

Hutoryanskiy Oleksandr, Acting Head of the Center of Organization and Coordination of Educational Process Unit of the NAIA, PhD in Law

SPECIFIC FEATURES OF THE CRIMINAL LEGAL DESCRIPTION OF FAILURE TO PROVIDE ASSISTANCE TO A PERSON WHO IS IN A LIFE-THREATENING CONDITION

One of the most difficult in criminal legal sense is the norm on liability for failure to provide assistance to a person who is in a life-threatening condition. We know that the social danger of this crime is in unrealistic prevent of dangerous consequences.

The author holds the position that the object of this crime targets on social relations, which is protected by the Criminal Code of Ukraine and which infringes crime. It was proved that the generic object of failure to provide assistance to a person who is in a life-threatening condition are social relations protecting human life and health. During the study of the direct object of the crime under Article 136 of the Criminal Code of Ukraine, it was underlined that such an object is recognized not only the lives of individuals, but also their health, while relying on the content and nature of socially dangerous consequences provided for in Paragraph 1, Article 136 of the Criminal Code of Ukraine.

It was scientifically proved that the disposition of this norm should specify the dangerous not only for life but also the health conditions (this is indicated by 82 % of respondents). The victims of this crime is infant, child and any other person in respect of which the perpetrator was not imposed a special duty of care or assistance.

Objective side of failure to provide assistance is characterized by four features: a) illegal act (failure to provide care or failing to report life-threatening condition of a person); b) socially dangerous consequences (serious bodily injury or death of a person); c) the causal link; d) the crime ambience. This objective side is characterized by inaction-non-intervention, but this omission should

not be reduced to the absolute passivity signs of behavior of a person.

The essential moment is to replace the name of Article 136 of the Criminal Code of Ukraine and the amendments to Paragraph 1, Article 136 of the Criminal Code of Ukraine, which will help completely and accurately to install the illegal acts which constitute the objective side of the crime.

Failure to provide assistance or failure to report life- threatening condition is a requisition of development of dangerous condition. Consequently the act of the perpetrator must be included in a causal connection, but not as a cause but as a condition that contributes to the onset of socially dangerous consequences.

It is important to amend the dispositions of Paragraphs 1 and 3 of Article 136 of the Criminal Code of Ukraine, which, on the one hand, will make it possible to abandon the law on the direct causal link, and the other - to recognize a criminal offense the failure to provide assistance only in the event of serious bodily injury or death of a person.

The ambience of failure to provide assistance is characterized by two components: 1) dangerous to life or health condition of the victim; 2) the ability of the subject to help or to report dangerous to life or health condition.

The subject of failure to provide assistance is the general subject of crime - physical sane person who at the time of the crime under 16 years of age.

The aggravating circumstance of failure to provide assistance is committing an act against a minor or a child. In connection with the incorrect legal structures in Paragraph 2 of Article 136 of the Criminal Code of Ukraine we propose to replace the word «minor» with the word «child» (this is supported by 76 % of respondents).

Especially aggravating circumstance of failure to provide is death of the person in which we understand the onset of biological death, that is the beginning of an irreversible disintegration of cells of higher human nervous system.