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## **SEPARATE ISSUES OF DEFENCE ATTORNEY'S NON-ADMISSION IN CRIMINAL PROCEEDINGS AS FORM OF RIGHT TO DEFENCE VIOLATION MANIFESTATION**

The article provides consideration of separate issues of defence attorney's non-admission in criminal proceedings as a form of manifestation of a crime foreseen by the article 374 of the Criminal Code. On the basis of system analysis of theoretical provisions of criminal law science, provisions of criminal procedure legislation, practice of its application and semantic interpretation of the norm the notion of "defence attorney" was analyzed. The article also provides list of actions, commitment or non-commitment of which should regard to defence attorney's non-admission.

Particularly, the work provides justification that:

– one of notion of defence attorney's non-admission to participation in criminal proceedings (as well as concerning the next form of right to defence violation – delayed admission of the defence attorney) is a term to denote a person – "defence attorney". Because of non-admission or delayed admission (provision) to participation in criminal proceedings the defence attorney is not able to realize (or does not have possibility to do it completely) designated to his duties concerning execution of appropriate defence of a suspect, a defendant, a convicted person and acquitted person. Due to this, legally guaranteed rights of this person are violated. It should be remarked that unlike article 21 of the Criminal Procedure Code of Ukraine from 1960 (hereinafter – CPC 1960), article 20 of the CPC

has wider contents and foresees guarantees of provision with right to defence by means of clarification of right to qualified legal assistance, as well as appointment of defence attorney at public expense (implementation of defence as intended). Herewith, the new procedural law operates such term as "qualified legal assistance", as well as establishes certain requirements to the defence attorney;

– defence attorney's non-admission as a form of manifestation of right to defence violation consists of crime subject's failure to execute requirements of Section IX "Transitional Provisions" of the CPC concerning non-admission in case of presence of denies of defendant, continuing by the defence attorney who started his activity in certain criminal case while activity of the CPC 1960, execution of his authority; requirements of parts 2 and 3 of article 20 of the CPC, particularly concerning duty of an investigator, prosecutor, investigating judge, court to provide right of a suspect, a defendant (including convicted person and acquitted person) to qualified assistance from defence attorney chosen by him (making additional requirements, which are not foreseen by law, to defence attorney that led to non-justified refusal in admission of this person to participation in criminal proceedings), as well as in non-appointment or refusal to involve defence attorney contrary to requirements of articles 49 and 52 of the CPC.

