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THE OBJECTIVE ASPECTS OF CRIMES AGAINST JOURNALISTS UNDER THE CRIMINAL LAW OF FOREIGN COUNTRIES

Taking into account that the special rule on liability for threats or violence against a journalist is not provided for in the legislation of all foreign countries, it is logical that our comparative legal study will be devoted to the norms of criminal legislation of those countries that are representatives of the Roman-Germanic legal family. This is the reason for comparing the features of criminal responsibility for the investigated act in the context of the similarity of criminal legislation and directions of its development. Such an approach on the one hand may seem limited, since it does not cover the study of the norms of criminal legislation of the Muslim legal family, the countries of the Far East and the countries of the family of common law, however, this restriction is compelled both through the volume of research and in the communication with the fact that it will not significantly affect the results of the comparative legal study of criminal responsibility for crimes against journalists. It is the legislation of the Roman-Germanic legal family that is most closely approximated to the criminal legislation of Ukraine and provides for broad-based variants of a socially dangerous act in the form of a threat or violence against a journalist (obstruction of the legitimate professional activities of a journalist).

Under the criminal law of foreign countries, the objective aspect of crime against journalists is determined differently:

The first group includes the Criminal Code, in the text of the criminal law which criminal liability for obstruction of the legitimate professional activities of a journalist only in the form of coercion for the dissemination or refusal to disseminate information with the use of violence or the threat of its use (the Criminal Code of the Azerbaijan Republic [1, Art. 151], the Criminal Code of Georgia [2]).

The second group belongs to the Criminal Code, in the text of the criminal-law norm of which the obstruction of the legitimate professional activities of a journalist is committed in the form of coercion to disseminate or refuse to disseminate information (the Criminal Code of the Republic of Kazakhstan [6], the Criminal Code of the Kyrgyz Republic [3, Art. 143], the Criminal Code of Russia Federation [9]).

The third group belongs to the Criminal Code, in the text of the criminal-law which obstruction of the legitimate professional activities of a journalist and coercion as two forms of manifestation of the objective aspect of the crime under investigation (the Criminal Code of the Republic of Belarus [5, Art. 229], the Criminal Code of the Republic of Armenia [4]).

The fourth group includes the Criminal Code, in the text of which obstruction of the legitimate professional activities of a journalist may be committed in any form, or threats of violence, destruction or damage to property, defamation or the disclosure of other information that the victim wishes to keep secret , as well as by the threat of restricting the rights and legitimate interests of the journalist (the Criminal Code of the Republic of Moldova [7], the Criminal Code of the Republic of Tajikistan [8]).

In the first approach, in Part 1 of Art. 154 of the Criminal Code of Georgia and Part 1 of Art. 163 of the Criminal Code of the Azerbaijan Republic, the legislator states that obstruction of the legitimate professional activities of a journalist, that is, their coercion to spread or refrain from disseminating information [1, Art. 151; 2], he specifies in particular the content of the obstruction to journalists to exercise their professional activities.

The second approach is used in Part 1 of Art. 158 of the Criminal Code of the Republic of Kazakhstan, Part 1 of Art. 151 of the Criminal Code of the Kyrgyz Republic, Part 1 of Art. 144 of the Criminal Code of the Russian Federation, which describes the act in

the form of obstruction of the legitimate professional activities of the journalists by coercion to disseminate or refrain from disseminating information [6; 3, p. 143; 9]. In this case, the method of committing this act is a mandatory feature of the objective aspect and is key in qualification, since the commission of the said obstruction of the legitimate professional activities of a journalist will not be criminalized in the use of other methods not specified in the dispositions of these norms.

The third approach is inherent in the criminal legislation of European countries such as the Republic of Belarus and the Republic of Armenia, where, in the text of the criminal law, it is described that obstruction of the legitimate professional activity of the journalist or coercion him to disseminate or refrain from disseminating information may be carried out in any form [5, p. 229; 4]. That is, the obstruction of the legitimate professional activity of the journalist and coercion are considered as two forms of manifestation of the objective aspect of the investigated crime, and the forms that will be implemented by the obstruction is clearly not prescribed in the legislation (may be any).

