

**THE ABILITY TO DOCUMENT VIOLATIONS
OF THE LAWS AND CUSTOMS OF WAR IS A NECESSARY
COMPONENT OF THE STANDARDS OF HIGHER LEGAL
EDUCATION IN UKRAINE**

Nehrebetskyi V. V.

INTRODUCTION

In connection with war in Ukraine, a special role is given to the work of lawyers in the investigation and documentation of the facts of violation of the laws and customs of war. The Presidential Decree of March 24, 2021 No. 119/2021 approved the “National Human Rights Strategy”¹. The human rights strategy was prepared with the Coordination of the Ministry of Justice of Ukraine with the involvement of the public in 2020. The participation of non-governmental and international organizations, activists, experts and scientists in the process of strategy development is extremely important, due to the possibility of constructive dialogue between the government on the one hand and the public – the other. The strategy provides for systematic documentation of facts related to the circumstances of the emergence, course and consequences of armed conflict with the Russian Federation, in particular the facts of violations of rights and fundamental freedoms of citizens. Due to the start of the full-scale war on February 24, 2022, the issue of documentation becomes too relevant. The development and implementation of innovative methods of teaching the process of documenting violations of laws and customs of war at the time of martial law and the postwar period of restoration and development of Ukraine is a strategic task of the system of higher legal education of Ukraine.

The purpose of this article is to investigate the possibilities of using specialized knowledge of criminalists and forensic experts in investigating and documenting the facts of violation of the laws and customs of war, and to develop proposals on this basis to increase the standards of higher legal education in Ukraine.

¹ Decree of the President of Ukraine No.119/2021 “National Human Rights Strategy” (2021, March, 24) URL: <https://www.president.gov.ua/documents/1192021-37537>.

1. Development of state standards of higher legal education in Ukraine

The creation of quality higher legal education in Ukraine is impossible without the existence of uniform requirements for the preparation of lawyers. In December 2018, the Ministry of Education and Science of Ukraine approved the standard of higher education in the specialty “Law” for the first (bachelor’s) level of higher education². In August 2020, the Higher Education Standard for the specialty “Law” for the second (master’s) higher education was approved³.

State standards of higher legal education are important in the higher education system, since they determine the methodological foundations of the organization of educational process in legal higher education institutions.

According to the Law of Ukraine “On Higher Education” of 01.07.2014, Article 10, “Standard of Higher Education – is a set of requirements for educational programs of higher education, which are common to all educational programs within a certain level of higher education and specialty”⁴. Higher education standard defines the following requirements for the educational program:

- 1) ECTS loans required to obtain an appropriate degree of higher education;
- 2) requirements for the level of education of persons who can start training under this program and the results of their training;
- 3) list of compulsory graduate competences;
- 4) the normative content of training of higher education applicants, formulated in terms of learning outcomes;
- 5) forms of certification of higher education applicants;
- 6) requirements for the creation of educational training programs for the field of knowledge, two fields of knowledge or a group of specialties (in the standards of junior bachelor), interdisciplinary educational and scientific programs (in the standards of Master and Doctor of Philosophy);
- 7) professional Standards Requirements (if available).

² Order of the Ministry of Education and Science of Ukraine No. 1379 “Standard of Higher Education of Ukraine: First (Bachelor’s) Level of Higher Education, Knowledge Area 08 “Law”, specialty 081 “Law”. (2018, December, 12). URL: <https://mon.gov.ua/storage/app/media/vishcha-osvita/zatverdzeni%20standarty/12/21/081-pravo-bakalavr.pdf>.

³ Order of the Ministry of Education and Science of Ukraine No. 1053 “Standard of Higher Education of Ukraine: Second (Master’s) Level of Higher Education, Knowledge Area 08 “Law”, specialty 081 “Law”. (2020, August, 17). URL: <https://mon.gov.ua/storage/app/media/vyshcha/standarty/2020/08/081-pravo-magistr.pdf>.

⁴ Law of Ukraine No. 1556-VII “On higher education”. (2014, July, 01). URL: <https://zakon.rada.gov.ua/laws/show/1556-18#Text>.

The main goal of modern higher legal education should be not so much the formation of professional experts in normative legal acts, but the training of professionals who profess the principle of the rule of law, which is a support in the pursuit of democracy, building a state governed by the rule of law, which requires a radical change in the requirements for the content and quality of legal education. It is important to note that the society treats legal education and the legal profession with a special reservation, since the legal system was not able to defeat crime, boundless bureaucracy and “shadow economy”, which is devoid of morality and virtue (Prof. Anatoly Selivanov)⁵.

For the profession of lawyer, deep theoretical knowledge is important, which allow to determine the legal qualification of certain public relations, to correctly apply the norms of substantive and procedural law, to form their own legal position.

Practical skills and abilities are also needed for the work of a lawyer, ranging from simple, such as calculating the price of a claim, court fee, etc., to more complex ones-making a request, claim, court decision, sentence, contract, etc., ability to speak publicly in public judicial debate, support state prosecution, etc. In order for higher legal education to meet the needs of practitioners, it is necessary, along with classical approaches in education, to direct the educational process more towards obtaining practical skills and abilities (Prof. Viktor Gorodovenko)⁶.

