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THE OFFICIAL NEGLIGENCE: COMPARATIVE AND LEGAL ANALYSIS OF LEGISLATION OF UKRAINE, THE REPUBLIC OF MOLDOVA AND THE REPUBLIC OF LATVIA

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SUMMARY

This article is dedicated to the questions of criminal liability for official negligence in the criminal legislation of such states as Ukraine, the Republic of Moldova and the Republic of Latvia. The author carries out the comparative and legal analysis of home and foreign legislation in the context of researching of problems. Specified on debatable questions that arise in the process of analysis each of elements of corpus delict official negligence. The author notes the features of criminal responsibility of official negligence. In the end of the article are specified the assumptions, that, in opinion of author, it is expedient to adopt as positive experience Ukrainian legislator.

Key words: official negligence, Ukraine, the Republic of Moldova, the Republic of Latvia.

СЛУЖЕБНАЯ ХАЛАТНОСТЬ: СРАВНИТЕЛЬНО-ПРАВОВОЙ АНАЛИЗ НОРМ УКРАИНСКОГО, МОЛДАВСКОГО И ЛАТВИЙСКОГО ЗАКОНОДАТЕЛЬСТВА

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АННОТАЦИЯ

Статья посвящается вопросам уголовной ответственности за служебную халатность в уголовном законодательстве таких стран, как Украина, Республика Молдова и Латвийская Республика. Автор осуществляет сравнительно-правовой анализ отечественного и иностранного законодательства в контексте исследуемой проблематики. Указывается на дискуссионные вопросы, которые возникают во время анализа каждого из элементов состава преступления служебная халатность. В процессе сравнения обращается внимание на особенности применения уголовной ответственности при совершении служебной халатности. В итоге указываются положения на которые, по мнению автора, целесообразно обратить внимание и перенять как положительный опыт украинскому законодателю.

Ключевые слова: служебная халатность, Украина, Республика Молдова, Латвийская Республика.

REZUMAT

Articolul este dedicat răspunderii penale pentru neglijența oficială în legislația penală a unor țări precum Ucraina, Republica Moldova și Republica Letonia. Autorul efectuează o analiză juridică comparativă a legislației interne și externe în contextul problemelor studiate. Ea evidențiază problemele de discuție care apar în timpul analizei fiecărui element al infracțiunii de neglijență oficială. În procesul de comparație, se acordă atenție specificului utilizării răspunderii penale în executarea neglijenței oficiale. Ca urmare, sunt indicate dispozițiile pe care, în opinia autorului, este indicat să le atrag atenția și să o adopte ca o experiență pozitivă legiuitorului ucrainean.

Cuvinte cheie: neglijență oficială, Ucraina, Republica Moldova, Republica Letonia.

Research problem and its significance. For the successful functioning of the state and its society in today's world it is necessary for the officials to fulfill their responsibilities. Today non-performance or improper performance of duties are regarded as one of the main reasons of the economic, political and social problems. The result of such crime as official negligence according to the Criminal Code of Ukraine (further: CC) Article 367 is a disruption of the full functioning of the state and local government apparatus, legal persons in private and public law.

The relative incidence of such crimes also has indicated the need to study official negligence. The legislative innovations of the last years were aimed at increasing the effectiveness of the usage of this rule of the CC. It should be noted, however, that they are not enough. Statistical analysis of the data published on the Ukraine General Prosecutor's Office website concerning crimes under

Article 367 of the CC of Ukraine recorded between 2014 and 2017 shows, that the number of committed crimes decreased, but still remains comparatively stable (the number of the recorded crimes in 2014 – 1463, in 2015 – 1426, in 2016 – 1404, in 2017 – 1239). However, this needs to take into consideration the latency of the crime of official negligence as the statistics are not always objective. In addition, we believe that light decrease in the number of crimes can be explained by the partial decriminalization of non-performance due to the entry into force of the Ukrainian Act "On Amendments to Certain Legislative Acts of Ukraine to Implement the Action Plan for the European Union Liberalization of the Visa Regime for Ukraine" 13 May 2014 № 1261-VII (hereinafter – Law of Ukraine 13 May 2014).

