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REGARDING COMPLIANCE WITH NATIONAL STANDARDS FOR ENSURING INDIVIDUAL RIGHTS TO PROTECTION IN ACCORDANCE WITH INTERNATIONAL STANDARDS

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The issue of compliance with national standards ensuring an individual’s right to protection in accordance with international standards has been considered. It is noted that one of the primary tasks of modern international law is to ensure international protection of human rights and establish norms regulating relations between states and other subjects of international law. These norms aim to guarantee the rights and freedoms of individuals as provided by international agreements. Emphasizing that the process of establishing international legal standards for human rights protection is inevitably linked to the creation and adoption of universal international documents, many human rights have been normalized through corresponding forms and mechanisms. Recent history of interstate relations has seen the systematization of international agreements defining human rights protection standards through a series of normative acts known as the International Bill of Human Rights. This bill includes the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.

The International Bill of Human Rights serves as the normative foundation for human rights protection standards at the international level.

It is argued that a fundamental component of general international human rights standards is the right of the accused to defense. The right to defense in criminal proceedings is one of the most important institutions and serves as a guarantee for other rights and freedoms of individuals. Its stability and viability characterize the level of development of the rule of law, democracy, and societal culture. Thus, the accused’s right to defense is an integral part of general international human rights standards and is considered a necessary condition for the realization of the right to a fair trial. The right to defense is among the universally recognized principles of international law, as enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights. The provisions of these international legal acts are implemented in national legislation. At the national level, ensuring the accused’s right to defense is enshrined in the Constitution of Ukraine, the Criminal Procedure Code (hereinafter referred to as CPC) of Ukraine, and the Law of Ukraine “On Free Legal Aid,” among others.

It is noted that ensuring the right to defense is a fundamental principle of national justice systems. These principles are authoritative requirements addressed to participants in criminal proceedings, obliging (or allowing) them to act in a certain way. For individuals involved in criminal proceedings, compliance with these requirements is their legal duty.

It is established that the main international human rights treaties have been recognized by Ukraine, forming part of its national legislation and ensuring judicial protection. The right to defense is classified by national legislation as one of the fundamental principles of justice, which entails that authorized officials empowered to conduct criminal proceedings must guarantee the procedural rights of suspects, accused persons, convicted individuals, and acquitted individuals as provided by the Criminal Procedure Code of Ukraine. Furthermore, these officials, while exercising their rights, should have the opportunity to defend against accusations.

Key words: Constitution; law; international legal standards for human rights protection; ensuring the right to defense; criminal proceedings; suspect; accused; convicted; acquitted.

Problem statement: The international legal system is constantly evolving in its directions, and correspondingly, the domestic legal system is also in continuous development. The priority focus today is on the individual, ensuring their rights and freedoms, especially during defensive activities in criminal proceedings. As Ukraine pursues a course of European integration, its legislation must align with international standards. Establishing an effective legal mechanism aimed at achieving compliance with international standards by national legislation is crucial for bringing the national legal system in line with the requirements of leading legal states. Therefore, researching the alignment of national standards for ensuring an individual's right to defense with international standards is both relevant and timely.

Analysis of the problem: The scientific and theoretical foundation for this research draws from the works of both domestic and foreign scholars, including S. A. Alpert, O. D. Boykov, Yu. M. Groshevyy, Ya. P. Zeykan, O. M. Larin, M. M. Mykheyenko, V. T. Nora, V. O. Popelyushka, P. M. Rabynovych, M. S. Strohovych, V. Ya. Tatsiya, F. N. Fatkullina, D. P. Fiolyevska, O. G. Yanovska, and others.

The aim of the article: The objective of this article is to investigate the alignment of national standards ensuring an individual's right to defense with international standards.

Presentation of the main material. The course of Ukraine towards European integration stimulates increased attention to compliance with European human rights standards. As a member of the Council of Europe since 1995, Ukraine has committed to adhering to international standards in the field of human rights, establishing domestic guarantees for their implementation based on relevant international legal norms, according to the Paris Charter for a New Europe of November 21, 1990.

One of the primary objectives of modern international law is to ensure international protection of human rights and establish norms regulating relations between states and other subjects of international law. These norms are aimed at guaranteeing the rights and freedoms of individuals as provided by international agreements.

It is impossible to disagree with the famous statement by Hannah Arendt that there exists and will always exist an inherent "right to have rights" as an integral part of human status. Human rights are now universally accepted concepts that reflect the convictions of contemporary society. These convictions are considered self-evident truths that define the boundaries of what is possible. Expressing doubts about the value of human rights is seen as stepping beyond the recognized standards of universal morality [1, p. 53].

