

Pavlovska Anna, Senior Teacher of the department of criminal law of the National Academy of Internal Affairs, PhD in Law
Matyushenko Helena, Teacher of the department of criminal law of the National Academy of Internal Affairs

FEATURES OF BRINGING IN ARE TO CRIMINAL RESPONSIBILITY OF LEGAL ENTITIES

Modern development of Ukraine and her aspiring status to integration in single Europe space requires fundamental and complex changes in many spheres of vital functions of the state. Undoubtedly, one of such spheres there is criminal law politics. One of most issues of the day, that come into question in a period realization of criminal law reforms in the modern states of the world, in particular in the states that form on post-soviet space, criminal responsibility of legal entities is.

As practice testifies, plenty of crimes comes true for or with the use of legal entities. From it there is a requirement in the input of direct punitive approvals exactly to the legal entity as subject of crime.

It is traditionally considered that legal entities are not subject to criminal responsibility as a result of complication or even impossibility of determination of guilt of such person in the feausance of criminal offence, absence of the scientifically reasonable system of criminal punishments of legal entities, and others like that. Marked also, that criminal responsibility of legal entities does not answer constitutional principle of individualization of legal responsibility and punishment.

The supporters of opposite point of view consider that objectification will finds only in purposeful actions (to inactivity), id est. an act of person (both physical and legal) is an only form in that will can find the objective expression. Marked, that principle of individualization of punishment puts a problem only of technical character, id est. problem of distribution of load of criminal responsibility, as such responsibility of legal entities does not eliminate bringing in to her and physical persons.

Thus, confession of legal entities in the most vulnerable spheres of public relations will create terms the subjects of criminal offences for an ambulance and inevitable responsibility for ecological, some economic, computer and other criminal acts, while practice demonstrates, as in accordance with a current legislation greater part of such acts belongs to the administrative crimes and de facto remains without punishment.

It should be noted that on September, 1 in 2014 Law of Ukraine inured from March, 23 in 2013 «About making alteration to some legislative acts of Ukraine on fulfilling the plan of actions in relation to liberalization of visa regime European Union for Ukraine in relation to responsibility of legal entities» criminal responsibility was entered for legal entities. General part of Criminal Code of Ukraine is complemented this Law by the division of XIV are 1 «Events of criminal law character in relation to legal entities».

A legislator is use a concept «events of criminal law character», but not «types of punishments». Presumably, it is related to that punishment is used exactly to the physical persons his aim there is not only punishment but also correction and prevention of feausance of new crimes. Clear that such formulation can not be used to the legal entities.

By law of Ukraine «About making alteration to some legislative acts of Ukraine in relation to fulfilling the plan of actions in relation to liberalization of visa regime European Union for Ukraine in relation to responsibility of legal entities» the certain list of crimes, feausance of that by a leader, founder, participant or other authorized face of legal entity from her name and in her interests is founding for application to the legal entity of events of criminal law character, is certain: at. 209 Criminal Code of Ukraine, at. 368-369-2 Criminal Code of Ukraine.

Grounds for application to the legal entity of events of criminal law character are feausances of her by the authorized person or by proxy or by an order, after a plot and at participation, or crimes listed another way above. Responsibility can come for such crimes, if they are accomplished from the name and in interests of legal entity or simply on behalf of legal entity. To the authorized persons of legal entity a legislator takes the official persons of legal entity, and also other persons, that under the law, constituent documents of legal entity or agreement have a right to operate on behalf of legal entity.

Crimes confess perfect in interests of legal entity, if they are sent to the receipt by her illegal benefit or conditioning for the receipt of such benefit, and similarly on avoiding statutory responsibility.

At application to the legal entity of events of criminal law character of cramps taken into account degree of weight perfect her by the authorized face of crime.

In addition, it should be noted that to the legal entity it is impossible to apply the certain types of punishments, such as, for example, limitation or imprisonment. To Tom, appears clear that a legislator defined the next types of events criminal law character: fine, confiscation of property and liquidation. To the legal entities a fine and liquidation can be used only as basic events of criminal law character, and confiscation of property - only as additional. Such list is incomplete, it was expedient to complement the system of events of criminal law character such kinds as stopping of activity of legal entity or her structural subdividing into a certain term, privation of right to carry on certain activity on a certain term and judicial supervision for activity of legal entity on a certain term. A positive moment, in this case, that to the legal entity considerably anymore fines can be used is, comparatively with physical persons. Exactly economic instruments of influence are most effective as punishment to this categories.

It follows to establish, that in the legislation of many developed countries is for today set tendency of introduction of institute of criminal responsibility of legal entities, and sometimes and his expansion, with the aim of

receipt of the most powerful lever of influence on those legal entities the office workers of that during implementation of the professional duties carry out crimes with the aim of receipt of some benefit for organization.

The another unsolved is remained by a question about bringing in to criminal responsibility of legal entities of public law. For an example, in Denmark by general rule to criminal responsibility subject not only commercial enterprises but also public legal entities, including government and local self-government bodies. On this occasion at. 26 Criminal Code of Denmark explains, that positions about criminal responsibility of legal entities are used to any legal entity, tiredness number of joint-stock, co-operative company, associations, funds, property complexes, municipalities and organs.

At the same time, on the criminal legislation of Ukraine to criminal responsibility public organs, organs of local self-government, organizations created by them in the set order, are not subject, that fully hold out due to accordingly the state or local budgets, funds of obligatory state social security, Fund of guaranteeing of holding of physical persons, and also international organizations.

Such approach gets clear us, as in this case more expedient to attract the public servants of such organs to responsibility, and it is nowise impossible to lay on punishment in the type of fine on legal entities that hold out due to the state or local budgets, the anymore to liquidate public organs.

Establishment of criminal responsibility of legal entities, it is a difficult and multivectorial process that needs first of all rethinking of existent principles of criminal right and criminal responsibility, namely - subjective relation in guilt and individualizations of criminal punishment, and also making of new principles that will answer the modern requirements of legislation about criminal responsibility

Thus, the necessity of bringing of adding takes place to Criminal Code of Ukraine in an order to go into detail position in relation to the tasks of criminal legislation, action of law in time and space in relation to legal entities, question about the stages of commission of crime, question of participation and many others.