CRITERIA AND BASIC SIGNS OF THE LAWFUL PROTECTION OF THE PERSON'S INTERESTS FROM SOCIALLY DANGEROUS ENCROACHMENT AS A FACTOR, WHICH EXCLUDES CRIMINALITY OF AN ACT: INTERNATIONAL EXPERIENCE

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ABSTRACT

Article is focused on study of one of the circumstances, which prevent penal responsibility. In this case the discussion will deal with the protection of the legally protected interests from the publicly dangerous encroachments, with the lawful defense, justifiable defense, and self-defense. The authors examined the issues, concerning the objects, which are subject to protection, its boundaries, lawfulness, and criteria. The features of the presented issues are also investigated based on the example of the standards of the countries of post-Soviet space, Great Britain, USA, France, Czech Republic and other countries of the European Union. Based on the study the authors have formulated the proposals, which regarding the improvement of quite conceptual apparatus and standards, which regulate the sphere of criminal- lawful relations in question.

Keywords: Lawful Defense, Justifiable Defense, Self-Defense, Lawfulness, Delayed and Premature Defense, Socially Dangerous Assault.

INTRODUCTION

As a general rule, lawful protection, justifiable defense, self-defense is a legitimate defense of the individual and the rights of the defending and other persons, as well as the interests of society and the State protected by law from socially dangerous encroachment, by inflicting harm on the infringing person. In our opinion, this is an expanded definition of the concept (phenomenon), which will be studied in this paper.

German philosopher I. Kant wrote at the time:

> *"Violent actions for the sake of self-preservation should be viewed not as something innocent, but as something non-punishable (Markunkov, 2015)."*

The opinions of modern scholars regarding the legal nature of the justifiable defense, lawful defense or self-defense differ: some of them believe that a person's actions committed within the framework of justifiable defense do not constitute a crime; others believe that the legal nature of the justifiable defense excludes evidence of a crime (Avakova, 2017).

Despite the fact that in science and practice, as well as among ordinary people there is an understanding of the phenomenon mentioned above (the legal institution), nevertheless, today there are a lot of disagreements concerning its perception.

According to the generally thought, justifiable defense, lawful defense, self-defense is the natural right of every person. This means that such a right cannot be restricted, despite the fact the person, whose interests were attacked, could avoid its encroachment or to request assistance from law enforcement agencies. Such a thought seems right to us.

First, we note that in the countries of the post-Soviet space, the institution of criminal law, which we review, was called "*justifiable defense*" and the main attention was paid to the criteria for the justifiable defense; persons and interests that can be protected; the extent of the damage that can be caused to the attacker, as well as issues of premature and delayed defense, etc. On the contrary, studying international experience, we will refer to the following issues: who and under what conditions has the right to protect his (her) interests from criminal assault; procedural position of the person, who defends himself (herself). It should be noted that the terminology governing this type of criminal legal relations does not always match.

With regard to the terminology, we note that the criminal law of the countries of the post-Soviet space uses the notion of justifiable defense, in the USA it is "*self-defense",* in France-*"lawful defense",* etc.

LITERATURE REVIEW

Questions related to the admissibility and proportionality of the justifiable defense and legal protection at different times were studied by such scientists: Baulin, Berlin, Blinnikov, Gataulin, Durmanov, Kadnikov, Kaufman, Koretsky, Koni, Kuts, Maliaeva, Parkhomenko, Rabadanov, Savchenko, Slutsky, Tishkevich, Feldshtein, Shavgulidze, Shvetsov, Elmanovich, Yushkov, Yakubovich and etc.

The Issue of Regulation of Legal Protection in International Documents

Nevertheless, in our opinion, the issue raised by us about common comprehensive criteria, limits and other issues of lawful protection, self-defense, and justifiable defense as a circumstance excluding criminal responsibility, was not raised within the framework of international law and found no solutions in the works of the authors mentioned by us.

Articles 1-3 of the Universal Declaration of Human Rights (1948) state that:

> *"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in the spirit of brotherhood. Everyone must have all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, class or other status. In addition, no distinction should be made on the basis of the political, legal or international status of the country or territory to which a person belongs, regardless of whether the territory is independent, trust, non-self-governing or otherwise limited in its sovereignty. Everyone has the right to life, liberty and personal inviolability (Universal Declaration of Human Rights, 1948).*"

In the context of our research, these articles can be interpreted as follows:

> *"Everyone has the right to protection of life, personal freedom and personal integrity, regardless of his personal qualities, civil status and territory where this right is exercised. And, of course, this provision applies only to those countries that have acceded to this document."*

With regard to the practice of individual countries, where there exists a legal institute that we are studying, it is necessary to note the following. Such a right as the right to protect one's own interests and the interests of others is usually guaranteed to citizens of the prevailing number at the level of the Constitution.

