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Secção I

Investigação Científica*

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Specifics of criminal (civil) liability for economic offenses

Especificidades da responsabilidade criminal (civil) por infrações económicas

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ABSTRACT: The relevance of this paper is conditioned upon the need to due attention has not been paid in legal science to the concept of "extortion" as a category of criminal law, and therefore there is an urgent need to investigate the concept of "extortion" and its place in the system of criminal law norms, as well as to disclose the concept of "extortion". In this regard, this paper examines the various interpretations of criminal offenses stemming from economic transgressions. While economic relations generally do not lead to criminal law relations, all crimes and punishments are interconnected and have consequences in economic relations. The study focuses on extortion as a result of financial misconduct, defining it as a component within the criminal process that emerges from economic offenses. The definition of "extortion," its criminal aspect, and its overall role within the criminal law structure are analyzed. The study used a combination of qualitative research methods, in particular, a comprehensive literature review, historical analysis, and comparative legal analysis. The conclusion has been made that extortion should be regarded not only as a criminal punishment but also as an involuntary act occurring within the economic relations system. Extortion is identified as a preventive measure concerning other unlawful norms in economic relations. The prevention of extortion is found to be dependent on the comprehensive examination of specific types of economic relations and the structure of countermeasures at the legislative prohibition level. The article determines the position of extortion within the system of criminal law relations and establishes the principles of response, thereby providing a more coherent and comprehensible understanding of the subject.

KEYWORDS: Economic relations, structure, legislation, penal sanctions, contract.

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RESUMO: A relevância deste trabalho está condicionada à necessidade de não se ter dado a devida atenção na ciência jurídica ao conceito de “extorsão” como categoria do direito penal, havendo, portanto, a necessidade urgente de se investigar o conceito de “extorsão” e seu lugar no sistema de normas penais, bem como divulgar o conceito de “extorsão”. A este respeito, este artigo examina as várias interpretações de infrações penais decorrentes de transgressões econômicas. Embora as relações econômicas geralmente não levem a relações de direito penal, todos os crimes e punições estão interligados e têm consequências nas relações econômicas. O estudo centra-se na extorsão decorrente da improbidade financeira, definindo-a como componente do processo penal decorrente dos crimes econômicos. A definição de “extorsão”, seu aspecto criminal e seu papel global dentro da estrutura do direito penal são analisados. O estudo utilizou uma combinação de métodos de pesquisa qualitativa, em particular, uma revisão abrangente da literatura, análise histórica e análise jurídica comparativa. Chegou-se à conclusão de que a extorsão deve ser considerada não apenas como uma punição criminal, mas também como um ato involuntário que ocorre no sistema de relações econômicas. A extorsão é apontada como medida preventiva em relação a outras normas ilícitas nas relações econômicas. A prevenção da extorsão depende do exame abrangente de tipos específicos de relações econômicas e da estrutura de contramedidas no nível da proibição legislativa. O artigo determina a posição da extorsão dentro do sistema de relações criminais e estabelece os princípios de resposta, proporcionando assim uma compreensão mais coerente e compreensível do assunto.

PALAVRAS-CHAVE: Relações econômicas, estrutura, legislação, sanções penais, contrato.

Introduction

Criminal Code of Ukraine² directly establishes criminal liability for “extortion” in articles 189, 262, 308, 312, 313, 354, 357, Part 3 of Article 368, Part 4 of Article 368-3, part 4 of Article 368-4 and 410, while the basic concept of “extortion” is given by the legislator in the disposition of Article 189 of the Criminal Code of Ukraine. Of course, the concept of extortion is commonly provided for in Article 189 of the Criminal Code of Ukraine.³⁴ Thus, criminal legislation provides for liability for extortion in different articles, which raises difficult questions regarding the qualification of extortion and its differentiation from related corpus delicti. Therefore, it is necessary to define the general concept of extortion and connect the dots with special types. The study of common, typical signs of “extortion”, the development of the general criminal

² Criminal Code of Ukraine. 2001. Available from: <<https://zakon.rada.gov.ua/laws/show/2341-14#Text>>.

³ GORODYSKY, A.N. Ukraine, international money laundering, and the investigation of organized crime. The Prediction and Control of Organized Crime: The Experience of Post-Soviet Ukraine. *Routledge*, 2017, vol. 7.

⁴ BOGDANOVA, M. Genesis of the Criminal Liability for Interfering Statesman’s Activity in Ukraine. *Social and Legal Studies*, 2021, vol. 4, n. 1, pp. 21–28.

law concept of “extortion” on this basis, and the consolidation of this concept in criminal law, should become a priority in the criminal study of “extortion”.⁵ The analysis of the literature under study gives grounds to assert that due attention has not been paid in legal science to the concept of “extortion” as a category of criminal law, and therefore there is an urgent need to investigate the concept of “extortion” and its place in the system of criminal law norms. In the future, it is necessary to reveal the concept of “extortion”.⁶

The clarification of the meaning of any scientific term and the disclosure of its content are preceded by an appeal to the commonly used meaning of this word. In particular, a Large Explanatory Dictionary of the modern Ukrainian language defines “extortion” as follows: extortion is a demand.⁷⁸ Meanwhile, such a purely etymological interpretation does not reveal the legal meaning of the word “extortion”. It is hardly possible to determine the legal meaning of extortion by grammatical interpretation of this term or by clarifying its etymological meaning given in explanatory dictionaries. Therefore, “extortion” should be studied as a legal concept based on its meaning in the criminal law norms of the current Criminal Code of Ukraine.⁹

The term “extortion” is repeatedly used in articles of Special Part 48 of the Criminal Code of Ukraine.¹⁰ The study of the text of the Criminal Code shows that extortion should include crimes that are provided for by those articles of the Special Part where the term “extortion” is used. First, this is a criminal law norm provided for in Article 189 of the Criminal Code of Ukraine¹¹ “Extortion”, where a legislative definition of extortion is given in the descriptive disposition of its part

⁵ VOITSIKHOVSKYI, A., BAKUMOV, O., USTYMENKO, O. and MARCHUK, M. The legal mechanisms of ensuring regional cooperation in combatting crime within the framework of the Council of Europe: Experience of Ukraine. *Central European Journal of International and Security Studies*, 2019, vol. 1, n. 13, pp. 138–160.

⁶ INSHYN, M.I., BASAI, O.V., BASAI, N.M., SOROKA, O.O. and STREMENOVSKYI, S.M. Preventing and combating corruption (economic crime): Examples of EU and Ukraine governance. *International Journal of Management*, 2020 vol. 4, n.11, pp. 532–544.

⁷ BOHATYROVA, O., BOHATYROV, I., BOHATYROV, A., HRYTSAIENKO, L. and YERMAKOVA, G.S. Criminological analysis and its economic aspect of the crime rate in the places of confinement of Ukraine for the last decade (2010-2019). *International Journal of Management*, 2020, vol. 5, n.11, pp. 1214–1224.

⁸ KANARYK, Yu. and SURZHOK, B. Current issues of antimonopoly policy in the market of agricultural products of Ukraine. *Law. Human. Environment*, 2023, vol. 14, n. 1, pp. 52–58.

⁹ KARIPOVA, A.T., KASSYMOVA, A.S. and MUKANOV, D.Z. The influence of accounting and registration systems on crime indices in the new legal environment (Using the example of quarterly crime analysis). *Russian Journal of Criminology*, 2016, vol.4, n. 10, pp. 701–709.

¹⁰ Ibid 1.

¹¹ Ibid 1.

1 – this is the requirement to transfer someone else's property or the right to property or the commission of any actions of a property nature with the threat of violence against the victim or his/her close relatives, restriction of the rights, freedoms or legitimate interests of these persons, damage or destruction of their property or property under their jurisdiction or protection, or disclosure of information that the victim or his/her close relatives wish to keep secret (extortion).¹²

Analysis of the disposition of Article 368 of the Criminal Code of Ukraine¹³ “Acceptance of an offer, promise or receipt of an unlawful benefit by an official” shows that extortion is a method of committing a crime in this case.¹⁴ Consequently, the presence of the above-mentioned number of articles of the Criminal Code of Ukraine, with the help of which the criminalization of extortion was carried out, raises the question of the correlation of these crimes among themselves and the development of a generalizing concept.¹⁵¹⁶

The study of criminal law norms establishing responsibility for extortion shows that they are not the same in their construction and are separated depending on how much the signs of extortion are expressed in these crimes. In this regard, it is possible to distinguish three levels of extortion – in narrow, broad and the broadest understanding.¹⁷ Based on this position, it should be noted that the corpus delicti provided for in article 189 of the Criminal Code of Ukraine¹⁸ is a definition of extortion in a narrow sense.¹⁹ The definition of extortion in a narrow sense is carried out by establishing its inherent objective

¹² KALMAN, A.G. *Organized economic crime and corruption in Ukraine: The problem of countermeasures. The prediction and control of organized crime: The experience of Post-Soviet Ukraine*, 2017.

