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CURRENT DEVELOPMENTS OF LEGAL REGULATIONS ON CRIME PROVOCATION IN RA CRIMINAL CODE

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1. Introduction

The provocation of crime, being a wide-ranging phenomenon, meets with different manifestations at the theoretical and practical levels, which are summarized in various sources of both substantive and procedural law.

The innovations in the current criminal legislation of the Republic of Armenia, adopted on May 5, 2021, also referred to the the provocation of a crime, which, in connection with the implementation of the goals and objectives of the Criminal Code, makes it relevant to discuss trends in the development of provocation of a crime in the context of the already formed rich domestic and especially foreign experience.

The topicality of the topic of this article is due to the relationship between the mentioned innovations and various criminal legal structures and the relations that are the object of protection of criminal legislation, within the framework of which it is important to find out the degree of illegality and danger of provocation of crime, as well as the possibility of fighting against this phenomenon with criminal legal mechanisms.

The relevance (or modernity) of the article's topic is due to the correlation of these innovations and various criminal law mechanisms and relations that are the object of protection of criminal legislation, within which it is important to identify the degree of illegality and the danger of provocation of a crime, as well as the possibility of combating this phenomenon with the help of existing criminal law mechanisms.

The purpose of the work was considered to be the integrated use of induction, deduction, analysis and synthesis, as well as special systemic and legal methods.

2. The actual research

2.1) Definition of crime provocation in criminal law.

In order to ensure the versatility of the research itself, it is first necessary to show the definition expressing the essence of provocation of the crime, especially when the approaches formed around it in practical and theoretical dimensions are different and often contradictory and its universal definition is missing.

It should be noted that through a comprehensive analysis of individual manifestations of provocation of crime in various spheres of public life, historical reviews, doctrinal interpretations, the experience of foreign countries and stable case law formed in judicial practice, expressing its main constituent elements, provocation of crime can be defined as the impact exerted on a person, aimed at using hidden methods to encourage him to commit a crime in order to create grounds for criminal liability against him or cause other harmful consequences[1].

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[1] See more information on this part M. Melikyan, Scientific-methodical journal "Bulwark of Law", № 15, pages 88-101:

2.2) Substantive legal regulation in relation to the provocation of crimes in foreign countries.

As mentioned at the beginning, the provocation of a crime, in a number of countries, among others, is fixed in different regulations of substantive law.

It should be emphasized that these manifestations have different characteristics, which can be classified into the following groups:

a) provocation refers to the institution of complicity[1],

b) provocation is the basis for exempting the victim from criminal responsibility[2],

c) provocation is considered a mitigating circumstance[3],

d) provocation refers to the institution of necessary protection[4],

e) provocation of crime is expressed in private manifestations[5],

f) provocation of a crime is a separate element of a crime, and its separate definition is given[6].

2.3) Manifestations of provocation of a crime in domestic criminal law.

Regarding the legal regulation of provocation of a crime in domestic legislation, it should be noted that, as in Article 350 of the Criminal Code of the Republic of Armenia (hereinafter referred to as the Former Code), in force as amended on April 18, 2003 (Provocation of a bribe or commercial bribery), and in Article 477 of the current Criminal Code of the Republic of Armenia (Provocation of a bribe or bribery in in the private sphere), the provocation of a crime is a private manifestation of this all-encompassing phenomenon.

At the same time, it should be noted that the provocation of a crime in terms of content also correlates with the provisions of articles 388 (Terrorist act against a representative of a foreign State or international organization) and 389 (International terrorism) of the former Code, since they contain the implementation of appropriate

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[1] See The French Criminal Code article 121-7 (https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006070719 (last entry: 27.11.2023)), The Spanish Criminal Code article 18 (https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf} (last entry: 27.11.2023.)).

[2] See Serbian Criminal Code article 19 (https://www.mpravde.gov.rs/files/Criminal%20%20%20Code_2019.pdf (last entry: 29.09.2023).

