in general, coincides with the total number of intentional murders recorded every year. This allows us to conclude sufficiently high reliability of information that is displayed and analyzed.In addition, we can conclude that there are currently no generally noticeable tendencies towards mass re-qualification of acts (from intentional murder to grave bodily harm that caused death), since the general decline can be seen in both directions.

Conclusion. Summing up, we should to focus on the most important tendencies of intentional murder in Ukraine over the last five years (from 2013 to 2017):

a) the total number of intentional murders (all) that are annually registered in Ukraine is gradually decreasing (while talking about absolute levels);

b) the proportion of intentional murders (all) as a part of crimes against life and health has increased significantly (as of 2013 - 8.1%, as of 2017 - 13.3%), almost at 1.5 times;

c) certain types of intentional murders show tendencies to increase.In particular, those intentional murders are: 1) a way dangerous to the lives of many people; 2) with hooligan motives; 3) by order; 4) committed by a group of people by its previous collusion; 5) committed by person who previously committed intentional murder;

d) certain types of intentional murders show tendencies for reduction.In particular, those intentional murders are: 1) two or more persons; 2) with extreme cruelty; 3) with profit motives; 4) committed with an aim of concealing or facilitating another rcrime; 5) combined with rape or violent satisfaction of sexual desire in an unnatural way.

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Summary

The article deals with the current state of intentional murders and intentional murders with qualifying features in Ukraine. The dynamics of these crimes over the past 5 years has been analyzed, their main tendencies are determined. The research is based on generalized statistics data for 2013-2017 years.

Keywords: *crimes against life and health, the dynamics of crimes, intentional murder, qualifying features.*

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MODERN CONDITION AND FEATURES OF PROVISION AND DEVELOPMENT OF APPEALING PROCEEDINGS IN UKRAINE

Кулянда М. СУЧАСНИЙ СТАН ТА ОСОБЛИВОСТІ СТАНОВЛЕННЯ Й РОЗВИТКУ АПЕЛЯЦІЙНОГО ПРОВАДЖЕННЯ В УКРАЇНІ. Роботу присвячено дослідженню становлення та основних етапів розвитку апеляційного провадження в Україні. У науковій статті здійснено історико-правове дослідження щодо становлення та розвитку апеляційного провадження в кримінально-процесуальному законодавстві України на різних етапах її історії. Визначено момент виникнення інституту апеляції на території України та основні етапи його розвитку.

У підсумку автором стверджується, що інститут апеляцій та розгляду судових рішень існував з VIII століття. Розвиток рішень апеляційного суду склав велику кількість етапів залежно від історичних реалій, рівня розвитку процедурного законодавства, правової культури та ступеня автономної особистості в державі та суспільстві.

Ключові слова: *становлення, розвиток, апеляційне провадження, Апеляційний Суд, оскарження.*

Formulation of the problem. The process of reforming the criminal justice system is still ongoing, so you can expect that of historical and legal analysis carried out within this article regarding the establishment and development of the appeal proceedings, will use the experience and avoid conflicts and errors that met at different stages of development of domestic criminal procedural legislation.

Analysis of publications that initiated the solution to this problem. The issue of checking court decisions was the subject of scientific statements in the works of Yu.B. Bolshakov, O. Y. Kostyuchenko, N.R. Bobechko, D.O. Zakharova, I.Y.Mironikova, O.V. Ostrogliada, O.S. Kashki, V.A. Poznansky, V.I. Shishkin, V. M. Khotenets, V.V. Serdyuk, V. I. Slipchenko etc., but available scientific research does not cover all aspects of the institution of appeal proceedings, including issues related to its formation and development.

The purpose of this article is a new scientific result in the form of a generalization of legislation and theoretical views on the formation and development of appellate proceedings in Ukraine. To achieve this goal, the following tasks must be performed: 1) to carry out a historical and legal study on the formation and development of appeal proceedings in the criminal-procedural legislation of Ukraine at various stages of its history; 2) determine the time when an appeal institution was established on the territory of Ukraine and the main stages of its development.