Scientific circles express the opinion on the need to combine the efforts of higher education institutions and practical structures in reforming higher legal education. In particular, it is proposed to step up the work of graduates of higher educational institutions, including alumni associations. It is also advisable to introduce some elements of dual education in the training of lawyers, for example, the conclusion of cooperation agreements with law offices, law associations, notaries, etc. and conduct practical training, internships on their bases. As an example, the vast majority of law associations in the United States are thinking about their future replenishment and for this purpose introduce rules on the obligation to ensure that their lawyers practice with pro bono law students. On average, lawyers should spend 100–200 hours a year on such volunteering (Prof. Yuri Barabash)⁷.

Thus, at the Yaroslav Mudriy National Law University (Kharkiv), a legal clinic is working⁸. The legal clinic is a structural unit at the National Law University, created as a basis for practical training and practice to senior students.

⁵ Legal education and legal profession: round table materials (2020, June 19). URL: <http://www.golos.com.ua/article/332183>.

⁶ Ibid.

⁷ Ibid.

⁸ Legal clinic. URL: <https://nlu.edu.ua/organizacziyi/yurydychna-klinika>.

Law clinic students under the guidance of experienced teachers in accordance with the requirements of the current legislation provide citizens for free legal assistance for all branches of law. Students who are trained in a legal clinic have the opportunity to acquire practical skills and competences throughout their studies at the university at the same time in different areas of legal activity:

- advise clients and solve their legal issues;
- to master and practice skills of oratorical art through public speaking at scientific and practical conferences and conducting interactive classes for students, students and the population;
- to exhibit and improve their organizational skills by accompanying activities and developing programs for conducting them;
- to develop knowledge of foreign professional vocabulary in the preparation of translations of ECtHR decisions;
- develop skills in the team: skills of mutual support, mutual assistance, negotiations and team management;
- try yourself in lawmaking, writing instructions, provisions, etc.

Legal clinic consultants are senior students of the University.

Bachelor, master. Depending on the educational qualification level in Ukraine, there are four educational and professional levels of legal professionals: 1) junior bachelor; 2) bachelor; 3) master; 4) Doctor of Philosophy. Regarding the bachelor of law, there is a state standard defined in December 2018. It is a specialist's educational and qualification level, who, based on full general education, has obtained in-depth general cultural training, fundamental and professionally oriented skills and knowledge. Bachelors are able to solve complex specialized tasks and practical problems in the field of professional legal activity or in the learning process, which involves the use of legal doctrines, principles and legal institutions and is characterized by the complexity and uncertainty of conditions⁹. Bachelors in the field of law are intended to carry out activities aimed at performing the auxiliary functions of the lawyer (assistant lawyer, investigator, notary, etc.). Bachelor of law cannot hold positions at higher -level enterprises.

Students receive educational qualification level of law on the basis of the corresponding educational and professional program of bachelor. The standard of the second (master's) level of higher education of 17.08.2020 on the employment of graduates states: "employment for positions in accordance with the National Classifier of Ukraine: Classifier of Professions (ДК 003:

⁹ Order of the Ministry of Education and Science of Ukraine No. 1379 "Standard of Higher Education of Ukraine: First (Bachelor's) Level of Higher Education, Knowledge Area 08 "Law", specialty 081 "Law". (2018, December 12). URL: <https://mon.gov.ua/storage/app/media/vishcha-osvita/zatverdzeni%20standarty/12/21/081-pravo-bakalavr.pdf>

2010), which require higher education in the specialty 081 “Law”¹⁰. For comparison, in the standard of the first (bachelor’s) level of higher education in the specialty 081 “Law” of 12.12.2018 the provisions on employment of graduates are absent¹¹.

The Law on Higher Education of July 1, 2014 does not have the concept of incomplete higher education. But according to Part 1 of Art. 5 of the Law Training of specialists with higher education is carried out according to educational or scientific programs at the following levels of higher education:

- 1) initial level (short cycle) of higher education;
- 2) the first (bachelor’s) level;
- 3) second (master’s) level;
- 4) the third (educational, scientific / educational) level.

In practice, such a number of terms can lead to an employer of the first (bachelor’s) level as incomplete higher education. Such an impression can be made if the subsidiary applies the provisions of Part 3 of Art. 7 not of the current Law on Higher Education of January 17, 2002, which said that “complete higher education is an educational level of higher education of a person who characterizes the formation of his intellectual qualities that determine the development of a person as a person her qualifications at the educational qualification level of a specialist or master’s degree”¹². In addition, a profile law can also use the term “complete higher law education”¹³.

This may be the problems of employment of graduates – bachelors of law. Thus, foreign experts on legal education (Germany, Poland, USA) were involved in September – November 2015 in the analysis of the developed project of the National Legal Education Standard of the First (Bachelor) Level. Experts have expressed critical remarks about the existence of a bachelor’s

¹⁰ Order of the Ministry of Education and Science of Ukraine No. 1053 “Standard of Higher Education of Ukraine: Second (Master’s) Level of Higher Education, Knowledge Area 08 “Law”, specialty 081 “Law”. (2020, August 17). URL: <https://mon.gov.ua/storage/app/media/vyshcha/standarty/2020/08/081-pravo-magistr.pdf>.

¹¹ Order of the Ministry of Education and Science of Ukraine No. 1379 “Standard of Higher Education of Ukraine: First (Bachelor’s) Level of Higher Education, Knowledge Area 08 “Law”, specialty 081 “Law”. (2018, December 12). URL: <https://mon.gov.ua/storage/app/media/vishcha-osvita/zatverdzeni%20standarty/12/21/081-pravo-bakalavr.pdf>.