[3] See Lithuanian Criminal Code article 59 (https://www.imolin.org/doc/amlid/Poland_Penal_Code1.pdf) (last entry: 27.11.2023), Omani Criminal Code article 79 (http://www.mola.gov.com) (last entry: 27.11.2023), Zimbabwe's Criminal Code article 260 https://www.refworld.org/pdfid/4c45b64c2.pdf (last entry: 27.11.2023).

[4] See Spanish Criminal Code article 21 (http://www.mola.gov.com) (last entry: 27.11.2023) https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf (last entry: 27.11.2023)), The Criminal Code of Ecuador article 33 https://www.global-regulation.com/translation/ecuador/3349985/comprehensive-criminal-code.html (last entry: 27.11.2023), The Argentine Criminal Code article 34 http://observatoriolegislativocele.com/en/Criminal-Code-of-the-Argentine-Republic-Law-11179/ (last entry: 27.11.2023).

[5] See Criminal Code of Russia article 304 (https://www.consultant.ru/document/cons_doc_LAW_10699/ (last entry: 27.11.2023), Criminal Code of Belarus article 396 https://pravo.by/document/?guid=3871&p0=hk9900275 (last entry: 27.11.2023), Criminal Code of Kyrgyzstan article 343 (https://online.zakon.kz/Document/?doc_id=36675065 last entry: 27.11.2023), Criminal Code of Tajikistan article 321 (ncz.tj/content/уголовный-кодекс-республики-таджикистан last entry: 27.11.2023), Criminal Code of Turkmenistan article 199 https://online.zakon.kz/Document/?doc_id=31295286 (last entry: 27.11.2023).

[6] See Criminal Code of the Republic of Georgia article 145 https://matsne.gov.ge/en/document/view/16426 (last entry: 27.11.2023.), also Criminal Code of the Republic of Kazakhstan article 412.1 https://online.zakon.kz/Document/?doc_id=31575252 (last entry: 27.11.2023).

encroachments, as a result of which international complications or wars are provoked, or the internal situation of a foreign State is destabilized States[1], what regulation is also provided for by the disposition of Article 152 (International terrorism) of the current Criminal Code of the Republic of Armenia and the comments[2] to it, which indicate that the mentioned norm of the current Code contains certain provisions concerning provocative manifestations.

In addition, one of the innovations in the Criminal Code adopted on May 5, 2021, was also the inclusion of direct provisions on provocation in the provisions on institutions of necessary protection (Part 7 of Article 32 of the RA Criminal Code) and extreme necessity (Part 6 of Article 34 of the RA Criminal Code), which set out the conditions for excluding these situations when the presence of provocation.

In the "Guide to the Interpretation of Conceptual Approaches and New Institutions in the New Criminal Code of the Republic of Armenia" was stated that the provocation or provocation of the necessary protection is the situation when a person, wanting to take revenge on another, "incites" him to commit dangerous harassment in public and in the process, supposedly carrying out the necessary protection, damages the latter[3].

At the same time, it was emphasized in the same place that the provision of the prohibition of provocation or incitement[4] in the institutions of necessary protection and extreme necessity increases the level of legal certainty and does not allow the use of legislative loopholes to cover up illegal behavior, which previously, without clear legislative regulation, could be considered formal a situation of extreme necessity and the person who actually committed the crime was exempted from criminal responsibility on this basis[5].

In this context, it can also be concluded that the legal regulation of Article 35, Part 4, included in the General Part of the same Criminal Code, itself can be considered a norm containing certain elements of provocation, because it is defined that a person cannot be exempted from criminal responsibility provided for in this article. on the basis, if in order to cause damage to the interests protected by the law, he himself created an insurmountable force or incited another person to use physical or mental coercion against him, in order to later justify his causing damage to the interests protected by the law under the influence of insurmountable force or physical or mental coercion, the broad interpretation of such a provision , also indicates some features of provocation.

2.4) The criminal law peculiarities of provocation of a crime in the precedent practice formed by the European Court of Human Rights and the RA Court of Cassation.