¹³ Ibid 1.

¹⁴ MAKARCHUK, V., NIKITENKO, O., ILLIASHENKO, O., KALATUR, M. and MOTYL, I. The role of the national police of Ukraine in ensuring economic security of the state. *Journal of Legal, Ethical and Regulatory Issues*, 2021, vol. 2, n. 24, pp. 1–9.

¹⁵ HARUST, Y., MELNYK, V., KIIASHKO, Y. and HALUNKO, V. Economic crimes: Innovative mechanisms of counteraction by law enforcement agencies. *Asia Life Sciences*, 2019, vol. 2, pp. 247–263.

¹⁶ DUDOROV, O. and KAMENSKY, D. Liability for white-collar crimes in Ukraine: Theoretical and enforcement issues. *Law Journal of the National Academy of Internal Affairs*, 2022, vol. 12, n. 1, pp. 33–40.

¹⁷ RODGERS, P., WILLIAMS, C.C. and ROUND, J. Workplace crime and the informal economy in Ukraine: Employee and employer perspectives. *International Journal of Social Economics*, 2008, vol 9, n. 35, pp. 666–678.

¹⁸ Ibid 1.

¹⁹ TYKHONOVA, O.V., KHOLOSTENKO, A.V., HERASYMENKO, L.V., SHEVCHUK, O.O. and AKIMOV, M.O. Comparative analysis of combating economic crimes in Ukraine and European union. *International Journal of Management*, 2020, vol. 3, n. 11(3), pp. 624–632.

and subjective features that are interrelated and interdependent. In this regard, it is necessary to determine the main essential characteristics of extortion itself in the narrow sense, its structural elements and varieties of socially dangerous acts, and to formulate its concept on this basis.²⁰

A demand to transfer property, the property right or to commit any other threat related actions of a property nature connected is the second narrow sense feature of extortion. Regardless of the threat, the criminal influence of extortion manifests itself in a state of fear for their rights, freedoms and legitimate interests. That is, extortion aims at intimidating one or more persons. However, it should be noted that intimidation is carried out only at the level of the addressee of influence. Consequently, terrorizing a person to force it to transfer property, the property right, or commit any actions of a property nature is the objective aspect of extortion.²¹ A guilty person's intent to obtain material benefits for itself or others is the third sign of extortion in the narrow sense, as well as illegal enrichment at the expense of someone else's property, which is called a lucrative impulse in the science of criminal law, namely, the act refers to mercenary crimes related to the illegal circulation of someone else's property in favor of the guilty or other persons. A lucrative impulse is the third sign of extortion in the narrow sense.²²

Continuing to clarify the signs of extortion in the narrow sense, it should be noted that the final result is achieved not by the actions of the guilty person himself, but of those persons on whom the intimidating influence is directed in the case of extortion. This is the fourth sign of extortion in a narrow sense.²³ Having examined the signs of extortion in the narrow sense, the following definition can be given, namely, extortion in the narrow sense is a demand for the transfer of someone else's property or the right to property or the

²⁰ GULYK, A., KURILO, M., TIMCHENKO, G., KLOCHKO, A. Banking in Ukraine as an object of criminal and legal protection. *Banks and Bank Systems*, 2017, vol. 4, n. 12, pp. 114–120.

²¹ MOZOL, S.A., SUKHOMLYN, Y.V., KHAKHUTSIK, O.Y., BONDARENKO, H.V and KALININA, I.V. Prevention of economic crimes in Ukraine: Problems of management and coordination of law enforcement agencies. *International Journal of Management*, 2020, vol. 4, n.11, pp. 585–594.

²² MULJAVKA, D. G. and REKUNENKO, T.A. Tax Militia informational and analytical activity on tax crime counteraction. *Criminology Journal of Baikal National University of Economics and Law*, 2013, vol. 2, pp. 140–145.

²³ LAVRUK, V.V., ZAPOROZHETS, H.V., KHOMUTENKO, O.V., DUDCHENKO, A.Y., DEMIDOVA, E.E. Verification of social and economic determination of crime in Ukraine. *Journal of Advanced Research in Law and Economics*, 2018, vol. 7, n. 9, pp. 2363–2371.

commission of other actions of a property nature with the threat of violence against the victim, his close relatives, restriction of the rights, freedoms or legitimate interests of these persons, damage or destruction of their property or property under their jurisdiction or under protection, or disclosure of information that the victim or his close relatives wish to keep secret, committed out of selfish motives.²⁴

Materials and Methods

This study on the specifics of criminal (civil) liability for economic offenses, with a particular focus on the concept of "extortion," employs a combination of qualitative research methods. These methods include a comprehensive literature review, a historical analysis, and a comparative legal analysis.

During the literature review, an extensive analysis of various sources, such as books, journal articles, scientific and practical commentaries, and official documents related to criminal law and economic offenses, was conducted. The aim was to identify gaps in the understanding of extortion as a criminal offense and provide a foundation for the subsequent stages of the study.

The historical analysis examined the development of legislation establishing criminal liability for extortion across four stages, spanning from the middle of the 10th century to the present day. This analysis offered insights into the evolution of the concept of extortion and its classification as a separate type of violent property crime. Additionally, it explored the development of qualifying signs of the *corpus delicti* in relation to extortion.

The comparative legal analysis aimed to distinguish between various types of violence associated with extortion, such as violence not dangerous to life and health, and violence resulting in serious bodily injury or death. This analysis also explored the differences in legal responsibility for extortion committed by different subjects, such as officials, members of a criminal organization, and general subjects of extortion. The goal was to identify inconsistencies in the qualification of extortion offenses and determine the appropriate legal provisions for each case.

²⁴ KOROBEEV, A.I. and KUZNETCOV, A.V. Comparative analysis of legislation of various countries governing release from criminal liability in cases of crimes in the sphere of economic activity. *Journal of Internet Banking and Commerce*, 2016, vol. 21 n.S3, pp. 5-7.

Lastly, an analysis of legislative prohibitions and countermeasures assessed the effectiveness of these tools in preventing extortion. This analysis aimed to understand the relationship between the development of specific types of economic relations and the structure of countermeasures at the legislative prohibition level. It also sought to establish the principles of response to extortion within the criminal law system. By employing these research methods, the study provides a comprehensive understanding of the concept of extortion, its role in the criminal law structure, and the principles of response to such offenses.

As for extortion, the actions are as follows. First, an extortionist's actions in the form of threats or the creation of appropriate circumstances threatening the rights and legitimate interests of a victim are not an end in themselves, but serve as a means to achieve other goals, namely, obtaining property, the right to property or special items, and the like.²⁵

Second, during extortion, the extortionist purposefully awakes the victim's fear, hoping that this will contribute to achieving his ultimate goal. By using threats of violence, infringement of rights, freedoms or legitimate interests, damage or destruction of property, and disclosure of information, the criminal tries to induce the injured person to transfer property to him, the right to property that belonged to him or were under his jurisdiction, or to perform any actions of a property nature in his favor, or to refrain from returning such property benefits²⁶ before making a decision. Third, the ultimate goal can be achieved in the case of extortion only by the victim's action, and the extortionist forces the victim utilizing threat or creates a threatening state for the victim's rights or legitimate interests.²⁷ Fourth, extortion is characterized by the fact that the threat of violence, infringement of rights, freedoms or legitimate interests, damage or destruction of property, disclosure of the information is associated with the guilty person with the same person, but it is possible that both the

²⁵ NAZAROVA, K., MYSIUK, V., GORDOPOLOV, V., KOVAL, V. and DANILEVIČIENĖ, I. Preventional audit: Implementation of sox control to prevent fraud. *Business: Theory and Practice*, 2020, vol. 1, n. 21, pp. 293–301.