The fourth approach is reflected in the Criminal Code of the Republic of Moldova and the Criminal Code of the Republic of Tajikistan, where Part 1 of Art. 162 of the Criminal Code of the Republic of Tajikistan in essence establishes liability for obstruction of the legitimate professional activity of the journalist in any form, as well as forcing to disseminate or refrain from disseminating information, combined with the threat of violence, destruction or damage to property, the spread of defamation or disclosure of other information, which the victim wants to keep secret, as well as by threatening to restrict the rights and lawful interests of the journalist; and Part 1 of Art. 180-1 of the Criminal Code of the Republic of Moldova establishes liability for deliberate interference with the media activities or journalist, as well as intimidating them for criticism [8; 7]. To establish the content of acts in the form of obstruction of the media activities or journalist, which are covered by the investigated norms, should be based solely on the scientific and linguistic understanding of this concept. The description of the objective aspect of the said crimes in the Criminal Code of the Republic of Moldova and the Criminal Code of the Republic of Tajikistan and covers virtually all acts which according to the criminal

legislation of Ukraine are contained in the special norms (Article 345-1, Article 347-1, Art. 348-1), but could actually be similar to this approach and covered by the content of Art. 171 of the Criminal Code of Ukraine.

It should also be noted that in the criminal legislation of foreign countries, in contrast to the Criminal Code of Ukraine, there are not so many special norms regarding the protection of journalists' lives and health, their rights and freedoms, although the level of ensuring these rights and exercising freedoms is much higher compared to Ukraine.

The method of committing an investigated crime is also determined differently from: 1) the threat of restricting the legitimate rights and interests of a journalist (the Criminal Code of the Republic of Tajikistan; 2) intimidation (the Criminal Code of the Republic of Moldova); 3) the destruction or damage to property (the Criminal Code of the Republic of Belarus, the Criminal Code of the Republic of Tajikistan, the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Russian Federation); 4) the use of violence or the threat of its use with regard to close journalists (the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Russian Federation); 5) the use of violence or the threat of its use against the journalist himself (the Criminal Code of the Republic of Azerbaijan, the Criminal Code of the Republic of Belarus, the Criminal Code of the Republic of Moldova, the Criminal Code of the Republic of Tajikistan, the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Russian Federation); 6) the threat of violence (the Criminal Code of Georgia; the Criminal Code of the Russian Federation; the Criminal Code of the Republic of Tajikistan); 7) the spread of defamation or the disclosure of other information that the victim wishes to keep secret (the Criminal Code of the Republic of Tajikistan); 8) an infringement of the rights and legitimate interests of a journalist (the Criminal Code of the Republic of Belarus); 9) creation of conditions preventing the journalist from fulfilling his legal professional activities or completely depriving him of such a possibility (the Criminal Code of the Republic of Kazakhstan).

Thus, in the Criminal Code of the Republic of Belarus, the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Russian Federation, the Criminal Code of the Republic of

Tajikistan, there are several ways of committing the investigated crime, which are contained both in the main and in a qualified structure, which obviously affects both the qualification of the act and the imposition of a punishment for its committing.

Thus, according to criminal legislation of foreign countries, the objective aspect of crime against journalists is determined differently:

1) in the text of the criminal law provides for criminal liability for obstruction of the legitimate professional activity of the journalist only in the form of coercion for their dissemination or refusal to disseminate information with the use of violence or threat of its use (the Criminal Code of the Azerbaijan Republic, the Criminal Code of Georgia);

2) in the text of the criminal law to obstruction of the legitimate professional activity of the journalist is committed in the form of coercion to disseminate or refuse to disseminate information (the Criminal Code of the Republic of Kazakhstan, the Criminal Code of the Kyrgyz Republic, the Criminal Code of the Russian Federation);

3) in the text of the criminal-law norm of obstruction of the legitimate professional activity of the journalist and coercion consider as two forms of manifestation of the objective aspect of the investigated crime (the Criminal Code of the Republic of Belarus, the Criminal Code of the Republic of Armenia);

4) in the text of the criminal-law obstruction of the legitimate professional activity of the journalist may be committed in any form or with threats of the use of violence, destruction or damage to property, the spread of defamation or the disclosure of other information that the victim wishes to keep secret, as well as by way of threats to limit the rights and legitimate interests of a journalist (the Criminal Code of the Republic of Moldova, the Criminal Code of the Republic of Tajikistan).

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STATE OF THE RESEARCH OF CRIMINAL RESPONSIBILITY AND PREVENTION FOR CORRUPTION CRIMINAL OFFENCES IN UKRAINE AND FOREIGN COUNTRIES

In our opinion, consideration of the provisions on the state of the research of criminal responsibility for corruption criminal offenses and their prevention involves focusing the attention of scientists on issues that cover the three main blocks: 1) regarding criminal liability and prevention; 2) regarding the comparative and legal aspect; 3) regarding corruption criminal offenses. At the same time, it is important to observe the principle of legal certainty, which has repeatedly stopped in its decisions the Constitutional Court of Ukraine (in particular, No. 5-rp/2005 of September 22, 2005 and No. 17-rp/2010 of June 29, 2010) which will ensure clarity and unambiguousness of legal norms, their equal application, while the