



превзошел тогдашние западноевропейские кодификации. Научно доказано, что Уложение царя Алексея Михайловича 1649 года было составлено под влиянием Литовского Статута [9, с. 68].

Список использованной литературы:

1. Максимейко Н.А. Источники уголовных законов Литовского Статута / Н.А. Максимейко. – К. : Тип. Императорского ун-та, 1894. – 185 с.
2. Квачевский А.А. Литовский статут как источник местного права для губерний Черниговской и Полтавской / А.А. Квачевский // Журнал гражданского и уголовного права. – 1876. – С. 222–255.
3. Энциклопедія Українознавства : в 10 т. / [М.С. Глобенко, Є.В. Гловінський, І.І. Кошелівець та ін.] ; за ред. В.М. Кубійовича. – Париж ; Нью-Йорк : Молоде Життя, 1954–1989. – Т. 4. – 1962. – 1600 с.
4. Макаренко О.В. Злочини і покарання в праві Української Гетьманської держави 1648–1657 рр. : автореф. дис. ... канд. юрид. наук : спец. 12.00.01 «Теорія та історія держави і права; історія політичних і правових учень» / О.В. Макаренко. – К., 2011. – 20 с.
5. Макаренко О.В. Види злочинів за Литовським Статутом 1588 р. / О.В. Макаренко // Вісник Академії праці і соціальних відносин ФПСУ. Серія «Право та державне управління». – 2011. – № 1. – С. 38–43.
6. Кудін С.В. Становлення і розвиток кримінального права України у Х – першій половині XVII ст. : дис. ... канд. юрид. наук : спец. 12.00.01 / С.В. Кудін. – К., 2001. – 226 с.
7. Статути Великого князівства Литовського : у 3 т. / за ред. С.В. Ківалова, П.С. Музиченка, А.М. Панькова. – О. : Юридична література, 2002–2004. – Т. 1 : Статут Великого князівства Литовського 1529 року. – 2002. – 464 с.
8. Хрестоматія з історії держави і права України : [навч. посібник для студ. юрид. спец. вищ. навч. закл.] / [В.Д. Гончаренко, О.Д. Святоцький] ; за ред. В.Д. Гончаренка. – 3-тє вид., перероб. – К. : ВД «Ін Юре», 2003. – 800 с.
9. Кузьминець О.А. Історія держави і права України : [навч. посібник] / [О.А. Кузьминець, В.С. Калиновський, П.А. Дігтяр] ; за ред. Я.Ю. Кондратьєва. – К. : Україна, 2000. – 428 с.

COMPLEX MECHANISMS OF STATE REGULATION OF RENEWABLE ENERGY IN THE EUROPEAN UNION COUNTRIES: EXPERIENCE FOR UKRAINE

Oleksandra STOYAN,
post-doctoral researcher
Petro Mohyla Black Sea State University

Summary

Experience with the implementation of measures of state regulation in the sphere of development of renewable energy in the countries of the European Union is being analysed. The basic principles in the implementation of the energy policy of the European Union in terms of renewable energy and main trends in the development of renewable energy of the European Union countries with the aim of transferring this foreign experience for the improvement of energy policy in Ukraine in terms of its state regulation and further development are being revealed. Mechanisms and tools for the implication of state regulation of renewable energy in the European Union countries are reflected upon.

Key words: state regulation of renewable energy, means of state regulation, energy policy, renewable energy, foreign policy, energy security, complex mechanism of state regulation, energy markets.

Аннотация

В статье анализируется опыт в реализации мер государственного регулирования в области развития возобновляемых источников энергии в странах Европейского Союза. Раскрываются основные принципы реализации энергетической политики Европейского Союза относительно возобновляемых источников энергии и анализируются тенденции в развитии возобновляемых источников энергии в странах Европейского Союза с целью заимствования этого зарубежного опыта в отрасль энергетики в Украине.

Ключевые слова: государственное регулирование возобновляемых источников энергии, средства государственного регулирования, энергетическая политика, использование возобновляемых источников энергии, внешняя политика, энергетическая безопасность, сложный механизм государственного регулирования, энергетические рынки.