The normative nature of human rights is associated with the concept of "human rights standards", which has gained increasing importance in international relations in recent years. The process of standardizing human rights is recognized as a key foundation for assessing how a specific legal system aligns with democratic aspects of human development. In general, human rights standardization primarily

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aims to provide minimal legal guarantees for individual protection, allowing individuals to realize their personal potential in various spheres. Therefore, the process of human rights standardization is essential for recognizing the dignity of every person, regardless of citizenship, religious beliefs, nationality, gender, language, and other characteristics.

At the international level, significant attention is given to international standards in the field of human rights protection, as fulfilling obligations to promote universal respect, compliance, and protection of human rights and fundamental freedoms is a duty for all United Nations member states.

The process of establishing international legal standards for human rights is inevitably linked to the creation and adoption of universal international documents, in which many human rights have been normalized through corresponding forms and mechanisms. In recent history of interstate relations, this systematization of international agreements defining human rights protection standards occurred from 1948 to 1966 through a series of normative acts known as the International Bill of Human Rights. This bill includes the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights. During this period, significant universal international mechanisms for human rights protection were established. The International Bill of Human Rights serves as the normative foundation for human rights protection standards at the international level. The Universal Declaration of Human Rights was developed by the United Nations Commission on Human Rights and adopted by the General Assembly on December 10, 1948. This declaration undoubtedly had an innovative character and continues to play a key global role as an instrument in the field of human rights.

The concept of human rights reflected in the Universal Declaration of Human Rights is based on the recognition of inherent dignity for all members of the human family and the equal and inalienable rights of every individual, forming the basis for freedom, justice, and global peace. This assertion serves as the foundation for understanding human rights as fundamental capabilities necessary for the life and development of each person, universally recognized, indivisible, and equal for all, and guaranteed by states in accordance with international standards.

Therefore, the obligation to ensure human rights is a requirement that is imposed on the state and exists at a higher level than the state itself, as its imperative nature does not depend on the state's will. The state cannot refuse to provide or protect human rights or express its consent to their denial or lack of provision. This obligation of the state arises from the nature of these rights, is defined by their inherent character, and is conditioned by the artificial, derivative nature of the state.

An integral component of general international human rights standards is the right of the accused to defense. The right to defense in criminal proceedings is one of the most important institutions and serves as a guarantee for other rights and freedoms of individuals. Its stability and viability characterize the level of development of the rule of law, democracy, and societal culture. It is worth noting that the criterion for a state's formation should be the actual provision of human protection in society overall and specifically in criminal justice, as the activities of state bodies in the field of criminal justice often restrict constitutional rights of individuals. This is particularly relevant for the accused (suspect), as the right of the accused to defense is an integral part of general international human rights standards and is considered a necessary condition for the realization of the right to a fair trial.

So, the right to defense is one of the universally recognized principles of international law, as enshrined in the Universal Declaration of Human Rights. Article 11 states that every person accused of a criminal offense is presumed innocent until proven guilty in a fair trial, where they are provided with all the opportunities for defense [2]. In the International Covenant on Civil and Political Rights, Article 2, paragraph 3, states that every state is obligated to provide an effective remedy for any person whose rights and freedoms have been violated [3]. In the Convention for the Protection of Human Rights and Fundamental Freedoms, Article 13 emphasizes that anyone whose rights and freedoms recognized in this Convention have been violated has the right to an effective remedy in a national authority. Article 6, paragraph 3 of the Convention establishes the rights of a person accused of a criminal offense: a) to be

promptly and in detail informed of the nature and cause of the accusation against them in a language they understand; b) to have sufficient time and facilities for the preparation of their defense; c) to defend themselves personally or through legal assistance of their own choosing, or if they do not have sufficient means to pay for legal assistance, to receive it free of charge when the interests of justice so require; d) to examine or have examined witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them; e) if the person does not understand or speak the language used in court, they have the right to free assistance of an interpreter [4].

The provisions of these international legal acts have been implemented into national legislation. The influence of international human rights treaties on the national legal system is characterized by the fact that Ukraine recognizes the priority of such treaties, the consent to the binding nature of which has been given by the Verkhovna Rada of Ukraine. Article 19 of the Law of Ukraine “On International Treaties of Ukraine” states that effective international treaties of Ukraine, the consent to the binding nature of which has been given by the Verkhovna Rada of Ukraine, are part of national legislation and are applied in the manner provided for by the norms of national legislation. If an international treaty of Ukraine, which has entered into force in the established manner, establishes rules different from those provided for in the relevant act of Ukrainian legislation, the rules of the international treaty shall apply [5].

