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ENTRAPPING INTO CRIMINAL OFFENSES BY LAW ENFORCEMENT AGENCIES

Today an important task in reforming the social system of the country is fighting against corruption and other misconduct, and a number of reforms that would help restore the public trust in law enforcement and the judiciary in Ukraine.

Of course, a great step forward in this situation was the adoption of the Law of Ukraine “On the Fulfillment of Decisions and Application of Practice of the European Court of Human Rights” in 2006 and a new Criminal Procedure Code of Ukraine (hereinafter – “Code of Ukraine”) in 2012, pursuant to which the ECHR is a part and the source of Ukrainian legislation.

According to Article 8 of the Code of Ukraine, one of the basic principles of law enforcement is the principle of legality, which is applicable, taking into account the provisions of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter – “the Convention”), according to which “In the determination of his civil rights and obligations

or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”.

The main problem in law enforcement is that in the fight against corruption and drug trafficking in order to achieve this goal they use different methods, which do not always correspond to the principle of legality.

To establish whether covert investigation complies with the principle of legality, the following questions have to be clearly answered in court: whether covert investigative measures were conducted within the limits of legality or would a crime be committed without the intervention of law enforcement authorities in the guise of undercover agents or informants, and whether such interventions contained no violation of human rights which are guaranteed by national legislation and the Convention for the Protection of Human Rights and Fundamental Freedoms.