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A THEORETICAL OVERVIEW OF WAR CRIMES AND VIOLATIONS OF THE RULES FOR THE USE OF MILITARY PROPERTY: THE CURRENT STATE OF THE ART

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Any scientific research is based on an appropriate methodology, which should be understood as a set of techniques, means and ways of cognition, which, in turn, form a single historically formed set of rational ways, means and forms of thinking from ignorance to knowledge, from the individual to the general, and vice versa, from assumption to truth, from phenomenon to essence.

It is impossible for the Armed Forces of Ukraine to fulfill the tasks of protecting the sovereignty and territorial integrity of our country without proper material support for our army. Therefore, one of the main issues of strengthening the combat capabilities of the Armed Forces is the problem of preserving military property. The state brings these social values under the protection of the criminal law.

Articles 410-413 of the Criminal Code of Ukraine provide for liability for criminal offenses against military property. When determining the elements of these crimes at the stage of pre-trial investigation or trial, in practice, questions often arise as to whether certain property belongs to military property and the public danger of a criminal attack on it. Clarification of these issues is important for the correct qualification of the offender's behavior and the imposition of a fair punishment by the court [2].

When studying the correlation between the concepts of "war crime" and "corpus delicti of a war crime", one should proceed from the position that the basis (core) of the corpus delicti as a legal construct and its content (elements and signs) is a structured model of a crime of a certain kind (type) as a phenomenon (fact) of real reality in its generalized form. That is why, when studying a war crime, like any other act of volitional behavior (act) of a person, it is necessary to distinguish from the point of view of systemic and structural analysis such its components and interacting units (elements) as the object and subject of the crime, united by an act of socially dangerous behavior (act), the structure of which, in turn, is made up of the objective and subjective side of the crime.

The results of political scientists' comprehensive and integrated study of property relations are used in various academic disciplines and contribute to understanding the essence and content of basic concepts. Violation of the rules of storage should be distinguished from violation of the rules of operation of military equipment. Liability for criminal violation of the rules of handling military equipment is provided for in Articles 414-416 of the Criminal Code.

In criminal law, property [4] is understood as a set of certain objects of the external world. Property is a set of objects of the material world that have economically and financially useful properties and are material goods. Various commentaries to the criminal legislation of Ukraine state that property belongs to the material world and has certain physical, economic and material properties. In other words, it is something detached from the physical environment or recently created [1, 4].

The institution of criminal law is, first of all, a set of criminal law provisions that has a systemic nature and consists of provisions whose content is united by semantic connection. In the process of systematization of criminal law institutions, criminal law was divided into general and special parts.

According to V.d. Filimonov and O. V. Filimonov, the entire General Part is essentially formed by, so to speak, "bracketing" identical and homogeneous provisions of the Special Part, while the institutions of the Special Part are created by "bracketing" legal provisions and institutions of the General Part. At the same time, the legal provisions of the General Part of the Criminal Code are included in the content of the norms and institutions of the Special Part, which establish criminal liability for crimes of various nature

The special status of military property is that it is assigned to military units of the Armed Forces of Ukraine on the right of operational management.

Analyzing the content of such rights, it should be noted that they are manifested in the legislation through the same division of powers (possession, use and disposal) that corresponds to the content of the right of ownership.

However, as S. Korneev notes, there are significant differences between the right of ownership and the right of functional management. If the owner owns, uses and disposes of the property belonging to him at his discretion (within the limits determined by law), the organization that has been granted the right of functional management owns, uses and disposes of the property assigned to it not only within the law, but also in accordance with the objectives of the activity determined by the owner (i.e. the state).

Thus, the right of operational control is a subordinate right related to the state's ownership. Military organizations that are granted such rights are at the same time obliged to the owner (i.e. the state) that created them. They not only have the right to own, use and dispose of the property entrusted to them by the owner, but are also obliged to do so in accordance with the purpose for which it was entrusted to them by the owner [2, 4].

Thus, military property is state property for the exercise of powers granted to military authorities, military institutions and operational management units.

Military property includes property and property rights acquired by military personnel as a result of economic activities carried out in accordance with the law, or property and property rights transferred to military personnel from individuals and legal entities as sponsorship or charitable assistance [2].

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ВІЙСЬКОВІ ПРАВОПОРУШЕННЯ У КОНТЕКСТІ РОЗПОРЯДЖЕННЯ МАЙНА: СУБ'ЄКТИВНА СТОРОНА

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Функціонування військового сектора держави, особливо в умовах воєнного стану, передбачає суворий контроль за порядком використання та зберігання військового майна. Військові правопорушення, що стосуються порядку користування та зберігання військового майна, є однією з найважливіших категорій кримінально-правових діянь, які потребують чіткої кваліфікації [2, с. 194–195].

У кримінальному праві суб'єктивна сторона злочину розглядається як психічне ставлення особи до вчиненого діяння та його наслідків.

В умовах воєнного стану, запровадженого в Україні у зв'язку з широкомасштабною агресією Російської Федерації, питання кримінально-правової кваліфікації військових злочинів набуває особливої актуальності.

Наукове дослідження суб'єктивної сторони військових правопорушень, пов'язаних із порядком користування та зберігання військового майна, є необхідним для вдосконалення правозастосовної практики та уточнення кваліфікаційних підходів [3, с. 124].

Аналіз теоретичних засад кримінальної відповідальності, судових рішень і міжнародного досвіду дозволить не лише поглибити розуміння психічного ставлення військовослужбовців до своїх дій, але й сприятиме