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CRIMINAL RESPONSIBILITY FOR RECOGNITION BY THE CRIMINAL CODE OF UKRAINE

According to Art. 3 of the Constitution of Ukraine, man, his life and health, honor and dignity, inviolability and safety are recognized as the highest social value. This, in turn, requires improvement of the current legislation and law enforcement practice in the most urgent, problematic cases. One of these priority issues is the criminal legal action against crimes against morality in the field of sexual relations. It is especially important to effectively counteract and avoid mistakes when qualifying the most widespread crime of this category - rape. After all, its share among other crimes remained virtually unchanged for quite a long time - according to official statistics and the results of sample surveys, rape accounted for approximately 90-95% of all crimes against sexual freedom and sexual integrity [1, 288 p.].

The purpose of the study is to criminalize the rape as a crime against morality in the field of sexual relations. The main object of rape is sexual freedom and sexual integrity of a person, his optional objects may be health, will, honor and dignity of a person, the normal development of minors. Sexual freedom is understood as the right of a person to independently choose a partner for sexual intercourse and not to allow any coercion in the field of sexual intercourse. Sexual immunity is an absolute prohibition to enter into sexual contact with a person who, by virtue of certain circumstances (due to his infancy, loss of consciousness, etc.) is not a bearer of sexual freedom.

Art. 152 of the Criminal Code establishes responsibility for rape, that is, violent sexual intercourse committed in a natural way. Victims can be female and male, regardless of the nature of their behavior (for example, immoral) and the relationship with the guilty

(for example, marital relationship). The objective aspect of rape is sexual intercourse, which is combined with: 1) the use of physical violence; 2) the threat of its use (the will of the injured person is suppressed); or 3) using the helpless state of the victim (the will of the person is ignored). The crime has ended since the beginning of the sexual intercourse contrary to the will of the victim.

Qualifying signs of rape are repeated or committed by a person who had previously committed any of the crimes provided for in Art. 153-155 of the Criminal Code (Part 2 of Article 152 of the Criminal Code), committing a crime by a group of persons or rape a minor (Part 3 of Article 152 of the Criminal Code); rape, which caused particularly grave consequences or a minor person (Part 4 of Article 152 of the Criminal Code). The subject of a crime is a convicted person who has reached the age of 14 years. In this case, the direct executor of the crime should be the opposite sex victim. A collaborator of a crime who participates in a group rape may be a person physiologically incapable of committing a natural sexual act, as well as a person of the same sex with the victim. The subjective aspect of rape is characterized by direct intent. The perpetrator is aware that he is committing a natural sexual act with the use of physical violence, the threat of its use or using the helpless state of the victim, and wishes to do so. The motives of the crime may be different (satisfaction of sexual desire, revenge, desire to humiliate the victim, hooliganism, etc.).

Concerning the minor and minor age of the victim and especially the grave consequences of the mental attitude of the perpetrator may be negligent. Qualifying attributes related to the victim's age are charged with guilty not only when he knew or tolerated having committed a violent sexual activity with a minor or a minor, but also when he could and should have foreseen it. The juvenile or minor age of the injured person can not impose a criminal liability for the rape if it is proved that the guilty conscientiously was mistaken as to its actual age in resolving this issue, account is taken of the whole set of circumstances of the case, in particular the

external physical data of the victim, his behavior, acquaintance with her guilty, possession of the latest relevant information, etc.

Particularly grave consequences of rape or violent satisfaction of sexual desire in an unnatural way, according to paragraph 11 of the resolution of the Plenum of the Supreme Court of Ukraine "On judicial practice in cases of crimes against sexual freedom and sexual integrity of a person" dated May 30, 2008 No. 5, may be recognized, in particular, the death or suicide of the victim, the loss of any organ of any organ or the loss of an organ of his functions, mental illness or other health disorder, combined with a permanent loss of disability of at least one third, incapacity MOSC znivechennya face, miscarriage or loss of reproductive function, of infection with HIV or any other incurable contagious disease dangerous to a person's life [2, 234 p.].

It does not have particularly grave consequences of the rape of the victim's pregnancy, as well as the loss of her virginity (defloration). The act of committing rape of a serious bodily injury that caused the death of the injured person must be considered an act that has caused particularly grave consequences. Rape is the commission of sexual intercourse between persons of different sex in a natural way, contrary to the will or desire of one of them, by resorting to it physical violence, the threat of the immediate use of such violence or the use of its helpless state. Rape is the most serious and dangerous crime against sexual freedom and sexual integrity. It can cause serious damage to human health and cause a deep moral hazard to it. It roughly degrades the person's dignity, impinges on sexual freedom, and if the victim is a young person or has not reached sexual maturity, it's sexual intimacy.

List of references:

1. Korzhansky M. Y. Scientific commentary on the Criminal Code of Ukraine. K.: Atika, Academy, Elga-N, 2001. 380 p.
2. Bazhanov M. I. Criminal Law of Ukraine. K.: Textbook. Yurinkom Inter, 2005. 356 p.