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THE CURRENT STATE OF LEGISLATIVE REGULATION OF THE AGE OF CRIMINAL RESPONSIBILITY AND THE PROSPECTS FOR ITS DEVELOPMENT

International legal principles and norms establish the special status of a minor, including those who violate the law, and require a more loyal attitude, compared to adults, to the attitude of all the states that have accepted the relevant obligations, including Ukraine.

Today in Ukraine, as in the whole world, the highest value is the provision of human and civil rights and freedoms. Particular attention is paid to minors, who are one of the most vulnerable groups of the population, which necessitates creation of special conditions for the maintenance and realization of their rights [1, p. 95-98].

However, the problem of juvenile delinquency is one of the urgent problems of the Ukrainian society, which requires an urgent solution. Therefore, the purpose of the article is to thoroughly investigate the question of age, the achievement of which a person is subject to criminal liability.

In accordance with the International Convention on the Rights of the Child of November 20, 1989, ratified by the Verkhovna Rada of Ukraine of February 27, 1991 p. No. 789-XII, a child is every person who has reached the age of 18 [2, p. 42]. However, in Ukraine, the grading of the child's age in the following age categories is legally established: a child is considered a child until he reaches fourteen years of age, and a minor is between the ages of fourteen and eighteen.

The peculiarity of minors as a special subject of criminal responsibility is, first and foremost, the chronological age, which predetermines the psychological and physiological development of the individual, the acquisition of certain knowledge, skills and abilities that makes it possible to realize the social danger of their actions and to manage them.

To reveal the features of the subject of an offense, it is important to establish at the legislative and enforcement levels of age criteria that would allow the conclusion that the person is properly perceived and able to manage their actions. The above is not only the correct assessment of the actual features of a particular life situation, but also its social aspect, in particular, the correlation of actions of the person and his people with established moral and legal norms [3, p. 147-148].

As you know, reaching a certain age is a necessary condition for bringing to justice a criminal responsibility. Thus, the legislator, given in the first place the data of medicine, psychology, pedagogy and other sciences, when establishing the age of criminal responsibility comes from the normal, typical for most adolescents, the conditions for their development and formation at certain stages of their life path. It should be noted that the age is called the periods of human development, characterized by qualitative changes in physical and mental processes and characterized by special laws of their course [4].

The introduction of the age limits of criminal responsibility is conditioned by ideas existing in a particular society about the ability of the majority of its members to understand the social character of their actions and their consequences (including socially dangerous ones) since reaching a certain age.

In accordance with the Criminal Code of Ukraine (hereinafter – the Criminal Code), the legislator is differentiated approach to the establishment of the age of criminal responsibility. Yes, Art. 22 of the Criminal Code states that persons who have reached the age of sixteen years prior to committing a criminal offense are subject to criminal liability, and persons who are aged from fourteen to sixteen may be liable to criminal liability for certain types of crimes (the list of which is clearly regulated by criminal law).

We consider it necessary to note that the specified minimum age limits are not absolutely recognized, since during the development and discussion of the draft Criminal Code of Ukraine there were suggestions on both their increase and decrease. But the Criminal Code in 2001 retained the traditions of the Criminal Code of the USSR in 1960, establishing the general age of criminal responsibility – 16 years.

However, in some cases, as in the previous criminal codes of our country, when it comes to crimes that present an increased public danger or their significant prevalence, criminal liability in accordance with Part 2 of Article 22 is established from 14 years. It should be noted that the list of crimes for which liability is foreseen at the age of 14, the legislator in the Criminal Code in 2001 somewhat refined and extended.

Such crimes include: intentional murder (Art. 115-117), encroachment upon the life of a state or public figure, an employee of a law enforcement agency, a member of a public formation for the protection of public order and the state border, or a serviceman, judge, people's assessor or jury in connection with their activities related to the administration of justice, counsel or representative of a person in connection with activities related to the provision of legal assistance, a representative of a foreign state (Articles 112, 348, 379, 400, 443), intentional grave bodily harm (Art. 121, part 3 of Articles 345, 346, 350, 377, 398), sabotage (Article 113), banditry (Article 257), a terrorist act (Article 258), the seizure of hostages (Articles 147 and 349), rape (Article 152), forcible sexual satisfaction (Article 153), theft (Article 185, part 1 of Articles 262, 308), robbery (Articles 186, 262, 308 187, part 3 of Articles 262, 308), extortion (Articles 189, 262, 308), deliberate destruction or damage to property (part 2 of Articles 194, 347, 352, 378, parts 2 and 3 Article 399), damage to roads and vehicles (Article 277), theft or capture of railway rolling stock, air, sea or river vessels (Article 278), illegal possession the vehicle (parts 2 and 3 of Article 289), hooliganism (Article 296).

Thus, in determining the amount of criminal responsibility under the existing Criminal Code, the legislator provides for two age limits of 16 and 14 years (Article 22), linking them in the first case with responsibility for a wider range of crimes, and in the second – only in accordance with the list provided in part 2 of Art. 22 Criminal Code.

Recently, we observe a tendency for the increase of juvenile delinquency, which raises the question of the need both for reducing and extending the age limits of criminal responsibility. Some legal scholars, in view of the fact that socially dangerous acts are committed by persons under the age of 14, suggest revision of the criminal law of Ukraine regarding the age of criminal responsibility. [5]

Thus, V.G. Pavlov proposes to reduce the age limit of criminal liability to thirteen years. Persons who committed a murder, willful causing serious harm to health, theft, robbery, hooliganism under aggravating circumstances [6, p. 35].

In turn, V. Burdin proposes to divide the age limit of criminal responsibility into four groups: children under 11 years old; Teens 11-14 years old; Adolescents 14-16 years old and minors 16-18 years old. In his opinion, children under the age of 11 are outside the sphere of criminal law and can not be prosecuted; Minors from the age of 11 to 14 years are prosecuted only for an exhaustive list of crimes, provided the conclusion of the examination confirms the correspondence of the actual level of development of their chronological age, sufficient for guilty responsibility [7, p.10].

In our opinion, the position of the legislator, which Having established the special (lowered) age from which the criminal liability comes from the age of 14 is sufficiently substantiated, since minors aged 11-13 years are not able to fully predict the social character of their actions AME in terms of their mental and physical development. However, in our opinion, this problem requires a thorough study and research, based on the current realities and the crime situation in the country, the final solution of which is only possible at the legislative level.

In view of the above, it should be noted that for the normal functioning of the justice system in criminal cases involving juvenile delinquency, it should cover the age-specific characteristics of the minor; legal guarantees for the protection of the rights and legal interests of minors; completeness of individual social and psychological study of the personality of a minor; selecting the individual measure impact and its implementation.

But in light of the further improvement of the criminal policy of Ukraine with regard to minors, one should not forget about the principle formulated in art. From the Convention on the rights of the child: "in all actions against children, whether they are carried out by public or private institutions dealing with social security issues, courts, administrative or legislative bodies, the primary attention is paid to the best interests of the child" [2, p. 25].

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