Presentation of the main research material. In the science of criminal procedural law, the history of the formation and development of appeal proceedings is poorly researched. As for the national understanding of the appeal, most of the territory of Ukraine has evolved over the centuries in line with European views and ideals, and the appeal institute has long been known to it. Since the end of the VIII century, justice was divided into secular and church and carried out under customary law, the princes' statutes "and" lessons learned "Church statutes, Byzantine collections and" n Truth "[1]. Among the scholars, there is no unity in the issue of the possibility of challenging court decisions in this historical period. In this historical period there were also private-ownership courts, they were also called patrimonial courts or courts dominant. Under their jurisdiction fell grave peasants (procurements, serfs, outcasts). On the basis of Art. 56 Spatial edition of "n Truth" (XII century.) Purchase could go "to complain to the prince and the judges" [2, p. 28]. According to the Church's statutes, the decisions of the spiritual courts were not subject to appeal: "Do not like these courts and it's hard to judge the prince, neither his nobles, nor the judges" [3, p. 138]. Decisions of the princely courts were also final and were not subject to appeal. In them sat themselves or princes, or posadniky or tiuny [4, p. 77]. Another group of scientists, in particular I. D. Belyaev, O. Mironenko, Yu. A. Chernushenko, believe that the decisions of all courts were final and not subject to appeal [5, p. 339]. However, with such categority, one can only agree on the decisions of the princely and church courts.

In the period of the accession of the Ukrainian lands to the Kingdom of Poland and the Grand Duchy of Lithuania, the appeal of judicial decisions had certain peculiarities. In Galicia, which in the second half of the XIV century was in the Kingdom of Poland appeal judgments veche carried to court public gentry province, which was higher appellate authorities and met three times a year. From the 15th century the appeal was carried out before the king, and since then the decline of the assembly courts began. From the courts of Western Ukrainian cities, appeals were sent to the court of Lviv, and from there to the commissar's court in Krakow. Subsequently, the appeal to the magistrates' courts was carried out before the royal court. In the Grand Duchy of Lithuania, the acclaimed Letter of 1457 and the Sudebnik Casimir in 1468 [6], the competence of domicile (domains) courts was legalized and regulated. According to the mentioned acts, the gentlemen-gentlemen had the right to independently carry out legal proceedings against the peasants. Mandatory order procedure for the consideration of criminal proceedings by courts was introduced with the adoption of the Statute of 1529.

In the XIV-XVI centuries, the trial of the Grand Duke in the Lithuanian-Russian state was the highest judicial institution. In contemporary sources of law he called "court Business", "own court household" and sometimes "trial before oblychnistyu economic", "mayestat Business" (Charter 1529, Sec. VI, Art. 36, Statutes 1566, Section IV, Art 68, Statute 1588, Section IV, Art. 29) [7, p. 2-106; 8]. The court could consider any criminal proceeding in person with the participation of honorary masters or entrust legal proceedings to trustees (commissioners, assessors, chancellors, marshalers). As noted by historians, "the main burden Commercial Court nose in solving criminal proceedings at the first instance, and in consideration for their appeals against the decisions of other courts" [6]. Grand Duke reviewed appeals against sentences of lower courts and trustees and otzov (complaints to judges) [9, p. 41].

The next step in introducing the trialness of the court was the decision of the Brest Seimas

dated May 23, 1542 [10]. In accordance with the terms of the act, the plaintiff was not entitled to apply to the economic court, if the owner was in Poland, but was obliged to appeal to the governor and the elder. Complaints on their decision in this case were filed in the court of the Pani Council. Initially, the Pani-Council court was an advisory body to the prince, and subsequently exercised judicial functions in the absence of the great princes and met in court sejm twice, and from 1551 - once a year. In 1588, the Pani Council Court was completely replaced by the Seymov Court, which began to resolve particularly important criminal proceedings and appeals against decisions on individual cases. The verdict of the Sejm Court, as noted by historians, was not subject to appeal, but the king retained the right to pardon the convict. [6]. Appeals against sentences of city courts, where the Magdeburg law was applied, were considered by the courts of the administrative centers of the Old Believers and the voivodeships.