²⁶ SCHROCK, J.L. The prediction and control of organized crime: The experience of post-Soviet Ukraine, 2017

²⁷ KOFANOVA, O., TERESHCHENKO, Y., KUTSYI, R., MORHUN, N. and GUSHCHYN, O. Actual situation of computer crime in the credit and financial sphere of Ukraine (modern aspects). *Banks and Bank Systems*, 2019, vol. 1, n. 14, pp. 172–180.

direction of actions and the achievement of the final result can be directed against some persons, and the achievement of the ultimate goals of the guilty person is carried out through the actions of third parties. In general, this analysis permits the conclusion that extortion refers to crimes with signs of terrorization. Crimes with signs of terrorization are not the same by nature and differ depending on how many signs of terrorization are in these crimes. Consequently, they can be categorized into the following groups²⁸:

1. The first group includes the corpus delicti when terrorization is expressed as a mandatory act of the corpus delicti, that is, it is provided directly in the corpus delicti itself, and its absence in the act means the absence of corpus delicti of the crime.

2. The second group includes the corpus delicti when terrorization is expressed optionally.

3. The third group includes the corpus delicti when responsibility is provided for acts that, in some cases and under certain circumstances, may be considered as terrorization.

Extortion belongs to the first group provided for in articles 189, 262, 308, 312, 313, 354, 357, Part 3 of Article 368, part 4 of Article 368-3, part 4 of Article 368-4, 410 of the Criminal Code of Ukraine,²⁹ since terrorization is directly expressed in the very corpus delicti as a property of the act in these crimes. At the same time, the literature notes that a variety of crimes with signs of terrorization are terrorism offenses, that is, the criminalized part of terrorist actions. In turn, terrorism offenses differ in the following features:

- 1) committing or threatening to commit violent, socially dangerous actions;
- 2) their public nature and wide resonance;
- 3) an intended state of fear, tension at the social level, aimed at intimidating the population or its part;
- 4) the use of violence against some persons or property aimed at inducing certain behavior of others.

Thus, summing up what has been stated within the unit, it can be concluded that extortion law is the use of physical violence or destruction or damage to property, or the threat of such actions or the communication of

²⁸ Ibid 17.

²⁹ Ibid 1.

information undesirable to the victim to other persons to seize someone else's property or the right to property in the future as a category of criminal. Having analyzed the criminal law norms establishing responsibility for extortion, it is possible to distinguish three levels of extortion – in a narrow, broad and broadest sense.³⁰ In the narrow sense, extortion is a demand to transfer someone else's property or the right to property or the commission of other actions of a property nature with the threat of violence against the victim or its close relatives, restriction of the rights, freedoms or legitimate interests of these persons, damage or destruction of their property or property under their jurisdiction or under protection, or disclosure of information that the victim or his close relatives wish to keep secret, committed out of selfish motives.

Results

The concept of "extortion" plays a crucial role in understanding criminal and civil liability for economic offenses, which encompass a range of unlawful activities that disrupt the economic system and impact both individuals and businesses. Understanding the connection between extortion and criminal and civil liability for economic offenses is essential for various reasons, such as ensuring accurate classification and legal consequences for offenders. Extortion may share common elements with other economic offenses like fraud or embezzlement, and recognizing the similarities and differences between these offenses helps clarify the boundaries between criminal and civil liability. Addressing extortion and other economic offenses within the legal framework contributes to their deterrence and prevention. Clear principles of response, legislative measures, and law enforcement strategies enable authorities to protect individuals and businesses from economic crimes and maintain economic stability.

Examining the legal consequences of extortion and other economic offenses, including criminal penalties and civil remedies, allows policymakers and legal practitioners to ensure that penalties and remedies are proportionate, fair, and effective in achieving justice and promoting deterrence. Lastly, extortion and other economic offenses can cause significant financial losses

³⁰ KALMAN, A.G. Organized economic crime and corruption in Ukraine: The problem of countermeasures. *Trends in Organized Crime*, 2001, vol. 3-4, 6, pp. 68–76.

and emotional distress for victims. Addressing their rights and needs within the legal framework ensures they receive adequate support and compensation. In conclusion, understanding the connection between extortion and criminal and civil liability for economic offenses is vital for the legal complexities surrounding these offenses. By examining similarities and differences, legal consequences, and implications for victims, policymakers and legal practitioners can develop more effective strategies for combating economic offenses and promoting justice and economic stability. Four stages can be distinguished in the formation and development of legislation establishing criminal liability for extortion, namely, the first stage can be defined as pre-modern, which covers the period from the middle of the X – the first half of the XIX century, which is, the formation of responsibility for extortion takes place at this time. The second stage can be called modernism in the history of the development of legislation establishing criminal liability for extortion, which began in the first half of the XIX century and lasted until 1917. The third stage of development is considered Soviet, which dates back to 1917 and lasted until 1991. The fourth stage of the history of development is neoliberal, which began in 1991, when Ukraine was declared an independent state and continues to this day. This stage can be called neoliberal, because it is associated with transition to a market economy and the elimination of the practice of Soviet state control over economic activity. Later on, it is necessary to provide a thorough description of each of the above-mentioned stages. The first stage of the development of legislation establishing criminal liability for extortion was pre-modern, which lasted from the middle of the X – to the first half of the XIX century. The well-known monuments of legislation that existed on the territory of Ukraine have survived to our times, namely, the treaties of the Russians with the Greeks of Prince Igor 945, Russkaya Pravda (1282),³¹ Casimir's Code (1468);³² Sudebnik (1497)³³ and Sudebnik (1550);³⁴ Statutes of the Grand Duchy of Lithuania (1529; 1588).³⁵

³¹ Russkaya Pravda. 1282. Available from: <<http://lib.pushkinskijdom.ru/Default.aspx?tabid=4946>>

³² Casimir's Code. 1468. Available from: <http://www.vostlit.info/Texts/Dokumenty/Polen/XV/1440-1460/Kazimir_IV/lit_ustav.phtml> .

³³ Sudebnik. 1497. Available from: <<https://doc.histrf.ru/10-16/sudebnik-ivana-iii/>>

³⁴ Sudebnik. 1550. Available from: <<http://www.hrono.ru/dokum/1500dok/1550sudeb.php>>

³⁵ Statute of the Grand Duchy of Lithuania. 1529. Available from: <<http://www.vostlit.info/Texts/Dokumenty/litva.html>>

These pieces of legislation did not explicitly provide for extortion liability. In historical monuments, the words “steal”, “thieve”, “robbery”, and “theft” are mentioned. The judicial code of 1550³⁷ referred to certain types of robbery as felonies. For the first time in the legislation, an attempt to distinguish between two elements of a crime – robbery and brigandism can be found in article 25 of the 1550 judicial Code.³⁸ Article 58 singled out fraud from “robbery” for the first time in history.³⁹

³⁶ Statute of the Grand Duchy of Lithuania. 1588. Available from: <<https://pravo.by/pravovaya-informatsiya/pomniki-gistoryi-prava-belarusi/kanstyutsyynae-prava-belarusi/statuty-vyalikagaknyastva-lito-skaga/statut-1588-goda/po-naya-versiya-tekstu-pdf/>>

³⁷ Ibid 30.

³⁸ Ibid 30.

³⁹ Ibid 30.

