

I. Y. Gora, competitor of the Department of Legal Psychology of the National Academy of Internal Affairs

THE MECHANISM OF FORMATION OF ANTI-SOCIAL BEHAVIOUR AMONG INDIVIDUALS WHO COMMIT CRIMES MOTIVATED BY RACIAL, NATIONAL OR RELIGIOUS INTOLERANCE

The article reveals the concept of criminal behavior, consider the structure of the mechanism of criminal behavior. The stages and mechanisms of criminal behavior in individuals who commit crimes motivated by racial, ethnic or religious intolerance affecting the commission of a crime on the part of its subject.

Key words: *mechanism of a crime; the structure of the mechanism of crime; criminal behavior; stages of criminal behavior; motivation.*

Crime of any orientation have certain common features that are defined in general terms as a mechanism for performing them. According to researchers [3; 10], *the mechanism of any crime* is a complex dynamic system, which defines the content of a particular wrongful act. This system has the following pattern:

- the emergence and development of connections and relationships within the crime mechanism (the connection between action and result, the frequency of action in such situations, patterns of behavior of the perpetrator, etc.);

- formation and implementation of how to commit and conceal the crime (communication method with the personality of the offender, the dependence of the method on the specific circumstances of committing a crime, etc.);

- occurrence and course of events related to the crime (both before and after having done so) and relevant to the investigation (stealth preparation for the crime, the choice of the means of studying the subject of a criminal assault, etc.).

Listed components, integrated set of interrelated elements and dynamically changing phases of illegal human activities, are combined the result is due to the commission of the offense involves achieving specific, put the subject in front of goal.

Thus, *the structure of the mechanism of criminal behavior* follows.

1. Offender. It is characterized by objective (gender, age, height, build) and subjective indicators (nature, especially the perception of a situation). In our opinion, the latter are more important because they determine the person will be on the path of crime or not.

We agree with the psychologists [1; 4; 7], which relate the tendency to crimes with certain psychological status of the individual – its internal attitudes towards themselves, their actions and their consequences. Note that, as shown by our study, «at risk» with respect to the probability of being the culprit are often the person with low self-esteem, combined with the desire to improve it through the humiliation of another person.

2. Subject of a criminal assault. It is associated with a specific element of the material world, which is carried out illegal encroachment in the process of committing a crime. In the context of our study, under the subject of the offense means any damage caused to another person (the persons) because of racial, national or religious hatred.

3. Method crime – the technical side of the implementation of specific wrongdoing, interconnected system of behavioral acts of the perpetrator due to objective and subjective factors, and aims to achieve its objective through training, commission and concealment of the crime.

In particular, the techniques, the methods of the tactics that are used to commit a crime – it is a form, which displays socially dangerous actions, the techniques and methods used by criminals to commit crimes (such as robbery, theft, vandalism).

4. The criminal result. Scientists [2; 5; 6] consider the criminal result as harmful social consequences and significant other illegal transformation in the environment (illegal violence, causing unlawful damage, etc.) that occur under the influence of the action or inaction of the perpetrator and belong to the objective signs of a crime.

Criminal result indicates the nature and severity of harmful effects, including the social, organizational, economic and other kinds of harm. Meaning of socially dangerous consequences is that they determine the nature and extent of tangible and intangible consequences, thereby affecting the appearance and size of

punishment. Researchers point [8; 9; 11] that the presence of such effects in the material compositions is a necessary structural element, without which criminal liability is excluded.

5. Crime situation. Manifested in the features of the material environment, time of day and day of the week in which there was an illegal event. Also included here feature objective conditions under which the act was committed.

Crime situation sometimes significantly increases the degree of social danger of the wrongful act and acts as a qualifying attribute (for example, abuse of official law enforcement officials). In other cases, it forms a privileged circumstances: murder or grievous bodily harm by exceeding the limits of necessary defense, where the situation – an encroachment by the potential victim – determines the need for protection against socially dangerous act.

6. Behavior and actions of persons who have become bystanders criminal event. Analyzed sources [12; 13] suggest that researchers are reluctant to stop at this point. We believe that this is due to the complexity of assessing the activity of third parties and the degree of development of their social identity, in particular, with respect to readiness:

- to prevent crime;
- help the victim;
- call law enforcement or medical assistance;
- provide information on wrongdoing, they have witnessed.

Analyzing the following concepts – criminal conduct. It is a broader concept than just a phenomenon of crime. The latter, besides the legislative definition (according art. 11 of the criminal code, a crime is stipulated in the present code socially dangerous culpable act, action or inaction, committed by a perpetrator), is considered as an offence of a socially dangerous act, the commission of which leads to application subject to criminal sanctions.

Scholars point [1; 9] that *criminal behavior* is a process, that unfolds in time and space, includes an external, objective activities that form part of the crime, as well as internal preceding the crime psychological phenomena that determine its committing.

In our opinion, criminal behavior and its type is largely dependent on specific categories of offenders individual psychological features of value orientations, the system of asocial

and antisocial stereotypes. The behavior of the majority of criminals are characterized by:

- social-valuable maladjustment and defects of self-regulation;
- asocial and antisocial installation and habits;
- denying or ignoring their social responsibility.