Introduction. At the present stage the role of the energy factor in ensuring socio-economic development of countries increases significantly. Particularly important are the problems of ensuring energy security for countries that do not have sufficient amounts of energy for their own needs. Therefore, for these countries the issue of improving the renewable energy policy and implementation of mechanisms of state regulation of this sphere are of particular importance. The question of stimulating the development of renewable energy is relevant for the countries of the European Union (hereinafter – EU), and for Ukraine and for all CIS countries. This problem was investigated in scientific works of both Ukrainian scholars such as: E. Sukhin, S. Yermilov, V. Saprykin, G. Kalyetnik and Russian ones (Y. Sinyak, S. Gardash and others).

However, the continuous improvement of state regulation of renewable energy in the EU countries along with the latest European

projects and tools of state regulation of this sphere has not yet been driven enough of attention from the side of prominent scholars and are therefore not sufficiently illuminated by the management sciences. Given the urgency of this issue and the fact that for Ukraine studying the experience of the EU energy policy is of particular importance in the context of close cooperation and prospects of European integration, with a view to further development and improvement of the state's energy policy of Ukraine, and also taking into account the progressive nature of the EU's energy policy, continuous improvement of its foundations and mechanisms, great success of the EU in solving existing problems in this area, we consider it necessary to define the basic principles of the implementation of the EU energy policy and the main patterns for its development with the aim of transferring foreign experience of energy development for the improvement of the state's energy policy Ukraine.



Statement of research objectives.

Given the high importance of the energy sector, and the need for further improvement of public policy and government regulation in the field of renewable energy, we consider it necessary to study in detail mechanisms and tools for the realization of state regulation of renewable energy in the EU countries. There's also a striving need to carry out a throughout theoretical research, provide an integrated mechanism of state regulation of renewable energy in the EU as well as to define and classify the main directions and tools of state regulation of renewable energy in the EU countries with aim of accumulating European experience with further identification of ways for implication of the set of measures of state regulation in Ukraine.

Results. With the aim to ensure its energy security, starting from 2000 European Union had been gradually and consistently forming and in 2007 finally delivered so called "Energy Policy for Europe". Its most important part is the issue of the external energy policy of the EU, which in the aforementioned document for the first time had been called "international energy policy". Given the scarcity of oil, gas and coal in the bowels of the EU, which in turn leads to additional requirements for energy imports, the growth of the struggle for power sources with old and new world centers of power, and the desire of the EU to influence the supply conditions (prices and volumes) from third countries, it is a quite logical desire of the EU to create a common EU energy policy.

We should note, that the European Union is one of the largest importers of energy in the world and in this regard the European Commission takes an uncompromising stance on the importance of supranational EU external energy policy. Analysis of the EU legislation in the field of energy allows us to select a few basic principles of the EU energy policy:

- The principle of non-discrimination, which is a consequence of the general principle of non-discrimination and in the energy sector particularly means, first of all, creation of non-discriminative conditions in the contract of supply to the "third party access";

- The principle of transparency, which provides "transparency" in the domestic energy market, the ability to obtain information about the level of consumer prices for energy, as well visibility of

various observations led by the Community for the supply and transit of energy resources;

- The principle of not causing harm to the environment that reflects the needed-bridges of measures for environmental protection in the energy supply activities;

- Taking into account the principle of the social factor in energy policy that requires attention to the problem of depending of the level of unemployment in the energy sector on the labor market, the safety of workers etc [1, p. 141].

It should be noted that the main legal acts that EU institutions issue are the regulations that have been taken by the EU Council, European Parliament and the European Commission jointly. These are acts of a general nature and direct action. They are directly applicable in all EU Member States and don't require the introduction of the national legislation of individual countries.

The second group consists of directives. They are made by the same institutions, but differ in the part that they formulate common goals and objectives, which are later implied in the Member States. How to implement them in practice is determined by the states in the context of the use of national forms, methods and techniques of legal regulation.

The third category of acts is decisions, conclusions, resolutions, which constitute acts of individual character, as well as court decisions that interpret the provisions of the treaties [2].

Let's try to categorize and organize the main directions of state regulation and instruments of state influence on the sector of renewable energy of the EU and its recent developments in regards to the implementation of EU policy on energy efficiency of member countries, and to provide an integrated mechanism of state regulation of renewable energy EU as it is being revealed in the table 1, as well as to carry out theoretical explanation of the basic components of the complex mechanism of state regulation of renewable energy.

We would like to emphasize the fact that the optimal combination and implementation of the regulatory functions of renewable energy the EU should be a part of forming sound, comprehensive and effective mechanism of state regulation in this sphere. However, now the question of theoretical basis of the composition of the

complex mechanism of state regulation of renewable energy in the EU countries with the aim of pooling European experience with identification of ways for future implementation of the set of measures of state regulation in this particular sector of the economy in Ukraine, requires further study and improvement.