MATERIALS AND METHODS

Defining the Legal Regulation of Sentences

In accordance with the goals and objectives of the study, the author used general scientific and special methods of the scientific approach. Their application made it possible to comprehensively analyze issues related to the protection and legislative consolidation of the right to protect a person from socially dangerous encroachments on the part of others. The regulatory basis for the study is the Constitution of Ukraine, the criminal codes of Ukraine, the Russian Federation, the Republic of Moldova, the USA and other countries, as well as other normative acts that regulate relations in the field of the protection of natural human rights.

Methods of comparative legal and documentary analysis were used in identifying shortcomings and gaps in national legislation governing the conditions and boundaries of the lawful protection of a person from socially dangerous encroachments both in Ukraine and in the world.

Working Out and Synthesis of the Received Results

The legal comparative method made it possible to compare the results according to certain criteria. In this regard, the article examines and examines the criteria for the legitimate protection of a person against socially dangerous encroachments, the limits of such protection in the criminal legislation of various countries. To predict the legal regulation of this issue in the future, a prognostic method is used. In addition, the method of legal forecasting makes it possible to continue relevant research based on the results obtained. As a result, the application of relevant international legislation will be appropriate.

RESULTS AND DISCUSSION

Experience in the Protection of Natural Human Rights at the Legislative Level in Neighboring Countries

Thus, the Basic Law of the Russian Federation determines that a person, his rights and freedoms are proclaimed the highest value (The Constitution of the Russian Federation, 1993). Every citizen of the Russian Federation has the right to protect his rights and freedoms by all means not prohibited by law (Part 2, Article 45 of the Constitution of the Russian Federation, 1993). One such way is the justifiable defense. The institution of justifiable defense is fixed and

regulated by the Criminal Law of the Russian Federation (The Criminal Code of the Russian Federation, 1996). Article 37 states:

> *"It is not a crime to harm an infringing person in a state of justifiable defense, that is, in the protection of the individual and the rights of the defending or other persons protected by law, the interests of society or the state from socially dangerous assault, if this assault was associated with violence dangerous for the life of the defending or other person, or with the immediate threat of such violence (Avakova, 2017)."*

Russian scientists Popov, Tkachenko, Naumov interpret this institution as *"a legitimate defense against socially dangerous assault"* (Pertsev, 2009). Tagantsev also writes about the justifiable defense as an impregnable infliction of harm to the law-enforcing interests of a person who attacks you or against others (Kozachenko, 2013). Tkachenko, in turn, noted that, from the point of view of active action, the justifiable defense is an energetic suppression of encroachment, a counterattack, and drew attention to the fact that active defense can only reliably prevent encroachment on public relations (Kozachenko, 2013).

The conditions for the legality of justifiable defense, relating to protection, are recognized in the Criminal Code of the Russian Federation (1996):

1. Protection of the interests of the individual and the rights of the defending or other persons, as well as the interests of the society or the state that are preserved by law;
2. The implementation of defense by causing harm only to the infringing;
3. The nature of the defense of the defender must correspond to the nature and degree of societal danger of encroachment.

In addition, some Russian scientists admit that the justifiable defense is also permissible for administrative offenses, but not for any, but only for those who, on their objective grounds, stand on the brink of criminal encroachments, can develop into the latter and cause a need for their suppression. In this case, the harm inflicted to offenders, of course, should not be excessive (Fedosova, 2006).

Thus, all the above-mentioned Russian scientists insisted that the justifiable defense is always active; it is possible to protect interests, including the state, through this right. In addition, the scientific literature of the Russian Federation has actively raised and studied the issues of the essence of this criminal-legal institution, the limits of the justifiable defense, etc.

According to the provisions of Art. 3 of the Constitution of Ukraine:

> *"A person, his life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value".*

At the same time, Section II of the Basic Law "*Rights, Freedoms and Duties of Man and Citizen"* contains Art. 27 and art. 29, which stated that:

> *"Everyone has the inalienable right to life. No one shall 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 others from unlawful attacks and everyone has the right to freedom and personal inviolability".*

The abovementioned provisions can be reduced to the fact that in Ukraine, at the highest legislative level, the issue of the right of any citizen to protect not only his natural right - the right to life, health, but the life and health of others from unlawful attacks.

