

actions and other covert measures, as well as whether the project will normalize law enforcement issues. Directions in which it is expedient to continue work on improvement of the corresponding provisions of criminal law have been defined. Also, the work within comparative legal regime highlights both achievements and shortcomings of the criminal law systems of individual European countries in terms of official and law enforcement regulations of the institution of crime provocation. In particular, it has been established that each state which has recognized the inadmissibility of provoking a crime at the level of national criminal law has also developed and applied in practice a number of criteria that must be taken into account when deciding on the limits of admissibility of provocation.

Keywords: *provocation of a crime, incitement to a crime, covert investigative (search) actions, control over commission of a crime, European criminal law, draft of the new Criminal Code of Ukraine, comparative legal method.*

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SCIENTIFIC DEBATES ON THE PREVENTIVE ACTIVITIES OF AUTHORIZED PERSONS AS PART OF THE METHODOLOGY FOR INVESTIGATING CRIMINAL OFFENCES AGAINST MORALITY

Микола ЄФІМОВ, Єрбол ОМАРОВ. НАУКОВІ ДИСПУТИ СТОСОВНО ПРОФІЛАКТИЧНОЇ ДІЯЛЬНОСТІ УПОВНОВАЖЕНИХ ОСІБ ЯК ЕЛЕМЕНТУ МЕТОДИКИ РОЗСЛІДУВАННЯ КРИМІНАЛЬНИХ ПРАВОПОРУШЕНЬ ПРОТИ МОРАЛЬНОСТІ. Наукова стаття присвячена дослідженню окремих питань методики розслідування кримінальних правопорушень проти моральності. Автори акцентують увагу на обов'язковому включенні до вказаної структури такого елемента як профілактична діяльність уповноважених осіб.

Зазначається, що профілактична функція повинна виконуватися незалежно від служби, де працює той чи інший правоохоронець, та від його посади. Акцентується увага на тому, що раніше Кримінально-процесуальний кодекс України, прямо зобов'язував слідчого здійснювати низку заходів щодо усунення причин та умов вчинення протиправних дій. На жаль, на даний момент такої норми немає. Автори вказують, що, на їх думку, уповноважені особи, які здійснюють досудове розслідування (слідчий, дізнавач, прокурор) повинні знаходити можливості, щоб зробити хоча б мінімум для попередження зазначеної категорії кримінальних правопорушень. Адже позиції моральності є базисом як для правового забезпечення держави, так і в цілому нормального функціонування суспільства.

Вказується на те, що критеріями ефективності кримінально-правових норм досліджуваних діянь є правильне визначення соціальної потреби, яка проходить різні рівні у результаті аналізу ефективності низки норм про відповідальність. Так, це може бути від випадкових поодиноких фактів вчинення кримінальних правопорушень до об'єктивної необхідності, а також адекватне розуміння соціальної потреби правильного визначення природи суспільних відносин, що підлягають кримінально-правовій охороні.

Визначено найбільш характерні заходи профілактики досліджуваної категорії протиправних дій підрозділами Національної поліції України, зокрема: здійснення виховного

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впливу підрозділами на неповнолітніх та малолітніх осіб шляхом пропаганди ненасильства та дотримання суспільної моралі; здійснення підрозділами профілактичного впливу на громадян; участь працівників підрозділів у тематичних передачах, круглих столах, ток-шоу, які висвітлюють проблеми суспільства у сфері порушення норм моралі; організація дискусій у друкованих ЗМІ, присвячених актуальним питанням моралі.

Ключові слова: кримінальне правопорушення, профілактика, моральність, методика розслідування, слідчі (розишукові) дії, планування розслідування.