¹² Decision of Council of Advocates of Ukraine No. 12 “On approval of clarification on the possibility of concluding an employment contract with a person who received a bachelor’s degree as a lawyer’s assistant” (2015, July 04). URL: <http://unba.org.ua/assets/uploads/legislations/rishennya/2015.07.04-rishennya-12.pdf>.

¹³ Law of Ukraine No. 5076-VI “About advocacy and advocacy activities”. (2012, July 05) / Verkhovna Rada of Ukraine. URL: <https://zakon.rada.gov.ua/laws/show/5076-17>.

degree in Ukraine in Ukraine and have questioned the actual possibility of specialists with this degree to professionally realize themselves in the labor market for lawyers: “It is important to know what positions from the legal profession can be claimed by graduates with bachelor’s degree. Rights in Ukraine? ... The bachelor’s program should be aimed at resolving this issue”¹⁴.

Today, a bachelor is considered to be a graduate who has receded at a higher education institution for 4 years and has received higher education. The bachelor’s degree in the west is a higher education, and the master’s degree is a higher degree, the path to science, it is completed by people who then enter the postgraduate study, dream of protecting the doctorate. In the modern world, the bachelor’s degree is considered sufficient and complete for obtaining a normal workplace. In our view, in the future it is necessary to clarify the list of positions that can be occupied by bachelors of law.

Training at different degrees (bachelor, master’s) is different. In the face of underestimation of the status of the educational level “bachelor of law” there is a tendency of an unjustified increase in the share of masters of law in the total number of graduates-lawyers. We will soon have 90% of masters at this rate. However, in reality, they should be no more than 15–20% of the total number of graduates, which corresponds to the ratio of practitioners and scientists and teachers.

2. The role of criminalists and forensic experts in documenting violations of laws and customs of war

In documenting war crimes, a special role belongs to criminalists and forensic experts. This is due to the role of forensic medicine and examination in the fixation of traces of crimes, their analysis and formation of legal, judicial and expert opinions of witnesses. A striking historical example in this context is the activity of a prominent forensic specialist RA. A flight on fixing the traces of international crimes committed during the First World War. The history of forensics has other examples of international cooperation of criminalists and forensic experts: International Union of Forensic Experts (“IFU”)¹⁵.

¹⁴ Актуальність тематики для експертного обговорення оптимальної структури юридичної освіти в Україні: Підготовлено Проектом USAID «Справедливе правосуддя» 16.03.2016 р. / Міністерство освіти і науки України. С. 2. URL: <https://mon.gov.ua/ua/osvita/visha-osvita/koncepciya-vdoskonalennya-pravnichoyi-yuridichnoyi-osviti-dlya-fahovoyi-pidgotovki-pravnika>.

¹⁵ Shepitko, M. (2019). Ukrainian Group of International Union of Penal Law: Way from Vienna to Paris. A First Printed Criminalist, 18, 43–61; Shepitko, V.Y., Olkhovsky V.O., Shepitko M.V. (2020) The process of scientific knowledge integration in crime prevention and trends of medical criminalistics development in Ukraine in XIX – early XX century. Wiadomosci lekarskie (Warsaw, Poland: 1960), no. 73(1), pp. 176–179.

To date, the President of Ukraine, the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine have managed to use legitimate international legal mechanisms, first of all, the International Criminal Court and the UN Security Council, to hold the Russian Federation for violation of international humanitarian law and committing war crimes in Ukraine. At the same time, in the territories of Ukraine released from the occupation of the Russian army (Bucha, Gostomel, Irpin, etc.), today it is possible to implement a special mechanism of justice, which consists in the joint work of national and international specialists: experts, investigators, prosecutors and judges from gathering of objective and impartial evidence of gross violation of international laws and customs of the Russian Federation of war in Ukraine.

It is necessary to note the role of criminalistics and forensic examination in international cooperation in investigating criminal offenses. Thus, on 04 March 2022 members of the Lithuanian Society of Criminalists, the Polish Society of Criminalists and the International Congress of Criminalists (Ukraine), appealed to the amicable scientific community to unite the efforts of European scientists and practitioners to ensure the security and peace of the European continent¹⁶. They urge colleagues to make every effort to stop aggression against Ukraine as the nearest neighboring state, to help our brothers and sisters in Ukraine overcome the difficulties of war, to show how important it is to be true friends, to be together now. For ours and your freedom, for our common future in the EU, for our common plans and aspirations. In Ukraine, not only military units are attacked and bombed, but also the barbaric destroy critical infrastructure, including residential quarters, civilians and even children die. The basic principles of international cooperation and rules of international law are violated. The Ukrainian people protect not only their country, the nation, but also the independence of other European states, as well as the fundamental principles of international law: democracy, human rights and freedoms, the rule of law and our common security at the moment and forever, the future of all humanity.

The European Network of Forensic Expertise Institutions (ENFSI) was founded in 1995 to improve the mutual exchange of information in the field of forensic expertise. This, as well as improving the quality of Forensic Services in Europe, have become the main problems of the network. In addition to general work in the field of quality management and competencies, research and development, education and training, 17 different expert working groups are engaged in various forensic examinations¹⁷.

¹⁶ Звернення. (04.03.2022) URL: <https://crimcongress.com/news/звернення/>.

¹⁷ European Network of Forensic Science Institutes. URL: <https://enfsi.eu/>.