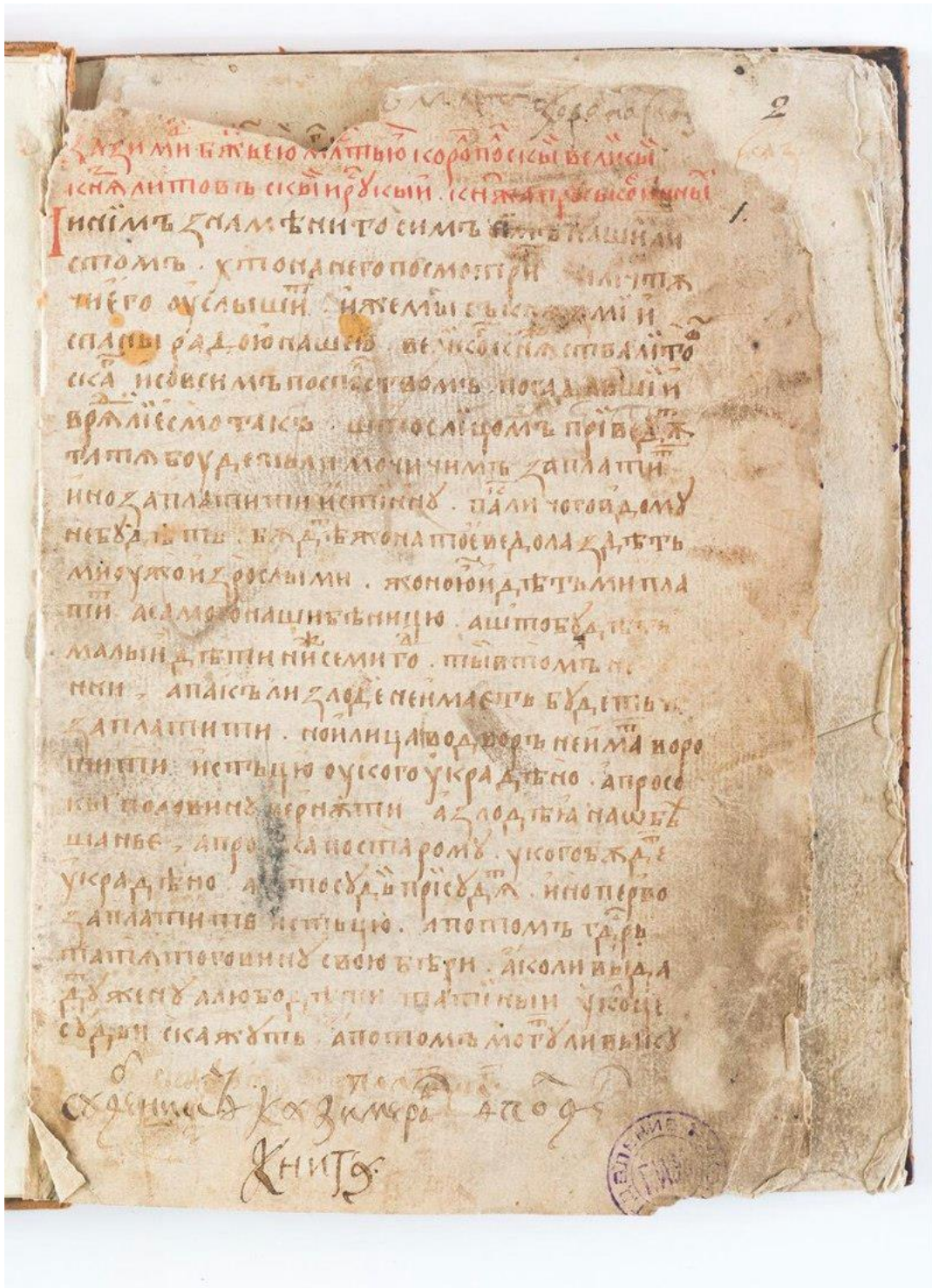


Figure 1. The Casimir's Code (1468)

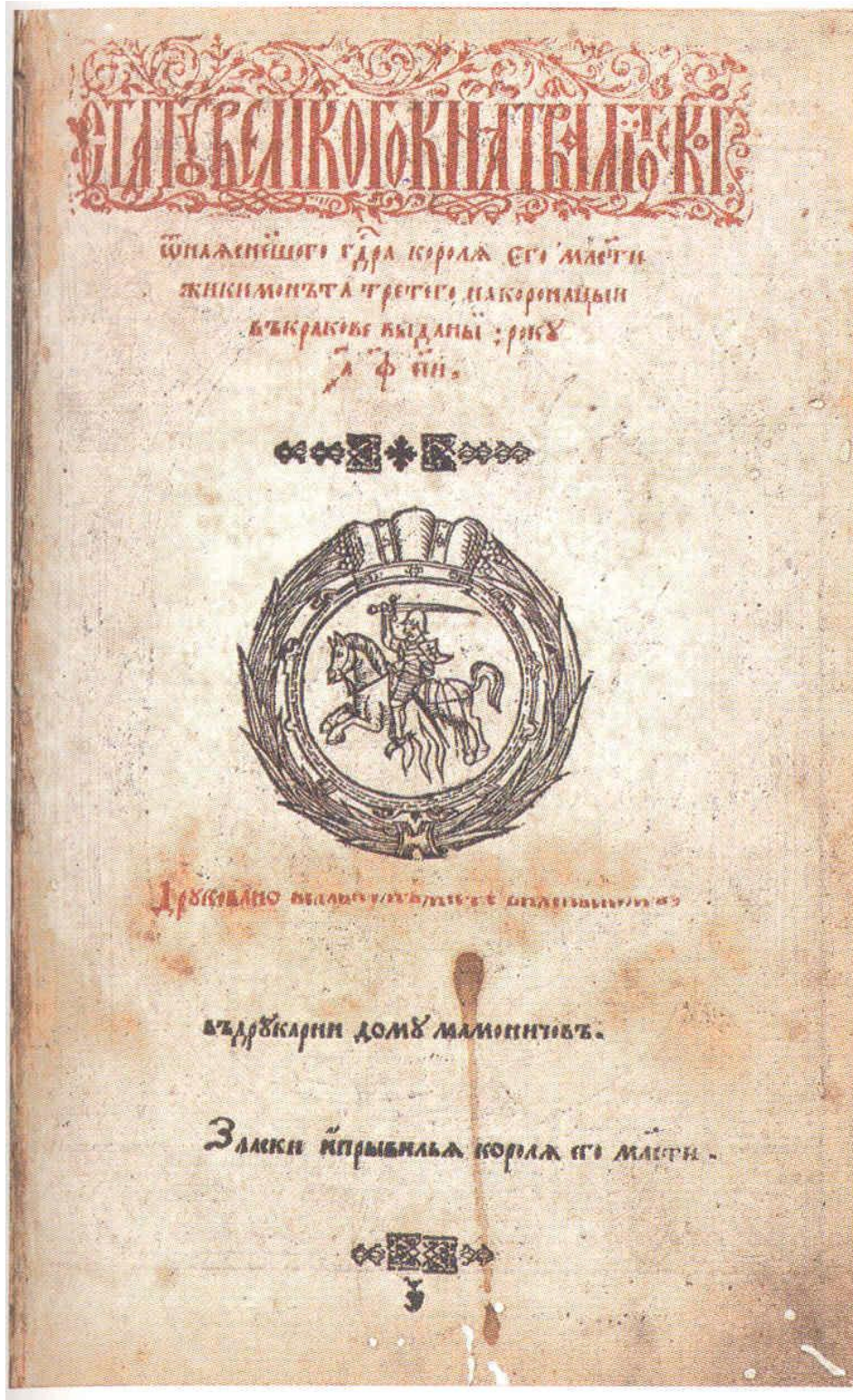


Figure 2. Statute of the Grand Duchy of Lithuania in 1588.

The Statute of the Grand Duchy of Lithuania (1529)⁴⁰ provided for liability for “theft” in chapter 13. Another Statute of the Grand Duchy of Lithuania (1588)⁴¹ provided for a complex system of crimes, which was divided into six main types. As for property crimes, responsibility was provided for theft, robbery, and brigandism. Responsibility was also provided for lost property. An entry, or a raid on a noble house, courtyard, monastery, etc. caused by an armed crowd, was accompanied by the looting of property, beatings, wounds, murders, and rape of women. Thus, the first stage of the development of legislation establishing criminal liability for extortion is characterized by the presence of legislative monuments that did not directly provide liability for extortion.⁴²

The second stage of the development of legislation establishing criminal liability for extortion is called modernism, which began in the first half of the XIX century and lasted until 1917. In the first half of the XIX century, the responsibility for extortion was introduced in English, German, Hungarian, Italian, Norwegian and French legislation. In the legislation of the Russian Empire, which began to spread to the territory of Ukraine, in particular, in the Code of Criminal and Correctional Punishments (1845)⁴³ with subsequent editions of 1857, 1866, 1885, norms also appeared that directly provided liability for extortion. This law provided liability for extortion as an official crime in article 406,⁴⁴ which was included in section V “on bribery and misconduct in civil and public service”. In the Code of 1885, this rule was reproduced in article 377. According to article 406 of the Code of 1845,⁴⁵ extortion was understood as obtaining various material benefits through threats and harassment: profits, benefits, gifts, extortion, work orders. It should be noted that article 2198 of the Code of 1845⁴⁶ established criminal liability for coercion to give property obligations.

