the introduction of the current code of criminal procedure of Kazakhstan (article 71) the mandatory participation of the public Prosecutor in all criminal cases (except for cases of private prosecution), which in turn implies the presence of the defendant is mandatory defender [3].. The solution to the problem of increasing the number of advocates is seen in the institutionalization of unfettered tolerance of past good practices of trainee lawyers to participate in legal proceedings. It should also be the licensing of interns without taking a qualification examination after a certain period, for example, a two-year probation period by the authorized state bodies in the field.

One of the reasons for the reduction in the number of lawyers in Kazakhstan is the creation of the Institute of licensing legal services not related to advocacy. Today, such services provide more than 600 legal entities and physical persons having the corresponding licence. Of course, the dominance of these structures in the business and economic spheres compels them not to attempt to obtain a license to practice law [4, p. 122].

Thus, there is a need for the adoption of complex organizational and legal measures aimed at the systematization of the legal services market and given it a civilized framework.

In our opinion, first of all, it is necessary to provide the duty of all, without exception, the actors in the legal market to undergo regular certification to their professional training.

Should also be incorporated in the code of Civil procedure rule requiring compensation for the side in whose favor the judgement, costs subject to the participation of this party is a professional advocate, with advocate's license. It is also possible to provide the authority issuing the license, the right of supervision over the quality of licensee legal aid. It is unlikely at present, this number is quite high, especially in the sphere of economy and entrepreneurship, which led to the creation in Kazakhstan of a considerable number of foreign legal companies and their subsidiaries doing business in the field of legal services. Occurring dynamic processes in the economic sphere, Kazakhstan's accession to various international instruments, as well as the changing in the conditions of market reforms the legislation require from lawyers of the highest professionalism and expertise, including foreign legislation.

In General, today there was a quite stable situation with the legal assistance that, in our opinion, provides an opportunity to talk about the unacceptability of any radical measures aimed at the review of the

conceptual provisions of the legislation law. In this case, we are talking about the ongoing attempts to reform this institution that, in the opinion of the initiators, should improve the protection of the rights and legitimate interests of persons in need of obtaining legal assistance. Among these innovations can be called a simplified procedure for becoming a member of the bar Association for certain categories of persons; a proposal to abolish the statutory provisions concerning the conditions of admission of new members; attempts to impose state order for the provision of legal aid, etc.
Examples of such approaches to the reform of advocacy goes on, however, it seems to us relevant to the Institute of professional protection are not only the above problems but also the need to review some other provisions concerning the functioning of the bar [2, p. 49].

So, in our opinion, it is necessary to legally regulate the problem of providing defendants (suspects, defendants) qualified legal assistance.
As is known, in accordance with article 70 of the criminal procedure code, in addition to lawyers as defenders in criminal cases allowed spouses, close relatives or legal representatives of the accused, representatives of public associations for the advancement of members of these organizations. It is obvious that persons not possessing special knowledge in the field of human rights, are unable at the proper level to protect their clients, and therefore it is not possible to speak about compliance with the requirements of article 13 of the Constitution of the Republic of Kazakhstan guarantees everyone the right to qualified legal assistance.
However, the practice of bringing in quality defenders in criminal cases relatives of the accused today is widely spread. Investigators, and later the judges, not bothering to search for professional defenders admit as such spouses, relatives and other persons, formally providing a right to protection, although the quality of such protection, as a rule, is very low. Accordingly, such protection may result in a miscarriage of justice and, as a consequence, biased or illegal sentence. So one of the challenges today is the need for a waiver of attraction as defenders of the relatives of the accused and securing this obligation solely professional advocates, that is lawyers.

It seems to us that the problem of providing citizens with qualified legal help, you can solve by changing the order of formation of the profession. Require the development of mechanisms for the implementation of the provisions of article 14 of the Law of RK "On advocacy", which establishes professional rights of the lawyer, which established the right to an independent collection of evidence required for legal aid, and the provision of evidence and the right to access to the premises, which contain their clients.

As you know, the right to provide evidence of lawyer is a legal fiction. The reason for this is clear. The current CPC of the RK does not contain a procedural mechanism of consolidation provided by the defense evidence, which deprives counsel of the opportunity (if you have the right to exercise protection on an equal footing with the prosecution conditions. The lawyer is not subject of proof, and therefore to speak of a full adversarial criminal process is not necessary [5, p. 89]. This problem requires a review and change of a whole package of laws, including Criminal-procedural and Criminal-Executive codes, the Law "On judicial system and status of judges", Law "On advocacy". However, this issue needs to be addressed, because the declared principle of adversarial nature and equality of parties in criminal proceedings presupposes the existence of equal conditions for prosecution and defence in collecting and presenting evidence as implicating the suspect, and justifying it either reduces the degree of his guilt. The presence of such legal dissonance in the sphere of human rights protection does not allow to say that our society seeks to build a legal state.

The next problem that needs to be addressed is the problem of access of lawyers to the administrative buildings of state bodies, courts, Prosecutor's office, bodies of inquiry and preliminary investigation, and in detention, arrested and serving sentence. In recent years there has been a steady tendency

on the part of law enforcement officials to the obstruction of lawyers in the discharge of their functions by creating self-imposed rules, instructions and orders. These facts seriously complicate the work of lawyers on providing legal assistance to citizens. Naturally, in such a situation in the first place, has violated the rights not of the lawyer, and the rights of those persons whom the state has guaranteed the right to legal assistance is therefore imperative necessity of developing legal mechanisms to prevent the above symptoms. For example, the legislative fixing of responsibility of law enforcement officials for obstructing the lawful activities of a lawyer could resolve this problem. We believe that implementing our proposed offerings will allow us to solve organizational and legal problems of functioning of the legal profession and in the end will enhance the protection of rights and legitimate interests of citizens. The legal profession should take its rightful place in the human rights system of the state, and only in this case we without reservations will be able to claim that our government is truly democratic and legal, and the company is confident in the fact that the person, his rights and freedom are Supreme values of the state [6].