The legal positions formed by the European Court of Human Rights (hereinafter referred to as the European Court) and the Court of Cassation of the Republic of Armenia in stable case law, which refer to the relationship between the provocation of a crime and operative-investigative or criminal procedural covert operations

[1] See Criminal law of the Republic of Armenia, Special part, (sixth edition with amendments and additions) Edited by G.S. Ghazinyan, Yerevan, 2012, pages 1015-1035.
[2] See A.Gabuzyan, A.Margaryan, T.Simonyan, "Guide to the Interpretation of Conceptual Approaches and New Institutions in the New Criminal Code of the Republic of Armenia", Council of Europe, 2022, pages 225-240.
[3] See A.Gabuzyan, A.Margaryan, T.Simonyan, "Guide to the Interpretation of Conceptual Approaches and New Institutions in the New Criminal Code of the Republic of Armenia", Council of Europe, 2022, page 78.
[4] Regarding the identification of the terms "provocation" and "incitement", see the same place.
[5] See, the same, page 88.

(hereinafter Covert operations), can play a significant role in this case. in matters of determining the presence of elements of provocation of a crime in the actions of the person carrying out the actions and giving them a proper legal assessment.

In the context of judgments made in a number of cases of the European Court, it can be noted that the main criteria for the demarcation of secret actions and criminal provocation are the passive intervention of the authorities, the persons cooperating with them or acting on their instructions, and the prohibition of exerting pressure by them, the prohibition of taking the initiative, the legality of their actions and principles of control over them[1].

In line with the spirit of the positions formed by the European Court in stable case law, the Court of Cassation in the case of *Garnik Galstyan* recorded that the provocation of a crime is actions carried out by representatives of the authorities (persons cooperating with them or acting on their instructions), which go beyond the scope of investigation in a significantly passive way: stipulating the formation of an initiative by a person to commit a crime in order to enable the establishment of the crime, that is, to provide evidence and initiate a criminal prosecution[2].

From the above, it can be noted that the legal positions expressed by the international court and the domestic supreme court, although they were formed from a criminal point of view, they should rightly be considered high value from the point of view of material law.

First of all, the mentioned positions draw the borderline, on one side of which is the legitimacy of Secret actions carried out by the relevant entities, with the provision of the necessary appropriate standards, and on the other side, the illegal activities of "agents provocateurs", which apparently creates a basis for criminal legal action against these actions. to consider the need for countermeasures.

In addition, the criteria separated by the completion of the above legal positions may also be applicable in cases where it comes to the dispositions of criminal legal norms containing private or general provisions against provocation of crime, thus giving them legal certainty and predictability.

2.5) The problems of legal regulation of provocation of crime in RA criminal law.

Combining the collective perceptions, definitions and essence of provocation of crime as a phenomenon, foreign and domestic legal regulations, the positions expressed in the case law of international and domestic high courts, the following questions arise:

1) is the provocation of a crime as a phenomenon an illegal act with such a high degree of danger, for which criminal responsibility should be imposed,

2) is it possible to give a proper legal assessment to the provocation of a crime through the current regulations of the RA Criminal Code?

It should be emphasized that the fact that in the Republic of Armenia and in a number of countries bribe provocation, which is a private manifestation of provocation, is already a crime.

The manifestations of criminal provocation, which were discussed in the cases of the European Court, referred not only to cases of bribery, but also, for example, to

[1] For more details, see M. Melikyan "Criminal legal features of provocation of a crime in the context of the legal positions expressed by the European Court of Human Rights and the RA Court of Cassation", "Judicial Power" scientific methodical magazine, July-September, papers 54-62.

[2] See, mutatis mutandis, point 15 of the decision of the Court of Cassation No. ԵՄԴ/0027/01/14 of December 16, 2014 in the case *of Garnik Galstyan*.

narcotics[1], which speaks of the breadth of this phenomenon and not being limited only to manifestations of bribery, which fact emphasizes the danger of provocation as an illegal act: at the same time not considering the approach of the legislators regarding its expression only in certain manifestations justified.

In addition, as mentioned earlier, features of provocation of crime are also noted within the framework of the institution of necessary protection, where the person carrying out provocation of crime hides his harassment under the illusion of the victim of criminal harassment, inciting the latter to commit a crime with the tendency to create adverse consequences for the latter. In this case, the creation of a condition for committing a crime is an infringement on the interests of justice, because on the one hand, an illusion of necessary protection is created, and on the other hand, a person is provoked to commit a crime without the real "trap" being visible to him, so these situations cannot be on the same level. with the degree of dangerousness of the acts "causing direct harm" to the victim, therefore the committed act is out of qualification on general grounds and requires an appropriate criminal legal response[2].

