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FOREIGN EXPERIENCE OF ADMINISTRATIVE AND LEGAL REGULATION OF ACTIVITIES OF BODIES OF JUSTICE

A justice ministry, ministry of justice, or department of justice is a ministry or other government agency in charge of the administration of justice. The ministry or department is often headed by a minister of justice (called minister for justice in only very few countries) or secretary of justice. In countries where this agency is called a department (usually department of justice, sometimes attorney general's department) the head of the department is entitled attorney general, for example in the United States.

Specific duties may relate to organizing the justice system, overseeing the public prosecutor and maintaining the legal system and public order. Some ministries have additional responsibilities in related policy areas overseeing elections, directing the police, law reform. The duties of the ministry of justice may in some countries be split from separate responsibilities of an attorney general (often responsible for the justice system) and the interior minister (often responsible for public order). Sometimes the prison system is separated into another government department called Corrective Services.

The function of a judge, as well as of that of a public prosecutor, is exercised by members of the judiciary. The administrative function is carried out by the Ministry of Justice.

The judicial function can be broken down into the following areas: Ordinary civil and criminal, Administrative, Accounting, Military, Taxation

Jurisdiction over administrative matters is exercised by regional administrative courts (Tribunali Amministrativi Regionali or TAR) and by the Council of State (Consiglio di Stato).

Jurisdiction over accounting matters is exercised by the State Auditors' court (Corte dei conti). The office of its general public prosecutor is based at the same court.

Jurisdiction over taxation matters is exercised by the Provincial Taxation Commissions and the District Taxation Commissions.

Jurisdiction in military affairs is exercised by the military courts, the military appeals court, the surveillance military court, military prosecutors based at the military courts, general military prosecutors based at the military appeals court, and the general military prosecutor based at the Court of Cassation.

Jurisdiction over ordinary civil and criminal matters is exercised by magistrates belonging to the judicial order, which is divided into judges on the one hand and magistrates of the public prosecutor's office on the other, fulfilling the roles of judges and investigators respectively.

Administration of courts

The Constitution, among the government structures, puts the Ministry of Justice in charge of court administration because of its special function, role and relationship with the judiciary.

After a very difficult public examination, magistrates are assigned to courts in a certain area of competence, according to their personal choice. They cannot be assigned, promoted, removed, transferred or punished without deliberation by the Consiglio Superiore della Magistratura or CSM (the superior council of magistrates) and with special guarantees of protection.

Justices of the peace (giudici di pace) – who are honorary (not professional) judges. They hear minor civil and criminal matters

The role of public prosecutor is played by career magistrates, who exercise their functions under the supervision of the chief of their bureau. This operates as a kind of hierarchy that applies only to the public prosecutors' offices.

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APPLICATION OF THE PRINCIPLE OF RULE OF LAW IN THE PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS

Taking into account the developments of modern domestic and foreign science, the problems of application of the rule of law principle in the practice of the European Court of Human Rights by domestic courts are highlighted.

Legislation stipulates that a person may be held liable only in case of violation of the law, and be liable in accordance with the procedure established by law, each person is equal before the law and is not subject to any discrimination. These norms are enshrined in the Constitution of Ukraine and emphasize the importance of the rule of law principle at the legislative level. At the domestic level, this principle is among the most important principles on which the formation, implementation of compliance with the law is based. It is enshrined directly in Article 6 of the Constitution of Ukraine, as well as indirectly in the most important laws regulating important spheres of public life.

The most versatile interpretation of the rule of law principle is given in the rulings of the European Court of Human Rights, which operates on the basis of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, which was ratified on the territory of our Motherland on

September 11, 1997. At present, the Convention for the Protection of Human Rights and Fundamental Freedoms is a part of the national legislation of Ukraine and its principle of «rule of law» must be taken into account when resolving disputes in courts.

So, we see that the rule of law principle has been formed and operates in a democratic society in the institutions that ensure its proper functioning. It takes an important place among other European principles, taking into account its fundamental importance. This follows from the very content of the rule of law, which is enshrined in almost all sectors of not only domestic but also European law. The principle of the rule of law opens the way to creative rather than thoughtless application of the law, but in no case can be a justification for abuses by the court, otherwise – judicial arbitrariness. Judicial decisions with reference to the rule of law in terms of content should establish human rights and strengthen trust in the courts.

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FEATURES OF DEVELOPMENT OF ALTERNATIVE METHODS FOR SOLVING DISPUTES ACTIVITY IN UKRAINE

Mediation is a dynamic, structured, interactive process where a neutral third party assists disputing parties in resolving conflict through the use of specialized communication and negotiation techniques. All participants in mediation are encouraged to actively participate in the process. Mediation is a "party-centered" process in that it is focused primarily upon the needs, rights, and interests of the parties. The mediator uses a wide variety of techniques to guide the process in a constructive direction and to help the parties find their optimal solution. A mediator is facilitative in that she/he manages the interaction between parties and facilitates open communication. Mediation is also evaluative in that the mediator analyzes issues and relevant norms ("reality-testing"), while refraining from providing prescriptive advice to the parties (e.g., "You should do... .").

