and research into unified policing models to create a more stable and secure international community.

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DELICT: THE ISSUE OF DIVIDING OFFENSES INTO CRIMES AND MISCONDUCT

Sergey Petkov,
Doctor of Law Sciences, Professor,
Military Institute of Taras Shevchenko National University of Kyiv, Ukraine

Roman Postnyi,
teacher of the department of tactical and special training, Faculty №2,
Donetsk State University of Internal Affairs
Kropyvnytskyi, Ukraine

Delict (from the Latin delictum – offense, fault, misdemeanor) – illegal behavior, offense, i.e. an illegal act, misdemeanor or crime, in other words, committing an act that is contrary to the law and causes damage to society, the state or a person. Such an offense is the basis for bringing the offender to legal responsibility – the responsibility provided for by law.

Delictology (responsibility theory, delictology) is the science of wrongdoing (delict), a constituent part of the general theory of law (practical properties enshrined in axioms). In contrast to criminal law, administrative law and disciplinary law, which examine types of offenses from their own point of view, delictology studies the phenomenon of «offence» as a whole. The study of a crime as a socio-legal phenomenon and related legal relations is the subject of delictology.

In Roman law, delict (criminal offense) meant harming another person, his family or property, violating a legal prescription or prohibition. The consequence of the commission of a tort was liability, which arose in the presence of the following conditions: capacity of the offender, guilt, commission of the offense.

Tort obligations are also known as non-contractual obligations. That is, illegal actions that lead to legal consequences and that are not related to the violation of the agreement (contract). A person who bears (is able to bear) acts that have legal consequences (deeds) is a person with legal capacity. A person who is responsible for his illegal actions (criminal offense) is a person capable of delict. The one who causes harm is called a delinquent. The one to whom harm was caused is the victim. A person capable of delict is a person who can bear responsibility for illegal behavior, which is expressed in the commission of misdemeanors or crimes.

A comprehensive study of problematic issues of delictology is the basis for creating effective and fair legislation.

Legal liability arising from violation of legal norms is a type of social responsibility arising from violation of various social norms (law, morality, customs, corporate norms). In order to deal with such a complex phenomenon as legal responsibility for committing crimes and misdemeanors, one should first of all turn to the theory of law, as the quintessence of knowledge about law - the regulator of socio-economic relations. It is common knowledge that the main postulates of law were laid down in ancient times, perhaps the greatest contribution to the formation of legal axioms, presumptions and principles was made by Roman lawyers.

In Roman law, «offenses related to the sphere of public interests were also called «crimen» (crime) [1], which emphasized the social danger of such torts. Criminology is an independent theoretical and applied social science about crime, more broadly about the nature, essence, patterns of occurrence, social manifestation and prevention of crime. Its main task is the scientific development of issues of crime prevention and counteraction, reduction of its negative and destructive impact. Criminology is essentially a component of delictology, which, in turn, is a component of sociology (a science that studies social phenomena).

In Roman law, lawyers distinguished a special group of torts - quasi-delicts. This is an unintentional non-contractual offense, causing harm to someone without intention (or even the possibility of causing such harm), as a result of negligence or carelessness, which is characterized by the lack of certainty of the guilty party [1]. For example, when a pot placed on a windowsill fell (or could fall) and caused damage to a person or property.

The generally accepted paradigm is the scientifically based and practically confirmed approach that public **torts are offenses, or as they are often called torts, divided into crimes and misdemeanors according to the social significance of the committed illegal act.** This horizontal division is the main one with regard to illegal acts in the public sphere of law. The most successful distinction between a crime and a misdemeanor was made in the Criminal Code of France in 1795. In particular, it identified: a) crimes – actions for which corporal punishment was prescribed; b) misdemeanors – acts for which correctional punishment was prescribed [2].

In different countries, the complex of issues related to legal responsibility for committing a misdemeanor is resolved differently. The same act can be the subject of consideration in different countries by different bodies in different procedural order. Even jurisdiction will fall under different branches of government: executive or judicial. Completion of documents, execution of procedures, etc. also differ among themselves. Thus, in a number of US states and in different countries of the world, in accordance with traditions and established norms of behavior, there are different approaches to liability for misdemeanors. Therefore, the mechanical transfer of certain elements or novels or entire mechanisms, algorithms, etc., without a comprehensive study and

analysis of national law and the legal understanding of citizens on the national soil is impractical, and sometimes, due to the fact that it can lead to negative consequences, even inadmissible.

