

SPECIAL CRIMINOLOGICAL PRINCIPLES OF CRIME PREVENTION IN THE FIELD OF INTELLECTUAL PROPERTY

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ABSTRACT

The purpose of this article is to study and systematize the provisions on special criminological principles of crime prevention in the field of intellectual property. The study used general and special methods of legal science. The method of analysis and synthesis was used to conduct a complete and comprehensive study of the criminological characteristics of crime in the field of intellectual property. The logical-semantic method was used to study the current legislation governing the prevention of this type of crime, to establish the meaning of basic concepts and analysis of the main manifestations of crime in the field of intellectual property. The comparative method was used to study the deterministic complex of crime in the field

of intellectual property and the system of prevention of this phenomenon. The method of legal modeling is used to compare the provisions of the legislation of Ukraine with the relevant provisions of the legislation of other states and international legal acts. Based on the results of the study, the authors state that at the special criminological level of crime prevention, the legal response to criminal offenses in the field of intellectual property almost always occurs simultaneously, without separating from each other, according to the algorithm: preventing and responding. At the same time, the response to criminal offenses in the field of intellectual property is mainly directed not at the actual committed, but at potentially possible criminal offenses. The authors argue that a necessary condition for the effective protection of intellectual property rights is the creation of a single platform for all bodies involved in the protection of intellectual property rights, which will operate in a closed mode. International experience shows that alternative dispute resolution such as arbitration and mediation, have a number of advantages over litigation: discretion, confidentiality and speed of dispute resolution. The authors conclude that in order to improve the mechanism of special criminological counteraction to intellectual property crime, it is necessary to modernize the national intellectual property system: improving the legal framework, improving the institutional framework and infrastructure, and conducting comprehensive educational work with users of this system. The article proves that an important element of improving the special criminological mechanism for the prevention of intellectual property crime is the IP specialization of a judge, which becomes the main prerequisite for obtaining a quality, properly motivated court decision.

Key words: special criminological principles, intellectual property, crime prevention, national intellectual property system, protection of intellectual property rights.

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1. INTRODUCTION

1.1. Relevance of the Topic and Problem Statement

Intellectual property significantly contributes to the country's economy and stimulates innovation, growth and competition. Due to the value of intellectual property, various entities, including individuals, criminal organizations and competitors of nation states, use intellectual property as a direct source of income to finance other illegal activities or as a source of their own economic gain.

The countries of the world have created a legal framework for the protection of intellectual property rights. The investigation of intellectual property crimes dates back to 1908 (USA). The importance of protecting intellectual property from crime is especially growing in connection with the development of the global high-tech market (Moser, 2005). Commerce in the digital world is becoming a challenge for the consumer, as it can be difficult to distinguish between counterfeit and illicit products from real goods. There are the latest threats to citizens in many areas of society: from substandard goods (harmful products) to real threats to life and safety (Schneider, 2005). This applies to pharmacological products, food products, etc. Significant losses due to crimes in the field of intellectual property are suffered by companies seeking to bring new products to market.

Therefore, world practice creates programs to protect intellectual property rights. Law enforcement agencies investigate theft of trade secrets, counterfeit goods and copyrights and / or trademark infringements. Priority is given to issues that pose a threat to public health and safety, national security, or those that have a significant economic impact (Romanenko & Chaplay, 2016). The main purpose of ensuring intellectual property rights for law enforcement agencies is to identify and neutralize international and domestic individuals and organizations that produce or trade counterfeit and pirated goods, as well as those who steal, distribute or otherwise profit from theft of intellectual property and trade secrets.

The main task of law enforcement is to overcome the threat to intellectual property, using extensive experience in information systems and technologies in money laundering, organized crime, cybercrime, national security, covert operations, data analysis and related fields. Law enforcement agencies use various powers to stop, investigate, coordinate, train, and promote crime. In this sense, interaction with the private sector is extremely important to overcome the threat of intellectual property to detect, disrupt and neutralize counterfeit transactions for the benefit of business and consumers (Bakulina et al., 2019; Sudomyr et al., 2020; Tkach et al., 2020).

Intellectual property is associated with the creativity of the economy, new technologies, innovations (Bondarenko et al., 2020).