ENFSI is the world's largest United Organization of forensic institutions, which has received international recognition. Among the countries whose institutions are part of the European network: Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Great Britain, Hungary, Greece, Georgia, Denmark, Spain, Ireland, Italy, Lithuania, Latvia, Netherlands, Norway, Poland, Romania, Serbia, Slovakia, Slovenia, Turkey, Sweden, Switzerland. The most well-known ENFSI institutions that conduct expert research are the Dutch, Polish, Prague and Hungarian forensic institutes.

There are also specialized international forensic expert organizations. Thus, in relation to the Forensic Research of firearms, two major international organizations can be distinguished, the Association of ballist experts is the Association of experts in the field of Forensic Research of firearms and tool traces (AFTE – Association of experts on firearms and tools) and the working group devoted to the research of firearms and shot products in the European network of forensic institutes the European network of forensic institutes (ENFSI Firearm/GSR working group)¹⁸.

AFTE is the largest international professional organization of United ballist experts. It has almost 1,300 members from 40 countries around the world. The association holds an annual six-day training seminar, one of which, held in August 2021, had more than 450 participants. The association publishes a specialized scientific and practical Journal (indexed by the SCOPUS system).

The working group of experts in the field of research on firearms and firing products at ENFSI brings together specialists from Europe and is open to specialists from other regions of the world. As part of the work of the Working Group, research projects are carried out and an annual conference is held. The conference, which was held in a virtual format in October 2021, was attended by more than 180 specialists.

Perspective forms of international cooperation in the field of forensic expertise

There are various forms of international cooperation in the field of Forensic Science. In particular, the main ones include: 1) information exchange (scientific and information exchange); 2) joint scientific and practical events (conferences, symposia, congresses, etc.); 3) training of expert personnel and professional development abroad; 4) interaction within the framework of improving the quality of forensic examinations in different countries; 5) international standardization of forensic medical activities; 6) interaction within the framework of international expert associations

¹⁸ Pavel Giverts. Review of the Annual Meeting of the ENFSI Firearm/GSR Expert Working Group (2022).

(organizations); 7) involvement of forensic experts from different countries in the investigation and trial of international crimes¹⁹.

So, On September 8–10, 2022, the XVIII International Congress "Criminalistics and forensic expertise: science, training, practice" was held in Vilnius at the Mikolas Romeris University (Lithuania). More than 80 participants from ten countries have registered to participate in the Congress. The Congress program included 30 reports. Lithuanian and English were defined as the languages of the Congress. The Congress was devoted to the consideration of modern achievements and trends in the development of Criminalistics. Four plenary sessions were held. Participants of the Congress were: Valeriy Shepitko (doctor of Law, president of the International Congress of criminologists, Ukraine), Egids Kurapka (Doctor of law, Lithuania), Hendrik Malevski (doctor of law, Lithuania), Sneguole Matulene (doctor of Law, president of the Lithuanian society of criminologists), Mechislav Gotz (doctor of law Gabil., president of the Polish Society of criminologists), Tadeusz Tomaszewski (doctor of law Gabil. Poland), Marek Fristak (Doctor of law, Czech Republic), Jozef Metenko (doctor of law, Slovakia), Mykhailo Shepitko (doctor of law, Ukraine), Gabriele Juodkaite-Granskiene (doctor of law, Lithuania), Raivo epic (Doctor of law, Estonia), Silke Brodbeck (doctor of Medicine, Germany), Gia Dekanozishvili (doctor of law, Georgia) and others²⁰.

On September 13–15, 2023, Brno (Czech Republic) will host the International Congress of Criminalistics and forensic expertise: science, training, practice, which is organized by the Lithuanian Association of criminologists, the Lithuanian Forensic Center and the Faculty of Law of Masarikov University. The Congress languages are Czech and English.

The main topics of the Congress will be:

- criminalistics of Central European countries (Mediterranean-Intermarium) – between Eastern European and German schools of Criminalistics;
- international cooperation and challenges for criminalistics and forensic expertise in the investigation of war crimes;
- forensic tactics, forensic methodology and forensic strategy in the doctrine, policy and practice of law enforcement agencies;
- didactics of Criminalistics-130 years: from the “guide for an investigator” by Hans Gross to modern textbooks;

¹⁹ Shepitko, V.Y., Shepitko, M.V. (2021) The role of forensic science and forensic examination in international cooperation in the investigation of crimes. Journal of the National Academy of Legal Sciences of Ukraine, no. 28(1), pp. 179–186 (in English).

²⁰ Criminalists Congress. URL: <https://crimcongress.com/category/news/>.

– threats of crime and Human Security; digitalization and artificial intelligence in criminalistics and forensic medical examination.

During the Congress, a session of young researchers and students is planned. The session will be organized in a mixed mode (contact participation and Remote (remote) participation). Participants in this session can make presentations on the proposed topics of the Congress or on the scope of their research²¹.

A form of international cooperation in the field of forensic expertise is the participation of forensic experts from different states in the investigation and judicial review of crimes in the field of humanitarian law and other crimes of an international nature²². Thus, the Netherlands Institute of Forensic Science (NFI) is one of the world's leading forensic laboratories²³. This is the National Institute of forensic expertise of the Netherlands, located in the Hague. It is an autonomous division of the Ministry of security and Justice of the Netherlands, which reports to the Directorate-General for the administration of justice and law and order. The range of expert activities includes more than 30 forensic expert areas, including forensic medical research (including DNA examinations. The Dutch DNA database is maintained. NFI has three main areas of activity: conducting forensic examinations in criminal proceedings; developing new methods of forensic examination; training of experts and their professional development. NFI experts participated in the work of the Joint Investigation Team (JIT) consisting of representatives of Ukraine, the Netherlands, Malaysia, Australia and Belgium during the investigation of the circumstances of the crash of the Malaysian Airlines Boeing-777 flight MH17 on July 17, 2014²⁴.

