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**ON THE ISSUE OF THE DETERMINATION OF THE GENETIC
OBJECT OF CRIME PROVIDED IN ART. 360 OF THE CRIMINAL
CODE OF UKRAINE**

In criminal law, the generic object of crime is traditionally understood as a certain group of identical or homogeneous in their socio-political and economic nature social relations that may be affected by crimes of a certain kind (crimes envisaged by a certain section of the Special Part of the Criminal Code of Ukraine), so they should be protected by a set of interrelated criminal rules. On the basis of the generic object the legislator divides the criminal law norms into specific sections of the Special part of the Criminal Code of Ukraine.

The development of this system was predetermined by a number of theoretical and practical issues. The practical application of these norms, the theoretical understanding of certain crime warehouses, the awareness of their interconnection and peculiarities depend on their successful placement [6, p. 287]. Therefore, special attention should be paid to the question of the place of one or another norm in the system of the Special part of the Criminal Code of Ukraine.

Placing of the norm for intentionally damaging of the communication lines in section XV of the Special Part of the Criminal Code of Ukraine «Crimes against authority of state authorities, local self-governments, associations of citizens and crimes against journalists» raises a number of questions about the possibility of causing significant damage to the authority of state authorities, local self-government bodies, associations of citizens, etc. through such damage.

In essence, intentional damage to communication lines is a form of intentional destruction or damage to property. In the doctrine of criminal law,

there are three priority positions to determine the generic object of crimes against property: 1) encroachment on property relations, which as an economic category is a relationship between people about material goods, in which some people treat material goods as their own and others as to others; 2) encroachment on property and on property relations in general [4, p. 9]; 3) encroachment on property rights. The latter position was supported by P. S. Matyshevsky, noting that by means of legal norms covered by the concept of property rights, material benefits are not only fixed for certain entities, but also regulate the procedure of acquisition and termination of property rights, the possession, use and disposal of property, as well as the protection of the rights and legitimate interests of the owner. Property crime encroaches on the actual property right under which ownership, use and disposal of property is exercised or otherwise on the property right in its subjective sense [3, p. 12].

Deliberate damage of communication lines is in section XV of the Special Part of the Criminal Code of Ukraine «Crimes against authority of state authorities, local self-government bodies, associations of citizens and crimes against journalists». Based on the title of this section, it can be affirmed that the authority of these bodies is always harmed or threatened to cause harm. However, by analyzing the components of other crimes, contained in Chapter XV of the Special Part of the Criminal Code of Ukraine, it can be affirmed that the authority of the above bodies is not always (in the case of intent to harm him) put at threat with causing harm in such crimes.

Thus, V. V Kuznetsov, V. I. Osadchy, A. V. Savchenko and O. F. Shtanko believe that the generic object of crimes, against the authority of state authorities, local self-government bodies, citizens' associations and crimes against journalists is an order of government and local self-government. At the same time, the unlawful encroachment is directed to the procedure established by law for the functioning of state bodies or public organizations. In such a case, the relations of management are harmed, which should be recognized as a generic object [5; 7]. Therefore, the contingency of the «intentional damage to communication lines» rule to Section XV of the Special Part of the Criminal Code of Ukraine is controversial.

A. P. Dyachkin notes that the generic object of Art. 360 of the Criminal Code of Ukraine is public safety. Specifically, it proposes to attribute the norm of «intentional damage to communication lines» to section IX of the Special part of the Criminal Code of Ukraine «Crimes against public safety» [2, p. 34]. However, we cannot agree with this position because public safety, according to V. P. Tykhai is a safety of life, health of individuals and other vital values against threats; a set of social relationships that provide and guarantee the safe living conditions of individuals and society; the safety of individuals and society against unlawful attacks by criminal organizations, terrorist groups or organizations; the safety of persons in the handling of firearms, firearms,

explosives and ammunition; the safety of people in the use of subjects and objects of high risk, etc. [8, p. 94].

Public safety as a generic object of crimes of section IX of the Special Part of the Criminal Code of Ukraine should be understood as public relations aimed at protecting the person, society and the state from unlawful attacks by criminal and terrorist organizations, ensuring safety during the handling of firearms and explosives, explosives and ammunition, subjects and objects of high risk, as well as subjects and objects that do not pose a high risk but which pose a threat to an indefinite circle of people.

However, I. M. Chub analyzed the norm of «deliberate destruction of communication lines» taking into account the Law of Ukraine of 18.11 adopted. 2003 No. 1280-IV «On telecommunications» concluded that the concept of «telecommunication line» was changed to «telecommunications», and the subject of crime became broader. Therefore, according to the scientist, such an encroachment impedes the functioning of telecommunications networks and the provision of telecommunication services. On this basis, the scientist states that the stated crime is homogeneous with those enshrined in Section XVI of the Special Part of the Criminal Code of Ukraine «Crimes in the Use of Electronic Computers (Computer), Systems and Computer Networks and Telecommunication Networks», but encroach on different generic objects [1, p. 274–275].

In our opinion, an intentional damage of communication lines is inherently a kind of deliberate destruction or damage to property. Therefore, it is absolutely that a generic object is a property right.

Having analyzed the generic object of sections VI, IX and XV of the Special part of the Criminal Code of Ukraine, we come to the conclusion that the generic object of the crime under Art. 360 of the Criminal Code of Ukraine are public relations that secure ownership. Unlike the activities of public authorities, local self-government bodies, and associations of citizens, intentional damage of communication lines does not involve the effectuation of organizational, administrative or administrative-economic functions, the purpose of which is to protect people when the subject commits a crime, in order to influence management relations. Therefore, the crimes of intentional damage of the communication lines do not coincide in the essence of public relations with other crimes, located in section XV of the Special part of the Criminal Code of Ukraine. Therefore, it is advisable to place a provision for intentional damage of communication lines in the VI section of the Special Part of the Criminal Code of Ukraine.

Therefore, the foresaid makes it necessary to amend the Criminal Code of Ukraine regarding the placement of Art. 360 of the Criminal Code of Ukraine in section VI of the Special part «Crimes against property», by supplementing the law on criminal liability Art. 194-2 of the Criminal Code of Ukraine.

Література:

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Анотація

У статті здійснено аналіз родового об'єкта розділів VI, IX та XV Особливої частини КК України. Визначено, що родовим об'єктом злочину, передбаченого ст. 360 КК України, є суспільні відносини, що забезпечують право власності. Аргументовано, що на відміну від діяльності органів державної влади, органів місцевого самоврядування та об'єднань громадян, умисне пошкодження ліній зв'язку не включає в себе здійснення організаційно-розпорядчих або адміністративно-господарських

функцій, метою яких є захист осіб, коли суб'єкт вчиняє злочин, з метою вплинути на відносини управління. Автором визначено, що злочини щодо умисного пошкодження ліній зв'язку не співпадають за сутністю суспільних відносин з іншими злочинами, розміщеними у розділі XV Особливої частини КК України. Обґрунтовано доцільність розмістити норму щодо умисного пошкодження ліній зв'язку у VI розділ Особливої частини КК України «Злочини проти власності», шляхом доповнення закону про кримінальну відповідальність ст. 194-2 КК України.