At this stage, Ukraine is significantly losing in technological development. The national economy of Ukraine is characterized by such features as technical and technological backwardness. The country is dominated by the reproduction of the production of the 3rd technological way, almost 95% of domestic products belong to the production of the 3rd and 4th technological ways. GDP growth due to the introduction of new technologies in Ukraine is estimated at only 0.7-1%. Ukraine is losing the potential to create intellectual property in the absence of a consistent state policy and strategy in the field of protection and enforcement of intellectual property. Ukraine ranks low in international ratings of the intellectual property system. According to the annual report of the International Intellectual Property Alliance (IIPA), the analysis of problems at the legislative and law enforcement levels of copyright and related rights provides grounds for recommending leaving Ukraine in the so-called "priority watch list" in 2019. In addition, Ukraine has been mentioned in List 301 since 1997, causing both economic and reputational damage. The disadvantages of the Ukrainian system of intellectual property protection are the following:

- theoretical inconsistencies regarding the criminological characteristics of intellectual property crime;
- legislative gaps and obstacles to the practical application of copyright and related rights protection mechanisms;
- non-regulation at the legislative level of the provisions of copyright and related rights in the information society with the use of modern Internet technologies, collective management, the use of unlicensed software, etc .;
- failure to form an effective system of measures for criminal law prevention of crime in the field of intellectual property;
- inconsistency of some norms of legislation with the norms of international law, ensuring effective protection of intellectual property rights and creation of a civilized market for these objects.

The purpose of this article is to study and systematize the provisions on special criminological principles of crime prevention in the field of intellectual property. In the framework of this study, the following problematic issues are identified:

- special criminological level of combating crime in the field of intellectual property;

- improvement of the mechanism of special criminological counteraction to crime in the field of intellectual property.

2. THEORETICAL SECTION.

2.1. The Essence of Special Criminological Counteraction to Crime in the Field of Intellectual Property

The field of intellectual property includes the results of intellectual activity and intellectual products, which act as two categories:

- a) economic - because intellectual property rights allow market participants to generate income;
- b) legal - ie exclusive, legally justified rights to the results of intellectual activity.

An intellectual property crime is committed when someone uses intellectual property rights without the owner's permission. It is the illicit production, sale or distribution of counterfeit or pirated goods, such as patents, trademarks, industrial designs or literary and artistic works, for commercial gain (Hetzer, 2002). Counterfeiting and piracy are terms used to describe a range of illegal infringements related to intellectual property rights. In most cases, counterfeiting infringes the trademark, which means that the product is produced without the permission of its owner (Figure 1).



Figure 1 Definition of an intellectual property crime (Europol, 2020)

Piracy involves the illegal use of unlicensed software, online books, video games, movies, music with respect to the rights of copyright holders, and literary and artistic works protected by copyright.

EUIPO estimates that the annual damage caused by counterfeiting and piracy in some sectors of the EU economy is up to € 60 billion (Table 1).

Table 1 Estimated direct and indirect infringement economic costs - selected IPR intensive industries in the EU (average annual figures, 2012-2016)

Sector	Direct Lost Sales (€ billion)	% of Sales	Total Lost sales (€ billion)	Direct Employment Loss	Total Employment Loss	Government Revenue Loss
Smartphones *	4.2	8.3%	Not calculated	Not calculated	Not calculated	Not calculated
Pesticides & Agrochemicals	1.0	9.8%	2.1	1,749	7,993	0.3
Pharmaceuticals	9.6	3.9%	16.5	33,133	80,459	1.7
Spirits & Wine	2.4	5.9%	6.1	6,049	38,885	2.1
Recorded Music	0.1	3.6%	0.2	580	1,343	0.1
Jewellery & Watches	0.9	6.2%	1.7	5,683	11,882	0.3
Handbags & Luggage	1.0	7.4%	2.1	8,169	16,550	0.4
Toys & Games	1.0	7.4%	1.6	3,679	8,158	0.3
Sports Goods	0.3	4.1%	0.6	1,756	3,625	0.1
Clothing, Footwear and Accessories	28.4	9.7%	45.9	335,053	473,031	8.6
Cosmetics & Personal care	7.1	10.5%	11.2	71,984	118,654	2.6
<i>Total all sectors</i>	56.0	7.4% (avg.)	92.3	467,835	760,579	16.3

* Figures for this sector refer to 2015 only.

Source: 2019 Status Report on IPR infringement

Intellectual property crime has a significant negative impact on the economy. The updated analysis shows that the total losses are equivalent to 7.4% of total sales in the EU in the 11 surveyed sectors of the economy, within the EU up to 468,000 jobs are lost in these areas.

Most counterfeit goods are manufactured without EU quality and safety standards. Such products are dangerous for consumers. Therefore, the task of law enforcement agencies is the timely detection of such crimes and their prevention. Organized crime groups are increasingly involved in infringing intellectual property rights. In addition, criminal groups involved in intellectual property crime often use profits to fund other illegal activities. That is, in addition to the direct economic consequences, infringements in the field of intellectual property can also have dynamic, long-term consequences.