Taking into account the successful law practice of foreign countries is essential for the full development of the legislative sphere of the state. In the context of a study on official negligence we will strive to conduct a comparative analysis of the legislation of Ukraine, the Republic of Moldova and the Republic of Latvia. All three countries emerged in the international arena as independent states the following dissolution of the Soviet Union in 1991. Ukraine and the Republic of Moldova joined the Commonwealth of Independent States. The legislation of these countries was developing in the post-Soviet area strongly influenced by the governing acts in most parts of their territories during a comparatively long time. The Republic of Latvia has taken another approach. In the drafting of its legislation the experience of Western European countries was used, such as the Federal Republic of Germany, Sweden, Denmark. Therefore, it has become urgent to consider differences and similarities in the defining of such a crime as official negligence in the criminal law of these countries.

Status of research. In Ukraine, to date, the offence of "official negligence" was considered in the context of a study of crimes in the sphere of professional duties and performance by such researchers as O.V. Krishevich, M.I. Melnyk, D.H. Mykhailenko, V.I. Tyutyuhin, A.V. Savchenko, M.I. Havronyuk. No comprehensive studies on the offence of "official negligence" are available. Among Russian researchers, who studied the offence being analysed in the article at the PhD level, should be named I.H. Minakova, M.O. Tynyana, E.V. Tsaryova.

Thus, **the aim of our study** is to provide a comparative analysis on legislation of Ukraine, legislation of the Republic of Moldova and legislation of the Republic of Latvia in the context of analysis of such a crime as official negligence.

Results. The offence of "official negligence" in the CC of Ukraine is presented in Article 367 Chapter XVII "Neglect of official duty". This article states that official negligence is "non-performance or improper performance of the official due to the careless approach to their duties" [1]. Such wording leads to the conclusion, that both action and omission can be the form of socially dangerous act in the analyzed crime. This is also attested to by the analyzed law practice between 2014 and 2017 (500 legal cases). In 81% of the cases the crime of official negligence was the result of non-performance (a person does not do their duties) and in 19% of cases – improper performance (a person does their duties in bad faith).

In the CC of the Republic of Moldova the offence of "official negligence" is presented in Chapter XV "Crimes committed by officials". The provisions of Article 329 "non-performance or improper performance of duties" is similar to the definition of the official negligence in the CC of Ukraine [2]. It suggests that official negligence can occur both in the form of action and in the form of omission. Carelessness or negligent attitude to the duties are the necessary indicators.

As for the Republic of Latvia the offence of "official negligence" is presented in Chapter XIX "Criminal offences of an economic nature" (Article 197). In addition, Chapter XXIV of the CC "Criminal offences committed in state authority service" Article 319 defines the offence of the crime "Failure to act by a state official". The analysis of the above-mentioned rules implys, that they complement each other. The reasons for this conclusion will be given in the process of our research.

The actus reus of the offence under Article 197 of the CC of the Republic of Latvia is expressed in the form of "careless performance of duties" [3]. From the wording of the provisions of the article we can state that socially dangerous act in negligence is only active action. Consequently, a person does not take their responsibilities seriously, fulfill them improperly.

The offence of "official negligence" in its legislative build-up is a crime with material scope. Socially dangerous consequences is an obligatory component of the actus reus of this offence. It is set out in the provisions of the relevant articles of the CC, which define the offence of "official negligence" of the analyzed states.

In Ukrainian as well as in Latvian legislation the consequences are substantial harm. The concept of "substantial harm" is estimated. Ukrainian criminologist M.I. Panov mentions, that the characteristic of the estimated concepts is that they always express the plurality of the phenomena, which have a common essential feature, typical for the crime, and they reinforce the phenomena of the objective reality, the essence of which is difficult and undefined. [4, p. 221-222].

Latvian researcher Uldis Krastinsh points out, that in case of patrimonial effects in the CC of the Republic of Latvia the estimated concepts "considerable amount" and "small amount" are used, and wording "substantial harm" is used by legislator in case when the crime caused another damage" [5, p. 22].

