

Bondarenko Maryna,

Assistant Judge of the Supreme Court of Ukraine,
Kyiv, Ukraine

CHARACTERISTICS OF SUBJECTIVE ELEMENTS OF CRIMES BY THE ART. 321 OF THE CRIMINAL CODE OF UKRAINE

In the article the features characterizing the subject of crime are analysed, the problems of definition of the subject of crime under part 2 of article 321 of the Criminal Code of Ukraine exactly as a special one are highlighted, as well as the prospects of recognition of legal entities as the subject of criminal liability, including in case of committing the crimes provided by the mentioned article.

It is noted that for all the time of development of the criminal law the long time has passed from refusal in recognition of objects, animals, forces of nature, etc. as the subject of crime, but only the physical person, and according to the legislation of other countries - also legal.

On the maintenance of the scientific, educational literature at the presentation of a material on structure of a crime it is impossible not to notice insignificant attention to such attribute of structure, as the subject of a crime. Though, agree with opinion that there are no more important or less important attributes of structure, they are equal, and consequently, their research should be the same.

Concerning the subject of crime, he is actually the so-called acting person, on realization of motives of which in the form of realization of corresponding action or inaction and the socially dangerous act containing structure of crime is made. At the same time, the subject of the crime is the least controversial of all the elements of the crime.

The Criminal Code of Ukraine, in section IV, «Person subject to criminal liability (subject of crime)», in part 1 of article 18 contains a definition of the subject of an offence: «The subject of an offence is a natural person who has committed an offence at the age at which criminal liability may be incurred in accordance with this Code» [37].

There is a simultaneous use and mixing of such notions as a subject of crime, a subject of crime, a subject of criminal liability and a person subject to criminal liability.

It is concluded that in the science of criminal law there are problematic issues in establishing the subjective side of the crime, but given the construction of Art. 321 of the Criminal Code of Ukraine, in this part there are no significant inconsistencies.

Keywords: objective side of the crime structure, subjective side of the crime structure, personality of the criminal, socially dangerous act.

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