

THE LIABILITY OF LEGAL ENTITIES

Due to the fact, that in April 2013 the Law of Ukraine «On amendments to some legislative acts of Ukraine to implement the Action Plan as to liberalization visa regime for Ukraine by the EU concerning the liability of legal entities,» was adopted, the General part of the Criminal Code of Ukraine was supplemented chapter XIV-1 «Penal and law measures for legal entities».

Under the law, criminal liability extends to institutions, enterprises or organizations. Under that action is not subject to state authorities, authorities of the Autonomous Republic of Crimea, local governments, organizations established by them in the prescribed manner, fully funded under state or local budgets, funds of the State Social Insurance, Fund Deposit Guarantee and international organizations. [1]

It is known, that corporate liability in some countries, such as England, USA, Canada, Australia, Scotland, Ireland, India, etc., has been for several decades, but for implementation in Ukraine of the concept of criminal liability of legal persons requires a comprehensive change huge number of normative and legal acts and feeling for law and order and of the society in common.

The researchers determined this problem: the law is nothing more than attempt resuscitation the idea of criminal liability of legal persons, is not supported by the legal science of Ukraine and by representatives' corps at one time. Assumption of the project will significantly increase the possibility of unjust use stringent legal sanctions to legal persons, create threats of the arbitrary limitation statute activity of legal entities by the seizure of their property, open new opportunities for corruption, impact negative economic activity. Given this, although some level of possible negative consequences of enactment and decreased as a result of restriction of offenses in respect, of which it is possible to use a legal entity «penal and law measures « and narrowing the «reason» for the responsibility, but in

general is suggests that law is socially harmful, that determines its overall negative assessment.

Analyzing the position of scientists who are inclined to introduce penal liability of legal persons and researchers reject that idea, to find answers to this question should be based on a number of theoretical propositions. As we know, the legal entity is not fiction. The argument of its real existence is found in civil law. Determination by means of existence of the legal entity led to a significant number of rules governing its operation. The civil rights rules provided a legal person of the rights and the possibility of realizing these rights through legal relation and have established liability for violation of this law. The functioning of the legal entity in legal environment has shown that legal person, as an individual, can also make mistakes, and commit an offense and the same crimes. As far as the penal law does not include specific socially dangerous act to the category of crimes to operate under the subject who committed the act, but includes the consequences (damage) to which the act has led or could lead. That is the nature of the act and the degree of public danger is distinguished a criminal responsibility from civil liability or administrative.

The most urgent problems that have arisen in the process of reforming the penal legislation of Ukraine should include the issue of the spread of criminal liability for legal persons. This problem has not found a clear reflection of the modern criminal law of Ukraine, and in the scientific literature there are conflicting positions.