

## LIFE IMPRISONMENT UNDER THE CRIMINAL LEGISLATION OF UKRAINE: FEATURES OF IMPOSITION AND EXEMPTION FROM SERVING

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### INTRODUCTION

Life imprisonment is the most severe type of punishment provided for by the Criminal Code of Ukraine (hereinafter referred to as the CC). According to the State Criminal Enforcement Service of Ukraine (State Criminal Enforcement Service of Ukraine, 2022) and the public human rights organization “Donetsk Memorial” (On the public human rights organization..., 2021), the number of life prisoners in Ukraine as of February 1, 2022, was 1560 people (including 24 women) (Zahalna kharakterystyka Derzhavnoi-vykonavchoi sluzhby), as of January 1, 2021, there were 1,541 such people (including 23 women) (Kryminalno-vykonavcha systema Ukrainy u 2020 rotsi).

Punishment in the form of life imprisonment in the criminal legislation of Ukraine appeared as a result of Ukraine’s rejection of the death penalty. This refusal was due to the accession of Ukraine to the Council of Europe in 1995, which at that time took a hard position in the struggle for the abolition of the death penalty. The organisation recognised that this type of punishment cannot take place in democratic societies. In April 1983, Protocol No. 6 (Protocol No. 6..., 1983) to the Convention for the Protection of Human Rights and Fundamental Freedoms was adopted, which abolished the death penalty, except for acts committed during war or imminent threat of war (Article 2). However, Protocol No. 13 (Protocol No. 13..., 2002) established an absolute prohibi-

tion on the use of the death penalty. In this regard, all member states of the Council of Europe had to abolish the death penalty. Such a requirement was also recognized as a prerequisite for the accession of new countries to the Council of Europe. It is for this reason that Ukraine, joining the organization, did not carry out death sentences for several years (1997-1999), although the courts continued to render them. Only by the Decision of the Constitutional Court of Ukraine dated December 29, 1999 (Decision of the Constitutional Court of Ukraine, 1999) the death penalty was recognised as a type of punishment that contradicts the Constitution of Ukraine (Constitution of Ukraine, 1996). Finally, in February 2000, the Verkhovna Rada of Ukraine (On amendments to the Criminal..., 2000) brought the text of the Criminal Code of Ukraine of 1960 into line with the aforementioned decision of the Criminal Code of Ukraine. When adopting the new Criminal Code of Ukraine (Criminal Code of Ukraine, 2001) in 2001, the legislator, taking into account the decision of the Criminal Code of Ukraine, could no longer provide for the death penalty as a form of punishment.

Despite the fact that life imprisonment has been used in Ukraine for more than 23 years, the legal regulation of this punishment continues to be in the centre of scientific discussions. Many Ukrainian scientists devoted their works to the issue of its application, in particular: Mostepaniuk L. O. (Mostepaniuk, 2005), Ponomarenko Yu. A. (Ponomarenko, 2009); Vasilyuk I.N. (Vasilyuk, 2017) and others. However, even now in the doctrine of criminal law, different views are expressed on the solution of certain criminal-legal aspects of this type of punishment, in particular, regarding: a) types of crimes for which it is appropriate to foresee life imprisonment as one of sanctions; b) range of persons to whom it can be applied; as well as c) determining the procedure for parole from serving it.

The article is based on analysis of legal regulation and doctrine related to issue of life imprisonment. This article is not intended to provide proposals for reforming the procedure for the appointment and exemption from serving life imprisonment. The author only tried to reveal the peculiarities of the application of this type of punishment under Ukraine's legislation, as well as to reveal the issues that occur in the field of its legal regulation. For this purpose, attention is focused on the prerequisites, grounds, and procedures for imposing life imprisonment under the criminal legislation of Ukraine. The content of problems in the field of legal regulation of parole from serving this type of punishment is expressed. The main stages of reforming the relevant provisions of Ukraine's criminal legislation are highlighted.

## **1. PECULIARITIES OF THE APPOINTMENT OF LIFE IMPRISONMENT FOR A COMMITTED CRIME UNDER THE CRIMINAL LEGISLATION OF UKRAINE**

Life imprisonment is the most severe form of punishment. The range of persons to whom it cannot be applied is defined in Part 2 of Art. 64 of the CC. At the same time, it is inflicted to: 1) persons who committed a crime under the age of 18, regardless of their age at the time of the conviction; 2) persons who reached the age of 65 at the time of the conviction; 3) women who were pregnant at the time of committing the crime, regardless of the period of pregnancy and the consequences of its termination; 4) women who were pregnant at the time of the sentencing, regardless of the period of pregnancy.

