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CONCLUSIONS OF THE SUPREME COURT OF UKRAINE ABOUT APPLICATION OF ARTICLE 116 “MURDER COMMITTED IN THE HEAT OF PASSION” OF THE CRIMINAL CODE OF UKRAINE

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Some people are sure that there are no problems with the qualification of different types of murder. However, it is not true. Some elements of the particular crime are almost impossible to be proved because of lack of research on their nature. One of the most problematic articles about murders in use is Article 116 of the Criminal Code of Ukraine. That is why there are some conclusions of the Supreme Court of Ukraine about its application.

Under Article 116 of the Criminal Code of Ukraine, a murder committed in the heat of passion caused by violent conduct or conduct that lowers in honour and dignity and also in case of the systematic character of such conduct of the victim shall be punishable by restraint of liberty for a term up five years, or imprisonment for the same time [1].

The object of this crime is life of a person. As the human being and his or her life is the highest social value, murder is one of the most dangerous crimes.

The objective side of the crime is characterized by encroachment on life that causes death of a person and relationship of cause and effect.

The peculiarity of the offence provided in Article 116 of the Criminal Code of Ukraine is that heat of passion is caused by violent conduct or that lowers in honour and dignity and also in case of the systematic character of such conduct of the victim.

The subject of the crime is a physical person of sound mind who committed crime in the heat of passion.

The subjective side of the crime is characterized by the intent that suddenly arose. The heat of passion reduces the ability of a person to realise his or her actions or to control them.

The problems of the application of Article 116 of the Criminal Code of Ukraine are often connected to the definition of the heat of passion. Most scientists agree that the heat of passion includes the state of affect and other emotional states that are characterized by the strong power of their expression. Every state must be caused by the special conduct of a victim.

The Supreme Court of Ukraine has pointed out that in the case when the heat of passion passed and then a person committed murder, the actions have to be qualified under Articles of the Criminal Code of Ukraine that provide responsibility for such crimes without attenuating circumstances [2].

The new Supreme Court also has enough casework related to murders committed in the heat of passion. The most common situation is the necessity to determine whether to use Article 115 or 116.

Taking into account all things considered, it is very important to find out all the circumstances of the case and pay attention to the emotional state of a person. The absence of the heat of passion means that Article 116 cannot be used.

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UDC 316.4:314.15(477)

SPECIFIC FEATURES OF NATIONAL MIGRATION IN UKRAINE

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Such question is relevant nowadays because modern migration processes belong to the biggest social problems not only of Ukraine, but of the whole modern world. Migrations of the population cause other problems: political, economic, cultural, etc., as a result of which various conflicts arise.

Among the researchers involved in the study of migration, the following should be distinguished: A. Adepodzhu, S. Kasls, O. Malynovska, I. Prybytkova, M. Pulen, A. Romanyuk, A. Sovi, M. Shulga, and others.

The term «migration» itself comes from Latin «migratio» and means relocation, displacement. The sociological encyclopedic dictionary gives the following definition: «Migration is the change of place of residence, the movement of people to another territory (region, city, country, etc.)» [3; p. 181].

Thus, in general, migration is the movement, the crossing of administrative boundaries, the compulsory or voluntary movement of people (one person or a group of people) to the place of entry from the place of departure for a certain period of time or for permanent residence in the presence or absence of legal bases.