The fight against intellectual property crime has been identified as a key priority for Europol and its partner law enforcement agencies.

To strengthen the fight against counterfeiting and piracy, in 2016 Europol and the European Union Intellectual Property Office (EUIPO) joined forces to establish a Coordinating Coalition on Intellectual Property (IPC3) operating within Europol.

Special criminological counteraction to crime in the field of intellectual property - a system of criminological and organizational and legal measures directly aimed at combating crime in the field of intellectual property, carried out by specially authorized law enforcement agencies in this area (Urbas, 2005a). Schemenational intellectual property systemOf Ukraine is presented in Figure 2.

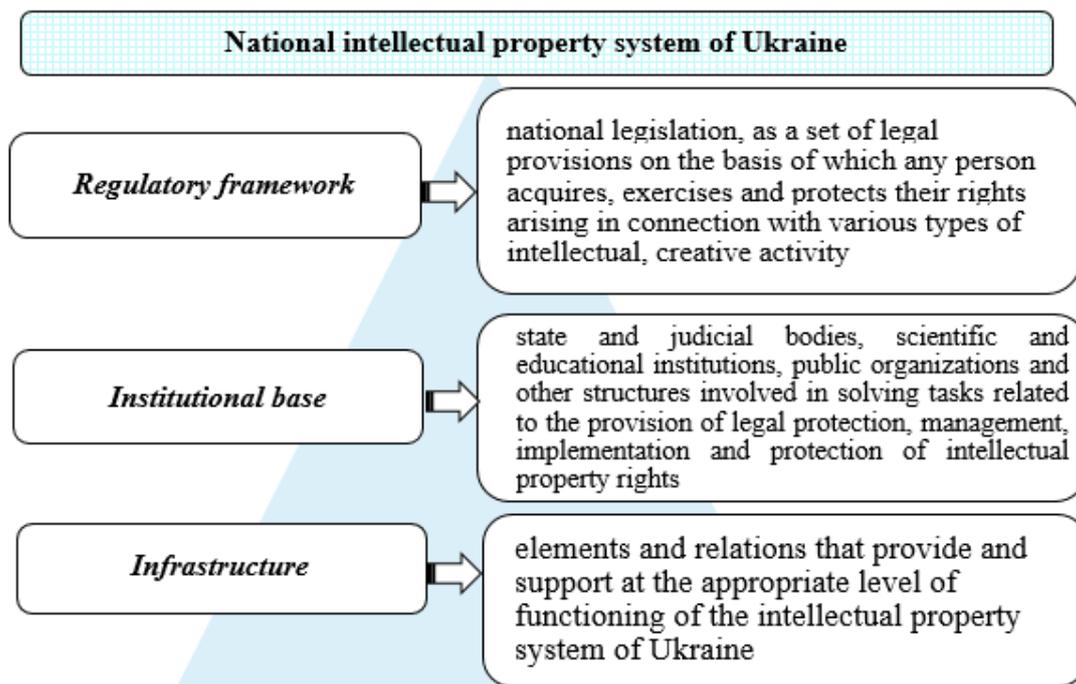


Figure 2 Schematic of the national intellectual property system of Ukraine

National intellectual property system includes the regulatory framework, institutional framework, infrastructure elements, as well as users of this system. Legal relations in the field of intellectual property in Ukraine are regulated by separate norms Civil, Economic, Criminal, Customs Codes of Ukraine, Code of Ukraine on Administrative Offenses and procedural codes. The institutional framework is represented by the executive and the judiciary. The central body of executive power that ensures the implementation of state policy in the field of intellectual property is the State Intellectual Property Service of Ukraine. Protection of intellectual property rights in Ukraine is carried out in court and administratively.

There is currently no specialized court in Ukraine for resolving intellectual property disputes. As the resolution of disputes in the field of intellectual property requires the application of special knowledge, such a procedure requires a forensic examination. In practice, the appointment and conduct of forensic examinations significantly delays and increases the cost of protection of rights. Such circumstances negatively affect the formation of a unified practice of application of legislation in the field of intellectual property. Administrative protection of rights is carried out by the State Service (Appeals Chamber, state inspectors for intellectual property), the Antimonopoly Committee and law enforcement agencies. To improve the mechanisms of cooperation between law enforcement and regulatory authorities to combat intellectual property infringements, to ensure proper protection of intellectual property rights, the Coordinating Council for Combating Intellectual Property Offenses has been established, which operates on a permanent basis.