Opinions were expressed in the theory that the implementation of provocation of a crime by a general subject should be qualified by motivation and the article of the Special Part, the characteristics of which are present in the act[3], which, however, cannot be considered justified because the provocation of a crime cannot be equated with a crime, which is another it was even documented in the example given earlier[4].

At the same time, the fact that bribery provocation in the RA Criminal Code does not distinguish the general and special features of the subject of the crime, therefore, in the case of considering provocation as a dangerous illegal act, in the same way, the general subject should also be considered as a subject.

Thus, answering the first question raised, it can be noted that the phenomenon under discussion in the conditions of the emphasized differences between the provocation of crime and a number of criminal legal structures is itself endowed with illegality and high danger, which creates a basis for concluding that the given phenomenon is subject to countermeasures with different criminal legal methods and tools.

Referring to the raised question of whether it is possible to give a proper legal assessment of the provocation of a crime through the current regulations of the RA Criminal Code, it is necessary to make the legal norms that can be apparently implemented and be somewhat related to the characteristics of the provocation of a crime the subject of study.

It would be beneficial to present a specific example for the ongoing study, discussing the issue of its qualification.

their component parts), main component part, munitions, rifle bullet, explosive material

[1] See mutatis mutandis, Case of Teixeira de Castro v. Portugal, judgment of European Court of Human Rights

[2] In this regard, the scientific article authored by me, "Manifestations of criminal provocation within the framework of the Institute of Necessary Protection" was guaranteed and handed over to the "Constitutional Court of the Republic of Armenia. bulletin" to the periodical for printing.

[3] See Arutyunov A.A. Provocation of crime // Russian investigator. 2002. № 8. pages 33-34, Забелов А.Ю. Criminal-legal assessment of provocations as crimes against the interests of justice, page 162, Masterkov A.A. Criminal-legal and criminological aspects of provocative activity. dis. ... cand. legal Sciences: 12.00.08, page 30, Nazarov A.D. "Provocations in operational-rozysknoydeyatelnosti", Moscow, 2010, pages 14-15.

[4] In this regard, see M. Melikyan "Issues of Provocation of Crime and Correlation of Crime", Journal "State and Law", N 2 (96), pages 236-242.

or detonation device, the person surrendered until the competent authorities learn about their location is released from criminal responsibility.

Ditsuk, the person, conditionally A, who has illegally kept the above-mentioned objects, decides to hand them over to the relevant authorities and informs his neighbor B, who is a common subject, of his intention to receive encouragement from the state on the one hand, and the neighbor on the other hand with the intention of causing harm, attempts to prevent him from exhibiting lawful behavior, assuring the latter that he will clarify the legal procedure for handing over such an object from his lawyer acquaintance, so that problems do not arise, but in reality he applies to the relevant authorities, submitting a report on illegal possession of firearms.

In such a case, the elements of motivation are missing, because the purpose of criminal prosecution of A by B, as well as the purpose of the corresponding interest and the hidden methods of achieving them, as components of the act, are absent in the conspiracy, the latter do not act with the intention of complicity, which significantly raises the circumstance in terms of quality. is the public danger of provocation of a crime, based on which it is possible to conclude that the provisions related to the provocation of a crime cannot be absorbed into the scope of complicity regulations[1].

In such factual circumstances, one can talk about the crime of committing perjury by creating artificial evidence provided for in Article 476, Part 2, Clause 4 of the RA Criminal Code, while despite certain similarities, there are a number of fundamental differences between them.

In particular, in the case of the given example, the creation of evidence is not done artificially, but as a result of a crime actually committed, which is expressed by the provoked person interfering with the legal circulation of weapons, which not only, in fact, objectively differs in its characteristics from the objective side of perjury, but also raises the degree of danger of the committed act, and if within the framework of the crime of perjury a person does not actually commit the crime mentioned by the subject, then in this case he commits what is a distinguishing factor not only between the discussed crimes, but also the crime of presenting false evidence provided for in Article 479 of the RA Criminal Code for features.