That is, in Latvian legislation substantial harm is mainly understood as non-material damage. It is thought, that the final decision if the socially dangerous consequences are substantial harm or not must be done by court.

In Ukrainian criminal legislation today there is a problem of defining a concept "substantial harm". The Ukrainian Act of 13 May 2014 introduced amendments to p.3 of the note to Article 364 of the CC, which contains guidance on understanding of a concept "substantial harm" [6]. According to the new version of the note 3 the normative moment of socially dangerous consequences, in particular an official negligence, defines its size – 100 and more times the minimum non-taxable income, that is, material damage is described by the legislator in clear criminal-legal categories and, consequently, accountability should occur only in case of material damage. In case of non-material damage legislation, theorists and, as a result, court do not have a clear common approach to the definition of a notion "substantial harm".

The official negligence in the CC of the Republic of Moldova is also a crime with material scope as it stipulates the consequences – causing significant damage. Wording "significant damage" offers

grounds to believe, that criminal liability for the crime under Article 329 of the CC of the Republic of Moldova is incurred exclusively in the case of material damage. In our view, this position of a legislator does not represent a danger to the public of the analyzed offence of the crime. As in the Ukrainian Law a problem arises in the case of causing damage other, than that of a material nature for example, when action or omission of a person damaged the credibility of the State. We can not ignore the fact of non-material injury.

The question of estimated concepts needs to be resolved as the law must be clear and understandable. According to the basic principles of the international law, in particular, nullum crimen sine lege embodied in Article 7 of the Convention on the protection of human rights and fundamental freedoms (Convention) the extensive interpretation of the law is prohibited. It is worth noting, that the question of defining the concept of "substantial harm" has already been subject to the consideration by the Court of Justice of the European Union of Human Rights in Liivik v. Estonia case. The case is that Jaak Liivik being a general director of the Estonian Privatization Fund, while signing the agreement made additional financial commitments on behalf of the state. He was convicted of abuse of authority, the courts admitted, that the actions of Jaak Liivik caused a serious damage to the state, the assets of the state were exposed to risks, the credibility of the state has been damaged in the international arena. In its decision on 25 June 2009 European Court of Human Rights (ECHR) states, that material damage was not caused and in the Estonian criminal law there are no indications, that the risk of the damage itself might be interpreted widely as the "substantial harm" and that it is reasonable to use the concept of a significant damage as the basis of criminal liability. ECHR found that Estonian courts violated Article 7 of the Convention [7].

In the provisions of Article 329 of the CC of the Republic of Moldova, Article 367 of the CC of Ukraine, Article 197 of the CC of the Republic of Latvia the form of guilt is not indicated.

Although in the practical commentary to the CC of the Republic of Moldova it is noted that official negligence "… is the only negligent crime provided for in Chapter XV" [8]. Modern Russian researchers, who studied official negligence at the PhD level substantiate similar idea [10, p. 130; 11, p. 140]. Some ukrainian criminologists, characterizing official negligence in the context of the study of crimes in the official and professional activities relating to the delivery of public services, express the view, that official negligence can be committed unintentionally or through negligence [12]. We are inclined to think, that the offence being analyzed really has got "mixed" form of guilt. In this, the attitude with indirect intention is possible not only to action, but also to consequences. This statement, certainly, might raise questions in the aspect of qualification as there will be a problem of distinguishing the offences of official negligence and abuse of authority. But in the commission of an abuse of authority own gain is an obligatory component of the mens rea of the offence. Let us give an example of case law in support of this statement. Volodymyr-Volynskyi City Court of the Volyn region on 10 February 2014 heard the case according to which K. serving as a senior operative worker in the organization for uncovering tax crimes of the tax police (being an official) failed to provide adequate storage of tobacco products seized by the boarder officials. K. realized, that he acted unlawfully, keeping these things in the garage, foresaw, that they might spoil, but was indifferent to the consequences. [12].

