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CRIMINAL INACTION. NATURE OF APPEARANCE

Introduction. Human behavior at all its levels, if it is not a matter of an unconditioned reflex, is an act in which the will and consciousness of a person are involved in various cases. These rules and actions (i.e., the actual behavior) of a person constitute human activity, which from the position of the prevailing views and ideas in society can be socially useful, socially harmful or neutral. As for legal inaction, the state obviously differs in its views with the prevailing views in society, which requires careful analysis [1].

Review of recent publications. At different periods of time, lots of scientists paid attention to the analysis of criminal inaction issues. Belogrits-Kotlyarevsky, S. Ya. Budzinsky, A.F. Kistyakovsky, A.B. Lokhvitsky, C. B. Poznyshev, P.P. Pustoroslev, N.D. Sergeevsky, B.D. Spasovich, N.S. Tagantsev, N.S. Timashev G.V. Timeyko and V. B. Malinina. In the framework of related issues of the science of criminal law, the designated topic was covered in the works of A.K. Akoeva, Yu.M. Antonyan, A.C. Gorelik, N.D. Durmanova, A.F. Zelinsky, G.G. Zuykova, M.P. Karpushina, M.A. Kaufman, A.I. Kovaleva, V.N. Kudryavtseva, N.F. Kuznetsova, A.B. Naumova, E.F. Run Away, A.A. Ter-Akopova et al.

Objective of the paper. The aim of the work is to analyze the nature of legal inaction on the basis of modernity.

Results of the research. Despite the variety of studies on these issues, it should be noted that most of them were carried out in the framework of the general theory of law, philosophy and sociology. The very few scientific works that touched upon the criminal law characteristics of inaction were carried out without including any new questions in the research field, traditionally limited to the place of inaction within the corpus deictic and its differences from the actual action. In addition, criminal researches of a theoretical nature relate mostly to the Soviet period of development of scientific thought, and do not take into account the peculiarities of changes that took place in the country at the turn of the last decades, and are based on expired normative legal acts [2].

Based on a study of authors above, we can trace the general tendency of the development of the idea of the concept of criminal inaction, which in its work "Inaction as a form of criminal behavior" was most accurately described by A. A. Ter-Akopov [1], according to which he noted that "inaction is expressed in the person's failure to perform the action that he was obliged to perform" and that "the main structural element of an act called inaction is an obligation to commit an action that is socially necessary, that is, aimed at achieving a socially necessary goal or at

preventing those harmful consequences that have occurred. " In our opinion, this definition is the most right.

Thus, modern science distinguishes criminal inaction as an unlawful, independent, isolated in time and space act (set of acts) of behavior, consisting of a number of actions that are evidence of the fact of non-fulfillment of a legal obligation, a way of evading it or improper performance.

Many scientists are divided in their views studying the causes of the desire of an individual to evade responsibility. Thus, summarizing the course of scientific thought, this socially dangerous phenomenon is identified with a number of reasons, which include:

- the decline of socially useful motives of behavior, the development of the nihilistic mood of society in relation to general civic duties, the loss on the part of labor of the position of the main source (mechanism) of well-being and positive development of the individual (family, team, etc.)

- lack of interest and motivation to fulfill the obligation: inefficiency of the mechanism of state enforcement to fulfill the obligation;

- neglect of duties, norms of law and morality: disappointment and distrust of the social aspects of modern being ness, asocial way of life;

- confidence in impunity: the formalism of bodies controlling the performance of duties, ignorance of the victims about the facts of inaction and lack of understanding of how to protect their rights;

- loss of the value of productive labor as a source of well-being: limited real ways to meet the basic needs of citizens, low wages, hypertrophy of modern needs [2].

Among all the above reasons, it is worth focusing on the individual and social, since they are paramount for a person and most strongly affect the choice of his behavior in a particular situation.

The problem of the grounds for the wrongfulness of inaction is today's the most vulnerable point in the legal doctrine of the passive form of action. Its solution should be connected with independent selection (section) of the following categories:

- criminal law and a real opportunity to fulfill an obligation as a legal basis for the criminalization of passive behavior;

- a specific source of consolidation of the obligation as a factual basis of legal responsibility, from which the need to act arises;

- sociological characteristics of duties (morality, logic, traditions, etc.) as a basis for their consolidation in the sources.

The state, according to Cicero, is based on general mind and justice and arises as a result of the achievement by the people consent from their interests and consent in matters of law. Law is what a person considers faithful guided by the convictions of morality and logic, that is, embodiment of right [3]. In this case, when searching for solutions for this issue, it is necessary to start from cases in which the human factor and morality play the key role in the individual choosing a certain behavior.

Conclusion. Depending on the reasons pushing the person to abandon the duty, we can conclude that individual causes are the key reasons that need to be paid

attention for when studying ways to solve, because they are more important for a person than the state and other sources of providing a person with benefits.

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COMPARATIVE LEGAL CHARACTERISTICS OF THE EMPLOYMENT CONTRACT IN UKRAINE AND THE USA

Introduction. Labor contract issues are always in the focus of scholars and practitioners in the context of modern development. Firstly, The Labor Code of Ukraine, which was adopted in 1970s of XX century and is the main document governing the conclusion of an employment contract, its validity and termination does not fully meet current realities and requires updating. For this reason, it defines to study the legislation on the employment contract of developed foreign countries. Secondly, in today's world, when a large number of Ukrainian citizens are migrant workers abroad, in particular in the USA, it is important to study the legislation of the employment country contract itself, using the method of comparative law. According to the American FactFinder [1], about 97500 people currently employed in the USA are the Ukrainians. It is important to note that for working migrant workers is useful to know employment law in order to be able to conclude and work legally in the United States of America. Similarly, the citizens in Ukraine need knowledge of domestic labor law. The above determines the relevance of the topic of this study.