In other words, it can be stated that the legal regulations in force in the cited example are not able to be the necessary criminal legal countermeasures in the cited example for the proper qualification of the actions of the person who obstructs the voluntary handing over of weapons by a person.

As for the features of the qualification of provocation by persons who are special subjects, it should be noted that there are different approaches to it, of which perhaps the most important and plausible are the approaches to the absorption of provocation of a crime in the crimes of abuse of official position or transfer of powers.

It should be noted that under Article 441 of the current Criminal Code adopted on May 5, 2021, the actions of abusing official or official powers or the influence caused by them, on the one hand, and of passing the powers on the other hand, were combined, so the ratio of its individual components with the provocation of crime should be considered by the principle of exclusion.

In particular, doctrinal views have been put forward that the provocation of a crime by an official is subject to qualification as the crime of passing official powers[2],

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[1] In this regard, see M. Melikyan "Issues of Provocation of Crime and Correlation of Crime", Journal "State and Law", N 2 (96), pages 236-242.

2 See **Radachinskii S.N**. Evaluation of subjective signs of provocation of bribery or commercial bribery. pages 43-46; ed. A.V. Naumov: M., 1997 page 371, see also Durmanov N. Criminal responsibility for bribery under the current Soviet legislation // Problems of socialist law. 1937, Сб. 2, pages 20-47.

while the existing approach has been criticized on the grounds that first the provocation of a crime can be carried out by a general subject and then, Provocation of a crime has its specific goals and methods of execution, which should be summarized under a more specific and predictable legal regulation[1].

Due to such approaches, when solving the issue of his criminal liability in case of provocation of a crime by a special subject, the observation of the presence of the characteristics of the crime provided for by Article 441 of the Criminal Code of the Republic of Armenia, i.e., the questions of correlation between that crime and the provocation of a crime, becomes important.

It should be emphasized that the provision of Article 441 of the Criminal Code of the Republic of Armenia does not provide for a specific purpose and method of committing the crime, from which it follows that the abuse of official or service powers by an official may be accompanied by both causing adverse consequences for the person and through provocation, which unintentionally indicates that the provocation of a crime by a special subject can be qualified by Article 441 of the Criminal Code of the Republic of Armenia. However, it is necessary to emphasize that along with that there are also certain differences related to the scope of the relationships that are damaged by the actions under discussion. In particular, Article 441 of the RA Criminal Code is included in the series of crimes against the interests of public service, and the provocation of a crime is primarily aimed at the benefit of justice[2].

Moreover, the legislator has provided a separate criminal responsibility for provocation of bribery, and if an official, based on his official or official powers, for example, incites him to receive a bribe in order to harm his subordinate, creating grounds for criminal prosecution, the given person is subject to liability for provocation of bribery. but not for abusing official or official powers or the influence resulting from them, or for passing the powers. In other words, it can be concluded that if the subject of provocation was broader than only the subject of bribery in the Special part of the criminal law, it would be qualified by that article and would not be combined with the crime of abuse of official or service powers by an official.

Summarizing the research carried out on the second question raised above, it can be stated that the provocation of a crime is broader in its nature and boundaries and cannot be accommodated within the framework of the regulations of the domestic legislation, therefore it is not possible to give a proper legal assessment of the provocation of a crime through the current regulations of the RA Criminal Code and it is necessary provide new criminal law solutions.

3) Conclusion

Summarizing, it can be stated that the dynamics of the development of the law on provocation is noticeable in RA legislation. The combination of legal regulations on provocation of a crime shows that the provisions on the provocation of a crime are fixed in the Criminal Code of the Republic of Armenia, both as a private crime and under direct legal regulations in the General Part, which are also connected with separate regulations of the Special Part of the criminal law.

By systematically analyzing the above-mentioned legal regulations of the RA Criminal Code and combining them with the specifics of provocation of a crime, it is

[1] See **Shkabin G.S.** Concept of provocation crimes in the national legislation" pages 174-¬179.