Thus, it is important to emphasize that the attitude to freedom and personal integrity of man and citizen, the degree of security is one of the constant attributes of the legal state and civil society. Protecting human rights, the government obliges the competent authorities, including the criminal prosecution authorities, to respect and strictly comply with them. Therefore, the main task of the ongoing legal reform in Kazakhstan is the improvement of criminal-procedural legislation, creation of reliable legal guarantees of ensuring the rights and legitimate interests of man and citizen.

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Rendering legal assistance of attorney-counsel to the suspect

Abstract. This article it is devoted to legal status of the suspect by the criminal procedure right of the Republic of Kazakhstan and their right to protection, a role of the lawyer defender in providing legal protection of their rights and freedoms, both at a stage of preliminary investigation, and at a stage of the main judicial proceedings.

Keywords: The legal status suspected, the criminal procedure right of the Republic of Kazakhstan, the right to protection, the lawyer defender, preliminary investigations.

The suspect - temporarily involved in court proceedings. The basis of his appearance is a suspicion that a particular person committed a crime. This suspicion can not be confirmed in an investigation conducted by law enforcement agencies in the process of preliminary investigation and in this case, the man is out of suspicion, and he comes out of the process.

As our research shows, in many cases the necessary data are collected, which is sufficient enough to charge a person officially recognized as a suspect, and this man is recognized accused in a criminal case, so the failure to protect the rights of the suspect is considered a flagrant violation of rights of a man involved the process by law enforcement agencies.

Current legislation on criminal procedure correctly decided this issue by adopting in a law that "the suspect, the accused are entitled to protection" (Article 26 of CPC).

Suspect's right to protection consists of the following components:

1) to give this subject of criminal proceedings the opportunity to defend himself.

For this law makers outlined the terms of the rights granted to the suspect to protect his interests in Article 68 of the of Criminal Procedure Code.

In addition, article 16 of the Constitution of the Republic of Kazakhstan stated that "each person detained, arrested and accused of a crime has the right to attorney (counsel) from the moment of detention, arrest or indictment";

2) the obligation of the investigator (inquiry officer), the prosecutor and the court to provide the opportunity to protect the suspect, as well as his personal and property interests by the means and methods provided by law, guarantee the right to protect the suspect (articles 16-18 of CPC);

3) the main component of the suspect's right to protection - his right to qualified legal assistance, i.e. protection of attorney. However, this right of suspect is quite limited by law makers that we are not particularly welcome.

The first two components of the right to protection, i.e., rights and guarantees of their maintenance exist at all suspects. Therefore, it is surprising weakness of law makers in such an important issue as an opportunity to use the suspect's right to protection.

The participation of counsel in criminal proceedings should be regarded as an important mean of realizing the right of suspect to protection.

Article 70 of the Code of Criminal Procedure, which limits the participation of defense counsel in criminal proceedings, stated that "the defender is allowed to participate in case after being charged or recognition of person as a suspect, in accordance with the first part of Article 68 of this Code".

Many of the lawyers associate appearance of counsel only with the presence of prosecution and say that the protective function is not executed until the the first results of accusation [1, page 67].

According to A.J. Shagimuratov, during the criminal process, all the rights of the suspect are associated only with the advent of suspicion of a crime and they relate only to the security measures taken by the suspect, there is no sense to talk about the rights and legal interests of the suspect without considering them. He further says: "You can not equate these rights with the rights of the accused, provided by the Constitution, therefore, it is wrong to attribute the function of the criminal process of protection a person suspected in committing a crime" [2, page 55].

In this case, the author like lawmaker takes as the basis of appearance of suspect in case not suspicion in committing a crime, but the restriction of the right because of this suspicion. It is not taken into account the most important fact - the suspect is a threat of future prosecution. [3]

In our opinion, before the formation of accusation as a substantive thesis of defense is directed against the suspect and the suspect is a special form of communion of man with the crime.

Lawyers have a different opinion about the problem of participation of attorney-counsel in the case on the side of the suspect.

According to opinion of S.P. Scherba, the right to counsel's assistance must be provided for only minor suspects and people with mental or physical disability [4, pp. 78-79].

They claim that such people can not independently exercise their right to protection and they need the assistance of counsel, and advocates will be able to provide them with qualified legal assistance.

According to V.M. Tsarev, participation of defense counsel in the case can be allowed only if before the charge the measure of restraint in the form of taking into custody is applied to man, and after his arrest there is no need in counsel [1, page 114].

The reason for this proposal is the shortage of the detention of man that caused the suspect to the crime. Within 72 hours, the investigator shall have to check the legality of detention, the presence or absence of justification for the choice of preventive measures, to carry out operational-search activity.

"In this case, - says V. Tsarev, - whether the defender can carry out the action from the time of his admission to the matter in accordance with the rights provided for in Article 70 of the Criminal Procedure Code?".

Under current law the right of compulsory usage of counsel assistance is offered to people who have been detained or to whom preventive measure as an arrest was applied, in the manner provided by article 132 of the Criminal Procedure Code (the full list is given in Article 71 of the Criminal Procedure Code).