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Among the Ukrainian population of the Lithuanian-Russian state there was also a cop (public) court. The appellate court for the smoking courts was the court of the governor [6]. Thus, the judgments of the smoke courts were subject to appeal. On the Right Bank, the smoke courts existed until the end of the XVIII century, and on the Left Bank - until the middle of the XVIII century.

The Zemsky privilege of 1457 gave the feudal lords the right to sue their peasants. At the decision of the regional (local state) courts appeals were filed: on the decision of the governors, voivods, old people, the emperor - to the economic court; to the decision of the helpers of the governor - to the governor. An economic court could appeal to the decisions of the Zemsky court. Appeals against the decisions of the Crowd courts were also filed in the court of the owner, and after the creation of the Lutsk Tribunal - to him. The decisions and sentences of magistrates' courts in large cities were filed with a commercial court, in city councils - voivods or old age, in private-ownership cities - the owner of the city. After the Union of Lublin in 1569 and the formation of the Commonwealth, for most cities with Magdeburg law, the highest court was the Sejm Court in Warsaw, and after 1581 - the Main Tribunal of the Grand Duchy. Appeals to decisions of the hetman's court (military) were submitted to the Sejm Court, and after the creation of the Grand Tribunal of the Grand Duchy - to him.

In the middle of the XVI century on the lands of the Grand Duchy of Lithuania was conducted judicial reform. In Grodesk courts, which were divided into lower and higher, judges were the elders and voivods. Higher were the courts of the second instance, which considered the appeals. Appeals could still be made to the central courts. The Lithuanian charter of 1566 established rules for appeals and the transfer of criminal proceedings to the owner's judgment. Thus, the Statutes of 1566 and 1588 have finally approved the order of consideration of these proceedings.

In 1581 a central judicial body was established - the Main Tribunal of the Grand Duchy, which acted in the Lithuanian and Belarusian lands. Already at the end of 1581, the Main Lithuanian Tribunal acted as the main appellate instance in the Grand Duchy of Lithuania, Ruthenia and Zhemaytiysk (official name of the state), which included the lands of Ukraine [11, p. 201]. Analysis of the statute "The method of tribunal rights" allows us to conclude that he replaced the economic court [12, p. 2-16]. The jurisdiction of the Tribunal included the consideration of criminal proceedings at first instance and the review of appeals against the verdicts of Zemsky, City and Sub-Comorian courts, as well as lordships against gentry convicted of death penalty, imprisonment or a large monetary fine (Statute 1588, p. III, art. 11) [8].

According to T. I. Bondaruk, the main Lithuanian court became the main appellate instance [13, p. 108]. The decisions of the General Tribunal were not subject to appeal. They could not appeal to a commercial court or a court of justice [12, p. 3-4].

The Constitution of the Verkhovna Rada of 1578 approved the highest judicial appellate court for local courts of Volyn, Bratslav and Kiev voivodeships - the Lutsk Tribunal. For the first time, his work was investigated by M. Yasinsky [11]. This Court of Appeal was similar to the Lublin Tribunal in Poland, was an elected body and consisted of judges. The constitution for the approval of the tribunal was attributed to its competence, in particular, the examination of appeals in criminal proceedings against the decisions of the Zemsky, Grodsky and Sub-Sea Courts. Appeals to the decisions of city courts with Magdeburg law reviewed the royal court. During the appeal, an appeal was filed, a court order was appealed against. A feature, as noted by historians, was that the tribunal could not touch upon those circumstances that were not subject to the consideration of the local court and were not reflected in its decision. The out-

come of the criminal proceedings could be the adoption or adoption of a new decree [14]. According to the analysis of judicial practice, the decision of the Lutsk Tribunal, as well as the decision of commissar courts, could be appealed to the royal court [6].