The contradictions existing in the society between the right and traditions, law and informal ideas about essential, create prerequisites for criminal behavior. This is reflected in the interaction between individuals and the personality. In our view, it becomes a human response to the inability to find compromises in relationships with others who are also looking for these compromises.

The mechanism of criminal behavior associated with external to the individual, the environment, and the wrongfulness of his conduct is defined in cooperation with the members of the external environment. After analyzing psychological and legal sources, we came to the conclusion that most scientists distinguish the following *stages of criminal behavior*.

The first stage – the motivation: the process of formation and realization of the motive of criminal behavior, its purpose or purposes (for example, one wants to live richly and to achieve high social status).

In the criminal code highlights the motives of racial, national or religious intolerance, which are regarded as a circumstance aggravating the punishment (item 3 of part 1 of art. 67 of the Criminal Code), as well as qualifying sign of a crime (item 14 of part 2 of art. 115 of the Criminal Code, part 2 art. 121 of the Criminal Code, part 2 of art. 122 of the Criminal Code, part 2 of art. 126 of the Criminal Code, part 2 of art. 127 of the Criminal Code, part 2 of art. 129 of the Criminal Code of Ukraine). The presence of such motives, directly or indirectly, is seen in the actions outlined art. 161, 300 and 402 of the Criminal Code, because it is about the violation of citizens equality based on their race or ethnic origin or religious beliefs, inciting national, racial or religious enmity and hatred, direct or indirect restriction of the rights of citizens on the basis of race, color, religious and other beliefs, ethnic origin, manufacture or distribution of works propagating the cult of violence and cruelty, racial, national or religious intolerance and discrimination and genocide – actions willfully committed with the purpose of full or partial destruction of any national, ethnic, racial or religious group by killing members of the group or civil

grievous bodily harm, creation for the group conditions of life calculated on the full or partial physical destruction.

Most often these motives are in violent crimes against the person, group violations of public order, riots, terrorist acts, and so on. Committing these and other crimes on these motives is a manifestation of hostility towards other races, nationalities and chauvinism.

Thus, the establishment of these grounds is not only difficult, but also «undesirable» for workers component of the process of disclosure and investigation of crimes.

Meanwhile, increased social danger of such crimes and doubtless due to the fact that they violate basic human rights, proclaimed the universal Declaration of human rights of 10 December 1948 and the International Covenant on civil and political rights, adopted 16 December 1966, the UN General Assembly, and contrary to the Constitution of Ukraine, which guarantees the equality of citizens. Therefore, if committed against a representative of a different race or nationality, as well as the representative of ethnic minority of this country establishing the motive of conduct any criminal offence should be considered mandatory.

Based on this, consider that under the motives of racial, national or religious intolerance, it is advisable to understand due to the specific needs (assertiveness, the inferiority complex, the desire to avoid nervous tension regarding appropriate stimulus) inner urge to illegal acts, expressing the wish guilty to demonstrate its superiority and inferiority of the victim by belonging to last:

- specific (a different) race or ethnic group (ethnic origin, nationality, ethnic group);
- certain religion, which associated with the corresponding race or nationality (for example, eastern appearance – with islam, slavic – with christianity, and so on).

In our opinion, the main component here is the desire to feel and to show their superiority on the background of the inferiority of other person for the sake of self-assertion. The reasons for this are elected «comfortable» in certain situations: for example, wishing to establish themselves and looking for possibilities for this, the entity may use violence against the representatives of other ethnoses, which came in its field of view, considering that does this for reasons of national/racial hatred.

Among the «accompanying» motivation of crimes motivated by racial, national, religious, class and social intolerance, can be distinguished, first of all, selfish aspirations and motivation of self-affirmation, which is evident in the cases of hooliganism: hooliganism is regarded by the offender as defined entertainment owing to its social immaturity, lack of responsibility, irresponsibility, conformism, relaxation, pleasure craving, snobbery in the form of ideas about their belonging to a more prestigious social groups («high caste»).

The purpose of the crime – that is what he wants to achieve a criminal. Mover of the crime – motivation, goal – the desired end result of criminal activity that the offender reaches committing a criminal offence.

The aim of the crimes committed on racial, national or religious intolerance is, in our opinion, destruction or all kinds of oppression unlike the subject of the crime and its reference group violence. An indication of this otherness here is the difference phenotype appearance or socio-demographic data of any other persons, this is an impersonal aggression and not targeted selection of the intended victim.

The second stage of criminal behavior – a decision about the committing of a crime. At this stage, the choice of the way of achieving the specific objectives and methods and means of its achievement: legal (to earn a living without violating applicable laws) or illegal (theft, extortion and so on) behavior.

When deciding about the crime is forecasting the possible consequences of implementing the desire incurred, planning behavior, taking into account the real situation, self-empowerment and other circumstances, as well as the choice of means. Therefore, this solution is divided into realized – the perfect crime, and unrealized – preparation for a crime that has faced overwhelming for principal obstacle.

The spontaneity of criminal decisions or planning (the ratio of its possibilities, opportunities, partners, if any, calculations on further action etc) determine the appearance of intent criminal acts.