Mediation, as used in law, is a form of alternative dispute resolution (ADR), a way of resolving disputes between two or more parties with concrete effects. Typically, a third party, the mediator, assists the parties to negotiate a settlement. Disputants may mediate disputes in a variety of domains, such as commercial, legal, diplomatic, workplace, community and family matters.

The term "mediation" broadly refers to any instance in which a third party helps others reach agreement. More specifically, mediation has a structure, timetable and dynamics that "ordinary" negotiation lacks. The process is private and confidential, possibly enforced by law. Participation is typically voluntary. The mediator acts as a neutral third party and facilitates rather than directs the process.

Mediation is becoming a more peaceful and internationally accepted solution in order to end conflict. Mediation can be used to resolve disputes of any magnitude.

The term "mediation", however, due to language as well as national legal standards and regulations is not identical in content in all countries but rather has specific connotations and there are quite some differences between Anglo-Saxon definitions and other countries, especially countries with a civil, statutory law tradition like Germany or Austria.

Mediators use various techniques to open, or improve, dialogue and empathy between disputants, aiming to help the parties reach an agreement. Much depends on the mediator's skill and training. As the practice gained popularity, training programs, certifications and licensing followed, producing trained, professional mediators committed to the discipline.

Disputes involving neighbors often have no official resolution mechanism. Community mediation centers generally focus on neighborhood conflict, with trained local volunteers serving as mediators. Such organizations often serve populations that cannot afford to utilize the courts or professional ADR-providers. Community programs typically provide mediation for disputes between landlords and tenants, members of homeowners associations and small businesses and consumers. Many community programs offer their services for free or at a nominal fee.

Experimental community mediation programs using volunteer mediators began in the early 1970s in several major U.S. cities. These proved to be so successful that hundreds of programs were founded throughout the country in the following two decades. In some jurisdictions, such as California, the parties have the option of making their agreement enforceable in court.

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GENESIS OF LEGAL REGULATION OF RELATIONS IN THE SPHERE OF PROTECTION OF COMMERCIAL SECRETS

One of the components of legal regulation of competition is the definition of the status of commercial secrets and ensuring its protection. Moreover, the most substantive justification of the development of legal regulation of relations in the field of protection of commercial secrets, we consider it will be necessary to turn to foreign experience of legal regulation of these relationships.

Due to this context, we are talking about two groups of countries: they have adopted special legislation on commercial secrecy (USA, Canada, Moldova, and United Kingdom) and countries that do not have special legislation on commercial secrecy (France, Italy and Australia).

Analysis of national legislation, special scientific literature on commercial secrets, and the experience of some foreign countries testify to the expediency of adopting a special law aimed at legal regulation of relations in the field of protection of commercial secrets. Perspectives of the further development of Ukrainian legislation on commercial secrets appear inseparable from processes of harmonization and approximation of private law in Europe. Adaptation of Ukrainian legislation to European standards should contribute to Ukraine's integration into European economic and political processes and the comprehensive reform of Ukraine's foreign trade regime.

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ABUSE OF POWER OR OFFICIAL POSITION AS AN ELEMENT OF ECONOMIC CRIME

In the introduction of the article was noticed that the topic of crime in the field of official activity is very urgent from the scientific and practical point of view, in particular the abuse of power or official position in the context of economic crime

The aim of the article is elucidation of the problem of counteracting abuse of power or official position in the context of prevention of economic crime and the formulation of appropriate author's recommendations in this area of scientific research.

In the article the acts relating to the abuse of power or office position were considered. The quantitative and qualitative indicators of counteracting to abuse of power or office position were analyzed. There was made conclusion concerning effectiveness of law enforcement agencies in the field of counteraction to abuse of power or official position in Ukraine. The aspects of economic crime from the point of official misconduct were highlighted. The recommendations for combating of abuse of power or office in order to prevent economic crime were formulated.

There was made a general conclusion concerning counteracting abuse of power or official position in the context of prevention of economic crime.

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PROCEDURAL REQUIREMENTS FOR THE OPINION OF AN EXPERT IN CRIMINAL PROCEEDINGS

Today, the investigation of criminal proceedings can not do without conducting various forensic examinations. Consequently, forensic examination is considered to be the most important and qualified form of use of special knowledge in the process of proving the circumstances of a crime. It is these circumstances that became the basis for choosing the subject of the study and justifies its relevance at the present stage of the reform of the law-enforcement and judicial system in Ukraine.