⁴⁰ Ibid 31.

⁴¹ Ibid 32.

⁴² Ibid 20.

⁴³ Code of Criminal and Correctional Punishments. 1845. Available from: <<http://museumreforms.ru/node/13654>>.

⁴⁴ Ibid 39.

⁴⁵ Ibid 39.

⁴⁶ Ibid 39.

In general, the Criminal Code⁴⁷ was distinguished by the necessary generalization, concreteness and accuracy in describing the signs of crimes, as well as carefully developed terminology. Of course, this law has influenced the further development of domestic criminal law, and some of its provisions remain relevant today. Thus, analyzing the second stage of the legislation development history of establishing criminal liability for extortion, the conclusion has been made that the concept of extortion was developed in Russian and Hungarian legislation from the end of the XIX to the beginning of the XX century. A significant influence on the formation and development of legislation, as well as the science of criminal law during this period was the Criminal Code of 1903,⁴⁸ which was characterized by concreteness and accuracy in describing the signs of crimes. At this stage, extortion was defined as a special type of taking possession of someone else's property and was considered as the main and qualified *corpus delicti*.

The Soviet period is the third stage of the development of legislation, which dated back to 1917 and lasted until 1991. The Criminal Code of the Ukrainian Soviet Socialist Republic,⁴⁹ adopted in 1961, with amendments and additions until 2001, provided for two types of extortion. That is, the responsibility for extortion was provided for in article 86-2 of the Criminal Code of the Ukrainian Soviet Socialist Republic⁵⁰ – extortion of state or collective property, and in article 144 – extortion of individual property. It is worth noting that initially, only criminal liability was provided for the extortion of individual property (Article 144 of the Criminal Code of the Ukrainian Soviet Socialist Republic⁵¹). In 1989, the legislator supplemented the Criminal Code with article 86-2 extortion of state or collective property, and at the same time amended the article. In this edition, extortion is a demand to transfer personal property of citizens or the right to property or the commission of any actions of a property nature under the threat of violence against the victim or persons close to it, disclosure of information that disgraces it or persons close to it, damage or

⁴⁷ Criminal Code. 1903. Available from: <https://pravo.by/upload/pdf/krim-pravo/ugolovnoe_ulozenie_1903_goda.pdf>.

⁴⁸ Ibid 43.

⁴⁹ Criminal Code of the Ukrainian Soviet Socialist Republic. 1960. Available from: <http://search.ligazakon.ua/l_doc2.nsf/link1/KD0006.html>.

⁵⁰ Ibid 45.

⁵¹ Ibid 45.

destruction of their property.

Since 1989, the prior agreement of a group of individuals (part 2 of Article 144),⁵² causing major damage to the victim (part 3 of Article 144) had been recognized as the qualifying factor of the crime. After the changes, this crime was punishable by imprisonment for up to three years or correctional labor for up to two years, or a fine of up to four hundred rubles. The legislator expanded the range of protected relations by changing “the provision of property benefits” to “the commission of any actions of a property nature”, and a new term was added – “property damage”. Having studied the third stage of the history of the development of legislation establishing criminal liability for extortion, it can be concluded that the Criminal Code of the Ukrainian Soviet Socialist Republic of 1960⁵³ provided first for criminal liability for extortion of individual property, and for extortion of state or collective property since 1989. At the same time, article 144 of the Criminal Code of 1960⁵⁴ did not originally contain the qualifying factors, and the punishment was in the form of imprisonment for up to three years, or correctional labor for up to one year, and since 1989 the article had been supplemented with the factors. The articles were amended that provided responsibility for extortion, concerning changes in public relations in the country and the spread of this type of crime.⁵⁵

The fourth stage of the development of legislation on criminal liability for extortion is neoliberal, which began in 1991 and continues to this day. In 1992, articles 86-2 and 144 of the Criminal Code of the Ukrainian Soviet Socialist Republic⁵⁶ replaced the terms “public property” and “personal property” with “collective property” and “individual property”. After the amendments, article 144 of the Criminal Code⁵⁷ defined extortion of individual property as a requirement to transfer individual property of citizens or the property right or to commit any actions of a property nature under the threat of violence against the victim or persons close to him, disclosure of information that disgraces him or persons close to him, damage or destruction of their property. Article 86-2 of the

⁵² Ibid 45.

⁵³ Ibid 45.

⁵⁴ Ibid 45.

⁵⁵ Ibid 22.

⁵⁶ Ibid 45.

⁵⁷ Ibid 45.

Criminal Code of the Ukrainian Soviet Socialist Republic⁵⁸ defined extortion of state or collective property, the demand for the transfer of state or collective property or the right to property under threat of violence against the person in charge or under the protection of which this property is located, violence against persons close to him, disclosure of information disgracing him or persons close to him, damage or destruction of their personal or state or collective property under their jurisdiction or under protection.

Stage	Period	Description
1	Mid X - 1st half XIX	Pre-modern stage: During this period, the formation of responsibility for extortion began to take shape. It covers the period from the middle of the X century to the first half of the XIX century, laying the groundwork for the establishment of criminal liability for extortion.
2	1st half XIX - 1917	Modernism stage: This stage marks a turning point in the development of legislation establishing criminal liability for extortion. It began in the first half of the XIX century and lasted until 1917, witnessing substantial advancements in the legal framework surrounding extortion.
3	1917 - 1991	Soviet stage: The period from 1917 to 1991 saw the development and enforcement of legislation under Soviet rule. This stage was characterized by the influence of Soviet legal principles on the criminal liability for extortion, leading to changes in the way the crime was defined and punished.
4	1991 - Present	Neoliberal stage: Starting in 1991, when Ukraine declared its independence, the neoliberal stage began. This stage continues to this day and is marked by the ongoing development of legislation related to criminal liability for extortion in an independent Ukraine.

At the same time, the legislative definition of the concept of “extortion”, given in articles 86-2 and 144 of the Criminal Code of the Ukrainian Soviet Socialist Republic,⁵⁹ seemed imperfect. First, articles 86-2 and 144 of the Criminal Code of the Ukrainian Soviet Socialist Republic⁶⁰ limited the method of extortion to the threat of violence, disclosure of shameful information, damage or destruction of property, all other methods of threat were not included. Second, the dispositions of these norms provided for disclosure of defamatory information only, and not any, thereby limiting the method of extortion. Third, the threat of damage or destruction of “state or collective property” and “their personal” is one of the threats in the case of “extortion”, that is, the individual

⁵⁸ Ibid 45.

⁵⁹ Ibid 45.

⁶⁰ Ibid 45.

property. In contrast, “the threat of damage or destruction of their property”, that is, the threat of damage or destruction of only individual property is one of the threats in part 1 of Article 144 of the Criminal Code of the Ukrainian Soviet Socialist Republic.⁶¹ That is why the science of criminal law has repeatedly pointed out the shortcomings of the wording “extortion” and proposed new interpretations of this concept. It is important to note that these shortcomings were eliminated in 2001, when the current Criminal Code of Ukraine was adopted. Unlike the previous law on criminal liability for extortion, the Criminal Code of 2001⁶² combined the responsibility for extortion, regardless of the form of ownership, in one basic article, making separate types of extortion, for which responsibility is established in the articles 262, 308, 312, 313, 354, 357, 368, 368-3, 368-4, 410, special types of extortion. Article 189 of the current Criminal Code of Ukraine⁶³ defines extortion as a demand to transfer someone else's property or the right to property or the commission of any actions of a property nature with the threat of violence against the victim or its close relatives, restriction of the rights, freedoms or legitimate interests of these persons, damage or destruction of their property or property under their jurisdiction or under protection, or disclosure of information that the victim or its close relatives wish to keep secret (extortion). Thus, with the adoption of the Criminal Code of Ukraine⁶⁴ in 2001, the corpus delicti provided for in article 189 in comparison with articles 86-2 and 144 of 1960,⁶⁵ on the one hand, significantly expanded the provisions on the nature of threats by replacing the wording “disclosure of information discrediting” with the wording “disclosure of information that they wish to keep secret” and the threat of “restriction of rights, freedoms or legitimate interests”, on the other hand, importantly narrowed the circle of persons whose interests are protected by law from extortion by replacing “people connected with the victim” with the concept of “close relatives”.