A characteristic feature of special criminological counteraction to crime is the creation and implementation of various programs to prevent its manifestations at the national, regional and local levels and other special measures aimed at this (Urbas & Choo, 2008).

Special criminological counteraction to crime in the field of intellectual property is characterized by the presence of a mechanism for its implementation, the structure of which is the content of combating crime in this area. Characterization of this mechanism (content) of combating crime in the field of intellectual property at the level of special criminological

counteraction should begin with the fact that combating crime is carried out in two interrelated areas, each of which reflects the relevant component of the content of crime (Zentner, 2006). The phenomenon of "crime" has two relatively autonomous components: the first is the propensity of people and their communities to this destructiveness and its corresponding determinants (Wan, 2010).

Thus, the first direction of combating crime in the field of intellectual property is directly aimed at overcoming this tendency and its determination (prevention of potential criminal offenses in this area). The second component of crime is the realization of this tendency, which manifests itself as the commission of criminal offenses. The counteraction to crime here is the legal response to already committed criminal offenses in the field of intellectual property.

Crime prevention in criminology should be understood as an activity that prevents the commission of criminal offenses in the field of intellectual property. That is, the targeted application of preventive measures that prevent, avert some consequences, warnings, ie warnings against any illegal actions, or the cessation of offenses, ie coercion to stop some illegal actions.

Prevention of criminal offenses in the field of intellectual property is to neutralize the criminogenic preconditions of a possible offense, or activities to eliminate and neutralize the causes of its possible commission, as well as the conditions that contribute to this. In case of insufficient effectiveness of prevention, it is necessary to use another means of prevention - prevention of criminal offenses. Intellectual property warnings are a set of measures directly aimed at the consciousness of specific individuals or certain groups of them who have criminal intentions or plan to commit a crime. At the level of individual crime prevention, prevention manifests itself as informing a potential offender about the irrationality of his planned criminal offense. With this form of prevention there is an effort applicable to specific persons who already intend to commit a crime. From the standpoint of criminal law, this means that the prevention of a crime is the activity of the subjects of prevention at the stage of detecting intent to commit it. If a potential offender still begins to prepare for a criminal offense, it is necessary to stop the actual creation of conditions for committing a criminal offense, ie to stop preparing to commit it (Article 15 of the Criminal Code of Ukraine). Termination remains in the sphere of preventive activity, provided that the act committed in the process of preparation is not criminally punishable. The legal response should be considered the cessation of the crime and at the stage of an attempt to commit it, because the attempt is recognized as a criminal act.

Thus, the concept of "prevention" covers a set of means of prevention (causes and conditions of a criminal offense), prevention (propensity of people to commit criminal offenses), termination (conditions for committing an offense).

Prevention as a set of tools is a component of combating crime.

Special criminological prevention of criminal offenses in the field of intellectual property relate to crime as a social phenomenon.

Special criminological prevention is a system specifically aimed at preventing criminal offenses of criminological and organizational and legal means and measures in the field of intellectual property (functional aspect), which are mainly carried out by specially authorized entities (institutional aspect): state law enforcement agencies or relevant civil society structures.

Prevention, as a fight against crime, is the main focus of intellectual property efforts.

At the special criminological level of crime prevention, the legal response to criminal offenses in the field of intellectual property almost always occurs simultaneously, without

separating from each other, according to the algorithm: preventing react, and reacting prevent. Another feature of the response to criminal offenses in the field of intellectual property is that it (response) is mainly directed not at the actual committed, but at potentially possible criminal offenses.

3. METHODOLOGY

The methodological basis of this article are general scientific and empirical research methods. Research methods are selected based on the object, subject and purpose of the study. The study used general and special methods of legal science. The method of analysis and synthesis was used to conduct a complete and comprehensive study of the criminological characteristics of crime in the field of intellectual property. Methods of analysis and synthesis were used to form a holistic view of the problem of criminological characteristics of crime in the field of intellectual property. The logical-semantic method was used to study the current legislation governing the prevention of this type of crime, to establish the meaning of basic concepts and analysis of the main manifestations of crime in the field of intellectual property. The comparative method was used to study the deterministic complex of crime in the field of intellectual property and the system of prevention of this phenomenon. The method of legal modeling is used to compare the provisions of the legislation of Ukraine with the relevant provisions of the legislation of other states and international legal acts. Based on the results of sociological research methods in the form of a questionnaire, the current state of crime prevention in the field of intellectual property is determined. The study was conducted on the basis of statistical information of Ukraine. Empirical basis of the study are the results of a study of materials of the State Statistics Service of Ukraine, official websites of state budget institutions, statistics of the Supreme Court, the Prosecutor General's Office and the Unified State Register of Court Decisions, generalized data of criminal proceedings on intellectual property offenses, domestic and foreign scientists, Internet resources.