In the years 1589-1590, the Rzeczpospolita subordinated to the Lublin Tribunal all the non-Polish provinces - Volyn, Bratslavshchina, Kyiv Region and Prussia, in connection with which the Lutsk Tribunal ceased to exist. Thus, after the liquidation of the Lutsk Tribunal, the general Lublin Tribunal began to appeal.

According to historians, in Zaporizhzhya Sich, from the second half of the sixteenth century, the judicial functions were performed by a palacio colonel, a chicken ataman, an ataman, and sometimes even a whole kish [15, p. 86-87]. The procedural activity of the courts was based on the rules of customary law. The appeals against the sentences of the Palanca Court were carried out in the Courier Court, which was the appellate instance in relation to them. Appeals against the decision of the courthouse began to be referred to the court military judge. Most criminal proceedings were considered by a military judge. A military judge could have been appealed to the ataman of the Cossack. Criminal proceedings for serious crimes were transferred to a military judge for consideration by the Ataman or the Military Council. The Ataman Court was considered the highest instance for all courts.

During the Hetmanate (second half of the XVII-XVIII centuries), the judicial system of the Commonwealth, which was the estate, was destroyed. In accordance with the "Instructions to the courts" of 1730 Hetman D. Apostol, regimental courts (existed until 1763) acted as first instance courts for the hundredth and regimental officers and as courts of the second - an appellate instance on hundreds of courts (existed until 1763). In cities, Magistrate Courts operated under the Magdeburg Law. It was possible to appeal to the decisions of these courts from 1721 to the regimental and hetman chanceries.

In the period under consideration, the norms regulating appeals of court decisions were not sufficiently developed. The procedural procedure for appeals of court decisions and review of criminal proceedings was first secured in writing in articles 1-6 of section VI of the Statute of 1529 and developed in subsequent laws passed from 1529 to 1588 years. Therefore, we can not agree with the position of those authors who argue that the first appeal as a form of appeal of judicial sentences was introduced in France CPC 1808, and subsequently borrowed by the laws of other bourgeois states (in Russia, the appeal was introduced after the judicial reform in 1864) [16, with. 203].

The many years of experience of appellate courts and appellate proceedings in Ukraine have been collected, studied and detailed in the "Rights that the Malorussian people are condemning" in 1743. In this legal act, the appeal was defined as the proper recall and transfer of criminal proceedings from the lower court to the higher one, when one of the parties considered itself to be the offended sentence pronounced in the lower court.

Along with the fact that in the Ukrainian state there was a well-developed system of procedural law, in Russia, by the end of the first third of the XIX century, there was the Code of Law of 1649 [17, p. 289] and royal decrees. Since 1722, under the royal decree, the Supreme Court of Appeal, to which all the court decisions were appealed, became the Little Russian Board in Glukhiv, the residence of the Hetman.

At the beginning of the 17th century, the various acts of tsarist Russia (regulations, regulations, ordinances, decrees, orders, instructions, decrees, manifestos) spread on the territory of Ukraine. The judicial process in the Hetmanate was influenced by the Petrov decrees on matters of criminal law of November 12 and 19, 1721, and "On the form of the court" [18].

In the years 1750-1758, the General Judge Fedir Chuikevich wrote a collection entitled "The Court and the Execution of the Rights of Little Russians." The Supreme Court of Appeal was the General Military Court. He acted after the liquidation of the Hetmanate, ceased to exist in 1786. The reform carried out revived the old statutory system of courts in Ukraine and separated the judiciary from the administrative one.

In the Right-Bank Ukraine, the judicial system of the Commonwealth continued to exist. The upper court (appellate) court was the Crown Tribunal. Since 1764, the tribunal of Lublin has been involved in the trials of Ukraine.

Since 1775 Sloboda-Ukrainian, Kherson, Yekaterinoslav, and Tavria provinces operated the judicial system of Russia.

In general, in the first half of the nineteenth century, the judicial organization of Ukraine had the following form:

- the first instance, where the criminal proceedings were considered in essence: for the

nobles - the district court, for the townspeople - the city magistrate, for the free peasants - the lower massacre;

- the second instance - appellate and audit. For all provinces, the Chamber of Criminal Court and the Civil Court were created [19, p. 88].

