

CRIMINAL PROCEDURE LAW AND CRIMINOLOGY**VYSHNEVSKA O.**

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*(National Academy of Prosecution of Ukraine)***PROBLEMS OF PROCEDURAL STATUS OF ADVOCATE
IN CRIMINAL PROCEEDING: DOMESTIC AND FOREIGN EXPERIENCE**

In summary, we emphasize that procedural status of advocate in a criminal trial should primarily be based on the principle of justice because fairness is a moral and legal phenomenon and serves as a criterion for evaluating human actions. As a result of the study, based on analysis of current legislation and its implementation, the following conclusions can be made:

1. Legal basis of advocate's participation in criminal proceedings are constitutional guarantees to provide qualified legal assistance for every citizen.

2. Defender involved in criminal proceedings not only helps the suspect (accused) to protect its legal interests, provides qualified legal assistance, prevents falsification of evidence, the use of unlawful methods of investigation, neutralizes "prosecutive orientation" of a criminal investigation, but also in carries out one of the functions of the state -- protects rights and freedoms of citizens.

3. Analyzing the legal status of an advocate in criminal proceedings it is necessary to consider the general rules governing the status of advocate contained in the Law of Ukraine "On the Bar and Legal Practice", and special rules of the Criminal Procedure Code of Ukraine. Of particular importance are the international legal sources that provide the citizen's right to protection.

4. Problem of the limited range of subjects that can act as defenders in criminal proceedings is debatable. On the one hand, creating this novel of the Criminal Procedure Code of Ukraine the legislator aimed to ensure the high quality of protection of suspect (accused) and ensure the principle of confidentiality. On the other hand, the legislator limited the right to a free choice of advocate, guaranteed by the Constitution of Ukraine and international acts.

5. The regulation of the Criminal Procedure Code of Ukraine, which establishes the rule of simultaneous participation in a criminal trial of up to five other defenders of the accused, does not regulate the appropriate limit of advocates at the stage of pretrial investigation.

6. The new Criminal Procedure Code of Ukraine improved legal status of defender, compared to the Code of 1960. This is shown, in particular, in the establishment of additional procedural rights and special procedure of advocate's introduction in the criminal proceeding.