4. ANALYSIS OF RESULTS

4.1. Research of Crime in the Field of Intellectual Property of Ukraine as an Object of Special Criminological Counteraction

In 2019, the US Trade Representative's Office (USTR) published Special Report 301 on the adequacy and effectiveness of the protection of intellectual property rights of US trading partners around the world. According to this report, Ukraine remained on the Priority Watch List in 2019 (which has been mentioned since 1997). Among the problems that led to Ukraine's participation in this list, in particular, the lack of effective means to combat the widespread copyright infringements in Ukraine using the Internet. With regard to software legalization, according to the latest global review of the Business Software Association (BSA), published in 2016, the approximate use of unlicensed software in Ukraine was 82%, estimated at \$ 129 million.

Regarding the criminal law protection of intellectual property rights, the overall crime rate in this area remains high.

The reasons for this condition are:

- the presence of problems and inconsistencies of legal norms;
- the absence of certain law enforcement agencies, which are investigating specific types of crimes in the field of intellectual property;
- low motivation of law enforcement officers to conduct quality investigations of crimes in this area, insufficient level of their qualifications;

- low level of legal culture of the population and public awareness of intellectual property rights, which often causes unconscious violation.

Currently, the Ukrainian legal field has not formed a systematization of criminal law relating to the protection of intellectual property rights. The objective side of crimes in this area is not specified. There are imperfections in the legislative technique in the presentation of the relevant articles of the Criminal Code on criminal law protection of intellectual property rights. There are differences in the terminology of the Criminal and Civil Codes of Ukraine, as well as special laws in the field of intellectual property for specific objects.

Analysis of the criminogenic situation in the consumer market of Ukraine showed that illegal activities often take the following forms:

- 1) production of various types of counterfeit products with illegal use of trademarks and brand names of well-known domestic and foreign manufacturers;
- 2) violation of rights to industrial property;
- 3) illegal distribution of objects of copyright and related rights on the Internet;
- 4) copyright infringement in the computer software market;
- 5) illegal public notice (bringing to the public knowledge of copyright and related rights).

Figure 3 presents information on the registration of applications and notifications of criminal offenses in the field of intellectual property in Ukraine.

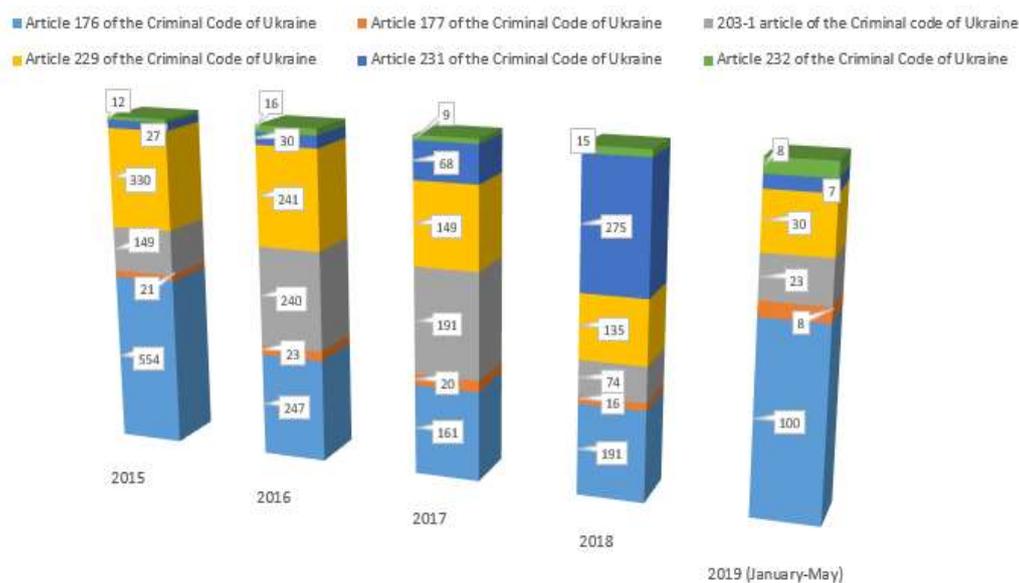


Figure 3 Dynamics of registration of applications and notifications of criminal offenses in the field of intellectual property in Ukraine in 2015-2019

According to statistics, over the past 5 years, the Unified Register of Pre-trial Investigations has included information on the commission of 6,915 criminal offenses in the field of intellectual property property and sent to the court materials on the commission of 880 such offenses, of which under Art. 176 of the Criminal Code of Ukraine - 445, according to Art. 177 of the Criminal Code of Ukraine - 8, according to Art. 229 of the Criminal Code of Ukraine - 175, according to Art. 231 of the Criminal Code of Ukraine - 201.

