

vis-à-vis the Government,"which limit its capacity to initiate legislative changes consistent with Strasbourg judgments.

Thus, the result of the mentioned influence is the development of the legal system of Ukraine within the framework of the European legal tradition with account of current natural and legal approaches and humanistic values.

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### **LEGISLATIVE CONSOLIDATION OF ETHIC AND MORAL PRINCIPLES IN CRIMINAL PROCEDURE LAW OF ENGLAND**

Ethic and moral principles characterize the way authorities use their powers in criminal proceedings and the way they shall conduct in relation to citizens. Regardless of many existing legal standards, codes and other subordinate acts which regulate the conduct of subjects, moral aspects in criminal procedure remain disputable. Of course there should not be any contradictions between legal rules and moral and ethic principles. The function of ethic principles is to provide sufficient grounds for adoption of certain rules. That is why ethic and moral principles are fundamental and the majority of them underlie the *European Convention for the Protection of Human Rights and Fundamental Freedoms*.

The United Kingdom having signed the document the *Convention for the Protection of Human Rights and Fundamental Freedoms* undertook the obligation to observe the ethic principles provided by this document. Accordingly the main ethic and moral principles are contained in provisions and articles of the Convention.

The Convention was signed in 1950 and entered into force in 1953. It was ratified by all member countries of the Council of Europe including Great Britain. The Convention consolidates such rights and freedoms as freedom of expression, religion, peaceful assemblies etc. At the same time there are a lot of rules in the Convention which relate to criminal proceedings. First of all it is *Article 3* which declares the right to human treatment. The article also states that no one shall be subjected to torture or inhuman treatment that humiliates human dignity.

The article concerning the right to compensation to victims of crimes is equally important for criminal proceedings. The right itself is the subject of civil law but at the moment the system of penal justice makes moves towards the policy of providing guarantees for victims in obtaining compensation. The particular feature of criminal proceedings in England is that a court can independently regulate the amount of compensation.

Also the right to inadmissibility of punishing an innocent person is provided. It is absolutely wrong to imprison a person or limit this person's

freedom because of illegal actions taken by law enforcement agencies and insufficient grounds for this kind of sanctions.

And of course it is *Article 6* of the Convention which provides that any defendant in a criminal case shall be presumed innocent until proved guilty according to the law. The lawful detention and arrest shall be on reasonable suspicion. A person also has the right to proper protection in criminal proceedings and it is one of the highest standards of the human policy of state in relation to a defendant. This is not a complete list of rights concerning criminal proceedings ensured by the Convention.

In general the principles contained in the Convention are of strict observance. Although exceptions are possible. Thus in late 80s in England there were several cases connected with terrorist attacks so the government imposed the state of emergency and acted according to the *Law on Prevention of Terrorist Acts*. These actions had a negative impact on human rights. But this practice should be minimized and become an exception to the rule.

The rules of the Convention are very tightly connected with the rules of the national legislation. For instance the *Police and Criminal Evidence Act* supports the rule of the Convention concerning detention of a person only when sufficient evidence for this action is available. This rule was not observed at police stations Although exceptions are possible before the adoption of the act. The widespread practice of obtaining evidence by illegal means became the reason for adopting the *Codes of Practice*.

The European Convention can be considered to be a law which stands above the English legislation and case law although on the other hand this is a form of positive law considered an authoritative source of principles for the legislature and judiciary.

It is also necessary to mention that in England there are codes of ethics which cover professional activity of police officers, prosecutors, barristers and solicitors and other participants of criminal proceedings. These codes contain principles of observance of the basic human rights, obligation to act only within law and provided competence, impossibility to act in other ways unless it is stipulated by the criminal procedure.

In conclusion we have to emphasize again the importance of the *European Convention for the Protection of Human Rights and Fundamental Freedoms* as an instrument which ensures the realization of the rights of participants in criminal proceedings (especially of a defendant and a victim). At the same time it is necessary to consolidate rules of conduct of different subjects of criminal proceedings from the point of view of ethics and morality. For this purpose special national legislation exists along with the ethic codes designed for different professional groups in criminal justice. Thus there are two ways of legislative consolidation of ethic and moral principles: general rules stipulated by the Convention and special rules system which encompass particular participants of the definite legal and judicial system such as English system.