From our point of view, complex mechanism of state regulation in the field of renewable energy of the EU can be defined as a set of elements of state regulation of renewable energy, its directions, means and methods used by public authorities in the process of implementation of all responsibilities to impact renewable energy and its developments in order to achieve the objectives of energy policies in the field of renewable energy.

Let's consider some of the key features of the fixed assets of state influence on the field of the renewable energy in the EU countries and its development in the areas of state regulation of the targeted operating environment (classified and systematized by the author of this article O. Stoyan).

1. *Legal regulation:* directives, decisions, conclusions, resolutions, court decisions that interpret the provisions of the Treaties. The basis for a special legal regulation in the sphere of renewable energy serve mostly guidelines and regulations. Certain influence on the formation of legislation in this area make recommendations and decisions of the European Council, which detail or explain the provisions of the relevant directives and regulations.

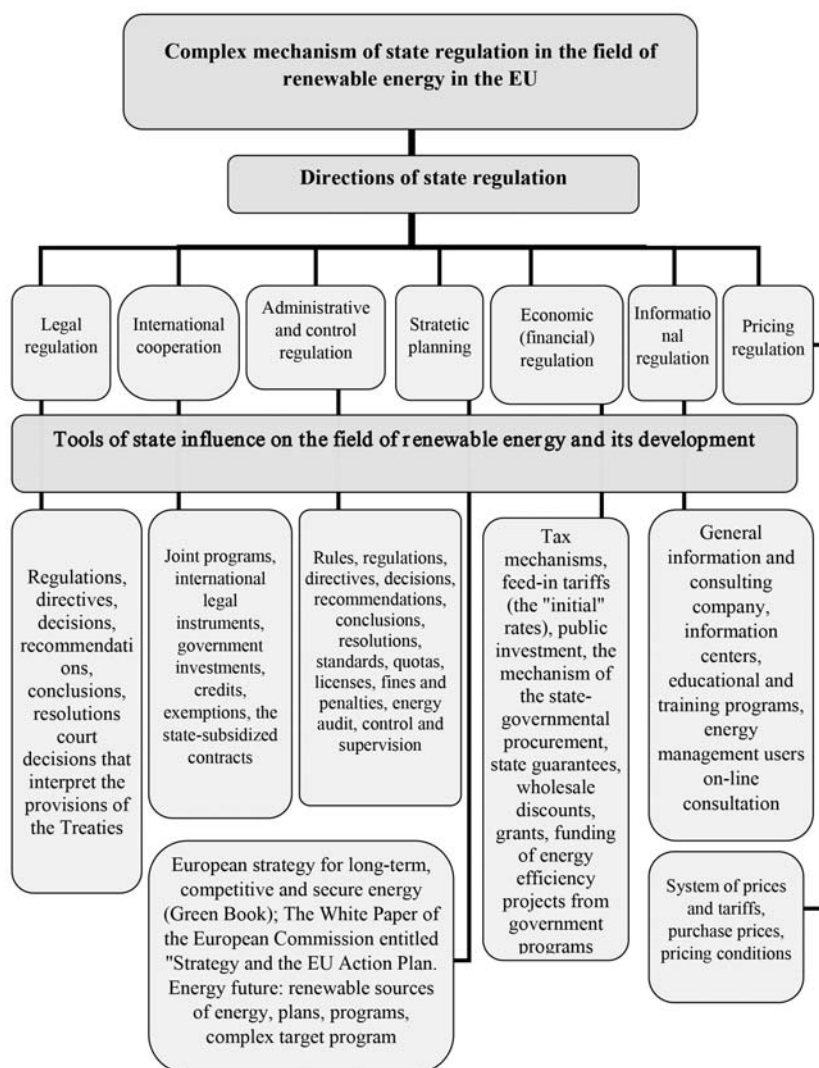
Main tools in the direction, from our point of view, should include:

- Directive 2001/77 / EC 2001, which aims to promote an increase in the contribution of renewable energy sources in electricity production in the internal electricity market (art. 1);

- Directive 2009/72 / EC of 13 July 2009, "On the general rules governing the internal market of electricity distribution and repealing of the Directive 2003/54 / EC". This Directive establishes common rules in the field of generation, transmission, distribution and supply of electricity, as well as rules to protect the rights of consumers in the view of improving and integrating competitive electricity markets in the Community. It defines the rules of the organization and functioning of the electricity sector, constitutes the right of consumers for the open access to the market