V. Zhukovsky and B. Shuman correctly says: "First of all, for them a measure of restraint is used too. Secondly, the time given to them to be protected from suspicion, is too limited (10 days).

Thirdly, for them coercive measure as an arrest, search, inspection, etc. can be used.

Fourth, for them there is a risk of being prosecuted as an accused" [5, page 61].

In recent years there have been many works that prove the need of the right to use counsel by all suspects and the provision of the law since the suspicion of person.

The author fully agrees with these views, he explains his point of view as below.

First, the restriction of the suspect's right to use assistance of defense counsel, is directly related to the inability to correctly identify the order of appearance in the law of this member of the criminal procedure and the concept of "suspect".

As stated above, the law as the basis of suspect's participation takes not the original cause of appearance of this participant in the criminal process (suspicion of committing a crime), but results of this suspicion – restriction of the rights (detention, preventive measures).

As the division of the situation of suspect and right the given shows, the law in establishing the rights of the suspect's defense focuses on the full coercive measures, taking them to the foundation of all who involved with the suspect. The very suspicion of committing a crime overshadowed. In determining the suspect's right to assistance of counsel law has been taken into account only the nature of the restriction, to which a man was subjected to, and forget the fact that the authorities suspect the person of a crime and he needs to defend itself.

Second, if to rely on paragraph 3 of Article 16 of the Constitution of RK, we do not understand such a loss of rightof some suspected.

In addition, how it is necessary to separate the suspects, share them on the deprived and free, consider this division as the basis for the appearance of an attorney?

Y.F. Lubshev correctly says: "If the law requires the defender, the people can approve it, take it as a legal and an exemplary idea. Compliance with the law by person must contribute not only to the fear of coercion, which may apply in relation to themselves, but also confidence that the law is the protection"[6, p.78].

Thirdly, Article 14 of the Constitution of the RK points out that "before the law all are

equal," state, no matter what the circumstances, guarantees equality of rights and freedoms of a man and citizens. Hence we see that the people with the same legal status (in this case the suspects) have equal rights, there are no restrictions. That is, if one suspects have the right to use the assistance of counsel, others should have such a right too.

Fourth, Article 68 of the Criminal Procedure Code states that a suspect is entitled to protection. The right to protection is a complex concept, one of its major components - the human right to use the assistance of counsel. The absence of any component of the right to counsel and the right to defend themselves (suspect's right to defend itself, by any means and ways are not contrary to law, the duty of the investigating authorities, investigator, prosecutor and court to clarify the suspect's rights and provide definite opportunities for their implementation) in itself means violation of the right to protection.

So, with regard to the foregoing, the following conclusions can be done - to restrict the suspect's right to receive protection of attorney contrary to the Constitution of the Republic of Kazakhstan. Deprivation of some suspects of this right, in our opinion, is a gross violation of rights for protection of human involved in the criminal process by law enforcement agencies.

Despite the extent of coercion used, all suspects should be entitled to use the assistance of counsel.

The person conducting the examination, shall provide by his appropriate action to obtain a suspect the right to counsel.

Once the police report will be ready, a criminal complaint, an order on the application of preventive measures will be available, the investigator must inform the suspect that he has the right to invite defense counsel and to find out whether he needed a lawyer.

If the suspect agrees and wishes to invite defense counsel, the investigator or the inquiry officer is obliged to inform the relatives of the suspect or other people trusted by the suspect to the invitation of counsel.

If the invited counsel cannot come in a few hours, then within 24 hours of the suspect should be given another defender. This is necessary because after the expression of a suspect desire to use the assistance of counsel questioning without his participation can not be continued.

Dissertant supports the view of the authors, who proposed the following procedure for approval of counsel in the case of detention and arrest the suspect.

For example, after delivery of the detained (in the investigation - arrested), he is reported that he is suspected, it is proposed to invite the defender, if necessary, the counsel is invited immediately, at law enforcement agencies or the prosecutor's office around the clock attorneys are organized.

Also, in order to ensure the suspect's choice of a trusted counsel, the criminal law should provide the following proposal.

For example, if a person suspected in committing a crime is free, that is, any measures of coercion in criminal investigation - the detention, arrest or house arrest is not applied, he is invited with an invitation list, which is awarded under the signage.

In the invitation list is specified, in what position, where and on what day and time he is invited, what the consequences might be for failure to appear, and in our opinion, it is also necessary to indicate the possibility of appearance with his counsel. This measure will ensure timely provision of suspect by defender, not force the investigator to wait for the arrival of a counsel, and this in turn will speed up criminal investigations.

Presence of counsel by suspect’s agreement is not enough, so, in our opinion, for this there are following reasons:

1) the specificity of the crimes cases selected for study. Most of these crimes were committed unsecured people and they can not afford to invite a lawyer.

2) an incorrect explanation of the investigator about opportunity to invite counsel or agitation not to invite a counsel. However, incorrect to say that all people suspected of committing crimes in other articles of the Criminal Code, had not money for payment of counsel. Therefore, in our view, coordination is profitable for the suspect and the lawyer, because in this case a mutual trust relationship is established between them and the problem of protecting the suspect will be decided correctly.

According to Article 68 of the Criminal Procedure Code of the counsel has the right to meet with the suspect or the accused alone, without the constraints of their number and duration from the date of approval of an attorney in the criminal case.