The subject did not have his own gain so his acts do not fall within the scope of Article 367 of the CC of Ukraine (abuse of authority). The court defined this act as official negligence although taking into the consideration the attitude to consequences there has been such form of guilt as indirect intent. Malovyskivskiy District Court of the Kirovograd region sentenced V., who was an economist and performed organizational and administrative functions. V. had the task to get the certificate for special use of water resources. But she did not fulfill her duties on time. As a result the legal person a few months drew water without required permission [13]. Clearly, in this case there has been an indirect intent. The person realized, that she did not fulfill her duties, foresaw, that the legal person would draw water and not wanting still allowed socially dangerous consequences to come.

The above-mentioned position to the form of guilt of the crime of official negligence relates only to Ukrainian criminal law. As the definition of the provision of the crime of abuse of authority differs a little in the CCs of the analyzed states. We consider it a reasonable thought, that in the commission of an official negligence according to the CC of the Republic of Moldova the only careless form of guilt in the attitude towards consequences can take place.

The offence under Article 197 of the CC of the Republic of Latvia is the negligent crime.

Now about the subject of official negligence. According to the CC of the Republic of Moldova the subject of the offence is an official. The concept of the official under Article 123 of the CC – it is a person, who have rights and duties in state enterprise, establishment, organization (their offices) or in local enterprises, establishments, organizations, constantly or temporarily, by law, for the appointment, in conformity with results of the elections or on behalf some rights and duties as official functions or administrative acts, or organizational acts. So, as we see, pursuant to the CC of the Republic of Moldova criminal liability rests only with officials while people, who lead commercial, social and other non-state organizations are not subject to the corresponding article.

It is worth noting, that like Moldavian and Latvian legislation, Ukrainian legislator all official offences, whether the official is the representative of government or local administration, or this is the official of the legal person in private law, placed in the Chapter XVII of the CC, which is named "Criminal offences in office". The subjects of the offence of official negligence are the officials. Subjects of the crime of official negligence are officials the notion of whom is presented in parts 3 and 4 Article 18 of the CC of Ukraine. Accordingly, it can be both officials of the legal person in public law and in private law. Legal person in public laws a person, who constantly, permanently or upon authorization have the responsibility of the representatives of authority or local administration, and also constantly or permanently hold positions in government bodies, local government, in state enterprises or municipal companies, in establishments or organizations, related to performance of organizational and administering or administrative and management functions, or perform such functions upon authorization as the person is entitled by the authorized bodies of the State or authorized person in enterprise, establishment, organization, court or law [1]. Law does not give the definition of a legal person in private law but theorists,

by reviewing the rules reflected, point out, that such individuals cannot be the representatives of authority or local government with the exception of cases, when performing of the corresponding functions is upon authorization [11, p. 16].

Now let us turn to Article 197 of the CC of the Republic of Latvia. According to the provision of the article the subject of negligence is a responsible employee of the enterprise or organization or a person authorized by the enterprise or organization. The term "responsible employee" is not provided neither in Ukrainian, nor in Moldavian legislation. We can assume, that it is equivalent to an official in the Latvian Law. Form of property is not specified but the offence of the crime official negligence is given in the Chapter "Criminal offences of an economic nature", so we can assume, that these are responsible employees of the enterprise, organizations, who are both in public and private property.

Latvian legislator, as we think, was right to indicate the bigger social danger of committing official negligence by the officials so envisaged in Chapter XXIV "Criminal offences committed in state authority service" of the CC responsibility for omission of the official. In Article 319 of the CC of the Republic of Latvia it is stated, that an omission is non-performance of duties by the official, that is, intentional or negligent non-performance of actions, which are her duties according to the law. The analysis of the provision reveals, that in fact the offence of the crime official negligence is included in the forms of objective part of this article. This is how Latvian legislator intended to emphasize the increase of public danger of this crime corresponding the subject of the crime. In the same chapter Article 316 the definition of the official is given. These are representatives of public authorities and any person, who constantly or temporarily performs official duties or self-governing official duties, in particular, and in state capital company or in company of the city municipality, and has the right to perform functions of care, control, investigation or punishment, or manage property or finance of a public person or the capital of their company.