Thus, only every eighth appeal to law enforcement had a judicial perspective. That is, despite the relatively large share of infringements of intellectual property rights, only a small proportion of registered criminal proceedings bring the case to court, which negatively affects the overall criminogenic situation regarding the protection of intellectual property rights. Example, in the first quarter of 2020, the Appeals Chamber received 21 objections against the

decisions of the Ministry of Economy, which were distributed by objects of industrial property as follows: signs for goods and services - 19; inventions - 1, utility models - 1. The 49 meetings of the Boards of Appeal were held. The appellants were sent 27 decisions of the Appeals Chamber, of which 12 decisions on satisfaction of the objection in full and 15 - on the refusal to satisfy the objection. In the first quarter of 2020, 86 procedural documents were prepared (reviews, objections, explanations, petitions, complaints). The 33 claims and the 37 decisions of courts of first, appellate and cassation instances were processed. Participated in 269 court hearings. In order to implement court decisions (decisions on securing claims), measures were taken to: secure claims - 24, cancel the provision of claims - 14, execution of court decisions - 21. 204 documents related to the execution of court decisions were prepared. Data on appeals against decisions of the Ministry of Economy to the Appeals Chamber and the court, as well as on lawsuits for invalidation of security documents in the first quarter of 2020 are given in Table 2.

Table 2 Appeals against decisions, lawsuits for invalidation of security documents in the first quarter of 2020 (Ukraine)

Legal affairs	Inventions	Useful models	Signs for goods and services	Industrial designs	Total
Decisions have been made	594	1878	8452*	557	11481
Objections filed with the Court of Appeal /%	1 0,2%	1 0,01%	19 0,2%	-	21 0,2%
Lawsuits filed against decisions /%	1 0,2%	-	1 0,01%	-	2 0,01%
Decisions declared invalid	-	-	-	-	-
Security documents issued	510	1942	6830**	388	9670
Claims for invalidation of security documents /%	1 0,2%	1 0,05%	10 0,1%	3 0,8%	15 0,1%
Security documents have been declared invalid by courts	-	1 0,1%	16 0,2%	1 0,3%	18 0,2%

*Including according to international applications under the Madrid Agreement - 2499

**Including international registrations under the Madrid Agreement - 2416

According to the Information from the Report of the Appeals Chamber, out of 100 decisions adopted by the Chamber from 01.06.2017 to 01.09.2018, only 5 were appealed in court. The proceedings in these cases are ongoing (Report of the Appeals Chamber). In 2018, representatives of Ukrpatent took part in more than 500 cases related to security documents. In these cases, 516 procedural documents were prepared and 261 court decisions were processed. In 2018, 203 cases were initiated, 145 of them concerned marks for goods and services, 20 - inventions, 21 - industrial designs, 17 - utility models. By jurisdiction, these cases were distributed as follows: 92 cases were considered in commercial courts; in civil courts - 78; in administrative courts - 33. Of the 145 cases concerning marks for goods and services, 43 concerned the early termination of security documents. The 102 other claims concerned, in particular, the invalidation of security documents. In order to implement the decisions (rulings) of the courts, measures were taken to secure 91 claims, cancel the measures to secure 28 lawsuits, and implement 75 court decisions. 568 documents were sent regarding the execution of court decisions. In 2018, according to court decisions, 40 certificates for marks for goods and services, 11 patents for industrial designs, 8 patents for utility models and 1 patent for an invention were declared invalid.

A similar picture is inherent in the consideration of proceedings under other articles. A number of crimes against intellectual property (Part 1 of Articles 176 and 177, Article 203 of the Criminal Code of Ukraine) referred to cases of private prosecution, ie these cases are initiated by the victim (right holder). Sometimes there is a delay in obtaining the status of a

victim, which has its continuation in the form of disinterest of law enforcement agencies to conduct a quality investigation of the fact.

The situation with the criminal law protection of intellectual property is negatively affected by the problems of overloading judges with cases, which is evidence of the irrationality of the organization in the judiciary. In addition, there is the problem of determining the amount of material damage caused by the crime. In the provided art. 176, 177, 229 of the Criminal Code of Ukraine, criminal consequences in the form of material damage is a qualifying feature, but today the regulations do not have a clear position on how to establish the size of these criminal consequences.