Relevance of the study. The prevention of the commission of criminal offences against morals is one of the tasks of authorized persons carrying out law enforcement activities. That is, the preventive function must be carried out regardless of the service where the law enforcement officer is working and of his or her position. In the past, for example, the Code of Criminal Procedure of Ukraine expressly obliged the investigator to implement a number of measures to eliminate the causes and conditions of unlawful acts. Unfortunately, there is currently no such rule. However, it is our belief that authorized persons conducting pre-trial investigations (investigators, persons conducting initial inquiries or procurators) must find ways to make the minimum necessary to prevent such crimes. In fact, morality is the basis both for the legal security of the State and for the normal functioning of society as a whole. Those criminal offences such as prostitution, pandering, pimping, corruption of minors and their involvement in criminal activities, among others, undermine the foundations of the State. On that basis, we believe that it is necessary to study the problem and make concrete proposals.

Recent publications review. Over the past decades, scholars such as O. Aleksandrenko, R. Arslanbekova, V. Bakhin, R. Belkin, A. Vasilyev, I. Vozgrin, V. Gavlo, I. Gerasimov, I. Hora, V. Yermolovich, E. Ishchenko, A. Kolesnichenko, V. Konovalova, V. Korzh, S. Kulyk, V. Mosyazhenko, M. Saltevsyy, N. Selivanov, M. Skitekin, V. Solovyov, R. Stepanyuk, V. Tanasevich, O. Filipov, V. Shepitko, V. Shykanov et al. At the same time, our study is a comprehensive study of this category in terms of the commission of specific offences – criminal offences against morality.

The research paper's objective is to study the preventive activities of authorized persons as part of the methodology for investigating criminal offences against morality.

Discussion. We consider it necessary to define the essence of prevention. In particular, we support V. Yu. Shepitko, who has formulated it as a set of measures aimed at identifying, limiting, eliminating or neutralizing the criminogenic factors that determine crime in general and individual crime even before, how they will lead to socially dangerous actions or consequences. The scientist points out that crime prevention is an activity carried out in the early stages of the occurrence and formation of the intention of the person to further illegal activities [12, c. 171].

Attention must also be paid to the circumstances that influence the commission of unlawful acts against morality. The position of V. S. Solovyov, which identifies three groups of objects for which individual preventive work and three corresponding precautionary actions are necessary, is relevant in this respect:

1) Persons whose conduct indicates that they may commit an offence involving a minor in prostitution (individual prevention of criminal behavior);

2) Minors who, due to certain personal characteristics and external conditions, may be involved in the «sexual business» (individual victimological prevention);

3) Persons who are «consumers» of sexual commercial services by minors, engaging in sexual relations with them for financial reward or purchasing pornographic products with their participation (individual prevention of «consumption» of sexual services) [11, c. 14].

In other words, the author distinguishes the categories of persons with whom preventive work is necessary, and whose personality may lead to changes in the direction of evidence in criminal proceedings concerning the commission of certain criminal offences against morality.

As R. Arslanbekov points out, one of the main conditions conducive to criminal behavior is sexual demoralization, which occurs in our society, especially among young people. To a large extent, the media contribute to the sexual demoralization of the population. In the media, the subject of prostitution and crime and other related topics is covered not from a critical standpoint, but rather from a description of these phenomena as commercial activities (up to the prices of prostitutes, places where they congregate, etc.). Various media outlets have been flooded with materials which acquaint the reader with the organization and functioning of entertainment establishments: saunas, massage rooms, salons, etc. under which often disguised public places are disguised [2, c. 17].

S. Kulik, after a detailed study, identified groups of determinants that influence the increase of criminal offences against morality. In particular, among the socio-economic and political-legal determinants of the spread of these activities, the author singled out the following:

- The crisis of the institution of the family; the significant polarization of the population in terms of material situation and income;
- High actual unemployment rate;
- Insufficient State cooperation and support for civil society organizations involved in the development of sports in various areas of the arts and creative arts;
- Lack of an effective legally defined concept to develop and strengthen the foundations of morality in the younger generation;
- Failure of criminal law problems in the design of specific norms and the certainty of sanctions for certain crimes against morality [6, c. 102-113].

