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Criteria of Delineation of Resistance from other Related Encroachment

The Criminal Code of Ukraine contains a number of corpora delicti that have close or similar signs as to their content. Among them are those that match according to objective or subjective signs the corpus of resistance a state power representative, law enforcement worker, public executive, a member of civic association on protection of public order and state border or serviceman, authorized person of the Deposit Guarantee Fund for individuals. This circumstance makes it necessary to distinguish between different corpora delicti while choosing the law rules on criminal

responsibility. However, the current legislation does not contain provisions that would regulate the procedure of application of criminal law, including the qualification. Therefore the problem of establishing common and delineating elements of crime exists under Art. 342 of the Criminal Code of Ukraine along with other related encroachment. This is relevant both for the doctrine of criminal law and law enforcement practice.

The article aims to establish corpora delicti which have signs similar to those established for corpora delicti under Art. 342 of the Criminal Code and, in this regard, creating difficulties for the subjects of law in the choice of a law rule along with the criteria for its distinction. To achieve this goal some problems are being solved which are related to the search and analysis of legal and doctrinal approach to the definition of criteria that can establish common and delineated signs concerning the resistance and related offences.

The work focuses on the fact that Articles 342, 349, 391, 392, 393, 402 of the Criminal Code provide the related corpora delicti. However, Art. 342 of the Criminal Code, in its application, is also in the ratio with competing rules. Therefore, in order to determine what rule is applicable, it is necessary to clarify how these competing rules are subject to each other.

The research made it possible to formulate a conclusion that the corpora delicti contained in Articles 349, 391, 392, 393, 402 Criminal Code, correlate with the corpus delicti under Art. 342 as related. It is characteristic for these corpora delicti that they are different from the corpus of resistance by several objective and subjective signs, but at the same time being related with others. Because of the incompatibility of content signs, which differ abovementioned corpora, there is reason to determine these signs as those being delineated. As to corpora delicti we can consider them as being related.

Keywords: resistance; related corpora delicti; delineating signs; qualification; competition of rules; special and general rule.