According to Article 17 of the Law of the Republic of Kazakhstan dated March 30, 1999 № 353-IV "On the Procedure and Conditions of arresting suspects and defendants" a meeting with counsel is permitted upon presentation by him of document confirming his involvement in the legal profession (eg. business card) legal consultancy order, or its equivalent in importance document, which gives the right to counsel to participate in this case [7, page 4].

The administration of the detention agencies (detention center/jail) refers as to "its equivalent in importance document" investigator's (inquiry officer's) order for appointment of counsel.

Because when the counsel proceeds to the cause, the investigator attaches a legal consultancy order to the case materials, and counsel need the document for a meeting with a man whom he defends, this document is given by investigator for the presentation to administration of the arrest place.

It is wrong to put such restrictions as it harms the right of the accused person. Therefore, counsel should meet with the suspect from the beginning of acceptance for participation in the case and his rights to receive information from a suspect and the organization of the discussion of the initial action should be preserved.

Some authors write about human rights, brought to the police on suspicion of committing a crime, on a date alone with a defense attorney. [8, page 18].

Prior to the announcement to the suspect the arrest report and before issuing an order on the application of preventive measures the suspect does not know in what he is suspected, so he does not know what to talk with a counsel.

For this reason, after the appearance of said documents proving that he is suspected, suspect should realize his right to meet with defense counsel.

For the exact ensuring rights of defender and suspect an investigator on date when counsel proceeds in the case asks whether their need a meeting and records this in the interview.

Moreover, given the importance of the right to meeting, we believe that the first petition commencing after counsel proceeds in the case should be a date with his defended man.

Because the meeting is necessary not only to negotiate and select a position on the case, but is also very important from the standpoint of organization of protection, because the counsel that is not encountered a defended man before the first interrogation, can not exercise their right to ask questions due to the fear of harm.

Also, "Prior to the first interrogation of the suspect investigator (inquiry officer) must familiarize the counsel with an order to initiate a criminal case, the protocol of detention and order on the application of preventive measures in the form of arrest, and then has to decide on a meeting," - said A. Levy [9 , page 63].

Since first admission to the case, that is, before the first interrogation, the counsel has the right to meet privately with his client.

We think that the counsel must exercise this right. Still, participation of counsel in any case insures an investigator from taking illegal actions. Therefore, any means to exercise the right to interrogate a suspect.

The activity of the suspect counsel, mainly related to provision of the proper use of appropriate obligations of investigative law enforcement agencies. An important role is played considered in Articles 103-112 of the CPC right to appeal the actions of the investigator (the investigator), the prosecutor and court decisions.

"Providing an accused (suspect), his defense counsel and legal representative of the rights of appeal to the court with relevant complaints, giving them grounds during the trial with the prosecutor means the beginning of the introduction of competition in the preliminary investigation, strengthening guarantees legality of the detention and arrest of the accused (suspect)" - says I.D. Demidov [10, page 4].

The appeal is turning to on violation of

rights or legitimate interests. This action provides the right solution claimed by the defense motions.

Counsel's appeal is not only information reported to the investigator, prosecutor, the court on violating the legitimate interests of the suspect, "it is a request to cancel the illegal decision, offer the necessary measures to remedy the consequences of errors" [11, page 66].

The suspect and defense counsel can realize the right granted to them to preserve the interests protected by law, seek to create the conditions for removal from the suspect's allegations, taken action to deny exposing and hardening circumstances [12, 1254-1261].

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International standards and tasks faced by advocacy in Kazakhstan

Abstract. The people of Kazakhstan have already done a lot in terms of promoting the development of independent advocacy. Our achievements in this regard - the adoption of the

Constitution, which protects the fundamental human rights, including freedom of expression and conscience, freedom of meetings and protection of the rights to due legal process in criminal proceedings.

Keywords: the lawyer, protection, assistance, freedom and rights of man

In 2005, the government of Kazakhstan has ratified the International Covenant on Civil and Political Rights, which includes measures to protect the rights of a criminal defendant's for attorney assistance. [1] In addition, the government of Kazakhstan has agreed to adhere to the OSCE commitments in the field of human dimension, including the promotion of independence of judges and bar association, equality of parties / competition in criminal cases, and the independence and impartiality of the courts. [2] The international community understands, what are the goals of Kazakhstan in the field of legal reforms, and strongly supports them.

Comparative analysis of Russian and Kazakh advocacy.

My scientific experience focuses on Kazakhstani advocacy, but I also made time for the study of the Russian advocacy and analysis of Draft of alterations and amendments to the laws relating to the Kazakhstani advocacy presented by Majilis earlier this year. So now I am better able to analyze the parallels between the two systems with the same structure and make some suggestions.

I'll start with the positive parallels, and there are a lot of those. In both countries, the work of thousands of highly educated attorneys reflects the serious professional and ethical values. Many qualified lawyers working in the field of education, and human rights specialists help raise the level of public awareness on the importance of legal reform. Both countries have adopted constitutions and laws that allow for international standards and fix the civil, political, economic and social rights, including the right to qualified legal assistance. Russian and Kazakh attorneys now have the freedom to choose their own form of work, from a one-man practice to work in the organization of large scale, such as legal advice agencies, and large firms. They also have the right to form attorney, through which they can advocate for legal reforms, and use them to improve their professional level. This is a major achievement in terms of promoting the ideals of liberal democracy, civil society and the rule of law.