Discussion

The fourth stage of the development of legislation on criminal liability for extortion is characterized by the fact that responsibility for extortion was

⁶¹ Ibid 45.

⁶² Ibid 1.

⁶³ Ibid 1.

⁶⁴ Ibid 1.

⁶⁵ Ibid 45.

established not only in cases of threats against the victim at the beginning, but also in the case of threats provided for by law also against with the victim, that is, the threat of extortion could concern both the victim itself and its connected people, including its close relatives. With the adoption of the Criminal Code of Ukraine⁶⁶ in 2001, the *corpus delicti* provided for in article 189 in comparison with articles 86-2 and 144 of 1960,⁶⁷ on the one hand, notably expanded the provisions on the nature of threats, on the other hand, significantly narrowed the circle of people whose interests are protected by law from extortion. Similar conditions of punishment exist in the current criminal legislation of foreign countries. For example, paragraph 288 of the Danish Penal Code⁶⁸ establishes criminal liability for robbery. When comparing paragraph 281 of the Danish Criminal Code with the provisions of domestic criminal legislation, it should be noted that they have both similar features and differences. The text of the article is more casuistic in the Danish Criminal Code, and the simpler norm is perceived with difficulty. The signs of extortion established in paragraph 281 of the Danish Criminal Code⁶⁹ include the following: the act is a threat of violence, deprivation of liberty, significant damage to goods, accusation of a crime, disclosure of information about private life; the purpose of the crime is to obtain illegal benefits.

In Swedish criminal law, the responsibility for extortion is established in article 4 (in the Swedish Criminal Code⁷⁰ articles do not have names). This article is located in Chapter 9 “On fraud and other dishonest possession”. The content of this article is as follows: “a person who, by unlawful coercion, forces someone to perform or not to perform any actions that will be beneficial to the person who committed the crime and will harm the person being forced or for the individual being represented, must be convicted of extortion, unless the crime is robbery or grave robbery, to imprisonment for a term not exceeding two years, or if this crime is insignificant, then to a fine”.⁷¹ If the crime is serious, then imprisonment is imposed for a period of not less than six months and not

⁶⁶ Ibid 1.

⁶⁷ Ibid 45.

⁶⁸ Danish Penal Code. 1930. Available from: <<https://lovdata.no/dokument/NL/lov/2005-05-20-28>>.

⁶⁹ Ibid 64.

⁷⁰ Swedish Criminal Code. 1965. Available from: <<https://www.government.se/government-policy/judicial-system/the-swedish-criminal-code/>>

⁷¹ Ibid 66.

more than six years.

Comparing the text of this article from the Swedish Criminal Code with Article 136 189 of the Criminal Code of Ukraine enables the identification of certain observations. Swedish legislators distinguish disposition and sanction in the structure of the article,⁷² which is a definite disadvantage. The attention of the legislator was mainly paid to the issue of determining the punishment of the person committing extortion, rather than determining the signs of the act itself. Under the act, the Swedish legislator proposes to understand an inducement to commit actions or inaction. The criminal or a third party sees the consequences as causing losses to the victim and receiving benefits. The method of committing a crime is illegal violence. It is impossible to conclude as to which crimes this corpus delicti should be attributed – formal or material. Additionally, the Swedish Criminal Code⁷³ states that there should be no signs of robbery.

Until now, in the science of criminal law, there is still a discussion about the essence of the object of the crime. There are two main fully opposed concepts regarding the object of the crime, namely the concept according to which the object of all crimes is the totality of public relations, and the concept that denies the first, arguing that public relations, which are essentially an abstract category, cannot act as real objects of specific crimes. The concept according to which the object of crimes is a set of social relations is set out in several works. For a long time, this position was supported by the overwhelming majority of researchers engaged in the study of the problems of the object of the crime. Supporters of another concept, being unanimous in the fact that public relations cannot be the object of crimes, scatter in their view of what exactly is the object of the crime. Thus, the recognition as an object of crime not of public relations, but of legally protected goods and values against which the criminal act is directed and to which it causes or may cause harm, takes place in textbooks on the general part of criminal law.⁷⁴

At the same time, the object of the crime is understood as tangible and intangible values, public interests. It is believed that the object of the crime is socially significant values protected by criminal law, interests, benefits, which

⁷² Ibid 66.

⁷³ Ibid 66.

⁷⁴ Ibid 18.

are encroached upon by the person who committed the crime, and to whom significant harm is caused or may be caused as a result of the committed criminal act. The object of a crime is a set of social relations that constitute a social characteristic of a person with a different level of abstraction, it has an objective character, exists outside our consciousness: the further it is from the general object of the crime, the more it looms, the more clearly it is revealed, the contours of the totality of these relations become more prominent.

Considering public safety as a kind of security, it is noted that both in everyday and scientific understanding, security is assessed as a certain fact, as something valuable and achievable, created by people, as a certain valuable characteristic of the subject. In other words, security is a definite need and good, public security acts as a common good, security for all, a common value that meets the interests of society and all citizens. They consider public security as a system of public relations that ensures the prevention and elimination of the general danger of violent harm to law-enforcement interests in general.

The relations that constitute the content of public security are characterized by the following existing features: they ensure the safety not only of an indefinite circle of persons, but also of an inexhaustible circle of law-enforcement interests: they equally guarantee the safety of other public relations, creating a kind of protective shell around them, preventing the threat of violent harm to them. Thus, public safety as an object of crime is considered as a social relations that ensure the prevention and elimination of general danger, or a system of social interaction of people that ensures the maintenance of technical systems in a well-maintained, safe condition; as a certain value, as a benefit and necessity, as protection of society from various dangers, as an activity to prevent dangers; as a system of measures and the creation of necessary conditions that ensure the calm and unhindered functioning of state and public enterprises, institutions and organizations, as well as the tranquility of citizens.

The crimes provided for in part 3 of Article 368, part 4 of Article 368-3, part 4 of Article 368-4 of the Criminal Code of Ukraine⁷⁵ are included in section XVII "Crimes in the sphere of official activity and professional activity related to the

⁷⁵ Ibid 1.

provision of public services”. The object of crimes in the sphere of official activity is the procedure established by the norms of law for the exercise of their powers by officials and persons providing public services. It should be noted that the direct objects of crimes provided for in part 3 of Article 368, part 4 of Article 368-3, part 4 of Article 368-4⁷⁶ are specific aspects of the established procedure for exercising their powers by the relevant special subjects. These may be such specific aspects as – the exercise of powers only in the interests of the service, the duty of an official to exercise his powers only within the limits of his powers, the duty to perform his powers faithfully.

Thus, public officials are endowed with powerful public-legal powers, and the peculiarity of the object when they commit crimes in the service is that it is made up of legal relations in which state or municipal power is exercised. This characterizes the essential feature of the object of this subgroup of crimes, confirms their increased (in comparison with other official crimes) public danger, and is projected on the signs of their special subject. The crime provided for in article 410 of the Criminal Code of Ukraine⁷⁷ is included in section XIX of the Criminal Code of Ukraine “Crimes against the established order of military service (military crimes)”. In the literature, the object of this crime is indicated by the established procedure for exercising the right of ownership concerning the military property. An additional optional object in various forms of this crime may be the life and health, will, honor and dignity of a person, or the procedure for storing military property has been established, obliging military personnel to store weapons, military supplies, vehicles, military and special equipment and other military property.

In some scientific works devoted to commenting on article 189 of the Criminal Code of Ukraine,⁷⁸ it is traditionally indicated that its objective side is characterized by two interrelated actions that can be performed in different ways: 1) by making a property claim; 2) with the threat of violence, reduction or damage to property, causing other harm, or: 1) in the form of a demand for the transfer of someone else's property, the right to property or the commission of acts of a property nature and 2) with the threat of causing certain harm to the

⁷⁶ Ibid 1.

⁷⁷ Ibid 1.

