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THE NECESSITY OF VANDALISM CRIMINALISATION

Every day, settlements suffer from the effects of vandals, who destroy, damage, and abuse objects on the streets and other public places. Even 10 years ago, there were state's and citizens' attempts to prevent vandalism, while in the last few years the scale of such actions to minimize and eliminate these manifestations has decreased significantly. Nevertheless, the increase in the number of acts of vandalism requires the immediate resolution of a number of criminal and related issues.

Acts of vandalism in Ukraine are spreading from year to year, which causes great indignation in society and reduces the aesthetic appearance of the country. Currently there is an urgent need to criminalize vandalism as the consequences of senseless leisure are always damaged property and facilities, abuse of state symbols and administrative buildings, as well as other property in a public place.

Criminalization is a process of identifying socially dangerous types of human behavior, recognizing at the state level the necessity, possibility and expediency of criminal-legal struggle against them and enshrining them in the law on criminal liability as criminal offenses [1, p. 20]. The need for criminalization arises from the needs of society and the development of criminality. The expression in the law should reflect the content of the act, which is prohibited in the state. In order to prevent the inevitability of liability, it is necessary to constantly monitor the emergence of new modified forms of human behavior and to include in legislation, including criminal law, those forms of behavior that cause harm to the state and society. The danger of non-compliance lurks at any stage of the criminalization process due to insufficient consideration of certain factors or imperfections of legislative techniques. Deficiencies in criminal law can lead to gaps in criminalization or, conversely, collisions.

Vandalism is a common phenomenon of modern society, the existence of which is not in fact criminally punishable, which is a consequence of the lack of proper accounting in official statistical reporting, objective investigation and prosecution, identification of perpetrators and compensation, and the presence of erroneous qualifications due to the lack of an article in the Criminal Code of Ukraine that would describe the objective side of this act. Therefore, it is to criminalize vandalism by including it in the list of aggravating circumstances [2, p. 173].

Confirming our position on the need for legislative regulation of criminal liability for vandalism, it should be noted that the proposed idea corresponds to the grounds of criminalization that exist in criminal law.

The main criterion for criminalization is the need to use it to combat a particular type of action. This need is due to the impossibility of preventing certain types of anti-social behavior by non-criminal means. This aims at the legislator to refrain from criminal liability in all cases without exception, when it is unable to serve the purpose of reducing the crime rate of the type.

Issues of criminalization of socially dangerous acts are developed by modern criminal law science, but are not always taken into account in the development and adoption of certain laws on criminal liability, which may create imperfections in these laws and inconsistencies in law enforcement practice. Science has proposed many variants of the principles of criminalization, which often differ significantly from each other. However, all of them can be grouped into 3 major groups: legal-criminological, socio-economic and socio-psychological. We proton to consider

compliance with the grounds for criminalization on the example of committing acts of vandalism, which we propose to supplement with aggravating circumstances.

The legal-criminological grounds for the criminalization of vandalism include the increase in the social danger of this act, as well as its unfavorable dynamics, which was not previously recognized as criminally punishable. Public danger does not depend on the legislator, it is an objective characteristic that is inherent in the relevant behavior aimed at the relevant social relations. Public danger is not a static characteristic. Depending on the stage of development of society, it may increase or, conversely, decrease and even disappear altogether [1, p. 24]. Despite this, the number of acts of vandalism is increasing from year to year, but the share of criminal offenses connected with vandalism in the structure of all crime in Ukraine is at the level of 1-2%. However, it does not decrease, but only spreads and acquires new forms. There is also a hypothesis that in the actual introduction of these acts as criminally illegal, their official results will reflect increased indicators.

In fact, the socio-economic grounds for the criminalization of vandalism include only significant material consequences for the state and society to commit these acts. Firstly, vandals cause damage to individuals, government institutions, and others whose property is in a public place, which is not compensated for failing to identify the perpetrators, forcing victims to repair the damage and restore the damaged or damaged property at their own expense. Secondly, the collateral damage from vandalism is also significant due to the expenditure of significant resources on combating it and protecting vulnerable property.

The next socio-economic basis for the criminalization of vandalism is a significant and sudden change in the social, economic or political state of the state, which determines the real prevalence of the described destructive actions in the modern settlement. For example, in the last 5 years in Ukraine all gatherings, protests and mass actions end in destruction, property damage (destruction of administrative buildings, painting of facades and fences, abuse of state symbols, damage to transport infrastructure, housing and communal services, and damage to other property in a public place). This creates a feeling of impunity for the violator, or even in cases of bringing to administrative responsibility for such actions, the punishment that is imposed does not correspond to the scale of the damage and the degree of public danger. Also, feelings of disorder and decline provoke further destructive actions, increase the likelihood of new damage.

Socio-psychological grounds for the criminalization of vandalism (probably as any kind of act that can be criminalized) include the development of society, which determines the intolerance, the special danger of certain acts, which previously had (or may have been) tolerated, but under new conditions actions are in conflict with the existing system of social life or receive a real basis for their eradication. Regarding vandalism as a phenomenon of social reality that manifests itself every day in our lives, we can say that now society is not ready to accept the consequences that arise from their commission, so this is another reason to draw the attention of the legislator to this problem. In addition, from an aesthetic point of view, destruction and damage reduce the positive impression of the urban environment, which affects the spiritual and psycho-emotional state of citizens.

Consequently, vandalism corresponds to the legal-criminological, socio-economic and socio-economic grounds for criminalization of socially dangerous acts. Despite the oversaturation of criminal law prohibitions, the introduction of the institute of criminal misconduct in criminal law greatly facilitates the possibility of criminalizing vandalism in modern conditions.

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