In negative terms, Russia and Kazakhstan continue to struggle with the elements of corruption against the reforms in law enforcement. These elements undermine the right to due legal process, including the work of attorneys. Torture of suspects is a problem, especially in Kazakh custody. According to Anuar Kurmanbaevich Tugel, president of the Union of Attorneys of Kazakhstan, law enforcement officials often hard on defenders. Mr. Tugel argues that "the current law protects the privilege of "defender - client" but it does not work in practice. There is no legal mechanism to bring to justice those who hinder the implementation of the attorney activity". [3]. Alimkulov Erbol Temirkhanovich, assistant professor of criminal law, criminal procedure and criminology argues that the violation of human rights in Kazakhstan continues partly because bureaucrats operate under an internal written policy, rather than on the basis of national or international guidelines. [4, p.48]

In order to solve these and similar problems, it is necessary to focus on reforming the law enforcement, not the strengthening of system of state control over the advocacy. This *should be* the guiding principle. One step forward for Kazakhstan will be reform of prosecution, as did Russia, so that prosecutors do not have oversight of the legality of the administration of justice, and focused its forces exclusively on the prosecution of crimes. Independent monitoring groups should also get free access to places of detention.

Second, attorneys should not be treated as if they are public servants. Attorneys and their activity should not be subject to legislation governing measures to combat corruption, aimed at public officials who violate the law. The only obligation of attorney, imposed on him by the state, subject

to Art. 13.3 of the Constitution of Kazakhstan (the universal right to qualified legal assistance). This can be achieved by improving the quality of legal education, maintenance of the independence of advocacy governing bodies and state guarantees of constitutional right to have legal representative.

My comparative analysis of the challenges and strengths of the Russian and Kazakhstani advocacy showed that Kazakhstani attorneys, in particular, do not have sufficient access to clients whose cases are considered in the secret / private litigation. In order to obtain a special permit in order to protect these clients, Kazakhstani attorney usually must agree to supervision by the National Security Committee. In addition, there is no public and legal procedures for obtaining such permission (of which no mention is made in the Criminal Procedure Code of Kazakhstan), without the possibility of appeal, if such permission is denied. This arbitrary procedure should be abolished immediately. It is contrary to international legal standards, such as those set out in the Art.14.3 ICCPR and Standard 9 of Standards of independence of the legal profession, adopted by the International Lawyers Association. [5] The procedures governing the way defenders must get security clearance are not regulated by the domestic law of Kazakhstan, and thus there is no transparency in the way the practice is carried out, and as a result it is likely to become a victim of arbitrary action by law enforcement bodies. Any licensed attorneys should be allowed to represent the accused in the politically sensitive cases in the regular courts, as currently practiced in democratic countries. [6] National Security Committee (KNB) has no legal grounds to deny the right of criminal defendants to have attorney of their own choosing and the right to work with a qualified attorney when prepare his case. [7, p.214]

Furthermore, two related negative qualities that are present both in the Russian and in Kazakhstani legal systems - is the lack of attorneys, particularly in rural areas (where about 18% of Kazakhstani attorneys are working) and the fact that many attorneys are overloaded by free legal assistance for which they are poorly paid. How to increase the number of attorneys? Although this issue should be resolved primarily by the governing bodies of advocacy, the government can help advocacy associations by providing financial incentives for lawyers to ensure that they were in the less populated regions and worked as attorneys. Such incentives should include an increase in hourly pay for cases related to the provision of free legal assistance to low-income clients, and providing more favorable conditions for obtaining their pensions at retirement age. Government of Kazakhstan should allocate more of their income from the sale of natural resources in the legal education programs in 14 regions of Kazakhstan. It is necessary to enter the human rights courses in secondary schools as a strategy to build a legal culture in order to allow for more young people the careers in advocacy has become a more attractive alternative than work in other areas.

Draft of alterations and amendments to the laws relating to advocacy and legal profession.

The main purpose of my analysis was to determine what reforms would ensure the fact that, in accordance with the international legal obligations of Kazakhstan, Kazakhstani advocacy became a strong civil society organization whose members can provide expert legal assistance and manage their own corporate affairs, including the imposition of disciplinary sanctions on its members. In the draft of alterations and amendments there are several steps that must be taken, despite the fact that they must be formulated in such a way that the judiciary could not control the management of advocacy organizations. This will allow the advocacy associations to continue to manage its own affairs, including the management and the imposition of sanctions on its members without undue interference.

CONCLUSION.

Everyone knows that there is no country, the legal system of which will not be without drawbacks, and the changes to the law are never sufficient factor in establishing the rule of law. Before legal reforms will be fully implemented, *people's attitudes* should change. In addition, persons responsible for

making policy decisions, should devote more resources to educate public and free legal aid to the poor and must create new incentives to encourage all concerned persons- especially law enforcement agencies - to support the reforms.

Kazakhstan is in the perfect position to show the world its progress towards democracy and the rule of law. One of the safe ways to do so would be to provide a situation in which the legal profession would remain independent professional organization belonging to civil society, and not be controlled by the public authorities.

According to the International lawyers association, the independence of advocacy "is an important guarantee for the development and protection of human rights and is neededefor effective and adequate access to legal services." [11]. Kazakhstan has made a strong beginning to enact laws that are in accordance with international standards of independent advocacy. Moreover, it already has a group of highly educated, hard-working and professional-minded attorneys, and they are a valuable asset in efforts to promote the rule of law. As I said earlier, the people responsible for making policy decisions in Kazakhstan should focus on restructuring of law enforcement bodies, and not on strengthening the mechanisms of state control over the legal profession. This *should be* the guiding principle.