[2] Regarding the relations damaged as a result of the provocation of a crime, see M. Melikyan "Objective features of the provocation of a crime", scientific and methodical magazine "Judicial Authority", April-September, papers 69-76.

possible to state that there are a number of indirect regulations in the General and Special parts of the Criminal Code that derive from the classic approaches to the provocation of a crime, which can be the basis for them. in order to make clarifications regarding provocation and to present the features of this phenomenon more distinctly in the legislation.

In addition, taking into account the subjective characteristics of the provocation of a crime, the goals and its dangerousness, from a low level to possible large-scale damage, the specific goals and methods of execution, it is possible to record that the provocation of a crime is an illegal and highly dangerous act, which requires criminal legal intervention. planning and practical effective use of funds[1].

Based on the above, it is proposed to provide for the provocation of a crime in the following version of the law:

´´477[1] Provocation of crime:

1. Provocation of a crime, creating conditions for a person to commit a crime, the purpose of which is to cause grounds for criminal liability or other significant consequences for the latter, is punished (…).

2. The same act that was committed

1) by an official, using official or official powers, shall be punished (…), (…)´[2]:

It should be noted that the proposed regulation comprehensively summarizes the possible manifestations of provocation of a crime, without highlighting one or another type of crime or the subject in which it may manifest itself.

At the same time, it also highlights the fact that provocation of a crime is a prerequisite for the commission of a crime by the victim, that is, it highlights the criteria established by the European and Cassation Courts, according to which, without the intervention of the provocateur, the person would not have had the intention to exhibit criminal behavior.

In addition, the proposed norm is also not limited to the objectives of the crime, taking into account the possibility of providing for the possibility of proportionate counteraction in the event of circumstances presenting a danger equivalent to the purpose more common in its commission -the creation of grounds for artificial criminal liability.

Abstract

The provocation of a crime, which does not have a separate codified definition in the legislation of both a number of countries and the Republic of Armenia, is manifested in the legal norms concerning the elements of crimes related to bribery or commercial bribery.

The RA Criminal Code, adopted on May 5, 2021, provided for a number of new provisions concerning the provocation of a crime by national legislation, which, from the point of view of the goals and objectives of the Criminal Code, create the need to study trends in the development of provocation of a crime within the framework of the already formed rich national and especially foreign experience.

These innovations themselves are the basis for drawing parallels between the phenomenon that is the subject of research and a number of other criminal law norms

[1] See Criminal Code of the Republic of Georgia article 145 https://matsne.gov.ge/en/document/view/16426 (last entry: 27.11.2023.), also Criminal Code of the Republic of Kazakhstan article 412.1 https://online.zakon.kz/Document/?doc_id=31575252 (last entry: 27.11.2023).

[2] At the same time, it is necessary to mention, that the content of the proposed legal regulation is not final in terms of qualitative parts and requires a separate in-depth study.

and, as a result, to identify various problems that determine the relevance of the chosen topic.

Based on the experience of national and foreign countries, the positions expressed by the European Court of Human Rights and the Court of Cassation of the Republic of Armenia in case law, as well as various theoretical doctrines, the subject of the study was the nature of illegality and the danger of provocation of a crime, a number of issues related to the possibility of criminal legal counteraction to this phenomenon in accordance with current norms, and were also To a certain extent, further developments of the provocation of the crime in national legislation are indicated.

Keywords – *provocation of crime; Criminal Code; doctrine; legal positions; foreign experience; problems; theory; subject of crime.*

ՀԱՆՑԱԳՈՐԾՈՒԹՅԱՆ ՊՐՈՎՈԿԱՑԻԱՅԻ ԻՐԱՎԱԿԱՆ ԿԱՐԳԱՎՈՐՈՒՄՆԵՐԻ ԶԱՐԳԱՑՄԱՆ ԱՐԴԻ ՄԻՏՈՒՄՆԵՐԸ ՀՀ ՔՐԵԱԿԱՆ ՕՐԵՆՍԳՐՔՈՒՄ

Մելիք Մելիքյան
ՀՀ Վճռաբեկ դատարանի աշխատակազմի
իրավական փորձաքննությունների ծառայության
գլխավոր մասնագետի պաշտոնակատար,
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Համառոտագիր