At the same time, sanctions for committing crimes against intellectual property in Ukraine are quite mild compared to developed countries. There is no single approach in determining sanctions for infringements of intellectual property rights in Articles 176, 177, 229 of the Criminal Code of Ukraine. The amount of fines in all articles is significantly understated and does not correspond to the amount of material damage, which is mandatory for the qualification of the relevant actions as crimes. The sanctions of these articles do not include such an effective additional punishment as confiscation and destruction of all counterfeit products and tools and materials used for its manufacture.

Ukraine still has a significant number of problems in the protection of intellectual property rights, which requires the involvement of law enforcement agencies.

Despite positive legislative changes, internet piracy in Ukraine continues to spread. As of 2016, Ukraine was among the top five countries in terms of the number of peer connections for illegal file sharing of video games. In 2017 and 2018, Ukraine ranked third in the world in the number of infringements of intellectual property rights to video games for personal computers (IIPA, 2019).

It should be noted that in fact the National Police does not prevent intellectual property offenses. Prerequisites for this are:

- insufficient provision of the National Police corps with legal specialists in intellectual property;
- imperfect legal mechanism in terms of providing evidence of violations of rights in intellectual ownership and proof of such violations;
- imperfection of formulations of crimes in the sphere of intellectual property;
- no isolation of violations in the field of intellectual property as a priority.

No less a problem is e-commerce with counterfeit goods through the relevant trading platforms (online stores and marketplaces). However, these forms of infringement of intellectual property rights to trademarks and commercial (brand) names remained outside the boundaries of law enforcement agencies. The fact that the investigation of crimes against intellectual property rights belongs to the jurisdiction of the police, which also investigate numerous general criminal offenses, is not conducive to bringing violators to justice.

In addition, in accordance with paragraph 1 of Part 1 of Art. 477 of the Criminal Procedure Code of Ukraine, criminal proceedings for all these criminal offenses belong to the criminal proceedings in the form of private prosecution and can be initiated by the investigator, prosecutor only on the basis of the victim's application for criminal offenses. Thus, in a crisis in the Ukrainian law enforcement system, in fact, the burden of proving the composition of a criminal offense rests with the right holder. This applies in particular to the proof of infliction of damage, which is the minimum necessary for the qualification of a criminal offense. At the same time, right holders and collective management organizations are often deprived of the opportunity to record and procedurally secure evidence. Therefore, one

of the main criteria for improving the effectiveness of criminal law protection, intellectual property.

4.2. Improving the Special Criminological Mechanism for Preventing Crime in the Field of Intellectual Property

The establishment of the High Court of Intellectual Property is the basis for Ukraine's accession to the world practice of considering intellectual property cases by a specialized court. Currently in Ukraine, intellectual property cases are considered by the Supreme Court, in accordance with Part 2 of Art. 20 of the Commercial Procedural Code of Ukraine:

- cases in disputes concerning the rights to invention, utility model, industrial design, trademark, trade name, etc .;
- cases in disputes concerning registration, registration of intellectual property rights, invalidation, renewal, early termination of patents, certificates, other acts certifying or on the basis of which such rights arise or which violate such rights;
- cases in disputes concerning copyright and related rights;
- cases in disputes concerning the conclusion, amendment, termination and execution of the agreement on the disposal of intellectual property rights and other cases.

At the same time, in accordance with the provisions of the law, cases concerning intellectual property rights are considered by courts according to the rules of jurisdiction established in the procedural codes. In practice, this often means a situation of inequality in the application of special legislation by courts and different lengths of court proceedings. The launch of the High Court of Intellectual Property will improve the quality of cases, develop common case law, and significantly reduce the time taken to hear disputes.

An important element in improving the special criminological mechanism for preventing intellectual property crime is the IP specialization of a judge, which becomes the main prerequisite for obtaining a quality, properly motivated court decision.

A necessary condition for the effective protection of intellectual property rights is the creation of a single platform of all bodies involved in the protection of intellectual property rights, which will operate behind closed doors.

International experience shows that alternative dispute resolution, such as arbitration and mediation, has a number of advantages over litigation: dispositiveness, confidentiality and speed of dispute resolution. Resolving the issue of jurisdiction of a dispute in the field of intellectual property in each case requires an analysis of the circumstances of a particular case. Some categories of disputes, such as disputes over the invalidation of protection documents on intellectual property rights, are not subject to arbitration and international commercial arbitration.