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On the delimitation of the concepts of "State Ecological Expertise" and "judicial ecological examination" in the Republic of Kazakhstan

Abstract. This article is about delimitation of the concepts of "State Ecological Expertise" and "judicial ecological examination" in the Republic of Kazakhstan.

Keywords: expertise, judicial ecological examination.

One of the legal guarantees to ensure environmental safety of the population the protection of natural objects, competent and rational use of mineral resources, without harmful effects on the environment is to attract legal liability for environmental offenses. [1-2]

In Kazakhstan, ecological and legal responsibility provided by the Constitution, the Forest Code of the Republic of Kazakhstan, the Water Code of the Republic of Kazakhstan, the Law of RK "On the ground, the subsoil and land use", the Law "About emergency situations of natural and man-made", the Law of RK "On Specially Protected Natural territories ", the Code of the Republic of Kazakhstan" On administrative Offences ", the Law" On environmental Impact Assessment ", the Criminal Code of the Republic of Kazakhstan. Classification of ecological liability held for various reasons. According to natural objects, it is divided on the responsibility for violation of legislation on protection of land, mineral resources, water, air, flora and fauna. According to the content - on pollution, disturbance ekobiotsinozov, biocomplexes destruction, depletion of the natural environment, etc. According to the application of sanctions - administrative, civil and criminal, including both disciplinary and financial responsibility [3].

The application of environmental legislation appears multifaceted legal phenomenon, a mechanism that involved the entire state apparatus. Government operations and control in the field of ecology corresponds executive-administrative, operational and organizational function of the right. Its aim is to use environmental legislation for the organization of rational use and protection of natural resources. Functions of the mechanism of the application of environmental legislation corresponds to a certain system of state bodies: this court authorities, prosecutor's office and the Interior Ministry.

However, in the country the number of environmental offenses is not reduced, and tends to growth. Particularly concerned about the situation with the offenses with serious consequences for the flora, fauna, the soil of the country, classified in accordance with the criminal law to crimes.

According to statistics, the analysis showed that the country has intensified the anthropogenic impact on the environment, and for example, in 2010 registered 343 environmental crime, for the first 9 months of 2011 - 189 as a result of poaching reduced numbers of many hunting facilities and the most valuable species of fish. During the first 11 months of 2013 it registered 533 environmental crime, which is 76.5% more than in the same period of 2012. In general, the country revealed more than 4 thousand. Environmental violations. On the facts of environmental crime (213), as well as theft, illegal purchase or sale facilities and the production of biological resources (127) initiated 340 criminal cases brought to administrative responsibility perpetrators 3500, levied fines totaling more than $ 7 million. Tenge. Particular attention is paid to the fight against poaching on the territory of the Ural-Caspian basin, where the bodies of internal affairs on the facts of the illegal production, purchase or sale of fish and its products, instituted 184 criminal cases, of which 115 - sent to the court. Seized over 82 tons of illegally caught fish, of which 4.3 tons of sturgeon, as well as 1.5 thousand. Units of fishing gear, 26 swimming facilities. [4]

Specialized environmental prosecutor's office in all regions of the country, statistics show that efforts are being made to address violations of environmental

regulations, but many environmental offenses go unpunished. One reason, according to experts from the Center for Forensic Expertise, is the lack of forensic investigations in support of disclosure of environmental crimes. To improve the system of state control in the field of environment and natural resources, as well as to establish a causal link between environmental offenses and stepped negative consequences at the present stage there is a real need for judicial and environmental impact assessments, whose main aim should be to establish the actual circumstances of environmental offenses . [5]

Forensic-ecological expertise and a comprehensive approach must be carried out by commissioning ecologists, biologists, chemists, forensic doctors, physicists, engineers, agricultural machinery and other specialists, depending on the tasks. This requires special knowledge in the field of ecology, biology, chemistry, soil science and other related sciences. Currently, forensic and environmental expertise in the Republic of Kazakhstan as an independent class forensics, according to experts, is in the process of formation. As the analysis of the Classifier of forensic examinations, approved by the Ministry of Justice, of a kind kind of legal expertise does not exist.

Given the above, in the submitted article highlights some of the problems of environmental forensic examination, as an independent forensic examinations and class as the leading means of proof in the administration of justice in this category of cases. First of all, in their research was undertaken to understand the concepts of "environmental impact assessment" and "judicial ecological examination" Distinctive features of the two concepts: expertise and forensics seems - are as follows. Environmental impact assessment is a form of preventive environmental control and it is increasingly being used. During the environmental review expert committee establishes the eligibility of the planned economic activity environmental requirements and determine the admissibility of realization of the object subjected to examination. Environmental requirements are in environmental protection from harmful chemical, physical and biological impacts, and with the help of state ecological expertise is trying to provide a favorable environment, environmental management, etc. There are environmental impact assessments state and public. The order of their conduct, powers of the members of the expert committee of both state and public examination determined the Environmental Code of the Republic of Kazakhstan and the "Rules for the state environmental expertise" [6, 7]. The organization, the implementation of environmental impact assessment is the responsibility of the Ministry of Environment of Kazakhstan.

Forensics - a procedural category, so it has all the features, attributes that are in the Republic of Kazakhstan Code of Civil Procedure, Code of Criminal Procedure, the Code of Administrative Offences, the Law on forensic activities and other regulations [8-11].. Forensic examination takes place only in the procedural legal relationships.