In its turn, the Criminal Code of Ukraine (2001) establishes an equivalent provision, stipulated in the Constitution, according to which:

> *"The justifiable defense is the actions committed with the purpose of protecting the rights and interests of the person who is protected by law, protected by law, or of another person, as well as public interests and interests of the state from socially dangerous encroachment by inflicting on the one who encroaches, harm necessary and sufficient in this situation for the immediate prevention or cessation of encroachment, if while the boundaries of the justifiable defense were not exceeded (Article 36)."*

Moreover, according to the provision contained in Part 2:

> *"Everyone has the right to justifiable defense, regardless of the possibility of avoiding a socially dangerous assault or seeking help from other persons or authorities".*

Also, in Section VIII Circumstances that exclude the crime of the act of the General Part of the Criminal Code, there is a legal institution associated with the justifiable defense, such as imaginary defense, which means actions involving harm in such circumstances when a real socially dangerous There was no infringement, and the person, wrongly assessing the actions of the victim, only mistakenly admitted the existence of such encroachment.

Thus, in our opinion, the Ukrainian legislator, in comparison with the legislators of other countries of the post-Soviet space, has approached thoroughly and scrupulously the issue of securing the right of a person to protect his and the rights of other persons to personal inviolability, the right to justifiable defense at the highest level, and clearly separated this criminal-legal phenomenon from other circumstances that exclude criminal liability.

At the same time, we note that, firstly, the term chosen by the Ukrainian legislator does not fully correspond to the field of its use. Thus, the term "*defense*" means the type of combat operations used to disrupt or repel an enemy offensive, to retain its positions and prepare a transition to an offensive. And the use of the term "*justifiable*" to determine the true nature of this phenomenon is also considered not entirely correct, since this, according to the Constitution and the Criminal Code of Ukraine, is a right, and not an obligation or necessity. In addition, in Art. 36 of the Criminal Code of Ukraine the right to justifiable defense includes the possibility of protecting the interests of the state through the same right-the right to justifiable defense, which is not possible for us.

From the provisions of chapter III of the Criminal Code of the Republic of Moldova (2002) *"Circumstances that eliminate the criminal nature of the act"*, among other circumstances, there is such as justifiable defense, under which, in accordance with Art. 36 of the Criminal Code, it must be understood that

> *"An act committed by a criminal law committed in a state of justifiable defense is not a crime".*

In the state of justifiable defense, a person committing an act to repel a direct, immediate, material and real attack directed against him, another person or against public interests and who poses an extreme danger to the individual or the rights of the defender or for public interests is recognized as a justifiable defense. It is recognized that the person who committed the actions provided for in Part 2 to prevent penetration into residential or other premises, accompanied by life-threatening violence or threat of such violence (Part 2, 3 of Article 36 of the Criminal Code of Moldova, 2002).

Thus, under the justifiable defense can be implied protection in two possible variants:

1. Counterattack;
2. Suppression of socially dangerous assault. Under dangerous attack in the art. 36 of the Criminal Code of the Republic of Moldova refers not only to criminal infringement, but also any other socially dangerous, as well as harmful assault.

In this article, we are not talking about a crime, but about an objectively existing attack that poses an extreme danger. In this case, the legislator is allowed to protect against relatively reckless or even innocent actions of a person, if such actions create a real threat of harm to protected interests. Thus, the justifiable defense is also allowed against objectively socially dangerous actions committed by mentally ill persons (insane persons), persons, etc.

At the same time, the justifiable defense is not allowed against the lawful actions of other persons, even if they harm the interests protected by law (for example, the performance of a professional or official function by the person with observance of the conditions for their legitimacy). It should be noted that unjustified or unlawful actions of officials may be appealed in the manner prescribed by law, the justifiable defense, in the event that officials act formally within their authority, is unacceptable.

With regard to the correlation between the danger of infringement and the nature (intensity) of defensive actions, such a question is decided on a case-by-case basis, taking into account all the circumstances, namely: based on the situation in which the encroachment is carried out, the time, place, tools and means used by the person exercising encroachment, physical condition, the number of persons carrying out assault or protection, etc. (Buzhor, 2010).

