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TRANSPORT VEHICLE: OBJECT, INSTRUMENTS OR
FACILITIES OF COMMISSION OF CRIME, ENVISAGED
ARTICLE 286 CRIMINAL CODE OF UKRAINE

Due to the rapid increase in the use of transport vehicles by citizens, with the introduction of new kinds to the unsuitability of a modern transport infrastructure to multiple transport flows, and hence the increase in the number of accidents, the questions related to violation of road safety rules all more often attracts the attention of scientists.

Despite the fact that the careless crimes in the field of traffic and operation of vehicles the subject of many monographs, dissertations, articles, are sanctified to and many scientists engaged in development of separate questions, in particular, M. Bajanov, J. Baulin, V. Borisov, Y. Brainin, P. Vorobey, M. Veitsman, I. Gauhman, G. Grinchenko, V. Glushkov, V. Grischuk, O. Djuja, O. Kistyakivski, O.Kostenko, G. Kriger, V. Kudryavtsev, V. Kvashis, V. Kislyakov, V/ Lukyanov, P Matishevskiy, V. Musluyuy, P. Mikhailenko, A. Mysuca, V. Navrotskiy, A. Naymov, M. Panov, A. Piontkovskiy, V. Stashis, M. Tagantsev, M. Havronyuk etc., however some of them are still quite debatable and unresolved.

To determine the objective evidence of the offense under article 286 of Criminal Code «Violation of the rules of road safety or exploitation of transport rules is necessary persons who are driving a vehicle» you should determine what is in actual fact a vehicle - by an object, instruments or means of committing a crime?

To this end, it is necessary to refer to the main provisions of the theory of criminal law and to analyze the different scientific views concerning the definition of the concepts «subject of a crime», «instruments of crime» and «the means of committing a crime».

In particular, O. Denisovanotes in his dissertation research that: the subject of crime always specifies on those public relations that is protected by the legislation on criminal liability, whereas the

instruments and tools facilitate a misfeasance publicly of dangerous act and with their help a crime; instruments play an «active» role in the offense and the offender of a crime is always used in order to achieve a certain goal, while the subject is «passive» in the process - to him the act of criminal is sent; properties of the object, as a rule, are used more or less in the remote future, and properties of the instruments are always used by a criminal directly at the commission of crime, at the same time facilities of commission of crime can be used on any stage of commission of crime.

At differentiation of instruments and facilities of V. Gurovanotes the following: instruments of committing a crime are objects directly defined in the penal law and substantially increase public danger of act as a whole, the use of which directly inflicts or creates possibility of harm to the object(subject) of the crime. Means of committing crime, - the author notes, - this phenomena is directly defined in the criminal law significantly increase the public danger of act substantially, and that is used to facilitate the commission of a crime.

According to M. Panov, means of committing crimes are divided into weapons and other means of committing the crime. Instruments are objects, using that a person commits a physical (usually destructive) effect on material objects (firearms and bladed weapon, tools, vehicles, devices, technical equipment etc.). To other means of committing a crime (money in the narrow sense of the word) can be taken, in particular, forged documents, uniforms.

In his thesis research, E. Laschuk supporting the position of E. Frolova names instruments and means «active» material values by using them as criminals. Crime instruments are used by the guilty for direct influence on a victim of the crime and (or) for the purpose of a crime, and the funds used only for the facilitation of commission of crime. Unlike instruments and means, suggests to name «passive» material values since it is on the subject of crime, and by direct influence on (or without such influence) commits the assault - quite often by means of instruments and means of committing the crime.

Taking into account the above, it is possible to draw the following conclusion: in violation of the rules of road safety of

exploitations transport persons that manage transport vehicles, a mechanical transport vehicle should recognize the instrument of the crime because using it, a person commits a physical (usually destructive) effect on the object of criminal law protection.