⁷⁸ Ibid 1.

victim – to apply violence to him or his close relatives, destroy their property or disclose unwanted information.

The legislator's use of the same term “extortion” to denote certain actions shows that these actions are identical to each other. It also follows from this general conclusion that the concept of “extortion” indicated by the legislator is a concept that contains common features inherent in any extortion in various crimes. Therefore, extortion should be considered as a single concept covering these norms. Going forward, consideration will be given to treating disclosure of a crime-committing method as a mandatory indicator of the objective aspect of the corpus delicti in extortion cases. The next threat is the restriction of the rights, freedoms, and legitimate interests of the victim or his close relatives. According to article 21 of the Constitution of Ukraine,⁷⁹ all people are free and equal in dignity and rights, human rights and freedoms are inalienable and inviolable. According to article 22,⁸⁰ the human and civil rights and freedoms enshrined in this Constitution are not exhaustive. In accordance with article 64,⁸¹ the constitutional rights and freedoms of a person and citizen may not be restricted, except in cases provided for by the Constitution of Ukraine. The threat of restriction of human rights and freedoms expressed by the extortionist is always illegal and may concern not only constitutional rights and freedoms, but also those provided for by normative acts other than the Constitution. As for the concept of legitimate interest, the Constitutional Court of Ukraine defined the concept of “legally protected interest”: it is the desire to use a specific material and/or intangible good, as determined by the general content of objective law and not directly mediated in subjective law, a simple legitimate resolution, which is an independent object of judicial protection and other means of legal protection in order to satisfy individual and collective needs that do not contradict the Constitution and laws of Ukraine, public interests, justice, good faith, reasonableness and other general legal principles.⁸²

Another type of threat is the destruction or damage to property. In accordance with the provisions of the law, a threat to destroy or damage

⁷⁹Constitution of Ukraine. 1996. Available from: <<https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>>.

⁸⁰ Ibid 75.

⁸¹ Ibid 75.

⁸² Ibid 4.

property occurs when it concerns: 1) property belonging to the victim or his close relatives on the right of ownership; 2) property under their jurisdiction or under protection. According to paragraph 2 of Resolution of the Plenum of the Supreme Court of Ukraine No. 4 “On judicial practice in cases of destruction and damage to state or collective property by arson or as a result of the violation of fire safety requirements established by law”⁸³ destruction of state or collective property is its complete unusability for its intended purpose. As a result of the destruction, the property ceases to exist or completely loses its value. The destruction of the forest area means that it has lost its economic, climatic or cultural and aesthetic significance. Damage to property is recognized as deterioration in the quality, reduction in the value of a thing or bringing it for some time into a condition unsuitable for use for its intended purpose.⁸⁴

As a subject of crimes, the property is understood as things of the material world in which human labor is invested and which are able to satisfy human needs and have an exchange value. Investigating the properties of the object of extortion, finding out its economic and legal properties, it is necessary to pay attention to the rules for the circulation of property, due to special properties, or a special purpose. At the same time, the current criminal legislation establishes liability for extortion of equipment intended for the manufacture of narcotic drugs, psychotropic substances or their analogs (Article 313 of the Criminal Code)⁸⁵ and extortion of documents, stamps, seals (Article 357 of the Criminal Code),⁸⁶ which are not provided for by the specified List. The subject of the crime under Article 357 of the Criminal Code of Ukraine⁸⁷ are official documents, stamps, seals. In accordance with article 1 of Law of Ukraine No. 2657-XII “On Information”,⁸⁸ a document is a material carrier containing information, the main functions of which are its preservation and transmission in time and space. At the same time, Law of Ukraine No. 595-XIV “On Mandatory

⁸³ Resolution of the Plenum of the Supreme Court of Ukraine No. 4 “On judicial practice in cases of destruction and damage of state or collective property by arson or as a result of violation of fire safety requirements established by law”. 1976, July. Available from: <<https://zakon.rada.gov.ua/laws/show/v0004700-76#Text>>.

⁸⁴ Ibid 5.

⁸⁵ Ibid 1.

⁸⁶ Ibid 1.

⁸⁷ Ibid 1.

⁸⁸ Law of Ukraine No. 2657-XII "On Information". 1992, October. Available from: <<https://zakon.rada.gov.ua/laws/show/2657-12#Text>>.

Copy of Documents”⁸⁹ and Law of Ukraine No. 32/95-VR “On Libraries and Library Affairs”⁹⁰ indicate that a document is a material form of obtaining, storing, using and distributing information recorded on paper, magnetic, film, photographic film, optical disc or other media.

According to the content of the current legislation, the components of the document are: 1) any information; 2) information carrier – any material form: magnetic, film, video, photographic film, optical disc or other media. It should be noted that the subject of the crime under Article 357 of the Criminal Code of Ukraine,⁹¹ the legislator defined “official documents” and “personal documents” that are located at enterprises, institutions or organizations, regardless of the form of ownership. According to the content of the current legislation, the prints of official seals and stamps certify the authenticity of facts of legal significance and documents.

Thus, a common feature of the subject of extortion in crimes provided for in Articles 189 and 357 of the Criminal Code of Ukraine⁹² is property benefits. In the crimes provided for in Articles 262, 308 and 312 of the Criminal Code of Ukraine,⁹³ the objects of crimes are things, is property, which, based on of the current legislation of Ukraine, is restricted to civil circulation. The subject of the crime under Article 410 of the Criminal Code of Ukraine⁹⁴ is weapons, military supplies, explosive or other military substances, vehicles, military and special equipment or other military property. In accordance with article 1 of Law of Ukraine No. 1075-XIV “On the Legal Regime of Property in the Armed Forces of Ukraine”,⁹⁵ military property is state property assigned to military units, institutions, institutions and organizations of the Armed Forces of Ukraine. The military property includes houses, structures, transmitting devices, all types of weapons, military and other equipment, ammunition, fuel and lubricants, food, technical, airfield, skipper, clothing, cultural and educational, medical,

⁸⁹ Law of Ukraine No. 595-XIV “On Mandatory Copy of Documents”. 1999, April. Available from: <<https://zakon.rada.gov.ua/laws/show/595-14#Text>>.

⁹⁰ Law of Ukraine No. 32/95-VR “On Libraries and Library Affairs”. 1995, January. Available from: <<https://zakon.rada.gov.ua/laws/show/32/95-%D0%B2%D1%80#Text>>.

⁹¹ Ibid 1.

⁹² Ibid 1.

⁹³ Ibid 1.

⁹⁴ Ibid 1.

⁹⁵ Law of Ukraine No. 1075-XIV “On the Legal Regime of Property in the Armed Forces of Ukraine”. 1999, September. Available from: <<https://zakon.rada.gov.ua/laws/show/1075-14#Text>>.

veterinary, household, chemical, engineering property, communications property and the like.

Consequently, within the limits of this division, it can be concluded that the subject of extortion provided for in Article 189 of the Criminal Code of Ukraine⁹⁶ is property, the right to property, actions of a property nature. The subject of crimes provided for in Articles 262, 308 and 312 of the Criminal Code of Ukraine⁹⁷ is firearms (except slug guns, as well as sports weapons and ammunition, which are purchased by public associations with the permission of the National Police), military supplies, explosives, explosive devices, radioactive materials, narcotic drugs, psychotropic substances or their analogs, precursors. The subject of the crime under Article 313 of the Criminal Code of Ukraine⁹⁸ is equipment intended for the manufacture of narcotic drugs, psychotropic substances or their analogs. The subject of the crime under Article 357⁹⁹ are documents, stamps and seals. The subject of the crime under Article 410¹⁰⁰ is property, the peculiarity of the legal status of which is that it is military. Property and intangible benefits are common subjects of extortion.

The differentiation of criminal responsibility is one of the most important conditions for fair punishment, aimed at finding the most adequate measures of criminal legal impact, depending on the level of public danger of crimes. The consolidation of aggravating (particularly aggravating) factors is one of its forms in the criminal law. To fully address the topic of aggravating and particularly aggravating factors of extortion, initially it is deemed suitable to define the concept of "qualifying factors of the corpus delicti." There is no single point of view among scientists regarding the definition of the concept of qualifying factors. In particular, it is noted that the qualifying factors are the elements of the crime, which indicate a sharply increased (compared with the main corpus delicti) public danger of the act and the person who committed it. The qualifying signs are defined as circumstances provided for in the law that is characteristic of crimes of the corresponding type, reflecting a significant change in comparison with the main corpus delicti of the crime, the degree of public

⁹⁶ Ibid 1.

