

CRIMINFL LEGAL ASPECTS OF FORMS OF COMPLICITY

The forms of complicity, namely the commission of a crime by a group of persons, a group of persons under a preliminary conspiracy, an organized group or a criminal organization, are reflected in the criminal law by establishing a circle of persons who are held criminally liable for a joint crime, as well as through the definition of legal grounds and boundaries criminal responsibility of these persons.

Forms of complicity are used in the criminal law in three respects: 1) it is constitutive, that is, the obligatory and basic feature of the crime (for example, Articles 255, 257, 260 of the Criminal Code); 2) is a qualifying attribute which aggravates criminal liability (for example, part 3 of Article 152, Part 2 of Article 185, Part 4 of Article 187 of the Criminal Code); 3) is a circumstance that aggravates the punishment (Item 2 of Part 1 of Article 67 of the Criminal Code).

For Ukraine, the fight against organized crime is of paramount importance in ensuring the national security of the state and even connected with the problem of our "survival". Organized crime continues to be the "number one enemy" for a young Ukrainian state. The urgency lies in the fact that the characteristics of crime clearly indicate that a significant number of crimes committed not alone, but in complicity. It is especially dangerous that this indicator is extremely high among juvenile offenders, the contingent that will determine the "face" of crime in the XXI century.

Art. 28 of the Criminal Code of Ukraine recognizes a crime committed by an organized group if several persons (three or more) were involved in its preparation or commission, which were previously organized in a stable association for committing this and other (other) crimes united by a single plan with distribution

functions of group members aimed at achieving this plan, known to all members of the group [1].

Social organization has a number of characteristic features (inherent and criminal organizations as a set of persons who have established relations between themselves, having signs of organized forms of activity to achieve a common criminal purpose):

1) a social organization has a target nature, since it is created for the realization of a certain goal and is evaluated through the achievement of the latter. This means that the organization is a means and tool for ensuring the function of association and regulation of human behavior for such a purpose, which can not be achieved by them alone;

2) in order to achieve the goal, members of the organization must be divided by roles and status. Accordingly, a social organization is a complex interconnected system of social positions and roles performed by members of the organization. A social organization enables individuals to meet their needs and interests to the extent that they are determined by its social status, the social roles it performs, social norms and values universally recognized in a particular social organization;

3) the organization arises on the basis of the division of labor and its specialization on a functional basis. Therefore, in various social structures different horizontal structures are formed. However, it is more essential to understand an organization that it is always built on a vertical (hierarchical) feature, in which the control and control subsystems are clearly distinguished. The need for a management system is conditioned by the need for coordinating the various activities of horizontal structures. The hierarchy of building an organization ensures the achievement of a single goal, gives it stability and makes it effective;

4) the management subsystems create their own specific means of regulation and control of the organization's activities. Among them, the so-called institutional or internal-organizational norms, ie, the norms created by the activity of special institutions, which have special powers, play an important role. These institutions

implement regulatory requirements, support them by their special authority and influence, control their implementation and apply sanctions.

In the early 90's. It was believed that the increased degree of social danger of a criminal organization was determined by the purpose and method of combining the perpetrators. In this regard, as specific to (this form of complicity considered the following features: a) the presence of not less, but mainly more than two persons; b) organization; c) stability; d) the special purpose of the association [3]. Consequently, criminal law experts came to the conclusion: the criminal organization differs from the organized group with a higher level of stability and organization, as well as the special purpose of the association.

There is no unanimity in the science of criminal law, nor does it make it possible to distinguish between forms and forms of complicity, or only in form, nor in relation to the criteria for their distribution. Most researchers of forms of complicity, as noted by P. F. Telnov, speak only about forms, considering that there are no types of complicity as such in general [2]. This position is also enshrined in the new Criminal Code of Ukraine.

Adoption of the new Criminal Code of Ukraine has become an important stage in the development of legal science and practice in our country. The advantages of this normative act are quite substantial in comparison with the previously existing legislation. However, the CC (April 5, 2001) contains a number of shortcomings, which, unfortunately, did not abandon the institution of complicity. In particular, Section 5 (General Part) says nothing about the mixed form of guilt, although it exists in most careless crimes, and this is especially important when a person deliberately violates a certain normative act that has caused socially dangerous consequences to which it was careless. Guilty from this follows the question of the possibility of complicity in such crimes, because in accordance with Art. 26 CC complicity is possible only in the commission of intentional crimes [4].

For example, if a passenger inadvertently incites the driver to exceed speed, he pays him for it, aware of the possibility of socially dangerous consequences, as a result of which there was an accident and people died, then according to the current law the passenger can not be held accountable as an accomplice because a careless crime is committed, that is, it avoids liability for especially a serious crime, in which he as an instigator played an important role.

In other words, it would be appropriate to point out that the accomplice of the crime is also a person who acted as an accomplice in deliberate acts that led to a criminal result in respect of which he was guilty of negligence.

List of references:

1. The Criminal Code of Ukraine of April 5, 2001: K. : Vyd. Palivoda A. V. , 2004. 172 pp.

2. Telnov P. F, Responsibility for complicity in the crime. M.: Yur.id., 1974. P. 107-113.

3. Organized crime. 2 Ed. A. Y. Dolgova, S. V. Dyakova. M. : Criminologist. Assoc., 1993. P. 231-232.

4. Bazhanov M. I. Criminal Law of Ukraine. General part. Kyiv - Kharkiv: Yurinkom Inter-Law. 2002.

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PROSECUTION OF A KNOWINGLY INNOCENT PERSON

According to Art. 29 of the Constitution of Ukraine - every person has the right to freedom and personal integrity. [1, p. 38] Illegal detentions, driving, or taking into custody violate the important constitutional rights of a person. In addition to the Constitution of Ukraine, this right is enshrined in Art. 3 of the