The interaction between human rights treaties within the framework of internal processes of criminal justice is manifested through judicial practice and the control of bodies responsible for the implementation of these treaties. Both global and regional human rights treaties have their own forms of implementation. For example, the reporting system is a mandatory element for major international human rights treaties and is aimed at monitoring the implementation of human rights standards, particularly in the field of criminal law, at the national level [6].

At the national level, the right of the accused to defense is ensured in Article 129 of the Constitution of Ukraine and is the fundamental principle of the judiciary. In addition, Article 59 of the Constitution proclaims the right of everyone to legal assistance, the free choice of a defender of their rights, and in cases provided by law, this assistance is provided free of charge. Article 63 of the Constitution enshrines the right to defense of a suspect, accused, or defendant. According to Article 29 of the Constitution, no one can be arrested or detained except by a reasoned court decision and only on grounds and in the manner established by law. Every arrested or detained person must be promptly informed of the reasons for the arrest or detention, have their rights explained to them, and be provided with the opportunity to defend themselves personally and to use the legal assistance of a defender.

According to Article 7 of the CPC of Ukraine, ensuring the right to defense is classified as a general principle of criminal proceedings. In addition, the CPC provides detailed regulation of the right to defense, including provisions that regulate the guarantee of the right to defense (Articles 20, 42 of the CPC), ensuring the defender’s participation (Article 48 of the CPC), involvement of a defender by appointment (Article 49 of the CPC), mandatory participation of a defender in criminal proceedings (Article 52 of the CPC), involvement of a defender for the conduct of a separate procedural action (Article 53 of the CPC), peculiarities of exercising the right to refuse a defender (Article 54 of the CPC), recognition of evidence obtained in violation of the person’s right to defense as inadmissible (Article 87 of the CPC), the possibility of preparing for defense against a new accusation (Part 4 of Article 338 of the CPC) or an additional accusation (Part 2 of Article 339 of the CPC), conducting judicial proceedings in the absence of a defender if their participation is mandatory, which is a ground for overturning a court decision (Paragraph 4 of Part 2 of Article 412 of the CPC).

According to the requirements of the Constitution of Ukraine, on June 2, 2011, the Law of Ukraine “On Free Legal Aid” was adopted. This law defines the content of the right to free legal aid, the procedure for its implementation, the grounds and procedure for providing free legal assistance, as well as state guarantees for the provision of free legal aid [7].

In explaining the content of ensuring the right to defense, it is appropriate to highlight the legal category of “defense”. In criminal proceedings, the concept of defense encompasses 1) subjects,

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participants in the process who are entitled to exercise defense rights (suspect, accused, convicted, acquitted, a person for whom the application of coercive medical or educational measures is envisaged or the issue of their application has been resolved, their defenders and legal representatives); 2) the name of the procedural function (defense function); 3) the activities of defense subjects in implementing the rights and powers granted to them in the process of performing their function [8, p. 10].

It is also worth noting that the content of the category “defense” is one of the types of comprehensive criminal procedural activities and encompasses all directions of defense activities that take place within the framework of criminal proceedings. Therefore, defense as a type of comprehensive criminal procedural activity in criminal proceedings should ensure and protect the rights, freedoms, and legitimate interests of all participants in criminal proceedings. However, it is undeniable that the essence of defense activity is most evident in actions aimed at refuting suspicions or accusations by the suspect (accused) or their defense counsel, as well as protecting their rights during the course of criminal proceedings. Therefore, when we talk about ensuring the right to defense, we mean precisely this protective activity.

Ensuring the right to defense is classified as a general principle of criminal proceedings. Principles are authoritative requirements addressed to participants in criminal proceedings, which oblige (or allow) them to act in a certain way. For individuals conducting criminal proceedings, the implementation of these requirements in a specific criminal proceeding is their legal obligation. In our opinion, this is where the practical value of procedural principles lies. Without adhering to these principles, it is not possible to correctly understand the content of individual procedural norms. Undoubtedly, authorized officials conducting criminal proceedings are obliged to strictly adhere to criminal procedural norms, including those aimed at ensuring the rights of suspects and accused persons. The legislation provides that non-compliance with these norms leads to a violation of the principle of ensuring the right to defense, and as a result, procedural sanctions may be applied, such as the annulment of decisions made in the criminal proceedings.

If we analyze Article 20 of the CPC of Ukraine, we will see that ensuring the right to defense involves three forms of its implementation:

1. The suspect, accused, acquitted, convicted person independently exercises the right to defense. In this case, these individuals have the right to provide oral or written explanations regarding the suspicion or accusation, the right to collect and submit evidence, and the right to participate personally in the criminal proceedings.