The list of persons not subject to this punishment has not been changed since the adoption of the Criminal Code of Ukraine in 2001. However, in 2019, draft Law of Ukraine No. 10392 (Pro vnesennia zmin do deiakykh ..., 2019), which proposed to ban sentencing women to life imprisonment, was widely discussed. Arguments, supporting this point of view, were as follows: 1) the number of women serving life imprisonment in Ukraine is insignificant; 2) most of these women were convicted of extremely grievous crimes, which they committed because they themselves suffered violence; 3) women have specific socio-demographic, socio-psychological and psychophysical properties. However, this draft law was subjected to well-founded criticism, because when committing extremely grievous crimes, women can be guided by the same motives as men. In addition, the imposition of any type of punishment, including life imprisonment, is primarily based on the gravity of the crime committed, and not on gender characteristics. Besides, in all sanctions, life imprisonment is always provided as an alternative to imprisonment for a certain period. At the same time, it is inflicted only in the presence of additional compelling circumstances that indicate the inexpediency of imposition a term of imprisonment. Due to well-founded criticism from the scientific community, this draft law was not adopted.

Life imprisonment is imposed only if provided for in the sanction (Part 1 of Article 64). In the sanctions of articles of the Special Part of the Criminal Code, it is always established as an alternative to deprivation of liberty for a certain period. In this regard, it can be applied only if deprivation of liberty for a certain period is deemed insufficient to correct the person and prevent the commission of new crimes (Part 2, Article 65 of the CC). As of September 1, 2023, life imprisonment is provided for in 20 sanctions of articles of the Special Part of the CC, namely for crimes that: 1) are related to infringement on life (e.g., Article 112, Part 2 of Article 115, Article 348 of the CC); 2) lead to the death of people or the occurrence of other serious consequences (for example, Part

3 of Article 110, Part 8 of Article 111-1, Part 6 of Article 152, Part 6 of Article 153, Part 3 of Article 258 of the CC); 3) directed against national security and committed under conditions of martial law or during an armed conflict (e.g. part 2 of Article 111, Article 113 of the CC), 4) belong to sexual crimes committed repeatedly against a person who has not reached the age of fourteen, regardless of her or his voluntary consent (e.g., Part 6 of Article 152, Part 6 of Article 153 of the CC).

Despite the general trend towards the humanization of the criminal legislation of Ukraine, proposals are submitted to the Verkhovna Rada of Ukraine to expand the scope of life imprisonment. Thus, the draft law of Ukraine No. 9049 (Pro vnesennia zmin do Kryminalnoho kodeksu Ukrainy shchodo posylennia vidpovidalnosti..., 2023) proposed to provide for the possibility of inflicting life imprisonment for corruption crimes committed during martial law and emergency. The scientific community spoke out against such a decision because it is impossible to overcome crime only by strengthening criminal responsibility. The current Criminal Code of Ukraine already provides for rather strict liability for corruption acts, which should deter their commission. In addition, the effectiveness of the punishment depends not only on the severity of punishment, but also on the ability of law enforcement agencies to prevent crimes from going unpunished. Impunity, not leniency, is the basis on which criminal behaviour is formed and spread. As for reducing the number of corruption crimes, it would be advisable not to increase criminal liability for their commission, but to work out and implement such changes to the legislation that would significantly complicate the very possibility of their commission.

In addition to Art. 64 of the CC, the specifics of the imposition of life imprisonment are determined in Part 3 of Art. 43, Part 4 of Art. 49, Part 68 of the CC, Part 2 of Art. 70, Part 2 of Art. 71 of the CC. Thus, in line with Part 3 of Art. 43 of the CC, life imprisonment is not imposed on persons who, in accordance with the law, performed a special task of uncovering the criminal activity of an organized group or criminal organization and were forced to commit an extremely grievous intentional crime, combined with violence against the victim, or a grievous intentional crime as part of these criminal associations, at the same time causing serious bodily injury to the victim or the occurrence of other serious or particularly serious consequences.

In Part 4 of Art. 49 of the CC it is provided that if a person has committed an extremely grievous crime punishable by life imprisonment, and 15 years have passed since its commission, and there are no grounds for interrupting or terminating the limitations for criminal prosecution, the court may, but is not obliged to, release her or him from criminal liability. If the court does not recognize that it is possible to apply the statute of limitations, then life imprisonment cannot be imposed, but is replaced by term imprisonment. However, this rule does not apply to cases of particularly serious crimes

against national security (Articles 109-114-2 of the CC); torture (Part 3 of Article 127 of the CC); peace, human security, and international legal order (Articles 437-439, 442 of the CC).