Senate remained the supreme court for all of Russia.

One of the most consistent bourgeois reforms in Russia in the 1960's and 70's of the nineteenth century was the judicial reform of 1864. In the course of the historical development of the stage of review of court decisions, its types were gradually counted in the Statute of the Criminal Procedure in 1864 to the following: separate appeal, appeal, cassation and restoration of criminal proceedings. The difference between them was the very difference in court decisions. Thus, the decisions and decrees were subject to a separate appeal, incontestable sentences were reviewed in the order of appeal, the final ones - in the order of cassation, in the event that they have not yet acquired legal force. As for the sentences that came into force, only an exceptional recovery procedure was allowed for their viewing. Incomplete judgments were judged by a peace judge or district court without the participation of jurors [18]. They were subject to appeal in appeal proceedings (on all matters of criminal proceedings - essentially the proceedings) in respect of any irregularity in court proceedings and the issuance of a judgment (Articles 853 and 856 of the SCS). Sentences passed by the district court with the participation of jurors, as well as by the congress of peace judges and the judicial chamber as courts of the second instance, were considered final and could be appealed only in the cassation procedure [20, p. 105].

However, in the 1864 Statute of Criminal Proceedings, the appeal and cassation form of appealing judgments of the justice system of the world was limited to the fact that the court could make a final sentence that was not subject to appeal. So, according to Art. 124 SCS, the verdict of the world judge was considered final when he was sentenced to such penalties as a reservation, remark, reprimand, arrest of up to three days, a monetary penalty not exceeding 15 rubles.

The convicts could have appealed the appeals (and the prosecutor - appeal protest) to the judicial chamber, which again considered the criminal proceedings in substance, to the verdicts of the district court, decided without the participation of jurors as inconclusive. In Ukraine, appeals were considered by three chambers: Kyiv, Odesa and Kharkiv [21, p. 275].

The laws of 1889 established a complex system of appellate and cassation instances for local courts. Judicial statutes provided for peace judges one appellate instance - the congress of peace judges and one cassation - the Senate. The second instance of appeals for cases considered by zemstvo bosses and city judges was the county congress. With regard to county district court members, the appellate instance was a district court for them, and the relevant department of the Senate was cassation.

During the "first" Ukrainian People's Republic (Central Council) (November 7, 1917 - April 29, 1918), appeals to court decisions were considered by the appellate courts established on the basis of the Law of 17 December 1917 "On the Court of Appeal" [22] . It was envisaged the formation of three appellate courts: Kyiv, Odesa and Kharkiv, whose competence extended to the surrounding provinces.

During the period of the Hetman's Ukrainian state and government (April 29 - December 14, 1918), according to the "Laws on the interim government of Ukraine" of April 29, 1918 [23], the General Court of the Ukrainian State, the judges of which was appointed by Hetman, remained the highest judicial authority.

In the period of hetmanhood, the Central Council's Law "On the Court of Appeal" of December 17, 1917 was abolished; at the same time, the higher judicial chamber was restored, however, with some changes, which mainly concerned their states and requirements for candidates for corresponding positions.

In the Ukrainian People's Republic at the time of the Directory (December 15, 1918 - November 21, 1920), the Law of January 2, 1919, was abolished by the State Senate and restored the activities of the General Court, but under another name, "The Supreme Court of the UPR", and on January 24, 1919 Law of the UNR on the abolition of the law of the former Hetman government of July 08, 1918, "On the Chambers of Court and Appellate Courts" of January 24, 1919 [24, p. 55-56], appeals courts established at the time of the Central Rada Law "On Appellate Courts" and the Resolution of the Directory of the UNR of July 31, 1919 ("On the opening of the Kiev Court of Appeal") [22, p. 232-233]. Already January 26, 1919, the Directory approved the Law on Extraordinary Military Courts [25], and on August 4, 1920 - the Law on Certain Amendments to this Law [26, p. 49-52], according to which the sentences issued by extraordinary military courts under a simplified procedure were not subject to appeal

and were executed immediately (Article 23).