A necessary precondition for applying to an arbitral tribunal or international commercial arbitration is the existence of an agreement between the parties (arbitration or arbitration clause or a separate agreement on the transfer of the dispute to the relevant authority). According to the Main Department of Statistics in Kyiv, as of June 11, 2019, no specialized arbitration court or international commercial arbitration in the field of intellectual property has been registered in the Unified State Register of Enterprises and Organizations of Ukraine in Kyiv.

To improve the mechanism of special criminological counteraction to crime in the field of intellectual property it is necessary:

- creation of a national body for the organization and coordination of the activities of state bodies, institutions and organizations in the field of intellectual property;

- development of principles and mechanisms of organization and coordination of the structures of the National Intellectual Property System;
- deepening of specialization and training of judges, development of forensic examination in the field of intellectual property in order to apply uniform with qualification examination of applications for industrial property approaches, creation of a specialized court on intellectual property, as well as development of alternative mechanisms for resolving disputes in intellectual property (mediation);
- modernization of the system of information technologies used in the state system of legal protection of intellectual property, bringing it in line with modern technologies used in the field of intellectual property by the leading countries of Europe and the world;
- development of patent and information support in the field of intellectual property, ensuring wide public access to information related to the acquisition of rights to intellectual property rights;
- improving the coordination of actions of law enforcement and regulatory agencies to combat infringements of intellectual property rights and establishing closer cooperation between state inspectors on intellectual property and law enforcement officers, in conducting joint activities to combat infringements of intellectual property law;
- introduction of mechanisms to inform users about possible threats to the use of pirated and counterfeit goods;
- active use of information means and communications in order to combat infringement of intellectual property rights;
- informing the general public and business circles about the role and importance of intellectual property in order to increase interest in the creation and proper use of intellectual property, increasing the competitiveness of enterprises, economic, social and cultural development of the country;
- dissemination and popularization of knowledge about the legislation in the field of intellectual property, the importance of protection and observance of intellectual property rights for various categories of users of the National Intellectual Property System;
- providing access to information and knowledge in the field of intellectual property through modern means, information and communication technologies;
- implementation of measures aimed at increasing the interest and awareness of young students, the importance of intellectual property in solving current societal problems (climate change, implementation of environmental innovations, protection of traditional knowledge and folklore, etc.);
- organization of events to attract attention to the field of intellectual property of schoolchildren, the development of creative activity of the younger generation by stimulating research and innovation among schoolchildren;
- maintaining a high professional level of employees of the state system of legal protection of intellectual property, training of judges, law enforcement and regulatory authorities;
- deepening cooperation with national patent offices, international organizations involved in the field of intellectual property;

- internationalization of protection of intellectual property, joint efforts to combat counterfeiting and piracy at the local, regional and international levels;
- development of normative acts and practical mechanisms to prevent the introduction into the processes of production or provision of services of intellectual property, the use of which can lead to any environmental pollution.

5. CONCLUSION

In this study the special criminological principles of crime prevention in the field of intellectual property are considered. An intellectual property crime is committed when someone uses intellectual property rights without the owner's permission. It is the illegal production, sale or distribution of counterfeit or pirated goods, such as patents, trademarks, industrial designs or literary and artistic works, for commercial gain. Special criminological counteraction to crime in the field of intellectual property is characterized by the presence of a mechanism for its implementation, the structure of which is the content of combating crime in this area.

At the special criminological level of crime prevention, the legal response to criminal offenses in the field of intellectual property almost always occurs simultaneously, without separating from each other, according to the algorithm: preventing we react, and reacting we prevent. At the same time, the response to criminal offenses in the field of intellectual property is mainly directed not at the actual committed, but at potentially possible criminal offenses.

The analysis of crime in the field of intellectual property of Ukraine as an object of special criminological counteraction is carried out. The above analysis shows that there is currently no specialized court in Ukraine to resolve disputes in the field of intellectual property. Regarding the criminal law protection of intellectual property rights, the overall crime rate in this area remains high. According to statistics, only a small proportion of registered criminal proceedings bring a case to court, which negatively affects the overall criminogenic situation regarding the protection of intellectual property rights.

A necessary condition for the effective protection of intellectual property rights is the creation of a single platform of all bodies involved in the protection of intellectual property rights, which will operate behind closed doors.

International experience shows that alternative dispute resolution, such as arbitration and mediation, has a number of advantages over litigation: dispositiveness, confidentiality and speed of dispute resolution. To improve the mechanism of special criminological counteraction to crime in the field of intellectual property, it is necessary to modernize the national system of intellectual property: improving the regulatory framework, improving the institutional framework and infrastructure, as well as conducting comprehensive educational work with users of this system.

The direction of further research is to develop a methodology for criminological determination of offenses in the field of intellectual property.

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