According to the changes to Part 4 of Art. 68 of the CC, life imprisonment is not imposed for an unfinished crime. The establishment of the prohibition was the result of long-term scientific discussions on the differentiation of criminal responsibility for an unfinished crime. Theorists have repeatedly emphasized that any punishment should be commensurate with the severity of the harm caused. At the same time, when preparing or attempting to commit a crime, the consequences that are a mandatory feature of a corresponding act do not occur or occur completely differently, are less socially dangerous. Hence, the use of life imprisonment for an unfinished crime contradicts the general principles of sentencing (Part 3, Part 1, Article 65 of the CC) and the provisions of Part 1, Article 68 of the CC regarding mandatory consideration of a committed act (Ponomarenko, 2009; Tiutiuhin, 2009).

Severally, the law regulates the issue of life imprisonment for a combination of crimes or sentences. In these cases, life imprisonment can be applied if it was separately prescribed for any of the crimes included in the combination (Part 2 of Article 70 and Part 2 of Article 71 of the CC). In these cases, the ultimate punishment for the aggregate of crimes or convictions is determined by absorbing any other less severe principal types of punishment with life imprisonment.

## **2. PECULIARITIES OF EXEMPTION FROM SERVING LIFE IMPRISONMENT UNDER THE CRIMINAL LEGISLATION OF UKRAINE**

The law provides for two possible ways to be released from serving this punishment: 1) termination of its execution or 2) substitution it with another, less severe type.

**2.1. Termination of life imprisonment is possible** for: 1) *limitations for execution of a guilty verdict* (Article 80 of the CC); 2) *by illness* (Article 84 of the CC); 3) *regarding the adoption of a decision by an authorized body on the transfer of a convicted person for exchange as a prisoner of war* (Article 84-1 of the CC).

*Exemption from serving life imprisonment in connection with the limitations for the execution of a guilty verdict* is possible if, from the date of entry into force of the judgement, by which a person was sentenced to life imprisonment, within 15 years the sentence was not executed, in the absence of grounds for interruption or suspension of the limitation period. In these cases, the court has the right, but is not obliged, to apply the statute of limitations and release the person from serving this punishment (Article 80 of the CC). However, this rule does not apply in the case of torture (Part 3 of Article 127 of

the CC), crimes against the peace and security of humanity (Articles 437-439 and Part 1 of Article 442 of the CC).

*Exemption from serving life imprisonment due to illness* in accordance with Art. 84 of the CC is possible in two cases, namely if a person: a) fell ill with a mental illness while serving the sentence or b) fell ill with another serious illness that prevents serving the sentence.

*Exemption from serving a life sentence of persons who have contracted a mental illness* while serving a sentence (part 1 of Article 84 of the CC) is subject to the combination of two conditions: the presence of a mental illness and the convict's inability to be aware of his or her actions (inaction) or to control them. Under these circumstances, the court is obliged to release the person from serving this sentence and resolve the issue of applying coercive measures of a medical nature to him or her in accordance with Articles 92-95 of the Criminal Code.

*Release of persons suffering from another serious illness, which prevents them from serving a life sentence* in accordance with Part 2 of Art. 84 of the CC is carried out by the court under the combination of two conditions: 1) the presence of a certain serious illness and 2) establishing that, as a result of the illness, further detention in places of deprivation of liberty threatens the convict's life or may lead to serious deterioration of his or her health or other serious consequences. Under these conditions, the court may, but is not obliged to, release the convicted person from further serving life imprisonment.

However, such discharge is not final. If the convicted person recovers, he or she must be sent to further serving the sentence, unless limitations stipulated by Articles 49 or 80 of the CC have expired, or there are no other grounds for exemption from punishment. At the same time, the time during which coercive measures of a medical nature were applied to a person, is included in the term of punishment according to the rules provided for in Part 5 of Article 72 of the CC (part 4 of Article 84 of the CC).

Since 2001, the court has applied exemption from serving a life sentence due to illness in only two cases (Ukhvala ... No. 127/22694/16-k, 2017; Ukhvala ... No. 127/24916/21, 2023).

