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## **PROBLEMS OF NECESSARY DEFENSE IN UKRAINE**

The aim of this study was to investigate the modern criminal legislation of Ukraine in the direction of the implementation of the constitutional right to self-defense, as well as the problems of necessary defense and its borders, to point out the shortcomings in this area that have become an obstacle to the exercise of this right.

This topic is relevant for a long time since the adoption of the Criminal Code of 2001, when amendments were made to the articles concerning the necessary defense, the definition of the necessary defense was given, in connection with the recent developments in the foreign policy of Ukraine, namely Eurointegration, this issue is particularly acute, since it directly concerns the issue of the lawful protection of the legitimate rights of a person from an unlawful encroachment on the part of another person.

The attention to the problems of the necessary defense and its excess in science and practice has always been given. In particular, this issue was investigated by M.I. Bazhanov, Y.V. Baulin, O.M. Kostenko, M. I. Korzhansky, A.A. Piontkovsky, M.I. Yakubovich, A.F. Koni. The name of Great Britain professor K.S.Kenny is worth of noting too.

The object of this work is the analysis and systematization of knowledge about legislative regulation of such circumstances that exclude the crime of the necessary defense's act, as well as study of the problems of its application.

The subject of this work is the problem of necessary defense and her application.

To study the problem of the use of necessary defense, as well as the analysis of international legal experience in defining the concepts and features of the necessary defense from the point of view of legislation.

To analyze international legal experience in defining the concepts of required defense

To identify the differences in the use of the necessary defense in different countries of the world.

To identify the problems of regulating the necessary defense According to Article 1 of the Constitution of Ukraine: "Ukraine is a sovereign and independent, democratic, social and lawful state" [1,c. 5], hence the state must provide all the necessary conditions for the normal development of society, to protect the rights and freedoms of man and citizen, Article 3. The Constitution of Ukraine establishes that "Man, his life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value" [1,c. 5], therefore the question of their protection is a priority area of the Ukrainian state, including in criminal law so the issue of the necessary defense is acutely facing everybody in nowadays.

The right to defense is enshrined in Article 27 of the Constitution of Ukraine: "Everyone has the inalienable right to life, nobody can be arbitrarily deprived of life. The duty of the state is to protect human life.

Everyone has the right to protect his life and health, life and health of other people from unlawful encroachments. "[1,c. 10], Implementation of the constitutional provisions on the right of a person to protect his life and health, as well as life and health other people from unlawful encroachments are the institution of necessary defense, provided by the current Criminal Code of Ukraine in article 36 "Necessary defense as a circumstance excluding criminal offense" [2,c. 14].

Some authors consider causing damage with the necessary defense without exceeding its limits as a socially neutral behavior. As a general rule, injury within self-defense excludes criminality.

article 118 "Intentional murder in excess of the limits of necessary defense, or in case of exceeding the measures necessary for the apprehension of the offender" and article 124 "Intentional infliction of grave bodily harm in case of exceeding the limits of the necessary defense or in case of exceeding the measures necessary for the apprehension of the offender". [2,c. 14]

Since criminal liability for serious harm is provided for by Articles 118 and 124 of the Criminal Code, official statistics on such crimes should be rather low, but the dynamics of the registration of crimes provided by the articles is increase. In general, in Ukraine, for decades, the situation with the number of cases involving the prosecution of individuals for causing serious harm exceeding the limits of the necessary defense remains extremely difficult. Problems of necessary defense and its excess in science and practice have always been given close attention. In particular, Y.V. Baulin notes that not only private but also specially authorized persons (in this case, law enforcement officers) may also participate in the protection of law-protecting interests in the form of necessary defense. In such cases, such actions by private individuals should be assessed in accordance with the rules of the necessary defense, and special subjects - in accordance with the requirements for the performance of official duties [3,c. 241].

There is no definition of the "limit of necessary defense" in the theory of criminal law. The definition of this concept was tried to give a lot of scientists, in particular Y.V. Baulin, who stated that "the boundary of necessary defense is recognized as causing harmful damage that corresponds to the danger of an encroachment or the protection of the environment" [3,c. 248].

Analyzing the experience of foreign countries regarding the application of the institute of necessary defense, one can conclude that the necessary defense is defined as the lawful behavior necessary to protect citizens, society and the state from socially dangerous encroachments.

The criminal codes of most countries recognize the possibility of exceeding the limits of the necessary defense and causing significant harm to the offender. In the states of distant foreign countries, the death of an offender in excess of the limits of the necessary defense is not punishable.

In the CIS countries, responsibility for exceeding the limits of the necessary defense is maintained.

In order to solve the problem of the use of the necessary defense, it is necessary to clearly define the limits of the defense and to fix them in the legislative acts.

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