Հանցագործության պրովոկացիան, ինչպես մի շարք երկրների, այնպես էլ Հայաստանի Հանրապետության օրենսդրությամբ չունենալով կոդիֆիկացված առանձին սահմանում, դրսևորված է կաշառքի կամ առևտրային կաշառքի պրովոկացիայի հանցակազմերի վերաբերյալ իրավանորմերում:

Ներպետական օրենսդրությամբ հանցագործության պրովոկացիայի վերաբերյալ մի շարք նոր դրույթներ նախատեսվեցին 2021 թվականի մայիսի 5-ին ընդունված ՀՀ քրեական օրենսգրքում, որոնք քրեական օրենսգրքի նպատակների և խնդիրների տեսանկյուններից անհրաժեշտություն են ստեղծում ուսումնասիրել հանցագործության պրովոկացիայի զարգացման միտումներն արդեն իսկ ձևավորված ներպետական և հատկապես արտասահմանյան հարուստ փորձի շրջանակներում:

Նշված նորամուծություններն ինքնին հիմք են հետազոտության առարկա հանդիսացող երևույթի և քրեաիրավական մի շարք այլ կարգավորումների միջև զուգահեռներ անցկացնելու և դրա արդյունքում տարբեր խնդիրներ վեր հանելու համար, որոնցով էլ հենց պայմանավորվում է ընտրված թեմայի արդիականությունը:

Ներպետական և արտասահմանյան երկրների փորձի, Մարդու իրավունքների եվրոպական դատարանի և ՀՀ Վճռաբեկ դատարանի կողմից նախադեպային իրավունքում արտահայտված դիրքորոշումների, ինչպես նաև տեսական տարբեր դոկտրինների հիման վրա հետազոտման առարկա են դարձել հանցագործության պրովոկացիայի հակաիրավականության և վտանգավորության բնույթը, գործող

կարգավորումներով այդ երևույթի դեմ քրեաիրավական հակազդման հնարավորության առնչվող մի շարք հիմնահարցեր, ինչպես նաև որոշակիորեն ուղենշվել են հանցագործության պրովոկացիայի հետագա զարգացումները ներպետական օրենսդրությամբ:

Բանալի բառեր – *հանցագործության պրովոկացիա; քրեական օրենսգիրք; դոկտրին; իրավական դիրքորոշումներ; արտասահմանյան փորձ; հիմնահարցեր; տեսություն; հանցագործության առարկա:*

ТЕКУЩЕЕ РАЗВИТИЕ ПРАВОВЫХ НОРМ О ПРОВОКАЦИИ ПРЕСТУПЛЕНИЙ В УГОЛОВНОМ КОДЕКСЕ РА

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Абстракт

Провокация преступления, не имеющая отдельного кодифицированного определения в законодательстве как ряда стран, так и Республики Армения, проявляется в правовых нормах, касающихся составов преступлений, связанных со взяточничеством или коммерческим подкупом.

В Уголовном кодексе РА, принятом 5 мая 2021 года, предусмотрен ряд новых положений, касающихся провокации преступления национальным законодательством, которые с точки зрения целей и задач Уголовного кодекса создают необходимость изучить тенденции развития провокации преступления в рамках уже сформированного богатого отечественного и особенно зарубежного опыта.

Сами эти новации являются основанием для проведения параллелей между явлением, являющимся предметом исследования, и рядом других норм уголовного права и, как следствие, выявления различных проблем, определяющих актуальность выбранной темы.

Основываясь на опыте отечественных и зарубежных стран, позициях, высказанных Европейским судом по правам человека и Кассационным судом Республики Армения в прецедентном праве, а также различных теоретических доктринах, предметом исследования стала природа противоправности и опасности провокации преступления, ряд вопросов, связанных с возможностью уголовно-правового противодействия этому явлению в соответствии с действующими нормами, а также в определенной степени дальнейшее развитие провокации преступления в национальном законодательстве. указаны.

Ключевые слова – провокация преступления; уголовный кодекс; доктрина; правовые позиции; зарубежный опыт; проблемы; теория; предмет преступления.