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PROTECTIVE FUNCTION IN CRIMINAL JUSTICE OF UKRAINE

The problem of functions in Criminal Justice has its start at the beginning of XX century when juridical science drew attention to the social definition of justice and its social functions accordingly. The very problem of justice functions firstly emerged as the problem of social functions.

For example, the legal professionals of last century admitted that justice possessing public nature executes several social functions, in particular, economic, organizational, manufactural, distributional, etc. Accordingly the problematics was to which of two functions should be given priority and these two social functions were: binding over and organizational which were inherent to theory of morale or indicated that justice executes mainly distributional functions as there are people who live and act by various desires and needs which could regulated only by means of justice delimitation.

We know that social designation of justice is identified by consistent patterns of social development that it is its "extension" which is expressed in legal form. The legal situations are formed based on law of nature, internal reasons of social development, those that fix and safeguard things of value, which are the most important and necessary at this historical moment. In general, functions of justice should have a certain stability and permanence, as they should provide such directions and context of regulatory influence the absence of which society could not replace by other regulators or cannot exist. [1]

At the same time functions of justice should have a complex, systemic character, ability to react on changes of main tasks and purposes set for this political-legal system in a certain historical period, adequate re-distribution of means and tactics of legal influence.

The complex nature of justice presupposes division of functions at general and special. General functions express role of justice as of a social regulator in various spheres of social life. Here we can refer such functions of justice as political, economic, control, educational, cultural, etc.

In modern justice there mainly main and supportive functions. Regulatory and protective functions are referred to as the main ones, while supportive are – renewing, restricting, punitive, etc. [2] Such general provisions give us possibility to study main functions of criminal justice.

Regulatory and protective functions are traditionally distinguished herewith the protective function of criminal justice is not simply one of main but even the main function of criminal justice. It lies down in provision of legal protection to the most important groups of social relations for state functioning against criminal offences.

Violation of such relation builds up necessary legal backgrounds for the realization of this function by means of applying relevant statutes of legislation on criminal responsibility to persons doing relevant socially dangerous actions [3]. Besides this protective function of criminal justice might be realized at time of prophylactic tasks performance.

Thus, the driving point is the system of criminal-legal norms that set relevant prohibition against people's rules of conduct and that compliance is protected by state. In its turn execution of normative demands structures people's actions providing by this resolution of the task set to criminal justice – protection of the most important social values.

It can be noted that protective function of criminal justice is broader in definition and includes social function, which is a kind of standard social action regulated by criminal legal norms and controlled by social institutions.

List of references

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