The third stage of criminal behavior – execution of the decision taken by direct criminal actions. Meanwhile, after a person under the influence of the situation and the needs, interests, feelings arose installation on a certain behavior, there is some latency – as a

rule, the person does not act immediately in accordance with this setup, and relates it to exist in society, moral, legal and other norms, public and group thought that the opinion of the reference persons.

Another option: a mechanism of criminal behavior is the so-called «rolled» nature – act no delay and the person directly functions in accordance with the arising she installation. Decision-making and the choice of means to happen instantly or under the influence of the situation, or in the play began for the person familiar way of behavior in similar circumstances, or under the influence of the views of the reference group or direct partners.

The fourth stage – postcriminal behavior. Criminal analyzes the result of the committed criminal actions, is faced with the following directions of responding to the new (postcriminal) circumstances:

- the comparison of the achieved with desired, his assessment of the legal and moral (personal, reference groups, the public) points of view. At this stage, sometimes, is repentance and attempts to correct the criminal consequences or volunteer to suffer for them punishment – a person can claim to law enforcement agencies about their illegal actions;

- concealment of traces of a crime and/or flee to avoid criminal liability and punishment, Assembly systems of protection from exposure (elimination, threats or bribery of a witness, attempted fraud law enforcement or regulatory agencies);

- strengthening of antisocial orientation, purchase criminal skills, creation of conditions for the continuation of criminal activity, use of stolen property, if the crime had selfish orientation.

Given the above, in our opinion, the mechanisms of formation of criminal behavior in subjects who commit crimes motivated by racial, national or religious intolerance, consist of two interconnected elements:

- 1) behavior of the offender;
- 2) victimization behavior of the victim.

Environment (the crime situation, the education, upbringing and intellectual development) acts here background aspect, equally provocative element for these two systems activity in the situation of the crime.

So, here we allocated the mechanisms of forming criminal behavior of perpetrators of crimes motivated by racial, national or

religious intolerance that affect the Commission of a crime on the part of his subject.

1. Xenophobic environment with traditionally violent response to conflict situations.

2. Specific chauvinistic beliefs, personality: racial, national or religious hatred.

3. Deceptive discriminatory: crimes because pseudorace, pseudonational or pseudoreligious hatred.

4. Socio-psychological alienation.

5. Personal anxiety, due to a certain type of people groundless fear.

6. Low regulatory opportunities, which arise at first, asocial, and then antisocial installation and habits.

7. Antisocial behavior stereotypes.

REFERENCES

1. Антонян Ю. М. Психология преступника и расследования преступлений / Антонян Ю. М., Еникеев М. И., Эминов В. Е. – М. : Юристъ, 1996. – 336 с.

2. Берзін П. С. Злочинні наслідки в механізмі кримінально-правового регулювання : дис. ... д-ра юрид. наук : 12.00.08 / Берзін Павло Сергійович. – К., 2010. – 483 с.

3. Дьяков С. В. К вопросу о причинности в механизме преступного поведения / С. В. Дьяков // Вопросы борьбы с преступностью. – М., 1987. – Вып. 45. – С. 17–22.

4. Зелинский А. Ф. Криминальная психология / А. Ф. Зелинский. – К. : Юринком Интер, 1999. – 240 с.

5. Костенко А. Н. Криминальный произвол (социопсихология воли и сознания преступника) / Костенко А. Н. – К. : Наук. думка, 1990. – 148 с.

6. Кудрявцев В. Н. Механизм преступного поведения / В. Н. Кудрявцев. – М. : Наука, 1981. – 248 с.

7. Кудрявцев И. А. Криминальная агрессия. Экспертная типология и судебно-психологическая оценка / И. А. Кудрявцев, Н. А. Ратинова. – М. : Изд-во Моск. ун-та, 2000. – 192 с.

8. Ларкін М. О. Особливості розслідування злочинів проти особи, що вчиняються на ґрунті расової, національної чи релігійної ворожнечі : [моногр.] / М. О. Ларкін, В. П. Сабадаш. – Запоріжжя : Запоріз. нац. ун-т, 2012. – 219 с.

9. Лупарев Д. А. Общественная опасность как объективное свойство преступных последствий / Д. А. Лупарев // Российский следователь. – 2007. – № 5. – С. 13–14.

10. Методика расследования преступлений, совершаемых на почве национальной или расовой вражды или ненависти / Винников А. Я., Гиренко Н. М., Коршунова О. Н. и др. ; под общ. ред. О. Н. Коршуновой. – СПб. : ПИТЕР, 2002. – 92 с.

11. Психология национальной нетерпимости : [хрестоматия] / сост. Ю. В. Чернявская. – Минск : Харвест, 1998. – 511 с.

12. Тарарухин С. А. Установление мотива и квалификация преступления / С. А. Тарарухин. – К. : Вища шк., 1997. – 151 с.

13. Скляр Н. В. Поняття злочинів, що вчиняються з мотивів расової, національної чи релігійної нетерпимості / Н. В. Скляр // Європейські перспективи. – 2011. – № 1. – Ч. 2. – С. 156–158.