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²¹ 13–15 вересня 2023 р. Міжнародний конгрес криміналістики і судової експертології: наука, навчання, практика. URL: <https://crimecongress.com/anons/13-15-вересня-2023-р-міжнародний-конгрес-крим>.

²² Shepitko, V.Y., Shepitko, M.V. (2021) The role of forensic science and forensic examination in international cooperation in the investigation of crimes. *Journal of the National Academy of Legal Sciences of Ukraine*, no. 28(1), pp. 179–186 (in English).

²³ Netherlands Forensic Institute (NFI). URL: <https://www.forensicinstitute.nl/>

²⁴ Latest data from the criminal investigation into the crash of the Boeing-777 flight MH17 (24.05.2018) <https://www.prosecutionservice.nl/topics/mh17-plane-crash/criminal-investigation-jit-mh17>.

crimes of an international nature²⁵. The Verkhovna Rada of Ukraine and the European Parliament ratified the association agreement between Ukraine and the EU on September 16, 2014.

The rules of Procedure and Evidence of the International Criminal Court contain rules, in particular articles 42, 43, 56, 93, which provide for the possibility of involving experts in the activities of the International Criminal Court²⁶. 38 countries of the world have already applied to the International Court of Justice in The Hague because of Russia's crimes against Ukraine²⁷. The International Criminal Court will conduct an independent investigation of war crimes in Ukraine, seeking to establish the truth. The rules of Procedure and Evidence of the International Criminal Court also provide for the use of specialized knowledge. Thus, Rule 19 "Expertise in the unit" regulates the possibility of applying for an expert examination in various cases²⁸.

3. Use of international experience in training and advanced training of criminalists and forensic experts

The Kyiv Scientific Research Institute of forensic examinations of the Ministry of Justice of Ukraine (hereinafter KHДICE) is in international relations with scientific institutions, educational institutions of foreign countries, international and non-governmental organizations in accordance with Article 24 of the law of Ukraine "on forensic expertise", holding joint conferences, symposia, seminars and exchanging specialists within the framework of international projects and programs and outside the relevant programs. In 2017, KHДICE became a member of the European Network of Forensic Science Institutes (ENFSI). It should be noted that the National Research Center "Institute of forensic examinations named after Professor M. S. Bokarius" (Kharkiv) became a member of the European network of forensic expert institutions in 2018²⁹.

²⁵ Shepitko Valery Yu. , Shepitko Mykhaylo V. (2021) The role of forensic science and forensic examination in international cooperation in the investigation of crimes. Journal of the National Academy of Legal Sciences of Ukraine, Vol. 28, No. 1, 2021. p. 179–186. (in English).

²⁶ Rome Statute of the International Criminal Court. URL: <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>

²⁷ United Kingdom government official. (2022) URL: <https://twitter.com/BorisJohnson/status/1499123882296582149>

²⁸ The Rules of Procedure and Evidence of the International Criminal Court. URL: https://www.icc-cpi.int/sites/default/files/NR/rdonlyres/F1E0AC1C-A3F3-4A3C-B9A7-B3E8B115E886/140164/Rules_of_procedure_and_Evidence_English.pdf

²⁹ Делегація ХНДІСЕ на щорічній зустрічі ENFSI у місті Будапешт (2018). URL: <https://www.hniise.gov.ua/14143-delegatsya-xndse-na-shchorochni-zustrich-enfsi-u-mst-budapesht.html>

Constant contacts of КНДІСЕ experts within the framework of the work of ENFSI Working Groups allow us to get up-to-date information about new achievements in the expert field, exchange experience with colleagues and bring the best achievements to the practice of КНДІСЕ. In 2019, КНДІСЕ became the first institution among the expert research institutions of forensic examinations of the Ministry of Justice of Ukraine, which accepts a part in the exchange program CEPOL – the European Union Agency for law Enforcement training³⁰. CEPOL provides an opportunity to become participants in the exchange program for forensic experts and specialists of КНДІСЕ who have become active participants in the exchange and training program on the Leed CEPOL educational platform. CEPOL promotes cooperation and knowledge sharing among EU law enforcement officials (including third countries), and now forensic institutions, on issues arising from EU security priorities, in particular in terms of EU policy on Combating Organized Crime. In the countries that cooperate with CEPOL, there are National CEPOL divisions (National contact points). The involvement of the TAIEX (Technical Assistance Information Exchange) tool is also a priority in КНДІСЕ's international activities. This is a type of external assistance provided by the European Commission to exchange information in order to build the institutional capacity necessary to adapt national legislation to the *acquis communautaire*. Within the framework of the TAIEX tool, КНДІСЕ experts conduct study visits that provide an opportunity to study the experience of an EU member state, organize and conduct seminars and working meetings with relevant partners of EU member states in the field of forensic expertise.