Other features differ from forensic examination are: in a special manner of her appointment (required procedural document issued specific shape and structure); in subjects who have the authority for appointment of judicial examination in the subjects that are endowed with, or empowered by manufacture of judicial examination in the evaluation of its results, in the presence of its evidentiary role, and others. The subject, endowed with authority to appoint forensic examination, is subject to that the burden of proof, or the entity carrying out justice. The entity conducting the forensic examination, has special knowledge, endowed with the appropriate rights and responsibilities; bears for knowingly giving false imprisonment criminal liability; the results of their research is required to draw up the relevant procedural documents available according to legal requirements strictly defined form, structure, content. Objects that are studied in forensics, be sure to have a direct relation to the events under investigation of a crime or to the circumstances of the civil case; necessarily procedural requirements for their detection, fixing must be met, withdrawal, etc.

The results of the state ecological examination, if they were carried out before

the criminal, civil or administrative offense, are the written evidence in criminal, civil cases and administrative proceedings. However, the appointment is considered unacceptable and conducting a departmental study on excitation stage and subsequent stages of the process. In such cases, it has to be assigned to forensics.

Based on the foregoing, it can be argued that the concept of "environmental impact assessment" and "judicial ecological examination" - not identical concepts. Environmental expertise in some sources, carried out on the instructions of the state bodies, called departmental expertise, but it is more expedient to still call it the state examination, since the purpose of their appointment and conduct is the implementation of state functions in the field of environmental protection.

Thus, we give the following definition of these concepts:

1.Gosudarstvennaya environmental impact assessment - is a means of implementing the special knowledge required for the government in order to full, objective of the authorized functions in the field of environmental protection

2.Sudebnaya environmental impact assessment is a means of realization of special knowledge, but in a special criminal procedure or civil procedure or administrative and procedural forms, conducted in order to establish the circumstances of the case to come to a fair, sound judgment or decision of the court during the investigation and consideration of environmental offenses.

Note those basic specific features, which, in our view, is characterized by judicial ecological examination in civil, criminal and administrative legal procedures:

• a special form of use of special knowledge and special ad hoc activities;

• an independent procedural action;

• carried out only by the definition of the judge (court) or by order of a prosecutor or investigator;

• Only performed in the presence of materials for research, directed by the judge (prosecutor, investigator) together with determination, decree;

• made the subject of having special scientific knowledge and endowed with rights and obligations provided for in the Code of Civil Procedure of Kazakhstan, Code of Criminal Procedure, Code of Administrative Offences and the Law on forensic activity;

• expert is criminally responsible for knowingly giving false imprisonment;

• the results of their issledoany expert draws up in prison, having a specific structure;

• expert opinion has the force of evidence.

Subject to legal and environmental expertise can be conventionally represented as the following groups: metosfera - soil objects hydrosphere - water environment, the atmosphere - air pool, Biota - flora and fauna, specific facilities.

However, ecology - the concept of the collective, and the problem of the protection of the environment - a complex nature. It has economic, technological, social, biological, medical, administrative and economic aspects, it is designed to address issues with the establishment of the harm and the existence of possible negative consequences of the offense under investigation in the future.

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The role of judicial ecological examination in the investigation of environmental offenses

Abstract. This article is about the role of judicial ecological examination in the investigation of environmental offenses.

Keywords: judicial ecological examination, investigation, environmental offenses.

Along with the global economic and political issues sharply raises questions of protection of the international community environment. Local human disturbance of natural objects will eventually have an impact on the ecological situation of the Earth's surface. Therefore, at present all over the world becoming increasingly important environmental factors of environment development.

In the last two centuries of scientific and technological revolution is dramatically influenced the change in the environmental situation. The anthropogenic impact on the structure began to affect natural systems and undermine the natural basis of existence of the person. Status of the global environmental crisis has caused and the need to develop new subjective rights of citizens - protection of the environment.

At this time, in Kazakhstan, as well as throughout the world today, there are many environmental problems. Tehnogenizatsiya all spheres of life, as one of the conditions for economic growth in the standard of living of society, requires more attention to the issues of environmental protection.

So now one of the priorities of Kazakhstan's development strategy is the transition to environmentally sound and sustainable development. In our country environmental protection and rational nature raised to the rank of national problems and are reflected in the Constitution of the Republic of Kazakhstan (art. 31), in numerous relevant laws, regulations and other regulations, which indicates the management's understanding of the importance of the country in this direction.

Forensics - a procedural category, it is a means of proof, so it has all the features, attributes that are in the Republic of Kazakhstan Code of Civil Procedure, Code of Criminal Procedure, the Code of Administrative Offences, the Law on forensic activities and other regulations [8-11]. .

Other features forensics are: in a special manner of her appointment (required procedural document issued specific shape and

structure); in subjects who have the authority for appointment of judicial examination in the subjects that are endowed with, or empowered by manufacture of judicial examination in the evaluation of its results, in the presence of its evidentiary role, and others. The subject, endowed with authority to appoint forensic examination, is subject to that the burden of proof, or the entity carrying out justice. The entity conducting the forensic examination, has special knowledge, endowed with the appropriate rights and responsibilities; bears for knowingly giving false imprisonment criminal liability; the results of their research is required to draw up the relevant procedural documents available according to legal requirements strictly defined form, structure, content. Objects that are studied in forensics, be sure to have a direct relation to the events under investigation of a crime or to the circumstances of the civil case; necessarily procedural requirements for their detection, fixing must be met, withdrawal, etc.

Trial environmental impact assessment is a means of realization of expertise, but in a special criminal procedure or civil procedure or administrative and procedural forms, conducted in order to establish the circumstances of the case to come to a fair, sound judgment or decision of the court during the investigation and consideration of environmental offenses.