The concept of «delict» is not officially used in the legislation of Ukraine, but it is widely used in scientific and legal literature and practice. In the legal encyclopedia edited by academician Yu.S. Shemchushenka states that an offense is a socially dangerous or harmful act (action or inaction) that violates the law [3]. Its characteristic feature is the illegality of actions or inaction of the subject of social relations. We are talking about violation of the established order, non-fulfillment of the duties assigned to individuals and legal entities. Professor V.P. Pastukhov notes that a crime is a socially harmful, illegal act, the implementation of which involves legal responsibility [4]. Socially beneficial actions are consistent with legal norms, and socially harmful ones, as a rule, are a violation of legal norms.

As aptly noted by A.M. Kolody in his work «Principles of Ukrainian Law», the sphere of public law should be considered as vertical relations (management), relations of subordination, authority – subordination. Their regulation should be carried out according to the principle of imperativeness, and the rights and obligations of the subjects should be directly and comprehensively formulated in the law. The scientist defines the sphere of private law as a set of horizontal relations, which provide for an equal position relative to independent subjects. They are regulated according to the principle of discretion, and the subjects themselves, within the limits of the law, establish their rights and obligations [5].

The state, realizing the role of regulator of social relations, always strives to cover the maximum number of them, even where purely private interests are realized. However, maintaining a balance of «regulation» and «non-interference» on the part of the state is an indicator of a democratic legal state with a market economy. Therefore, any business relations are «regulated». And their social activity in the economic sphere, the sphere of profit-making, etc. belonged to the state monopoly – private enterprises, institutions, organizations did not exist as a class.

The Parliament and the Government took certain steps to improve anti-tort legislation during the entire period of development of independent Ukraine. In particular, the new progressive Criminal Code (2001) [6], the Customs Code of Ukraine (2002) [7] and a number of other normative acts were adopted. Even the Criminal Procedure Code of Ukraine (2013) [8], in general, can be considered as meeting European standards. But the inertia of the Soviet and even imperial period gave and continues to give signs. So, for example, in 10 years, customs rules underwent such changes that in 2012, a new Customs Code of Ukraine was adopted [7].

At the same time, it should be noted that according to clause 22 of Art. 92 of the Constitution of Ukraine, actions that **are crimes, administrative** or **disciplinary offenses**, and responsibility for them are determined exclusively by the laws of Ukraine. Therefore, it is necessary to carefully and consistently analyze and bring to a single constant the regulatory legal acts **regulating responsibility for crimes, responsibility for administrative offenses, responsibility for disciplinary offenses** and accordingly replace all unconstitutional terms: «criminal offense», «misdemeanor», «disciplinary offense», «criminal responsibility», «administrative responsibility», etc. for terms that correspond to the norms of the Basic Law, which will contribute to the reduction of conflicts and contradictions in Ukrainian legislation.

In the context of studying torts as a social phenomenon, it should be emphasized that «legal vinaigrette» in the field of legal responsibility is unacceptable.

Moreover, it is a threatening factor for national security. In such a situation, for the national legislation of Ukraine, as well as for other countries in which Soviet law operated, it is urgently necessary to carry out a comprehensive reform in the field of legal responsibility for the commission of torts in accordance with the Constitution of Ukraine.

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ДО ПИТАННЯ ПРО ДОЦІЛЬНІСТЬ НОРМАТИВНОГО ЗАКРІПЛЕННЯ КАТЕГОРІЇ «ПУБЛІЧНЕ АДМІНІСТРУВАННЯ» У СФЕРІ ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ

Хрідочкін Андрій Вікторович,
доктор юридичних наук, доцент,
професор кафедри підприємництва, організації виробництва
та теоретичної і прикладної економіки
ННІ «Український державний хіміко-технологічний університет»
Українського державного університету науки і технологій
м. Дніпро, Україна

Питання публічного адміністрування у сфері інтелектуальної власності, не дивлячись на свою актуальність, на жаль, все ще залишаються тією проблемою, до вирішення якої вітчизняна наука адміністративного права фактично не приступила. Сьогодні існують лише нечисленні окремі публікації що торкаються даної проблеми в цілому або розкривають окремі її аспекти. Хоча, водночас, такі питання, як «управління інтелектуальною власністю», «адміністративно-правове регулювання правовідносин у сфері інтелектуальної власності», «менеджмент інтелектуальної власності» та інші активно розробляються вітчизняною наукою. Свою роль відіграє і активна трансформація сфери охорони інтелектуальної власності, не завершеність цього процесу на сьогодні. Крім того, для розкриття особливостей публічного адміністрування у сфері інтелектуальної власності, принципове значення має своєрідність такого суспільного феномену, як інтелектуальна власність.