Thus, the issue of justifiable defense is basically settled by the legislator of the Republic of Moldova at the level and within the borders almost similar to Ukraine and the Russian Federation. At the same time, we note that the issue of protection from unlawful actions of officials is regulated by the legislator, in our opinion, is not entirely correct. This concerns the provision that:

> *"Unreasonable or unlawful actions of officials may be appealed in the manner prescribed by law".*

In the opinion of a number of scientists, whom we support in this matter, the justifiable defense against the above-mentioned persons is possible, because the provision contained in most of the constitutions of the post-Soviet space reads:

> *"No one is obliged to execute explicitly criminal orders or orders. For the return and execution of a clearly criminal order or order comes legal responsibility" (Constitution of Ukraine, 1996).*

Therefore, if officials violate the law, especially if such violation is obvious, protection of the person by one's own or another person, public interests, in our opinion, is possible.

Experience of the USA

The second amendment to the Constitution of USA guarantees the right of citizens to store and carry weapons. The amendment entered into force on December 15, 1791, along with the other nine amendments to the Bill of Rights. This constitutional provision has a direct relationship to the issue we are studying. In addition, in 2008 and 2010, the US Supreme Court issued two historic decisions concerning the second amendment. In the case of District of Columbia v. Heller, 554 US 570 in 2008, the court clarified that the second amendment protects

the right of citizens to own weapons, regardless of service in the militia, and gives them the right to use weapons for legal goals, such as self-defense in the home (Cases, 2008).

In turn, it should be noted that a number of authors, lawyers and historians prefer to interpret the Second Amendment in such a way that it implies the storage and carrying of weapons only for military purposes. However, the Supreme Court of USA, having examined the case District of Columbia against Heller, made a ruling that the Amendment also implies the storage and carrying of weapons for personal purposes. In the context of this study, we are interested in the individual approach, which means the right of individual citizens to store and carry weapons in private.

In fairness, it should be mentioned that the use of the rules governing the right to self-defense is different in every state, sometimes quite significantly. Thus, states such as Texas, Arizona, Alaska Nevada, New Mexico are considered the most liberal for fans of arms, which can be purchased freely, if a person is 18 years old, an additional tax is required only for rifles and rifles with a barrel shorter than 16 inches (or less than 26 inches along the entire length), a license is also required for concealed carrying of the gun. As for the rest of the weapons, I can get people over 18 years old, without a license, at the nearest department store, any basic gauge at any time of the day, if the store is open, without limit in quantity. In contrast, in states such as DC, Hawaii, Massachusetts and New Jersey, as well as in Rhode Island, it is not easy to obtain a permit to carry weapons, although formally it is may issue states.

Only chronic drug addicts and alcoholics cannot own weapons (they are brought to a special register), mentally ill and legally incompetent people. Even a former convict under certain conditions can get the right to purchase and carry weapons (Kupov, 2016).

On the one hand, such a prevailing practice of liberal attitudes towards gunsmiths in the USA visually creates the illusion of protection of citizens from criminal encroachments, and on the other leads to free circulation of high-risk items in society, which quite often leads to tragedies in American way. The result is the mass shootings of schoolchildren in various states of the USA, the number of deaths-hundreds of innocent children, thousands of crippled fates).

It should also be noted that the American law rather does not protect the right to self-defense, but gives a clear line of defense in court. Self-defense is the procedural institution that lawyers use if they are charged with any type of murder. In order to find out whether it was legitimate to use firearms in self-defense, courts should use the Norris test, which consists of four points.

First, a person who defends must fully realize that he is using life-threatening violence to prevent serious injury or kill himself or others. Here it means that the defender must clearly realize that the measures he has taken may ultimately lead to death, and he is ready for this. It should also be mentioned that under lethal violence, it is necessary to understand any actions that can lead to death. That's why, based on the provisions (postulates) of American law, there is no difference between a warnings shot into the air or a deadly wound in a vital organ (for example, in the head, in the heart, etc.). In the case of self-defense, a person should be intent on the possible causing the attacker to die, namely, to kill: the defender uses the weapon consciously, aware that he can kill the attacker. In the case of giving explanations in court, according to which the defender will say that he did not have the intention to kill someone, he automatically lost the right to self-defense. Such a person is charged with murder by imprudence. It should be noted that when exercising the right to self-defense, a person has the right to shoot, only if he has a conviction about the validity and necessity of causing death to the attacker (Kupov, 2016).

The existence of certain circumstances should confirm that the current situation has left no choice but to commit a well-grounded murder. Among such circumstances can be called: the presence of weapons from the attacker, the numerical superiority of attacking (threatening) persons, illegal force penetration into the home (in some states to the car or to the place of work), a disproportion in the physical strength of the attacker and the defender.