Subject to legal and environmental expertise can be conventionally represented as the following groups: metosfera - soil objects hydrosphere - water environment, the atmosphere - air pool, Biota - flora and fauna, specific facilities.

However, ecology - the concept of the collective, and the problem of the protection of the environment - a complex nature. It has economic, technological, social, biological, medical, administrative and economic aspects, it is designed to address issues with the establishment of the harm and the existence of possible negative consequences of the offense under investigation in the future.

Central strength element in the United Republic of Kazakhstan, for example, for the period from 2001 to 2006. It held about 100 examinations relating to environmental offenses. As a rule, they were appointed as court-biological, forensic soil science, forensic technology, forensic petroleum products and lubricants. When choosing a performer defining moment was the nature of the object, rather than a set of tasks that put on approval examination. The exceptions were those studies, which raised the question of harming (the damage) which is made as a commission, with the involvement of experts from legal and economic specialization. According to experts, the analysis of the expert manufacturing practices expertise for environmental offenses, clearly highlighted the problems of scientific, organizational and methodological aspects of staffing.

At the end of the article, we give an example of expert practice,

In 2004, the Central (Almaty) NPLSE MJ RK Central strength element of the Internal Affairs of Aktobe region received the decision on the production of a comprehensive examination of the materials of the criminal case instituted on the articles of the Criminal Code: Art. 277 "Violation of the ecological requirements," Art. 281 "pollution, contamination and depletion of water", 289 - "The mass death of animals" on the fact of mass death of Whooper swans. At the primary examination resolution put questions:

1. What is the cause of death of Whooper swans?

2. What was the main cause of death of Whooper swans: trauma, disease or poisoning:

3. Does the death of swans Followed by poisoning or other causes?

4. Is there a direct causal link between the poisoning and death of Whooper swans?

5. Does the death of Whooper Swans immediately after drinking water from ponds There was shlakonakopitelya or through a certain period of time?

6. What are the strong or poisonous substances caused by poisoning Whooper swans?

7. Could not poisoning and death of Whooper swans occur as a result of falling into the aquatic environment of ponds shlakonakopitelya toxic substances or waste oil sweetening? Which ones?

8. Can the death of Whooper swans due to the high toxicity of the water in the ponds

shlakonakopitelya due to a significant content in it sulfates, chlorides and boron?

9. Is it possible to poisoning and death of Whooper swans from ingestion of food containing sulphates, chlorides and boron?

On further examination of the resolution put questions:

1. Can the death of Whooper swans due to the high toxicity of the water in the ponds shlakonakopitelya due to a significant content in it alone sulfates (sweetening oil), without components of industrial waste such as chlorides and boron; or vice versa, if the death of Whooper swans due to the high toxicity of the water available in ponds shlakonakopitelya due to a significant content in it only industrial waste (chlorides and boron) without sweetening components of oil (sulfate)?

2. Is it possible the formation of any chemical reaction between the components due to the chlorine, boron sulfate?

3. Is it possible poisoning and subsequent death of Whooper swans on chemical substances formed as a result of a chemical reaction between components of chlorine, boron, sulphates?

The examination was carried out on the materials of the case, as the objects of the study were presented notarized photocopies conclusions pathologists experts, microbiologists, 3 act veterinary examination (virology, parasitology and bacteriology), the report of survey of the scene, to enter into chemical and radiological studies, the act of chemical analytical laboratory, sanitary-hygienic assessment of water application "Classifier of toxic industrial waste products of the Republic of Kazakhstan, letters of Aktobe branch of the State enterprise" Republican veterinary laboratory "passport shlakonakopitelya evaporation, protocol # 370, applications Ltd." Tangier ECO "for authorization of nature; authorization number 020303364 from 27.11.2003, on the pollution of LLP "Tangier ECO" with the application number 3 (on the back) permission to a series of natural resources 02 006 710 number from 27.11.03 g .; permission "from 27.11.03 02006310, on the pollution of LLP" Tangier ECO "with the application №3; Annex №3 to the resolution of "02006310 from 27.11.2003, protocol examination of the witness, the head of the department of certification of Aktobe branch of the State Enterprise" Republican Veterinary Laboratory "; materials used in veterinary research and preparation of acts of veterinary expertise; Diagnosis of poisoning fish and aquatic toxicity; sanitary-hygienic assessment of water; Laboratory studies in veterinary medicine; chemical-toxic methods; Guide biochemical, toxicological and mycological studies of tissues, organs, feed, water and other materials; drinking water, methods for determining the content of sulfate; sanitary rules and norms.

All presented the conclusions of experts noted the existence of a fact, but did not establish a causal link it with the massive loss of swans.

Experts Almaty NPLSE, examined data on the biology of whooper swan, presented the conclusions of experts on post-mortem autopsy swans corpses opinions on radiological and chemical study of water shlakonakopitele, sanitary standards and requirements for safety and nutritional value of food products, oil refining technology and technical documentation the right to use the slurry tank for waste disposal, concluded: "The death of Whooper swans occurred as a result of the use of toxic water containing sulfates and chlorides, repeatedly exceeding the maximum permissible limits. These substances are components of industrial waste chemical plant (chlorides), functioned until 1996 and sweetening oil (sulfates) "[12]. This example demonstrates the complexity of studies, their complex nature and other problems of this kind of expertise, which work on the resolution of legal experts of the Center of legal expertise MJ RK.

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Contents