

the regime after their serving which is recognized as malicious disobedience. (the criterion for the systematic violations).

Perpetration of the actions comprised by the Article 391 of the Criminal Code of Ukraine leads to criminal liability and the commission of a malicious violation of the established procedure for serving the punishment provided for in the Article 133 of the Criminal Executive Code of Ukraine, disciplinary liability (the criterion of the responsibility level).

Recognition of a violation committed by a convicted person as malicious according to the Article 133, Criminal Executive Code of Ukraine is not a prerequisite for bringing a convicted person to criminal liability under the Article 391 of the Criminal Code of Ukraine (the criterion of the violation maliciousness as the condition for bringing to responsibility);

Carrying out the actions stipulated by the Article 391 of the Criminal Code of Ukraine which consider an increased public danger and the provisions of the Article 133 of the Criminal Executive Code of Ukraine include only a list of gross violations of the security requirements committed by the convicted which are considered malicious (the criterion of the public danger level of the committed action).

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RESPONSIBILITY FOR INTENTIONAL MURDERS IN AGGRAVATING CIRCUMSTANCES IN HISTORY AND FOR CRIMINAL LEGISLATION OF INDIVIDUAL OF FOREIGN COUNTRIES

Responsibility for encroachment on human life in the distant past was foreseen in customary law. The criminal law imposed responsibility for two types of intentional murders: the so-called "simple" and grave murder, that is, murder under aggravating

circumstances. Subsequently, in the European countries in which the system of Romano-Germanic law operated, the types of murders were determined, taking into account the mental attitude of the murderer to his victim: in the foreseeable - a grave murder; not immediately realized - simple murder. In the same way, responsibility for intentional murder was also established on the territory of Ukraine during the times of the Kiev princes in treaties with the Greeks.

In the literary sources the legal collection called "Russkaya Pravda", as the first codified collection of legal norms, is called the most ancient monument and the crown of the national law of Ukraine during the period of Kyivan Rus. During the Hetmanate's time, that is, the relative independence of Ukraine, the responsibility for the murder was based on the norms of the Lithuanian and Polish laws, and the rules of customary law also acted. The legal monument of this period is "The rights of the Little Russian people" in 1743, which, although they have not been adopted, have shown the consolidation at the normative level of the division of murders into deliberate and careless. Chapter 20 provided for assassinations under aggravating circumstances, which included: the murder of a master, a cleric, a military, pregnant woman, a close relative, two or more persons, during robbery, poisoning, using weapons, etc. That is, in this document there are signs of the impact of the criminal law of European states. From the 16th to the 17th centuries on the territory of Ukraine, the norms of the criminal legislation of Muscovy and the Russian Empire, which differed significantly from the law of Kievan Rus, were in force. Since 1903 the Russian Penal Code began to operate. The following types of murders were classified, such as the relative status of the victim, the clergyman, etc., were taken into account ways of committing so-called "domestic" murders and some subjective circumstances.

The first codified criminal law was the Criminal Code of Ukraine of 1922, which established responsibility both for intentional and for careless murder. In the future, the Criminal Code of the Ukrainian SSR in 1927 was used, which, as aggravating

circumstances of a deliberate murder, determined: the murder of mercenary motives; the murder of a person on whom there was a special custody over the murdered person; killing using the helpless position of the victim; a person who was previously involved in a deliberate murder or a bodily injury in certain circumstances; in a way that is dangerous to the lives of many, or especially martyrs, for the murdered person; taking into account family relationships and others. Such types of assassinations for the Criminal Code of the USSR in 1922 and 1927 was punished by imprisonment, and then by death penalty.

Art. 93 of the Criminal Code of Ukraine 1960 established responsibility for the murder under the following aggravating circumstances: a) for useful motives; b) for hooligan motives; c) committed in connection with the performance of the victim of official or civil duty; d) two or more persons; e) a woman who was known to be pregnant during the pregnancy; e) committed with extreme cruelty or in a way that is dangerous to the lives of many people.

The modern world consists of more than two hundred states whose criminal law has its historical and legal specifics. Certain provisions of foreign law were taken into account by Ukrainian legislation at the time of the adoption of the Criminal Code of Ukraine in 2001, which provided for the responsibility for intentional murder without burdensome and aggravating circumstances in Art. 115 CK. (Part 1 and Part 2, respectively), instead of two articles (Art. 94, 93) of the Criminal Code of 1960. The number of aggravating circumstances increased from nine to thirteen. Similarly, criminal liability for murder under the aggravating circumstances of the Criminal Code of the Republic of Kazakhstan in 1997 (Article 96) - 13 aggravating circumstances, the Criminal Code of the Republic of Belarus in 1999 (Article 139) - 16 aggravating circumstances.

In Ukraine, the process of creating a new criminal law on a democratic basis, based on the study and implementation of the criminal law of states with age-old democratic traditions, such as:

Austria, Great Britain, Canada, Germany, USA, France and others, is under way.

In the Criminal Code of the Republic of Poland in 1997 in Art. 148 Chapter 19, Crimes Against Life and Health, provides for the liability for a simple murder which is punishable by imprisonment for a term of at least 8 years, imprisonment for a term of 25 years, or life imprisonment (para. 1). Paragraph 2 provides for the responsibility for a qualified assassination. Under circumstances that impose a burden on liability: a murder with a particular cruelty, in connection with the seizure of a hostage, with rape or robbery; as a result of motivation, which deserves special condemnation; with the use of firearms or explosives, and also in accordance with paragraph 3 of the person who, by one act, kills two or more persons, or was previously convicted of murder. Such assassinations are punishable by imprisonment for a term of at least 12 years, imprisonment for a term of 25 years, or life imprisonment.

Paragraph 211 of Section 16 of the Criminal Code of the Federal Republic of Germany, 1871 (in the wording of 1998 and 1999), "Criminal Offenses Against Life" establishes criminal liability for "serious murders" - under aggravating circumstances, which are: murder of sadistic motives, for sexual pleasure, mercenary and other shameful motives, cruel way or general danger, or to conceal another criminal act or facilitate his commission. Such crimes are punishable only by life imprisonment.

According to Art. 1 of the 1957 Act "About the Killing" of Great Britain, the grave murder is defined as the most severe type of murder, which is necessarily punishable by mandatory life imprisonment. Analysis of the criminal legislation of these states gives grounds to conclude that intentional criminal attacks on the lives of heads of state or government (kings, presidents, prime ministers) are punishable by special rules. In the criminal legislation of Ukraine, as well as in the criminal law of other states, circumstances aggravating the murder form varieties of intentional murders.