Let us note that the accused himself must not be an aggressor. This means that a person using weapons for self-defense not only does not have the right to shoot first or otherwise by force to suspend the encroachment, but even in some way provoke the attacker, otherwise in such a situation he will lose the right to self-defense. In the presence of the above conditions, an incident of this kind will be qualified as a battle of equal participants or even as an attack by the victim.

If we translate the situation described above into the reality of the countries of the post-Soviet space, the following situation is presumably the result: for example, drunken young people at night prevent you from sleeping with your cries or songs. Going down to them on the street, you made a remark to them, in response-blows, beatings of the soft tissues of the face or trunk. In the case of the opening of fire, self-defense, such actions will no longer is in this situation (according to the provisions of American law) there is a provocation of loudly resting citizens remarks.

In addition, in American law, which provides the right to self-defense, there is a provision that according to which, the use of force must be proportionate to aggression. Dangerous violence cannot be used to protect property, except for the situation when it comes to protecting your own home from arson, which in turn equates to an attempted forceful unlawful entry, or to protect yourself from minor damage (Kupov, 2016).

In the event that all four points mentioned above were satisfied, such self-defense is justified. If only the first two points are confirmed, the defender will be accused of committing a premeditated murder, namely a planned murder of the first or second degree.

It should also be noted that the use of weapons in the United States is regulated by three main doctrines.

Stay Your Ground

This situation has been operating in America since 1896; otherwise it is called *"shoot first"*. To date, this rule has found its legislative approval with some differences in 32 states.

The main idea of this provision is that: a person who has not participated in the commission of a crime has the right anywhere to use a firearm against another person, regardless of whether he has the opportunity to escape if he is convinced that the fire is to be defeated is necessary in order to prevent imminent death, serious bodily harm or sexual violence against yourself or another person (Kupov, 2016).

This situation has repeatedly been sharply criticized. First of all, this is due to the fact that according to many experts, human rights activists, the rule shoot first leads, usually, to an increase in violence. As a survey of Americans-owners of weapons, most of them admitted that they would prefer to kill, rather than wound the attacker: fewer witnesses-fewer problems. We should also note that armed defenders from revenge often turn into real executioners, diligently torturing their victims.

Duty to Retreat

In certain states, it is possible to use life-threatening violence only when it is not possible to avoid it or the retreat is associated with risks to life and health.

Castle Doctrine

According to this provision, the residence of an American is inviolable. This means that the landlord has the right to attack the intruders on his territory by any means to protect himself and other people or property of the weapon (Kupov, 2016). However, this does not mean that in the USA it is possible to shoot anyone who has rushed into the house.

Note that the enforcement of the doctrine of the fortress (My house-my fortress) is very different from state to state. In some states, in New York, for example, a homeowner does not have the right to use life-threatening violence if he has the opportunity to escape from his own home. In Ohio, the concept of fortress refers even to a car: residents of this state can shoot even for trying to steal your car. In Texas, even theft of hay from the shed threatens the execution.

The principle of fortress is used in many countries, among them: Israel, Czech Republic, Italy, Germany, Australia and Canada.

If we do not look at the issue of self-defense through the prism of the problem of wearing and legalizing firearms and the doctrine of the fortress, the differences in self-defense between USA and the countries of the post-Soviet space are as follows.

For example, an attempt to rape in the USA always allows you to apply any degree of protection right up to killing the rapist. In contrast, note that get into a similar situation a woman in Russia or Ukraine, there is a very real possibility of her conviction and, as a result, imprisonment, especially for causing serious harm to health or death to the rapist.

Attack in the stairwell or in a back alley for enrichment also in USA justifies the use of deadly violence. In this case, the American legislator assumes that the defender is attacked suddenly and in this case it is impossible to adequately assess the degree of threat to health and life.

In states there is no problem of proportionality of means of attack and protection: physically undeveloped or weakly developed persons can use any means of protection against professional athletes.

European Experience

Other practice has European countries, the practice of which differs from country to country. In those countries where firearms are legalized, it can be used for self-defense if necessary, which can also be different.

Britain, for example. In part, the issue of protecting one's own interests is decided by the Criminal Justice Act of 1967. Thus, Article 3 of the said Law provides that a person may use reasonable force to prevent the commission of crimes by others or to produce a lawful arrest of a criminal or a suspect. This rule is rather limited by the legal institution we are considering, which is a specific feature of English criminal law. Today we can say that the citizens of this state are denied the right to self-defense, moreover, it is generally elevated to the rank of crime. About this, including one can be judged from the norms according to which a person who is seen wearing a realistic looking child's gun or, for example, the existence of a ban on the use of cutting knives in butcher shops is subject to criminal prosecution. To cripple a robber in Britain

is considered inhumane. Moreover, the citizens of this country are advised by the government to equip (build) safe rooms in order to hide in them before the arrival of the police.

