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OFFICIAL AS A SPECIAL SUBJECT

Legislative fixing of the concept of special was assigned by it research in Criminal Law Doctrine. By the end of 50s of the last century, when establishing a circle of special subjects, it was basically indicated that that it can not be any, but only special person, without detailed disclosing of the content of this statement. Only since the end of 50s of XX century, the analysis, and the creation of relatively complete definition of concept of special subject have started.

Some scientists define the special subjects as persons, who have not only the general properties of all the subjects of the crime, but who are also characterized by additional special qualities, which are inherent only them. The other scientists think that the special subject is a person, which has peculiar qualities, which are provided in the disposition of the relevant norm of the Criminal Code. Also, scientists believe that a special subject is a person who, in addition to the necessary signs of the subject, also has special additional features that limit the possibility of criminal prosecution of other persons for the commission of a crime. I juridical literature the subject of a

crime, which is characterized by additional, special, only to him inherent properties, is called a special subject of crime. Compositions of the crime in which the responsibility of such persons is provided, are called compositions with a special subject of crime.

Fixation of the concept of special subject of crime in the criminal law is due to the specifics of certain types of crimes, the commission of which is possible only in connection with a clearly defined activity of people, with the fulfillment of individual responsibilities imposed on them by regulatory acts. Therefore, by establishing criminal liability for certain crimes, the legislator, in contrast to all other crimes, in this law, provides as a subject not any person capable to commit a crime, but a person who, in accordance to the law, has special features or signs.

In Part 2 of Art. 18 of the Criminal Code of Ukraine the legislative definition of a special subject of a crime is fixed. In accordance with Part 2 of Art. 18 of the Criminal Code of Ukraine: "A special subject of a crime is a physical person, who can be convicted, who has committed a crime in the age from which criminal liability can be occurred, the subject of which may be only a certain person" [1]. Thus, the special subject of crime is recognized by physical person who can be convicted, who is guilty in committing of a criminal offense, the composition of which necessarily involves the presence of certain features that characterize its performer. Signs of the special subject of the crime reveal and reflect the various features of the person who committed the crime, characterizing the personality; and these features are marked by the legislator in certain compositions. They are so essential that their presence from the point of view of criminal law, either makes the act socially dangerous, or dramatically changes the nature and degree of social danger.

One can identify certain features that characterize the subject of the crime, and divide them into three groups:

1. These signs can be constructive, that is, they are foreseen in the disposition of the composition of the crime; they are mandatory signs of this crime. Thus, a state traitor can only be committed by a

citizen of Ukraine, and only an official is abusing a power or official position;

2. Different features characterizing the subject of a crime can be envisaged in different parts of one article of the Criminal Code of Ukraine. However, if the features of the two compositions of crimes coincide and one of them involves fewer circles of possible subjects, then the last norm applies to the application;

3. Signs may be optional. The value of optional features is revealed when certain features that characterize the subject are not provided for in the articles of the Special Part of the Criminal Code of Ukraine. In this case, the features of the subject are beyond the scope of the composition, they relate to the characteristics of the criminal's personality and can play a role of mitigating or aggravating circumstances in imposing punishment.

Depending on the content of a special subject, the feature are divided into groups:

Socio-demographic features - sex, age of the perpetrator, the presence of military duty (evasion from the call for a regular military service can be committed only by a person who has reached the age established by law and recognized as having a military duty). The official position of the person - occupation respective position or performance of the respective functions of the state, public or commercial organization (bribery) by a perpetrator. The profession of the perpetrator is the presence of appropriate education or professional skills in the labor or production sphere (medical worker).

Civil legal status - the presence of citizenship of Ukraine or foreign state for a person (treason, espionage).

Relationship with the victim - the presence of family or other relationships of a perpetrator, which determine the defined duties or rights (evasion of alimony for child support).

In those compositions, where the signs of a special subject of crime are envisaged by law, that is a constructive element of the particular crime, they are mandatory and determine the presence or absence of a crime [2, p. 79]. One can conclude that the exact

definition of the characteristics of the subject of the crime, characterizing it as a special subject, is complete, perfect and integral their identification shows great importance for the accurate qualification of the crime and the imposition of legal punishment.

List of references:

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2. Кримінальне право України. Загальна частина: Підручник для студентів вищих навчальних закладів. Фріс П.Л. Київ : Атіка, 2004. 488 с.