

Singaevska Marina, Post-Graduate Student of the Department of Criminal Law of the National Academy of Internal Affairs

THE PECULARITIES OF RESPONSIBILITY FOR INFRINGEMENT OF LAND MATTERS IN LEGISLATION OF ESTONIA

In most developed countries is in practice a zoning of land, planning, regulation of its use and land allotment on the basis of appropriate legislation, directed, first of all, to the restrictions of land withdrawal from agriculture. The sale or other transfer of the agricultural lands for nonfarm use almost everywhere are needed a special permission and in many cases are hard limited [1]. Turn attention to the legal standards, that are attracted a criminal sentence for infringement of land matters in Estonia. The legal system in Estonia is a part of Romano-Germanic legal family. The current legal system of Estonia (about as complete as neighbouring Latvia) had been forming over the last 150 years as a result of interplay of different legal cultures, primarily German, prerevolutionary Russian, and also Soviet, as of today Estonia comes back to the classical German family [2].

The main source of Estonian criminal law is a Criminal Code (known formally as a "Penitentiary code"), passed on the 6th of June, 2001.[3]. Estonian legislator classified the crimes of such category to the crimes against state of the 7th chapter of the Criminal code. The article 154-1 of CC of Estonia has a name «The violation of property right to land» and according to its sense foresees a liability for «unauthorized occupation and unauthorized change, and also purchase and sale, mortgage, gift, or lease of a land plot or other acts, that are infringed the property rights on land». So, in one standard were described all types of illegal use with a land plot, irrespective of priority property right of it.

Such decision, is sufficiently objective and could be applied in the criminal legislation of Ukraine. The author faced at her work with the problem of classification of person's acts, that, on the basis of knowingly forged Certificate of title under the land transfer act, had registered a property right of the land plots and later sold them, the total cost of the land plots in according to the adjudicative land estimate examination came to 2 400 000 UAH, place of location: resort village Pylypets of Mizhhirya in Transcarpathian region (criminal proceeding No. 12017070000000038). Considering the absence of special rules in criminal legislation, actions of person on the name of which was manufactured the document, that used it, when referring to land surveying organization, state cadastral registrar and notaries, classified according to p.4 of art. 190 and p.4 of art. 358 CC of Ukraine. The defense does not agree with applied legal standards, because in actions of guilty party are absent the elements classified as a fraud, such as a deception of a person affected, especially the absence of the voluntary of transfer of ownership for property to trespasser, that rightly so, affected person not even suspected, that illegal actions were executed, concerning his land plot.

As you can see, the special rule, that strictly recites the types of illegal acts, commitment of that has a consequence in the form of prosecution, would include a ambiguous interpretation of the legal rules and, correspondingly, would lighten the work of the law-enforcement authorities, having excluded a possibility of the avoidance of criminal liability by the incorrect application of the standards of a Criminal law under classification of suspected person's acts. The article 154-2 of the Criminal code of Estonia has no parallels in the Ukrainian legislation and has a name «The non-compliance with requirements of land-use or procedure for land cadastre». As follows from its content the article foresees a responsibility for such acts: «violation of requirements for land protection or soil, or another requirements for land use, or violation of the procedure of land cadastre, that resulted in major damage or committed after imposition to guilty person the disciplinary or

administrative penalty for such violation», «p. 2 – the same act, that resulted in major damage or another heavy consequences».

It is therefore, the legislator of Estonia in two mentioned articles, in fact has covered all types of acts, that were committed by the trespassers and skilled for crime investigations connected with violation of land legislation. We deem it advisable the enforcement of similar legal standards in the national legislation.

List of references:

1. Boklag V.A. International experience in the field of the state management of land resources. Recent problems of state management. 2011. No. 2. P. 392-398.

2. Zen.in.ua - Historical-juridical portal. URL:
<http://www.zen.in.ua/e/eston%D1%96ya-estonska-respubl%D1%96ka/pravova-sistema-zagalna-xarakteristika>.

3. Zen.in.ua – Historical-juridical portal. URL:
<http://www.zen.in.ua/e/eston%D1%96ya-estonska-respubl%D1%96ka/krim%D1%96nalne-pravo-ta-proces>.

Kovalenko Dmytro, Post-Graduate Student of the Department of Criminal Law of the National Academy of Internal Affairs

THE COMPARATIVE ANALYSIS OF THE ARTICLE 386 OF CC OF UKRAINE WITH THE ARTICLES OF CRIMINAL CODES OF THE STATES OF POST-SOVIET SPACE

Analyze the Criminal Code states post-Soviet space in terms of criminal protection order to obtain evidence in criminal proceedings to establish criminal responsibility for the crimes that infringe on the procedure for obtaining evidence in criminal proceedings, including the criminal liability for such acts as