⁹⁷ Ibid 1.

⁹⁸ Ibid 1.

⁹⁹ Ibid 1.

¹⁰⁰ Ibid 1.

danger of the deed and the identity of the perpetrator and affect the qualification of the crime and the measure of responsibility. Qualifying factors are additional signs of the *corpus delicti* that increase the degree of public danger of a crime. Such factors of a crime are called qualifying, which is formulated in the articles of the special part of the Criminal Code, contain aggravating circumstances of the crime specified in the disposition of the article and provide for increased responsibility. Qualifying factors are one of the ways to increase the severity of punishment. Accordingly, It is defined as specific circumstances specified in the articles of the Special Part of the Criminal Code and characteristic of certain groups (types) of crimes directly related to the crime and those that seriously increase the degree of its public danger, as well as unusual for most of the acts recorded in the main *corpus delicti* and those that directly affect the severity of punishment compared to the typical punishment provided for the commission of a crime without appropriate signs.

In the legal encyclopedia, qualifying factors are defined as aggravating circumstances concerning a crime (its objective and subjective aspect), a guilty and a victim, as well as those specified in the disposition of the special part of the Criminal Code of Ukraine¹⁰¹ as signs of an independent *corpus delicti*. As observed, the above concepts differ from each other, although sharing some common features of the studied factors in their definitions have been used.

Qualifying factors are simultaneously characterized by kinship with both the signs of the main *corpus delicti* and the circumstances aggravating the punishment. Agreement exists with the notion that this stems from a dual nature. On the one hand, qualifying factors are signs of the *corpus delicti*, which makes them related to the signs of the main *corpus delicti*. On the other hand, they are used by the legislator to construct a more dangerous type of crime and to establish a more severe sanction in the law than that associated with the main *corpus delicti* of the crime, which indicates their similarity to the circumstances aggravating the punishment. However, despite the commonality of some features, the identification of these legal concepts is unacceptable, since their legal nature is different.

Qualifying factors are additional signs that form another, more dangerous

¹⁰¹ Ibid 1.

type of corpus delicti, together with the signs of the main corpus delicti. This corpus delicti is called aggravation. Its qualifying factors become mandatory on a par with the signs of the main corpus delicti, although they differ importantly from them. However, they do not represent those mandatory signs that determine whether an act is criminal. It is known that the absence of at least one mandatory sign of the main corpus delicti signifies either the general absence of the corpus delicti or the necessity to classify the crime under a different article within the special section of the Criminal Code of Ukraine. If there is no qualifying factor, then an act does not cease to be a crime, and must be qualified according to that part of the relevant article of the special part that provides for responsibility for the main corpus delicti (as a rule, this is part one). Consequently, the committed crime may contain signs of the corpus delicti even without qualifying signs. Qualifying factors are provided for in criminal law. As a rule, they are indicated in the parts following the first one of the relevant articles of the special part of the Criminal Code of Ukraine. This also distinguishes them from the signs of the main corpus delicti, which may not be indicated in the relevant norms, but follow from the interpretation. When describing a criminal law norm, the legislator does not always provide for all the signs of the corresponding main corpus delicti. However, this does not mean that they are not mandatory.¹⁰²

Like the signs of the main corpus delicti, qualifying signs also affect the qualification of the deed. However, they change the criminal-legal assessment of an act, toughening the punishment. If a person has committed a crime that contains signs of aggravation, then qualification will take place according to another part of the article, and, consequently, the sanction will also change. Using qualifying signs, the legislator constructs aggravation, which is characterized by an outstandingly changed, increased level of public danger compared to the main corpus delicti. The main corpus delicti and aggravation contain signs of the same crime, but aggravation is its more dangerous form. Accordingly, qualifying signs are the basis for another, more severe punishment than that provided for in the part of the article containing the main corpus delicti. Unlike qualifying signs, the signs of the main corpus delicti do not function as

¹⁰² Ibid 9.

aggravation.

Qualifying signs are a means of differentiating criminal responsibility and punishment. In turn, the aggravating circumstances specified in the General Part of the Criminal Code of Ukraine,¹⁰³ although they strengthen the punishment, do not affect the qualification of the deed. They are taken into account by courts when imposing punishment; therefore, they are a means of individualizing responsibility, not differentiating it. In fact, qualifying signs function at the stage of criminal liability, and aggravating circumstances – at the stage of its implementation. The circumstances aggravating the punishment are an instrument in the hands of a judge, and qualifying signs are in the hands of the legislator. Using qualifying signs, the legislator fixes a new sanction, which is stricter than that provided for an act that contains signs of the main corpus delicti. Summarizing the above, let's try to determine the main characteristic features of qualifying signs: first, they indicate an increased degree of public danger of a crime itself and a person who committed it; second, qualifying signs are provided in the dispositions of parts of articles of the special part of the Criminal Code of Ukraine; third, together with the signs of the main corpus delicti, they form other, more dangerous types of crimes – aggravation; fourth, they affect the qualification of a deed; fifth, they toughen the punishment; and sixth, they differentiate criminal liability.¹⁰⁴

A definition for the concept of "qualifying signs of the corpus delicti" is proposed. These are the signs provided for in the dispositions of parts of the articles of the Special Part of the Criminal Code, along with the signs of the main corpus delicti characterize aggravation (particular aggravation), increases the degree of public danger of the crime and the person who committed it, affecting the qualification, toughening the punishment and differentiates criminal liability.

Conclusions

This research aimed to investigate the concept of "extortion" as a category of criminal law, its place within the system of criminal law norms, and the principles of response to extortion offenses. Utilizing a combination of

¹⁰³ Ibid 1.

¹⁰⁴ Ibid 23.

qualitative research methods, including a comprehensive literature review, historical analysis, comparative legal analysis, and an assessment of legislative prohibitions and countermeasures, the study has accomplished several objectives. Utilizing a combination of qualitative research methods, including a comprehensive literature review, historical analysis, comparative legal analysis, and an assessment of legislative prohibitions and countermeasures, the study has accomplished several objectives.

Furthermore, the research highlights the importance of accurately qualifying extortion offenses according to the relevant legal provisions, taking into account factors such as the nature of violence, the subject of extortion, and the involvement of criminal organizations. The historical analysis also provides insights into the evolution of legislation establishing criminal liability for extortion and the development of qualifying signs of the *corpus delicti*.

The development of legislation establishing criminal liability for extortion has gone through four stages, namely, the first stage can be defined as pre-modern, covering the period from the middle of the X – to the first half of the XIX century. At this stage, the concept of extortion was clarified and considered as a separate type of violent property crime. Upon discovering the core of the concept of "qualifying signs of the *corpus delicti*," a conclusion will be drawn regarding the qualifying signs of extortion.

Based on the analysis of legal documents, it can be concluded that it is necessary to qualify extortion according to the totality of the relevant part of Article 189 of the Criminal Code and paragraph 6 of Part 2 of Article 115 of the Criminal Code in the case when a murder was committed during extortion. When causing serious bodily injuries during extortion, resulted in the victim's death, it is necessary to qualify the actions according to the totality of Part 4 of Article 189 of the Criminal Code and Part 2 of Article 121 of the Criminal Code. If extortion is committed by a criminal organization, the actions must be qualified under Part 1 of Article 255 of the Criminal Code of Ukraine and collectively under Part 4 of Article 189 of the Criminal Code of 25 of Ukraine.

Future research can build upon these findings by examining the impact of policy interventions and exploring the effectiveness of alternative strategies to prevent extortion and address its consequences. Additionally, the study's findings can be applied to develop practical guidelines and recommendations

for law enforcement and judicial authorities in handling extortion cases, ultimately enhancing the effectiveness of the criminal justice system in addressing economic offenses.

It should be noted that understanding the connection between extortion and criminal and civil liability for economic offenses is vital for legal complexities surrounding these offenses. By examining similarities and differences, legal consequences, and implications for victims, policymakers and legal practitioners can develop more effective strategies for combating economic offenses and promoting justice and economic stability.

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