*Exemption from serving a life sentence in connection with the adoption by an authorized body of a decision on the transfer of a convicted person for exchange as a prisoner of war* became one of the novelties of the criminal law of Ukraine during the period of martial law, introduced in Ukraine on February 24, 2022, in connection with a full-scale invasion by Russian Federation. In order to ensure prompt resolution of issues related to the procedure for the exchange of accused, convicted persons as prisoners of war, there was a need to make changes to the criminal legislation. In accordance with these changes, the CC was supplemented by Art. 84-1, according to which a person sentenced, including to life imprisonment, in respect of whom an authorized body has made a deci-

sion on his or her transfer for exchange as a prisoner of war and who has given a written consent to such an exchange, shall be released by the court from serving the inflicted sentence.

**2.2. Exemption from serving life imprisonment with substitution for another, less severe type of punishment** may take place in connection with: 1) entry into force of a law that mitigates the punishment (Part 1 of Article 5, Part 3 of Article 74 of the CC) 2) the expiration of the statute of limitations for the execution of a guilty verdict (Part 5 of Article 80 of the CC); 3) pardon (Article 87 of the CC); 4) as a substitute for a term of imprisonment by a court decision (Article 82 of the CC).

*Exemption from serving a life sentence in connection with the entry into force of the law, which mitigates the punishment for the committed crime.* In accordance with Part 3 of Art. 74 of the CC, the punishment imposed on the convicted person, which exceeds the sanction of the new law, is reduced to the maximum limit of punishment established by the sanction of the new law. This provision specifies the prescriptions of Part 1 of Art. 5 of the CC, according to which the law on criminal responsibility, which overturns the criminal illegality of an act, mitigates criminal responsibility or otherwise improves the situation of a person, has a retroactive effect in time, i.e. it is applied to persons who committed the relevant acts before entry the law into force, including persons who are serving a sentence or have served a sentence but have a criminal record.

Since the entry into force of the Criminal Code of Ukraine in 2001, the mitigation of punishment for certain crimes has never affected sanctions involving life imprisonment, i.e. life imprisonment was not excluded from the sanctions. However, amendments to the articles of the General Part of the Criminal Code made it necessary to apply Part 3 of Art. 74 of the CC and replacing the prescribed life sentence with imprisonment for a certain period. This situation arose in connection with the establishment of the Law of Ukraine No. 1492-VIII prohibiting the use of life imprisonment for the commission of preparation for a crime and the commission of an attempt to commit a crime. (Pro vnesennia zmin do deiakykh zakonodavchykh aktiv Ukrainy..., 2016). As a result of these changes, the courts were obliged to replace the prescribed life imprisonment with imprisonment for a certain period (Ukhvala ... No. 295/14103/16-k, 2016).

*Exemption from serving life imprisonment by replacing life imprisonment with another type of punishment in connection with the expiration of the statute of limitations for the execution of a conviction judgement* may take place if a person was sentenced to life imprisonment, however, in the absence of grounds for interrupting or stopping the limitations ( Part 3, 4 of Article 80 of the CC), within 15 years from the date of entry into force of the sentence, the verdict was not enforced (Article 80 of the CC). In this case, if the court does not consider it possible to apply the statute of limitations, life imprisonment shall be replaced by imprisonment within the limits of its terms, defined in Art. 63

of the CC. However, this rule does not apply to torture (Part 3 of Article 127 of the CC), crimes against the peace and security of humanity, provided for in Articles 437-439 and Part 1 of Article 442 of the CC.

*Exemption from serving life imprisonment by replacing it with another type of punishment on the basis of pardon* is regulated by Part 2 of Art. 87 of the Criminal Code and the Decree of the President of Ukraine (Pro Polozhennia pro poriadok zdiisnennia pomyluvannia, 2015). Pardon is carried out if there is a petition, the procedure for submitting of which is regulated by Order No. 1848/5 dated 26/05/2021 (Pro zatverdzhennia Poriadku..., 2021). The petition is preliminarily considered by the Commission under the President of Ukraine on issues of pardon, which, based on the results of the review, submits its proposals on the application of pardon to the President of Ukraine. In the case of a pardon decision, the President of Ukraine issues a decree according to which life imprisonment is substituted by imprisonment for a term of at least twenty-five years. Exemption from serving a life sentence through amnesty was applied only once in Ukraine.