Table 1
Complex mechanism of state regulation in the field of renewable energy in the EU



based on the criteria and procedures that apply towards tender procedures for the operation of systems. It also defines the universal service obligations and the rights of electricity consumers and clarifies the obligations in the field of competition;

– Directive 2003/30 / EC of the European Parliament and of the Council of 8 May 2003 concerning the promotion of biofuels and other sources of renewable energy;

– Directive 2003/96/EC, which provides, in particular, additional financial support measures. Article 15 constitutes that Member States may apply total or partial tax exemption or reduction towards: goods subject to taxation in the field of pilot projects for the technological development of more environmentally friendly products or in relation to fuels which are being

retrieved from renewable sources; natural gas and RNG being used as fuel; all biofuels; electricity consumption of the urban utility vehicles.

2. *International cooperation:*

– Joint programs as a form of international cooperation, which main objective is to bring together the resources of its members in order to implement complex projects in a particular area, or to address a specific problem. These programs are launched and carried out by the Council of the European Union or the European Parliament; content of joint programs is mandatory for application for all EU member states;

– International legal treaties and agreements which are concluded by the European Community in accordance with the founding treaties, including the Energy

Charter Treaty and regulation contributing towards the Energy Charter Treaty which was signed in December 1994 and entered into force in April 1998. It has been signed by 51 countries in Europe and Asia. The main objective of the Energy Charter Treaty – strengthening the rule of law on energy issues by creating a unified field of rules to be observed by all participating governments, thus minimizing the risks associated with investment and trade in the energy sector, increasing energy efficiency and improving the environment around energy networks and the development of renewable energy sources. International legal instruments play an important role for the development of the EU energy policy, which are also sources of secondary EU legislation.

It should be noted that on 1 February 2011, Ukraine has acquired the status of the party of the Energy Community of Southeast Europe. Protocol on the Accession of Ukraine to the Treaty establishing the Energy Community was signed on 24 September 2010 in Skopje (Macedonia) and ratified by the Law of Ukraine “On ratification of the Protocol on Ukraine’s accession to the Treaty establishing the Energy Community” from 15.12.2010 № 2787-VI. In our opinion, Ukraine’s accession to the Treaty establishing the Energy Community will contribute towards long-term financial stability of the energy sector and improvement of the investment climate in Ukraine, encourage regional integration and trade, help to resolve problems of combating climate change and the introduction of energy saving technologies. As part of the membership of the Energy Community, Ukraine will continue to improve the functioning of the internal energy market, through the implementation of the relevant EU legislation.

3. *Administrative and control regulation:*

rules, regulations, directives, decisions, recommendations, conclusions, resolutions, standards, quotas, licenses, fines and penalties, energy audit, control and supervision. In particular, the definition of a term “energy audit” is being defined by the Directive 2006/32/EC “On the efficiency of the end-use of energy and energy services” from April 6, 2006 as a systematic procedure that is performed in order to obtain information about the parameters of energy consumption house or group of houses, industrial efficiency and/or installed equipment in private or public operation, the definition and calculation of



economic opportunities and low-cost energy conservation report on the results obtained.

4. Strategic Planning:

– European Strategy for long-term, competitive and secure energy (Green Book) – a document which purpose is to promote discussion and to initiate a consultation process at European level. Ever since 1999, after the entry into force of the Amsterdam Treaty, energy policy is regarded as a factor of sustainable community development. This document set the ambitious goal before the EU Member States – to almost double the share of renewable energy in the total energy stock (from 6 to 12%) and the main mechanisms of its implementation, in particular the provision of credit system, harmonization of tax legislation, the provision of state support, standardization, financial support for research in this area by 2010;

– The White Paper of the European Commission entitled “Strategy or the EU Action Plan. Energy of the Future: Renewable Sources of Energy”, approved by the Council on 8 June 1998. This agreement is devoted to the features of renewable energy and the possibility of their use in the EU.

5. *Financial and budget (economic) regulation*: a program of state support for projects in the field of energy and environment, which entered into force on 1 July 2014, revised and adopted by the European Commission in April this year. The program is valid until 31 December 2020.

The main goal of the program is a gradual transfer of energy supplies in accordance with the market prices, where institutional arrangements should be cost-effective for society and do not lead to a distortion of competition or fragmentation of a market of energy supplies [3].