The beginning of legal registration of the court system of Soviet Ukraine was the resolution of the People's Secretariat of the USSR "On the introduction of the people's court" of January 04, 1918 [27, p. 30-33]. This ruling rejected not only the appeal but also the appeal against the decisions and sentences of the people's court and therefore did not create a cassation instance. By resolution formed district, county and city people's courts. In connection with the liquidation of the old judicial system and the introduction of the people's court, the appeal was canceled as allegedly weakening the activity of the court of first instance, complicating and delaying the trial. The establishment of revolutionary tribunals took place after the adoption of the January 23, 1918 Regulations on Revolutionary Tribunals [28, p. 68-69]. The sentences and decisions of the people's court and the revolutionary tribunal were final and were not subject to appeals and cassation appeal.

Thus, in the Soviet period, the appeals institute ceased to exist on the Ukrainian territory, instead of the Provision on People's Courts and Revolutionary Tribunals of the Ukrainian SSR of February 14, 1919 [29, p. 526-530] introduced an institute of cassation, which in content differs from the same name appellate institution of European and world procedural legislation [30, p. 53].

In the Provision on the Judiciary of the Ukrainian SSR of December 16, 1922 [31, p. 779-787], the Criminal Procedure Code of the USSR in 1922 [32], the Criminal Procedure Code of the USSR in 1927 [33] and the Criminal Procedure Code of the USSR in1960 [34] appealed against judicial decisions further developed. During the Soviet period in the criminal process, the cassation appeal and review actually combined the features of classical cassation and some of the appeal elements.

Only after a long time, implementing the Concept of Judicial Reform, the legislator came to the conclusion that another instance was needed to review sentences that were not valid - appeal. According to the CPC of Ukraine (in the wording of 1960), an appellate instance court is a court that examines criminal cases on complaints and appeals against sentences and court rulings that have not become legally valid.

Appellate courts are already established within the framework of an independent Ukraine in accordance with Art. 125 of the Constitution of Ukraine and the Law "On Amendments to the Criminal Procedure Code of Ukraine" of June 21, 2001, No. 2533-111 [35], in connection with the expiration of the transitional provisions of the Constitution of Ukraine and the implementation of the "Small Judicial Reform."

The introduction of the appellate review of criminal proceedings during the first year revealed a number of problems that had to be discussed and resolved. The section of the Fourth CPC of Ukraine, which provided for three types of appeals proceedings, each of which had its own peculiarities, proved to be incomplete. This conclusion can be reached by analyzing the content of Art. 347, part 5 of Art. 349 and art. 382 CPC of Ukraine. As a general rule, appeals against sentences that were not enforceable by local courts, and decisions on the application or non-application of compulsory measures of educational and medical nature, adopted by local courts (Part 1, Article 347 of the CPC of Ukraine) were considered. There was somewhat limited appeal review of the decisions (decisions) on closing the case or sending it for additional investigation, as well as on separate decisions (rulings) and other decisions.

An important milestone in criminal procedural law was the adoption of the new Criminal Procedural Code of Ukraine, which came into force on November 20, 2012 [36]. The legislator in chapter 31 of the CPC of Ukraine consolidated the procedural procedure of appeals, powers and limits of the court of appellate instance. But since 2012, in the article regulating the conduct of proceedings in the court of appeals, a large number of changes have been made. These and other questions will be investigated in other writings. Summing up, it can be stated that the institute of appeals and review of court decisions existed since the VIII century. The development of the appellate court judgments passed a large number of stages depending on historical realities, the level of development of procedural legislation, legal culture and the degree of autonomous personality in the state and in society.

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Summary

The work is devoted to the study of the formation and the main stages of the development of appellate proceedings in Ukraine. In the scientific article the historical and legal study on the formation and development of appeal proceedings in the criminal-procedural legislation of Ukraine at various stages of its history was carried out. The time when appeals are instituted in Ukraine and the main stages of its development are determined.

Keywords: *formation, development, appeal proceedings, Appeal Court, appeals.*