Italy. In Italy, there is also an absurd law of self-defense in its own house today. From the provisions of the law it follows that the owner of the house lays down a criminal liability if he harms the thief who got into his dwelling. At the moment, there are active discussions on strengthening the right to self-defense of the owners of the house, which is regulated by Art. Art. 55 and 614 of the Criminal Code of Italy, as well as to ensure the maximum inviolability of the home. Currently, Art. 55 of the Criminal Code of Italy provide that if in the commission of crimes punishable under art. Art. 51, 52, 53, 54 of the Criminal Code of Italy (1930), the limits prescribed by law or by order of the authorities are deliberately violated, then the offender is subject to provisions concerning an unintentional crime, provided that the fact of the crime is considered by law as committed by negligence, which in itself is absurd and substantial narrows the rights of the defending person.

In the Czech Republic, for example, it is forbidden to shoot an escaping robber in the event that he did not have time to steal anything from you. But if he tries to steal his deceased grandfather's favorite statue, it's possible.

In addition, in the Czech Republic there is the notion of manifestly disproportionate protection: to shoot adolescents who are stolen in the garden or a drunkard climbing through the fence of your site without clearly aggressive intentions will not work without legal consequences. In this case, in the Czech Republic, the defender has the right to shoot first. He does not necessarily have to wait for an attack in his address, especially if the attacker is known for his aggressiveness.

A Swedish citizen has the right to self-defense with weapons if he faces imminent danger to life, health or property. Threats of violence when the owner, having found out on a crime scene of robbers, tries to return the property, also are the sufficient basis for opening of fire.

In addition, in Sweden, you can shoot a man trying to break into a room, apartment, house or boat. Also, there you can shoot at a person who refused to leave your home, despite all your requests.

In the Criminal Code of Poland and Germany, the excess of the justifiable defense limits is not punished, if it was due to confusion, fear or fright caused by the attack. In accordance with § 32 Abs. 2 StGB, justifiable defense is considered justifiable defense in order to prevent an unlawful attack that threatens a person at the time of the act (Kupov, 2016).

In France, the law on self-defense allows the use of violence, except for intentional homicide, against criminals and for the protection of property. According to article 122-6 of the Criminal Code of France (2019), those acting in a state of lawful protection are those who commit acts to repel the penetration of a home by night through hacking, violence or deception or in order to protect themselves from theft or robbery with violence.

Until 1959, French judicial practice was based on the irrefutable nature of such a presumption. However, in 1959, the Court of Cassation of France directly spoke on this issue, explaining that such a legislative presumption is not absolute and irrefutable and may be shaken before proving the opposite

CONCLUSION

Therefore, since the protection of life, health and other socially important objects against criminal violations is a natural integral right of any person, the criteria for such a right must be enshrined in an international act (convention).

Thus, based on the etymology of the words chosen to determine the legal phenomenon that we have been studying, we can state that they most accurately reflect their essence. Firstly, "*law*" is a legal term and means

> *"One of the types of regulators of public relations; a system of generally binding, formally defined rules of conduct, guaranteed by the state" (criminal law belongs to this system as well).*

Secondly, "*lawful*" derives from the word "*legitimate*", which means that protection must be proportionate to a socially dangerous act. And finally, the term "*defense*" also took root in criminal law, since the main task of this branch of law is predominantly not in the regulation of public relations, but in their defense and protection.

The list of the rights, freedoms and other objects that can be lawfully protected in criminal matters should, in our view, be as follows: primarily, life and health of the person who decided to use this right; life and health of other persons who do not have the opportunity to protect their rights and freedoms independently or under certain conditions, as well as the property of the mentioned persons; public interest. The interests of the State should not appear in this list, as this right is a natural one, and its host is an individual, not a State. The latter just regulates this legal institution by determining its criteria and boundaries.

Besides, the criteria for the factor, which excludes criminality of an act, should be unified and best adapted to the entire international system of law. This provision is also supported by the fact that the basis for the right to protection, which is biologically programmed, therefore it cannot be limited by a State. Thus, crossing the borders of other States, anyone must be clear about the rights, freedoms and objects, which are subject to protection from criminal encroachments and what are the scope of the protection. Judicial practice is also of considerable importance for the realization of such a right, as the study shows.

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