The program foresees, above all, the following provisions: from 2016 producers must sell energy on the market and are required to compensate for short-term deviations from previous commitments to supply electricity. In 2015–2016 EU countries that are members of the program will begin to implement competitive bidding on the portion of its electricity retrieved from renewable sources. Also, participating states take in the commitment to replace the preferential electricity tariffs for subsidized premiums or certificates. And starting from 2017 member states are ought to hold tenders to support the introduction of new renewable energy facilities. With the aim of achieving energy objectives to develop 20%

of its electricity from renewable sources by 2020 participating countries will cancel subsidies for electricity and transfer it to the market value for both industrial and the public use.

It is essential to underline, that the European Union is one of the leaders in the development and use of renewable energy sources. It accounts for almost 42% of global consumption of renewable energy. Over the past fifteen years, the EU has formed a full-fledged policy of stimulating renewable energy, including clearly defined goals, a wide range of measures to achieve them, and the specific model of the division of responsibilities between the communitarian and national levels of government. By the mid-2000s, the European Union on the basis of its strong system of economic regulation on climate and energy transferred its own economy on integrated approach. There was a new goal – by 2020 to increase the production of renewable energy by 20% in comparison with primary consumption margins. In order to implement this aspiration in 2009 Directive 2009/28 on the development of renewable energy had been adopted, which translates political intentions into legal obligations. During the period of 2002–2011 total production of renewable energy in the EU increased by 67%, with a CAGR of 7.4%. The successes of the European Union in this particular matter are unquestionable.

Let's emphasise, that the aforementioned list of state influence on the sector of renewable energy in the EU and its development in areas of state regulation from the point of view of science is not exhaustive, countries of the European Union have considerable experience of government regulation, promotion and support of the development of renewable energy, so from our point of view, accumulation of the European experience of state regulation of renewable energy and its development, systematizing of considered in the process of research materials, legal acts, and so on and developing specific recommendations for its implication in Ukraine are of great importance.

Conclusions. From the point of view of the formation of an effective system of mechanisms of state regulation of renewable energy in Ukraine, introduction of European Union experience in the field of energy policy, which at the present stage took over the energy security, is very important. In recent years the European

Union has adopted a number of strategic documents that define the principles for the implementation and direction of a common energy policy, as well as make it possible to limit the impact of sharp fluctuations in the global energy market and provide them with a steady supply to Europe. The EU has created a single internal energy market, which operates on the principles of free competition.

With the ratification of the Protocol on the Accession of Ukraine to the Treaty Establishing Energy Community (hereinafter – the Agreement) on December 15, 2010 Ukraine undertook obligations to adapt the national legislation in the energy sector to the requirements of *acquis communautaire* and to meet these requirements in a timely manner.

Ukraine's accession to the Energy Community provides a great opportunity and the tools necessary to carry out the sequence of structural reforms in the energy sector. Adoption and implementation of European norms and standards in the field of energy and protection of environment will make its own legislation more modern and will allow Ukraine to rebuild its economy, go to the path of sustainable development and gain the potential to become a full member of the EU. Ukraine already has an appropriate framework for the development of renewable energy sources, and the continuation in the implementation of legislative reforms will serve a purpose of increasing their compliance with the requirements of the EU directives.

Developed by the author of this article composition of the complex mechanism of state regulation of renewable energy of the EU and its development through the interaction of all the legitimate objects and subjects of the mechanism can be useful for scientists and practitioners in terms of implementation and composition of the state influence on the development and functioning of energy sector of the economy, as well as can help to organise all tools of state influence on the sector of renewable energy in the EU through further accumulation of its experience and achievements and implementation in Ukraine.

From our point of view, Ukraine needs to undertake a number of further steps for the development and reformation of the energy sector, in particular in terms of development and transition to renewable energy and use of renewable energy sources, for



which, if to be precise, the main condition would be to improve the mechanism of state regulation in the area of development of renewable energy while taking into account international experience along with further implementation of international legal norms and standards into the legal framework of our country.