The purpose of the article is to study the essence and significance of the expert's conclusion as a procedural source of evidence, as well as the features of involving an expert in criminal proceedings, the development of practical recommendations for improving the existing criminal procedural law.

The current CPC of Ukraine substantially changed the rules regarding the expert's conclusion as a procedural source of evidence, as well as the procedure for involving an expert in conducting forensic examinations.

The expert's conclusion should be understood as a detailed description of the research conducted by the expert and the conclusions drawn from their results, the answers to the questions put forward by the person who attracted the expert or the investigating judge or the court that commissioned the examination (paragraphs 1 of Article 101 of the CPC).]

The expert's conclusion as a synthesis of the forensic examination is provided in writing, but each party to the criminal proceedings has the right to apply to the

court with a petition requesting the expert to interrogate during the trial to clarify or supplement his conclusion (Part 7 of Article 101 CCP) [1].

The criteria for assessing the expert's conclusion - the mental (logical) activity carried out by the investigator, prosecutor, investigating judge, court, is its affiliation, admissibility, authenticity, sufficiency and interrelation with other evidence in the criminal proceedings. These criteria must meet the requirements of criminal procedural law for the possibility of using it in the process of proof.

For the expert's conclusion, the source of evidence is a procedural document. Thus, for an investigator, a prosecutor, an investigating judge and a court, procedural documents of appointment of an examination are an order or decision, the requirements of which are clearly stated in the CPC.

However, in the current CPC the legislator has not defined the form and content of the document by which the party of protection may apply to the expert institution or expert on the appointment and conduct of the examination.

Conclusions:

firstly, the expert's conclusion is an independent procedural source of evidence, which is obtained during the expert examination of the forensic examination, contains information synthesizing within the competence and competence of the expert; secondly, the expert's conclusion must be consistent with the main criteria for assessing evidence - affiliation, admissibility, authenticity and sufficiency; thirdly, the affiliation, admissibility, authenticity and sufficiency of the expert's conclusion depends on a number of factors: the correctness of the formulation of the questions put by the parties to the criminal proceedings for resolution, the legality of obtaining the materials to be sent for research, their adequacy and quality, as well as the competence and competence of the expert , observance of his duties; Fourthly, the issues related to the appointment of examinations in criminal proceedings by the defense party, which require some changes to the norms of the current CPC of Ukraine and the Law of Ukraine "On Forensic Examination", are still not fully resolved.

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SPECIFIC FUNCTIONING OF THE HIGH ANTICORRUPTION COURT IN UKRAINE: INTERNATIONAL EXPERIENCE AND UKRAINIAN REALITIES

Nowadays, corruption is one of the most common problems in Ukraine. This phenomenon has become too widespread and has penetrated into all spheres of society's life, and according to statistics of leading international organizations, Ukraine is one of the most corrupt countries in Europe. Of course, this has a negative impact on the economic and political situation in the country and the standard of living of the citizens.

In connection with European integration reforms, a number of anti-corruption authorities have been increased in Ukraine with establishment of the Specialized Anti-Corruption Prosecutor's Office, the National Anti-Corruption Bureau and the National Agency for the Prevention of Corruption, but their activities, unfortunately, have not been effective.

On June 7, 2018, Ukrainian Parliament, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "About the Highest Anti-Corruption Court", which initiates the creation of another anti-corruption authority - the Supreme Anticorruption Court. The need for its creation is currently a very controversial issue; in fact, society was divided into two camps: the supporters of the creation of a specialized court and opponents of its formation.

According to the Law "About the Supreme Anti-Corruption Court" of June 7, 2018, the Higher Anti-Corruption Court is a constantly acting, highest specialized court in the system of Ukrainian judicial system.

The feasibility of establishing this authority remains questionable, because, analyzing the international experience of the existence of anti-corruption courts, none

of them met expectations and did not become the link of the country's anticorruption system, which would become a decisive factor in combating corruption within the state.

In Ukraine, the number of opponents is numerically larger than the number of supporters of the creation of an anti-corruption court. Today it is impossible to accurately predict whether such a body will be effective and will justify the purpose of its formation.

An anticorruption court should become the final link in the chain of newly created anti-corruption bodies, which will be able to ensure the inevitability of punishment for corrupt officials. Only the inevitability of punishment and fair sanctions for violating criminal law will have a real effect on reducing corruption in Ukraine.

Among political experts and experts in the field of the right to think about the creation of this body were divided, however, the majority still expresses its dissatisfaction with the creation of the Anti-corruption court and does not believe in the effectiveness of its activities.

Other anti-corruption authorities (Specialized Anti-Corruption Prosecutor's Office, National Agency for the Prevention of Corruption, National Anti-Corruption Bureau of Ukraine) can serve as a vivid example. They have not yet demonstrated the expected results - corruption remains the most urgent problem of Ukrainian society.