As we see, the range of subjects included in the term of an official in the Republic of Latvia is a little wider, than in the corresponding rules of the criminal law of the Republic of Moldova (an official) and Ukraine (officials in the public law). In the Republic of Latvia the analyzed notion includes individuals, who have the right to perform functions of care, control, investigation or punishment. Neither Article 123 of the CC of Moldova, nor p.3 of the note to Article 364 of the CC of Ukraine has this supplementary category of individuals. The common thing in Moldavian and Ukrainian legislation is emphasizing on the existence of a public right for the officials of organizational and administering or administrative and management functions.

Our next step is the review of the qualifying characteristics of official negligence under corresponding paragraphs of articles of the CCs of the analyzed states.

In the CC of the Republic of Moldova the reare such qualifying characteristics as the death of a person and other grave consequences. Identifying of the first mentioned characteristic does not pose any problems. But the notion of "grave consequences" in the criminal legislation is considered to be estimated. It is believed, that all the circumstances of the case should be taken into account, and the consequences must be serious enough (for example, poisoning of a big amount of people by medicine, and the permission given by negligence by the corresponding official) [8, p. 1017].

With regard to the qualifying signs of official negligence in Ukrainian legislation, p.2 of Article 367 of the CC provides for grave consequences. Accordingly, these are consequences which exceed 250 times the minimum non- taxable income. The question of defining "grave consequences" is discussed by Ukrainian researchers together with the question of substantial harm. As these criminal-legal categories are in clear monetary cost, while the question in the case non-material damage is still unsolved.

In the Article 197 of the CC of the Republic of Latvia qualifying elements are not included by the legislator. Instead, Article 319 has got a number of qualifying elements. Latvian legislator suggests more severe penalty in case of committing an offence by the official for profit (p. 2), non-performance resulting in grave consequences (p.3) or death of two people and more (p.4).

Conclusions. To sum up, appealing to the law experience of foreign countries in the regulation of the sphere of official negligence is necessary and feasible. Comparative analysis of foreign legislation allows to correlate the national legal system with the legal systems of other countries, borrow high-quality projects for the own legislation in the sphere of legal regulation of the responsibility for official negligence.

In our view, the reflection in the CC of Ukraine of the provisions for guidance on the increased level of social danger of the official negligence committed by the authorities and local authorities is very logical. In addition, attention should be paid to the estimated concepts, specified in Article 367 of the CC of Ukraine as their regulatory uncertainties complicate the use of rules of the analyzed article by the courts in practice. Both the concept "substantial harm" and the concept "grave consequences" need the official interpretation by the legislator not to allow for enlarged interpretation of the Law to the strengthening of the criminal liability for official negligence, that is violation of the Article 7 of the Convention.

References:

1. Кримінальний кодекс України: Закон України від 5 квітня 2001 року № 2341-III. URL: http:// http://zakon3.rada.gov.ua/laws/show/2341-14 (date of the request: 10.01.2018).

2. Уголовный кодекс Республики Молдова: Закон от 18 апреля 2002 года № 985. URL: http://lex.justice.md/ru/331268/ (date of the request: 10.01.2018).

3. Уголовный Закон Латвии: Закон от 8 июля 1998 года № 199/200. URL:www.alex-lawyer.lv/ugolovnijzakonlatviirus.pdf (dateoftherequest: 10.01.2018).

4. Панов М. І. Вибрані наукові праці з проблем правознавства. Київ: Ін Юре, 2010. – 812 с.

5. Улдис Крастинш. Новый Уголовный Кодекс Латвии. Jurisprudencija. 1998. t. 10(2); C. 13-23. URL: https://www3.mruni.eu/ojs/jurisprudence/article/viewFile/3866/3650

6. Про внесення змін до деяких законодавчих актів України у сфері державної антикорупційної політики у зв'язку з виконанням Плану дій щодо лібералізації Європейським Союзом візового режиму для України: Закон України від 13 травня 2014 р. № 1261 – VII.URL: http://zakon3.rada.gov.ua/laws/show/1261-18

7. Рішення у справі «Лійвік проти Естонії» від 25 червня 2009 року: комюніке Секретаря Європейського суду з прав людини. URL:http://www.

yurincom.com/ua/yuridichniy_visnyk_ukrayiny/overview/?id=5223

8. Уголовный Кодекс Республики Молдова. Коментарий. Под ред. В. Бужора, В. Гуцоляка. Кишинев, 2010. С. 134.