For this purpose, in particular, there is a striving need to: carry out technical and economic assessment of the use of foreign equipment in the Ukrainian natural conditions; further improve legislation in the field of renewable energy (including the development of a clearly defined legal framework of accession to electricity generating plants); adopt the National Action Plan for the development of renewable energy up to 2020 and to coordinate it with other strategic documents in the field of energy; provide priority lending on concessional terms for companies that manufacture equipment that produces energy from renewable sources as well as energy companies working on alternative energy sources; review the priorities of the national energy policy in the direction of strengthening the energy efficiency and conservation and to adopt necessary legal and regulatory framework for the use of fuel and energy resources and operation of residential and public buildings; develop sectoral programs to improve energy efficiency in industrial and residential sector; simplify the procedure for issuing permits related to land use for businesses that follow the National Action Plan for Energy Efficiency until 2020.

References:

1. Hromads'ka N. Community policy in the field of energy (2014) / N. Hromads'ka, V. Dereha // Redaktsijno-vidavnychyj tsentr Chornomors'koho derzhavnoho universytetu imeni Petra Mohyly [Electronic resource]. – Mode of access : <http://lib.chdu.edu.ua/pdf/posibnuku/252/9.pdf>.
2. Improving energy efficiency and promoting renewable energy in the agro-food and other small and medium enterprises (SMEs) in Ukraine (2014) [Electronic resource]. – Mode of access : <http://www.reee.org.ua/files/stationary/leaflet>.
3. Ukrainskij biotoplivnyj portal (2014) [Electronic resource]. – Mode of access : <http://pelleta.com.ua>.

LEGAL AND PSYCHOLOGICAL CHARACTERISTICS OF PLEA AGREEMENT IN THE CRIMINAL PROCEDURE LEGISLATION OF UKRAINE

Oleksii STRATII,

competitor of the Department of Legal Psychology
of Kyiv National Academy of Internal Affairs

Summary

In this article author researches the juridical-psychological peculiarities as to the assembling of the agreements about confession of guilt at Ukraine legislation between the party of charge and the party of protection.

Key words: agreement about confession of guilt, prosecutor, suspect, accuse, court.

Аннотация

В этой статье автор исследует юридико-психологические особенности составления соглашений о признании вины между стороной обвинения и стороной защиты в уголовно-процессуальном законодательстве Украины.

Ключевые слова: соглашение о признании виновности, прокурор, подозреваемый, обвиняемый, суд.

The relevance of the article is that the introduction of “agreements in criminal proceedings” became one of the most promising and controversial novels of the criminal procedure law and practice in Ukraine. A block of new rules under Chapter 35 “The criminal proceedings on the basis of agreements”, introduced by the Criminal Procedure Code of Ukraine on May 14, 2012, laid the basis for the formation of a new legal institution and development of the competitive criminal proceedings in Ukraine [2]. This legal institution provides for two types of agreements concluded in criminal proceedings: plea agreement and agreement on reconciliation. Plea agreement is made between the prosecutor, representing the prosecution, and the suspect or the accused, which represent the defense. Such an agreement can be also called “agreement with justice”.

Problem statement. Securing new special order of criminal proceedings based on the plea agreement in the Criminal Procedure Code of Ukraine means creating a new ideology of criminal policy of the state: crime counteraction through a compromise, agreement, including incentives for persons who have committed criminal offenses, to cooperate with the authorities.

The degree of scientific development of the problem. Research of legal and psychological characteristics of the problem was made

in the works of many scientists, including D.O. Aleksandrov, V.H. Androsiuk, V.F. Boiko, V.V. Zemlianska, H. Zer, L.I. Kazmirenko, V.O. Konovalova, M.V. Kostytskiy, O.I. Kudermyna, V.T. Maliarenko, V.Ya. Marchak, D.M. Maksymenko, V.S. Medvediev, N.V. Nestor, I.M. Okhrimenko, M. Wright, O.K. Chernovskiy, Yu.V. Shepitko, O.M. Tsilmaketal., however, the institution of agreements in criminal proceedings is unexplored from the standpoint of legal psychology, causing many disputes about its theoretical provisions among scientists and application among practitioners.

The purpose of the article is stipulated by the need to improve and develop the institute of agreements in criminal proceedings, which significantly contribute to the efficiency of its operation in the field of criminal justice.

Basic exposition. The theory of procedural law determines that a plea agreement has the following advantages:

– for the accused – the avoidance of uncertainty as for the type and amount of punishment by the results of the court proceedings; in some cases – the use of alternative punishment or its decrease, the possibility of release from punishment;

– for the prosecutor – possibility to reduce budget expenditures and save procedural time; reducing the burden on the prosecutor as for the state accusation in court, providing more effective criminal justice system; eliminating to some