2. The suspect, accused, acquitted, convicted person has the right to legal assistance from a defense counsel. It is worth noting that the CPC of Ukraine specifies cases of mandatory participation of a defense counsel. In such cases, the aforementioned individuals have the right to choose a defense counsel themselves, or one may be appointed by authorized persons. The Law of Ukraine “On the Provision of Free Legal Aid” of June 2, 2011, regulates legal relations in the field of providing free legal aid to subjects entitled to free primary and secondary legal assistance.

3. It is the duty of the investigator, prosecutor, investigating judge, and court to assist the suspect, accused, acquitted, convicted person in exercising the right to defense, which includes explaining their rights and ensuring the right to qualified legal assistance from their chosen or appointed defense counsel.

Conclusions. Therefore, the main international human rights treaties recognized by Ukraine are part of its national legislation and are ensured through judicial protection. Ensuring the right to defense is classified by national legislation as one of the fundamental principles of judicial proceedings, which means that authorized officials who have the right to conduct criminal proceedings are obliged to ensure that the suspect, accused, convicted, acquitted individuals have all the procedural rights provided for by the CPC of Ukraine, and these individuals, in exercising their rights, should have the opportunity to defend themselves against accusations.

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ЩОДО ВІДПОВІДНОСТІ НАЦІОНАЛЬНИХ СТАНДАРТІВ ЗАБЕЗПЕЧЕННЯ ПРАВА ОСОБИ НА ЗАХИСТ ДО МІЖНАРОДНИХ СТАНДАРТІВ

Розглянуто питання щодо відповідності національних стандартів забезпечення права особи на захист міжнародним стандартам. Відзначено, що одним із основних завдань сучасного міжнародного права є забезпечення міжнародного захисту прав людини та встановлення норм, що регулюють відносини між державами та іншими суб'єктами міжнародного права. Ці норми спрямовані на гарантування прав і свобод особи, які передбачені міжнародними угодами. Акцентовано, що встановлення міжнародно-правових стандартів для захисту прав людини неминує пов'язане зі створенням та прийняттям універсальних міжнародних документів, в яких багато прав людини нормалізовано через відповідні форми та механізми. Досліджено, що у недавній історії міждержавних відносин ця систематизація міжнародних угод, які визначають стандарти захисту прав людини, відбулася у межах серії нормативних актів, відомих як Міжнародна хартія прав людини. Ця хартія охоплює Загальну декларацію прав людини, Міжнародний пакт про громадянські та політичні права, Міжнародний пакт про економічні, соціальні та культурні права. Міжнародна хартія прав людини є нормативною основою для стандартів захисту прав людини на міжнародному рівні.

Аргументовано, що загальною складовою загальних міжнародних стандартів з прав людини є право обвинуваченого на захист. Право на захист у кримінальному судочинстві є одним з найважливіших інститутів і гарантією інших прав і свобод людини. Його стабільність та життєздатність характеризують рівень розвитку правової держави, демократії та культури суспільств.

ва. Так, право обвинуваченого на захист є складовою загальних міжнародних стандартів з прав людини і розглядається як необхідна умова реалізації права на справедливий судовий розгляд. Право на захист належить до загальноновизнаних засад міжнародного права і це закріплено у Загальній декларації прав людини, у Міжнародному пакті про громадянські та політичні права, в Конвенції про захист прав людини та основних свобод. Положення цих міжнародних правових актів імплементовано у національне законодавство. На національному рівні забезпечення обвинуваченому права на захист закріплено в Конституції України, Кримінальному процесуальному кодексі України, Законі України “Про безоплатну правову допомогу” тощо.

Зазначено, що забезпечення права на захист є основною засадою національного судочинства. Засади є владними вимогами, адресованими до учасників кримінального провадження, що зобов’язують (або дозволяють) чинити так, а не інакше. Для осіб, які ведуть кримінальний процес, реалізація цих вимог у кримінальному провадженні є їх юридичним обов’язком.

Констатовано, що основні міжнародні договори із захисту прав людини визнані Україною, є частиною її національного законодавства і забезпечені судовим захистом. Забезпечення права особи на захист національне законодавство зараховує до основних засад судочинства. Воно полягає у тому, що уповноважені службові особи, котрі наділені правом здійснювати кримінальне провадження, зобов’язані забезпечити підозрюваному, обвинуваченому, засудженому, виправданому всі процесуальні права, які передбачені у Кримінальному процесуальному кодексі України, а вищезазначені особи, реалізуючи свої права, повинні мати змогу здійснювати захист від обвинувачення.

Ключові слова: Конституція; закон; міжнародно-правові стандарти захисту прав людини; забезпечення права на захист; кримінальне провадження; підозрюваний; обвинувачений; засуджений; виправданий.