KNIISE experts take part in the EU-Act (EU Action Against Drugs and Organized Crime) Project “action against drugs and Organized Crime, intensive cooperation and capacity-building to combat organized crime in the field of drug trafficking along the heroin route”. Since 2017, the Institute's specialists have been involved in the active work of the EU-ACT Project Working Group. Within the framework of this project, КНДІСЕ specialists conduct joint scientific and practical events, seminars, webinars and conduct study visits to EU countries to improve interaction within the EU-ACT project and study best practices. Starting in 2020, experts of the Kiev Research Institute of forensic examinations became participants of the International Quality Assurance Program (IQAP) international Collaborative Exercises (ICE) UNODC. The United Nations Office on drugs and crime is a specialized agency of the United Nations dedicated to combating drug trafficking and related crime. The international collaborative tasks program (ICE) aims to help

³⁰ КНДІСЕ: Міжнародна діяльність. URL: <https://kndise.gov.ua/mizhnarodnadiyalnist/>

drug testing laboratories around the world evaluate their performance and take corrective action when necessary. In addition to the above-mentioned programs, KНДICE employees constantly exchange experience with specialists from different countries of the world, including through working meetings. Thus, in 2019, representatives of KNIISE were invited to INTERPOL, and in 2018 they participated (the only among all expert institutions in Ukraine) in the conference of the European Academy of Forensic Sciences (EAFS), held in Lyon, France. Within the framework of cooperation with other forensic expert institutions of Ukraine and the world, KНДICE has signed numerous cooperation agreements.

The active activity of the Kyiv Research Institute of forensic examinations of the Ministry of Justice of Ukraine in the field of international integration and partnership relations within the framework of the agreements reached allow implementing international standards in the work of the institution, contribute to a more effective solution of complex theoretical and practical tasks, promote the exchange of information resources, and ensure high quality of expert examinations.

On April 26, 2022, at the initiative of the Ministry of Justice of Ukraine, the Kiev Research Institute of forensic examinations and the National Research Center “Institute of forensic examinations named after honored professor M. S. Bokarius”, an international round table “forensic expert activity: challenges of war” was held. The participants of the meeting were addressed by Deputy Minister of Justice of Ukraine for the Executive Service Andriy Gaichenko, who highly appreciated the work of Ukrainian forensic experts to establish the damage and damage caused by the aggression of the Russian Federation against Ukraine and international assistance in strengthening forensic expertise to collect evidence of war crimes of the Russian Federation in Ukraine by France and other foreign partners of Ukraine and international organizations. The director of the Center, Prof. V. Fedorenko, also made a report to the participants of the International Round Table, who congratulated the participants of the event on the International Intellectual Property Day and drew attention to the fact that the Center is currently engaged in conducting expert research not only on objects of intellectual property rights, but also forensic examinations on economic, commodity science, computer-technical and telecommunications types of research. It is obvious that these are the types of forensic expertise that will also be required to establish damage and losses from military aggression in Ukraine. Therefore, methodological assistance from foreign colleagues and partners through the Ministry of Justice of Ukraine, as well as in the form of participation in such interesting scientific and communication events as this wonderful and informative International Round Table, is considered important and timely.

Thus, the Ukrainian forensic expert community received important methodological assistance from foreign colleagues and enlisted help for the future. Representatives of forensic institutions of foreign countries presented their reports at the International Round Table. In particular, reports and presentations were made by: Representative of the Institute of forensic medical examination of the Federal Criminal Police Department of Germany, head of the KT 4 division, deputy director, permanent representative of ENFSI and member of the board of the 25th ENFSI Dr. Becker Stefan; director of the Institute of forensic examinations named after Prof. J. Zegna in Krakow Dariusz Zuba; Project Coordinator, representative of the division of crimes against humanity and war crimes of the Ministry of Justice of Canada Sidney link-Melnik; head of the Central Division of operational coordination, superintendent of the General Staff of the judicial police of Spain Silvia Perez Pavia; senior adviser on international forensic examinations / coordinator of scientific support of the Institute of forensic examinations of the Netherlands Doris Earhart; director of the National Bureau of expertise of Armenia, candidate of Medical Sciences Argam Hovsepyan; director of the Forensic Center of Montenegro professor, Dr. Alexander Ivanovich; criminologist of the Israeli police in the Central District, and other well-known scientists and practitioners.

4. The need to learn modern innovative technologies in the legal profession

Violations of the laws and customs of the war against Ukraine took place from the very beginning of the war on February 24, 2022. According to the data of the Prosecutor General of Ukraine, as of 30.06.2023, more than 90,000 cases of war crimes of the aggressor state were investigated in Ukraine³¹. Numerous cases of destruction of residential infrastructure, killing of civilians and looting were recorded. On a single national platform <https://warcrimes.gov.ua/> evidence of war crimes committed by the aggressor state is collected and documented. Thus, on the basis of the Office of the prosecutor general of Ukraine, a modern information and analytical system was actually created for documenting war crimes in Ukraine with the ability to provide documents, photos and videos.

Using unmanned aerial vehicles for documentation.

Unmanned aerial vehicles (UAVs) can be successfully used by law enforcement officers to increase the efficiency of work on detection, disclosure, investigation, judicial review and Prevention of criminal offenses during the production and air support of a wide range of investigative (search),

³¹ Злочини, вчинені в період повномасштабного вторгнення рф станом на 30.06.23. URL: <https://www.gp.gov.ua/>

secret investigative (search), judicial and procedural actions, the implementation of regulatory and law enforcement agencies defined by law by introducing unmanned aerial vehicles in the activities of 1) detection and preliminary research of traces and objects – search for people, animals and things in hard-to-reach or dangerous places, including at night and in other unfavorable conditions; 2) photo and video recording of certain circumstances of offenses (sometimes in real time), illegal consequences of the latter, their participants, tools and traces left by them; 3) sampling, fixing and seizure of objects; 4) remote production of investigative (search), secret investigative (search) and judicial actions in an open area and in large-sized premises; 5) Scientific Organization of the investigator's work; 6) ensuring the personal safety of participants in criminal proceedings; 7) fixing offenders at the scene of the incident, stopping and preventing criminal encroachments; 8) tracking and fixing the location of the suspect or accused³². After the start of a full-scale war in Ukraine, UAVs are successfully used to record violations of the laws and customs of war. So, with the help of UAVs, numerous destructions and facts of violations of the laws and customs of war in Kharkiv near Severnaya Saltovka were recorded at a high level and in detail³³.