In our opinion, the factors influencing the process of involving a minor in prostitution are social and economic determinants:

- The unfavorable economic situation of a large part of the population, primarily minors, which leads to the search for means of livelihood, including through prostitution;
- The crisis in the spiritual and moral sphere of society: the destruction of moral and behavioral stereotypes;
- Commercialization of the intimate sphere;
- Problems in the family and school education of minors: indifference to the child's behavior, as well as the deliberate development of negative behavior on the part of minors [3, c. 70-71].

In view of these factors, we consider it necessary to emphasize the absence of preventive action by law enforcement agencies in connection with criminal offences against morality. Thus, as a result of the introduction of quarantine in March, 2020 during the counteraction of acute respiratory infection COVID-19 caused by coronavirus SARS-CoV-2, operational units of the police as a result of «raid» measures have interrupted the work of a significant number of establishments, for the provision of intimate services [4, c. 316].

As a result of the survey of law enforcement officials, we have identified the following conditions conducive to the commission of criminal offences against morality:

- Advertising in the media, Internet networks or mobile telephone networks for the provision of private services (96 %);
- Hidden (disguised) locations of places of debauchery (81 %);
- A wide range of intimate services with flexible financial policies or the availability of a «good» of any price category (59 %);
- Considerable criminal experience in the field of intimate services – «sex business» (33 %);
- Lost of historical traditions, moral and ethical standards (14 %) [5, c. 276].

Turning to preventive measures, O. Alexandrenko, for example, considers them to be: preserving the secrecy of investigations; preventing the leakage of operational and service information; communication between subjects of investigation and participants in criminal proceedings, which prevents them from creating or developing conflict situations; use of data for this purpose on the means of counteracting used by specific persons, etc. [1, c. 13].

M. Skiteykin identified the following as the most common means of preventing criminal offences against morals in the cultural sphere: influencing the most common negative phenomena and processes, related to crime against cultural morality, with a view to minimizing it. Such means include anti-alcohol and anti-drug propaganda, the promotion of a healthy lifestyle, anti-crime propaganda, the formation of negative public opinion about violent acts, etc.; Exerting direct influence on the basic determinants of the commission of offences against cultural morality with a view to eliminating them [10, c. 36].

V. Prilovsky points out that the efforts of the investigator in determining the causes and conditions of a specific criminal offence should be directed, first, to establishing the causes and, second, to establishing the conditions for a specific criminal act. As we have seen, the author believes that an authorized person, when investigating the involvement of minors in illegal activities, may request that the suspect have a criminal record. It is also possible, by means of requests, to establish information on its registration in psycho-neurological or drug-addiction clinics, on the provision of residence and work records, etc. [9, c. 195].

As an example of the prevention of criminal offenses in the sphere of public morality in

the USA in June 2014, the FBI conducted a special operation against pedophiles and pimps. A week later, more than 100 children were released from sexual captivity and several hundred criminals were detained. The special operation was carried out simultaneously in 106 cities and involved some 400 law enforcement officers. The investigation found that the perpetrators of some of the victims had been selling for sex on the Internet. In the last 12 years, the FBI has conducted eight special operations against pimps who lured children into prostitution. Some 3,600 minors have been rescued from criminal networks. Nearly 1,500 criminal proceedings have been initiated. The FBI has 70 investigation teams specialized in this area [7, c. 57].

From this perspective, reference should also be made to the implementation of legal aid. It should be pointed out that this is not an instantaneous act, but a process consisting of sequential procedural and other actions connected with the preparation of instructions to carry out procedural and other actions and to carry out the above-mentioned actions directly and their consequences; which are regulated in the Code of Criminal Procedure and only certain provisions are contained in other branches of law [8, c. 67].