*Exemption from serving life imprisonment by replacing it with another type of punishment by a court decision* is regulated by part 5 of Article 82 of the CC. The issue of legal regulation of early release from serving life imprisonment, as well as in the Lithuanian doctrine of criminal law (Švedas, 2017), has caused a lot of debate among Ukrainian scientists. Ukrainian scientists have repeatedly expressed proposals, conceptually similar to the view of G. Švedas, regarding the expediency of giving the court the authority to replace life imprisonment with imprisonment for a certain period after serving a certain minimum term of punishment defined by law (Švedas, 2006). It is justified that even if a person is sentenced to life imprisonment, the application of this type of punishment should contribute to his or her resocialization and reintegration. And the very existence of the prospect of parole from serving a sentence, including life imprisonment, can contribute to this (Švedas, 2006).

Despite the fact that the Criminal Code of Ukraine entered into force in 2001, the possibility of replacing life imprisonment with term imprisonment by a court decision appeared in it only in 2022 in connection with the adoption of Law of Ukraine No. 2690-IX (Pro vnesennia zmin do Kodeksu Ukrainy ..., 2022). Until that moment, the procedure for exemption from serving this sentence existing in Ukraine was subject to significant criticism by the ECtHR. Thus, the ECtHR in the case “Petukhov v. Ukraine” noted that the mechanism of release from life imprisonment existing in Ukraine violates Art. 3 of the Convention on the Protection of Human Rights and Fundamental Freedoms, because it does not provide for legal grounds of a penological nature, which provide persons sentenced to life imprisonment with the prospect of real discharge or revision of the imposed punishment (Petukhov v. Ukraine, 2019).



The adoption of this ECtHR decision by some courts in Ukraine was perceived as a legal basis for exemption from serving life imprisonment. In particular, by the court decision of May 24, 2019, in case 585/492/19, the convict was released from serving life imprisonment in connection with the decision of the ECtHR “Petukhov v. Ukraine” and the positive characteristics of the convict (Ukhvala...No. 585/492/19, 2019). However, the Supreme Court overturned this court decision, because when adopting it, the court went beyond the powers granted to it, which led to a violation of the principle of legality (Ukhvala ... No. 585/492/19, 2019).

Subsequently, the Constitutional Court of Ukraine agreed with the violation by Ukraine of Art. 3 of the Convention and stated in the decision of September 16, 2021, No. 6-r (II)/2021 (Rishennia Konstytutsiinoho Sudu Ukrainy..., 2021) that the procedure for release from serving life imprisonment existing in Ukraine is incompatible with the requirements of the Constitution of Ukraine. At the same time, in order to ensure in Ukraine a realistic prospect of the discharge of persons sentenced to life imprisonment from further serving such a sentence, the Constitutional Court of Ukraine obliged the Verkhovna Rada of Ukraine to “immediately introduce the normative regulation established by Part 1 of Art. 81 and Part 1 of Art. 82 of the Criminal Code, in accordance with the Constitution of Ukraine and this decision.”

The position of the Constitutional Court of Ukraine contributed to the activation of processes regarding the legislative reform of the procedure for early discharge from serving life imprisonment. Law No. 2690-IX dated October 18, 2022 (Pro vnesennia zmin do Kodeksu Ukrainy ..., 2022) introduces a new mechanism for releasing convicts from serving this sentence in Ukraine, which consists of two stages. In the first stage, if a convicted person has served at least fifteen years of the prescribed sentence, life imprisonment may be substituted by imprisonment for a term of fifteen to twenty years (Part 5 of Article 82 of the CC). On the second one, persons whose life imprisonment was substituted, may be paroled from serving it after actually serving at least two-thirds of the term of the new, milder punishment (Clause 3, Part 3, Article 81 of the CC).

Therefore, despite the legislator's desire to bring the procedure for early release from serving life imprisonment to the requirements of the ECHR, the legislator never dared to grant the court the authority to directly apply parole to persons sentenced to life imprisonment.

At the same time, in contrast to the legislative approach to determining the mechanism of early release from serving life imprisonment, in the project of the new Criminal Code of Ukraine, which is being developed by the working group on the development of criminal law under the President of Ukraine, which includes leading scientists in the field of criminal law: P. P. Andrushko, O.S. Bakumov, Yu.V. Baulin, V.M. Burdin, O.P. Horokh, N.O. Gutorova, N.O. Marchuk, V. O. Navrotskyi, Yu. A. Ponomarenko,

E. L. Streltsov, M. I. Havroniuk, a completely different approach has been proposed. In the prepared project, it is proposed to provide for two alternative powers of the court regarding exemption from serving a life sentence (in the terminology of the project: “to suspend the execution of a life sentence under the condition”): 1) exemption from serving a life sentence and 2) substitution of a life sentence in by imprisonment for a certain period.