Using biometric technologies.

The idea of checking and confirming a person's identity when crossing a state border or checkpoint is already becoming more and more attractive and associated with security. Biometric documents are identity documents that contain an electronic information carrier on which information about the biometric data of the document owner is recorded for the purpose of identifying it. It is assumed that such documents are most protected from forgery and exclude the possibility of using them by any person other than the owner. The main idea of introducing more secure documents that provide identity identification is to significantly increase the security of society from manifestations of crime and international terrorism.

Biometric passports are becoming increasingly common in the world³⁴. According to the world Civil Aviation Organization (ICAO), more than 90 countries out of 193 UN member states are currently issuing such

³² Білоус В. Особливості впровадження в криміналістичну практику безпілотних летальних технологій, апаратів і систем. URL: <http://www.jurnaluljuristic.in.ua/archive/2016/5/39.pdf>

³³ Перша презентація 3D-аеротуру «Північна Салтівка. Констатація». URL: <https://m.youtube.com/watch?v=uGM11qf8nr8>

³⁴ Держприкордонслужба презентувала систему фіксації біометричних даних іноземців та осіб без громадянства. URL: <https://dpsu.gov.ua/ua/news/Derzhprikordonsluzhba-prezentovala-sistemu-fiksacii-biometricnih-danih-inozemciv-ta-osib-bez-gromadyanstva/>.

documents, and more than twenty states are ready to implement such documents in the coming years.

About 45 countries that issue biometric documents store both fingerprints and face images on documents at the same time, while more than 30 countries use only a digitized photo of the document owner. Other countries currently use only face images, but they plan to use fingerprinting data in the near future.

According to the ICAO, more than 15 countries currently use automated checkpoint systems for electronic passport holders. In order to pass the passport control procedure, the traveler can use the “electronic gate”, which automatically checks their biometric data with the information stored on the document chip. Among the countries that read (scan) e-passports at airports and borders are the United States, Great Britain, Singapore, Portugal, New Zealand, Japan, Indonesia and Germany.

The initiator of the introduction of biometric passports at the state level was the United States: in 2002, the US Congress passed the law on the security of state borders, according to which citizens of countries that had agreements with the United States on visa-free travel could freely enter the United States for up to 90 days only if they had biometric documents³⁵.

Since 2004, the US-Visit program has been launched in the United States, which provided for the introduction of a fingerprint system and photographing all foreigners arriving in America (115 airports, 14 seaports, 104 checkpoints, a biometric database for more than 5 million people). More than 80 countries around the world (including Afghanistan, Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates) use electronic ID-card programs that contain biometric data³⁶.

Currently, the world’s largest biometric identification system is Aadhaar (India). Aadhaar is an Indian online identification service provided by the UIDAI state agency. As of the end of March 2021, more than 1.28 billion people were registered in the system, which is about 90% of Indian citizens³⁷.

Since March 2018, the embassy of Saudi Arabia in Ukraine has introduced a mandatory procedure for fingerprinting everyone who wants to get a visa to the country³⁸. The procedure is carried out after submitting documents on a pre-appointed day and time.

³⁵ Homeland Security Act of 2002. URL: <https://www.govinfo.gov/link/plaw/107/public/296?link-type=html>

³⁶ United States Visitor and Immigrant Status Indicator Technology (US-VISIT). URL: <https://www.epic.org/privacy/us-visit/>

³⁷ Unique Identification Authority Of India. URL: <https://uidai.gov.in>.

³⁸ Візу до Саудівської Аравії українцям необхідно отримати перед поїздкою. URL: <https://tourpoint.com.ua/ua/vizy/asia/saudi-arabia>.

On 20.11.2012, Ukraine adopted the law “on the Unified State Demographic Register and documents confirming Ukrainian citizenship, identity or its special status” No. 5492-VI, which provides for the introduction of documents with an electronic carrier that provides for the placIn 2017, the Government of Ukraine approved the regulation on the national system of biometric verification and identification of Ukrainian citizens, foreigners and stateless personsement of biometric data about a person³⁹. In 2017, the Government of Ukraine approved the Regulation on the national system of biometric verification and identification of Ukrainian citizens, foreigners and stateless persons⁴⁰. The document defines that this is an automated system created in the interests of national security, economic well-being and Human Rights, which ensures the identification of a foreigner and a stateless person entering and leaving Ukraine, monitoring their compliance with the rules of stay on the territory of our state.

In December 2017, the State border service presented a system for recording biometric data of foreigners and stateless persons⁴¹. A demonstration of the system’s operation took place at the capital’s Kiev airport. This system of recording biometric data of foreigners and stateless persons is deployed by the border agency in compliance with the decree of the president of Ukraine of August 30, 2017 No. 256 “on the decision of the National Security and Defense Council of Ukraine of July 10, 2017 “on strengthening control over the entry into Ukraine, departure from Ukraine of foreigners and stateless persons, their compliance with the rules of stay on the territory of Ukraine”. It is one of the subsystems of the departmental automated border control system. The state border service is actively working to improve the security component on the borders of Ukraine. Today, the technical means of the State Border Service allow reading foreign passports manufactured according to ICAO International standards, including those with a built-in chip, ID cards and driver’s licenses. At the same time, the experience of advanced countries of the world, European and American partners in building Passport Control Automation Systems is constantly being studied.