Taking into account the above-mentioned views of scholars and law enforcement practice, we have identified the following measures for the prevention of criminal offences against morals by units of the National Police of Ukraine:

- Exercise of educational influence by units of the National Police on minors and minors by promoting non-violence and public morality;
- Preventive action by units of the National Police;
- Participation of members of units of the National Police of Ukraine in thematic programmers, round tables and talk shows highlighting problems of society in the area of moral violations;
- Organization by units of the National Police of debates in the print media on topical moral issues.

As a result of the analysis of the effectiveness of a number of rules on responsibility for unlawful acts against morality, from the point of view of conformity with the components of criminal law developed, we deem it necessary to point out that the criteria for the effectiveness of criminal offences the legal norms of the acts under investigation are the correct definition of social need at different levels. For example, this can be from occasional isolated incidents of criminal offences to objective necessity, as well as an adequate understanding of the social need to properly define the nature of public relations subject to criminal law protection.

Conclusions. In order to increase the effectiveness of the preventive activities of authorized persons in the investigation of unlawful acts against morals, it is necessary to establish in the Code of Criminal Procedure their obligation to identify them during an inquiry; pre-trial investigation and judicial review of the reasons and conditions that facilitated the commission of criminal offences, as well as to the relevant state body, The public organization or official shall provide information on the adoption of measures to eliminate the above-mentioned conditions and causes. It should be pointed out that the most characteristic preventive measures taken by units of the National Police are: Units exert educational influence on minors and minors by advocating non-violence and respect for public morals; units exert preventive influence on citizens; members of units participate in thematic programmers; organization of debates in the print media on topical moral issues.

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ABSTRACT

The scientific article deals with study of certain issues of the methodology of investigation of criminal offenses against morality. The authors emphasize the mandatory inclusion in this structure of such an element as the preventive activities of authorized persons.

It is noted that the preventive function should be performed regardless of the service where a law enforcement officer works and his position. Emphasis is placed on the fact that previously the Criminal Procedure Code of Ukraine directly obliged the investigator to take a number of measures to eliminate the causes and conditions of illegal actions. Unfortunately, at the moment there is no such rule. The authors point out that, in their opinion, the authorized persons conducting the pre-trial investigation should find opportunities to do at least a minimum to prevent this category of criminal offenses. After all, the position of morality is the basis for both the legal support of the state and the normal functioning of society as a whole.

It is pointed out that the criteria for the effectiveness of criminal law of the investigated acts is the correct definition of social need, which passes different levels as a result of the analysis of the effectiveness of a number of rules on liability. Yes, it can range from random single facts of criminal offenses to objective necessity, as well as an adequate understanding of the social need to correctly determine the nature of public relations subject to criminal protection.

The most characteristic measures of prevention of the investigated category of illegal actions by divisions of National police of Ukraine are defined, in particular: realization of educational influence by divisions on minors and minors by propaganda of nonviolence and observance of public morality; implementation by units of preventive influence on citizens; organization of discussions in the print media on topical issues of morality.

Keywords: *criminal offense, prevention, morality, investigative techniques, investigative (search) actions, planning of the investigation.*

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ADMINISTRATIVE AND LEGAL MECHANISMS OF RESTRICTION OF CITIZENS' RIGHTS TO INFORMATION IN THE INTEREST OF NATIONAL SECURITY

Сергій Кудінов, Тетяна Шинкар. АДМІНІСТРАТИВНО-ПРАВОВИЙ МЕХАНІЗМ ОБМЕЖЕННЯ ПРАВ ГРОМАДЯН НА ІНФОРМАЦІЮ В ІНТЕРЕСАХ НАЦІОНАЛЬНОЇ БЕЗПЕКИ. Зроблено висновок, що завдяки прийняттю закону «Про санкції» ми можемо казати про існування поряд з судовим порядком обмеження прав громадян на інформацію, через анулювання ліцензії на мовлення, адміністративно-правового механізму. Для визначення адміністративно-правового механізму обмеження прав громадян на інформацію в інтересах забезпечення національної безпеки потребують вивчення такі його елементи як організаційно-

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