Taking a similar position with the expressed point of view of G. Švedas, that when parole is applied, it is not the punishment itself that changes, but the conditions of its execution (isolation and legal status of the person) (Švedas, 2003), the Working Group in part 1 of Art. 3.4.12 of the draft proposes to establish that a person serving a life sentence, for whom a low risk of committing a new crime has been established and who has made restitution or compensation or taken all measures dependent on him or her for their implementation, the court, with his or her consent, suspends the application of probation execution of this sentence after she or he has served 25 years of imprisonment. In the case of suspension of life imprisonment, probation for a specified period is applied to the convicted person (Part 2). If, during probation, the person: 1) fails to comply with probation measures, 2) fails to comply with restrictive measures, or 3) commits a felony or two or more misdemeanours, the life sentence shall be enforced.

In accordance with Part 4 of Art. 3.4.12 of the project, the court is empowered to substitute life imprisonment with another, less severe type, if: 1) the convicted person has served at least 15 years, 2) there is no high risk of committing a new crime, 3) the person has made restitution or compensation or took all measures dependent on him or her for their implementation. If these conditions are available, the court, with the consent of the convicted person, can replace the prescribed punishment with imprisonment for a term of 10 to 15 years, which is calculated from the day of substitution of the punishment.

## CONCLUSIONS

The presented analysis provides grounds for formulating the following final conclusions:

1. In a relatively short period of time, Ukraine went from establishing an absolute prohibition on the death penalty to introducing life imprisonment.
2. In the modern system of punishments of Ukraine, life imprisonment is the most severe type of punishment, which is prescribed for the commission of extremely grievous crimes, on condition that it is directly provided for in the sanction of the article of the Special Part of the Criminal Code of Ukraine, and imprisonment for a certain period turns out to be too lenient. Thus, the law considers it expedient, first of all, to

impose a term of imprisonment, and life imprisonment may be imposed only in case when additional compelling circumstances are available.

3. Until 2022, the criminal legislation of Ukraine did not provide for the possibility of parole for persons sentenced to life imprisonment, as well as their right to replace this punishment with another, less severe type. This fact put these persons in a discriminatory position compared to other convicts, because the only mechanism for their release was the institution of pardon. In 2022, the Ukrainian legislator took a significant step in the direction of fulfilling the requirements of the ECHR and reforming the procedure for discharge from serving life imprisonment, empowering the court to replace life imprisonment with term imprisonment after the convict has actually served 15 years of the prescribed sentence. And although the provided release mechanism has certain shortcomings, these changes can undoubtedly be considered revolutionary, because they fundamentally change the legislative approach to those sentenced to life imprisonment. In the future, the further improvement of this mechanism may consist in granting the court the authority to grant parole from serving a life sentence. However, such a decision presupposes not only the need to make appropriate changes to the criminal legislation of Ukraine, but also to reform the penitentiary system of Ukraine.

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## LAISVĖS ATĖMIMAS IKI GYVOS GALVOS PAGAL UKRAINOS BAUDŽIAMUOSIUS ĮSTATYMUS: BAUSMĖS SKYRIMO IR ATLEIDIMO NUO JOS YPATUMAI

**Santrauka.** Ukrainoje laisvės atėmimo iki gyvos galvos baismė yra griežiausia sankcija, tapusi savotišku mirties baismės pakaitalu. Autorė straipsnyje aptaria laisvės atėmimo iki gyvos galvos baismės skyrimo ir atleidimo nuo jos atlikimo ypatumus pagal Ukrainos baudžiamuosius įstatymus. Straipsnyje atkreipiamas dėmesys į istorinę šios baismės rūšies teisinio reguliavimo raidą, pabrėžiami šios baismės taikymo pagrindų apibrėžties ir skyrimo tvarkos ypatumai, aptariamos galimos baudžiamojo teisinio reguliavimo reformos kryptys. Svarbu tai, kad iki 2022 m. Ukrainos baudžiamajame kodekse nebuvo numatyta galimybės atleisti nuo šios rūšies baismės atlikimo teismo sprendimu. Dėl naujausių Baudžiamojo kodekso pakeitimų nuteistieji turi teisę būti atleisti nuo šios baismės atlikimo, jei ji teismo sprendimu pakeičiama laisvės atėmimu nuo penkiolikos iki dvidešimties metų.

\* \* \*

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