³⁹ Law of Ukraine No. 5492-VI “About a single state demographic register and documents certifying a person or his special status”. (2012, November 20) / Verkhovna Rada of Ukraine. URL: <https://zakon.rada.gov.ua/go/5492-17>.

⁴⁰ Resolution of the Cabinet of Ministers of Ukraine No. 1073 “Regulations on the national system of biometric verification and identification of citizens of Ukraine, foreigners and stateless persons”. (2017, December 27). URL: <https://zakon.rada.gov.ua/laws/show/1073-2017-p#Text..>

⁴¹ Держприкордонслужба презентувала систему фіксації біометричних даних іноземців та осіб без громадянства. URL: <https://dpsu.gov.ua/ua/news/Derzhprikordonsluzhba-prezentovala-sistemu-fiksacii-biometrichnih-danih-inozemciv-ta-osib-bez-gromadyanstva/>.

The best samples of equipment are implemented in the departmental information and telecommunications system. 157 existing checkpoints are equipped with means for reading information from biometric documents, and 126 checkpoints are connected to Interpol databases. Since August 2017, the information system of the border agency automatically calculates the number of allowed days of stay of foreigners in Ukraine.

The launch of the biometric data recording system of the State Border Service is another step towards improving the security component when crossing the border and improving the border control system. During passport control, state Border Service inspectors will check the passport documents of foreigners, including through Interpol databases. Information (fingerprints) will also be read using readers, which will be sent to the Department's biometric data processing subsystem. In addition, through the interdepartmental information and telecommunications system "Arkan", it will be sent to the National system of biometric verification and identification of Ukrainian citizens, foreigners and stateless persons of the State Migration Service. When a person crosses the border again, the identity identification process will be carried out. At the same time, the inspector will see whether the person has submitted their biometric data and will check them. If the data does not match, the person will be sent for additional monitoring to clarify the circumstances.

The use of automated systems for registering biometric characteristics of a person in a war zone provides opportunities to control and prevent criminal offenses. For example, in Iraq and Afghanistan, the US military used BAT (Biometrics Automated Toolset) or HIIDE (Handheld Interagency Identity Detection Equipment) systems to collect data⁴².

The BAT kit consists of four parts – a laptop, a digital camera, a fingerprint scanner, and an iris scanner. The collected data is checked against the database that the laptop contains. The database is periodically synchronized with the central server of the biometric technology group. HIIDE is a mobile terminal that allows you to capture fingerprints, photos, retinal images, and biographical data obtained as a result of a survey. To collect data on the crews of sea vessels and boats, a special kit is used, protected from water and increased vibration exposure. The HIDES system was designed to allow the US Armed Forces to easily identify people in the field and separate friend from enemy.

⁴² Kelsey Atherton. The enduring risks posed by biometric identification systems (09.02.2022). URL: <https://www.brookings.edu/techstream/the-enduring-risks-posed-by-biometric-identification-systems/>

CONCLUSIONS

During the period of martial law and the post-war period of restoration and development of Ukraine, it is necessary to create the most favorable conditions for the popularization and development of the legal profession. It is advisable to define in the state standards of legal education, professional and official classifiers, special legislation (on the bar, on the judicial system, on civil service, on enforcement proceedings) the professional rights of bachelors and masters, including by providing certain qualification requirements for certain positions as one of the prerequisites for a positive attitude towards bachelors-formed specialists in the field of law. Active work in the field of investigation of war crimes in Ukraine sets lawyers a huge range of tasks to investigate and document violations of the laws and customs of war. The development and implementation of innovative teaching methods for documenting violations of the laws and customs of war during martial law and the post-war period of restoration and development of Ukraine is a strategic task of the higher legal education system of Ukraine, and a necessary condition for improving the effectiveness of National security and defense of Ukraine.

SUMMARY

The article is devoted to the study of opportunities for improving the standards of higher legal education in Ukraine. Active work in the field of investigation of war crimes in Ukraine sets lawyers a huge range of tasks to investigate and document violations of the laws and customs of war. The role of international cooperation between criminologists and forensic experts during military aggression is shown. On the example of international cooperation between forensic expert institutions of Ukraine and the EU countries, ways to improve the training and advanced training of criminologists and forensic experts are outlined. The role of modern innovative technologies in the legal profession is studied. The possibilities of these technologies in the process of documenting violations of the laws and customs of war are considered. The introduction of technologies significantly expands the possibilities of searching for and identifying persons, including those involved in the commission of offenses. There is a need to develop and implement innovative methods of teaching the process of documenting violations of the laws and customs of war during martial law and the post-war period of restoration and development of Ukraine.

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Information about the author:

Nehrebetskyi Vladyslav Valeriiovych,

Ph. D. in Law,

Associate Professor at the Department of Criminalistics

Yaroslav Mudryi National Law University

77, Pushkinska str., Kharkiv, 61024, Ukraine,

Researcher at Academician Stashis Scientific Research Institute

for the Study of Crime Problems

of the National Academy of Law Sciences of Ukraine

49, Pushkinska str., Kharkiv, 61002, Ukraine