9. Минакова И. Г. Халатность: уголовно-правовые и криминологические аспекты: дис. канд. юрид. наук. Ростов-на-Дону, 2008. 205 с. URL: http://www.twirpx.com/file/1559938/

10. Тыняна М.А. Проблемы уголовно-правовой оценки субъективных признаков в составе халатности. Вестник Томского государственного университета. 2011.URL: https://cyberleninka.ru/article/n/problemy-ugolovno-pravovoy-otsenki-subektivnyh-priznakov-v-sostave-halatnosti

11. Тютюгін В. І., Гродецький Ю. В., Гізимчук С. В. Злочини у сфері службової діяльності та професійної діяльності, пов'язаної з наданням публічних послуг: навч.-практ. посіб. / за ред. В. Я. Тація, В. І. Тютюгіна. Харків: Право, 2014. – 232 с.

12. Ухвала Володимир-Волинського міського суду Волинської області від 10 лютого 2014 року № 154/308/14-к. URL: http://www.reyestr.court.gov.ua/Review/37063895

13. Вирок Маловисківського районного суду Кіровоградської області від 13 лютого 2014 року № 392/117/14-к. URL:http://www.reyestr.court.gov.ua/Review/37126789

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ПРОЦЕДУРА СОВЕРШЕНИЯ ИСПОЛНИТЕЛЬНОЙ НАДПИСИ НОТАРИУСА ПО ЗАКОНОДАТЕЛЬСТВУ УКРАИНЫ

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АННОТАЦИЯ

В статье на основании анализа доктринальных источников и положений действующего законодательства Украины представлена развернутая характеристика процессуального порядка совершения исполнительной надписи нотариуса. Определены основные стадии нотариального производства по совершению исполнительной надписи, а также их содержательное наполнение отдельными нотариальными действиями. Сформулировано ряд предложений по усовершенствованию действующего законодательства.

Ключевые слова: исполнительная надпись нотариуса, нотариальное производство, нотариальный акт, стадия нотариального процесса, защита гражданских прав нотариусом.

PROCEDURE OF PERFORMANCE OF THE NOTARIAL ORDER ON THE LEGISLATION OF UKRAINE

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SUMMARY

The article based on the analysis of doctrinal sources and provisions of the current legislation of Ukraine, provides a detailed description of the procedural order of the notarial order. The main stages of notarial production for the performance of notarial order, as well as their content filling with individual notarial actions, are determined. A number of proposals have been formulated to improve the current legislation.

Key words: notarial order, notary production, notarial deed, stage of notarial process, protection of civil rights by a notary.

REZUMAT

Articolul, bazat pe analiza surselor doctrinare și a prevederilor actualei legislații din Ucraina, oferă o descriere detaliată a ordinii procedurale de executare a inscripției executive a notarului. Se determină principalele etape ale producției notariale pentru realizarea inscripției executive, precum și completarea conținutului acestora cu acțiuni notariale separate. Au fost formulate mai multe propuneri pentru îmbunătățirea legislației actuale.

Cuvinte cheie: inscripția notarială executivă, producția notarului, actul notarial, etapa procesului notarial, protecția drepturilor civile de către un notar.

Постановка проблемы. Осуществляя регулирование гражданских правоотношений, законодатель, в свою очередь, предусматривает целый спектр форм защиты прав их участников в случае нарушения. Помимо судебной формы, которая бесспорно является наиболее популярной, субъекту гражданских правоотношений, права которого были нарушены, предоставляется возможность воспользоваться и иными, так называемыми альтернативными формами защиты. Классическим примером последних является нотариальная форма защиты прав, которая реализуется посредством использования такого способа как совершение исполнительной надписи нотариусом.

Состояние исследования. Степень разработки проблем совершения исполнительной надписи нотариуса в науке нотариального права следует признать вполне достаточной. В частности, институт исполнительной надписи стано-