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**LEGISLATIVE FEATURES OF REGULATION AND STATE
OF CRIMINAL LEGAL PROTECTION INFORMATION
OF PRIVATE CHARACTER IN THE BALTIC COUNTRIES**

Khlopov A. A.

Postgraduate Student

Kharkiv National University of Internal Affairs

Kharkiv, Ukraine

The rapid recognition and further consolidation of a number of human rights and freedoms began in the second half of the 20th century and was marked by the adoption of a number of international documents relevant to the issue. However, not all countries followed this development of events and in every possible way hampered the process of implementation of documents developed by the joint efforts of the international community concerning human rights and freedoms, as well as guaranteeing inviolability of a private life. First of all, this concerns the belt of Soviet countries, which for a long time, due to ideology, for a long time did not pay due attention to issues related to ensuring the inviolability of certain areas of private life and the creation of mechanisms for their protection at the level of criminal law.

Therefore, it is especially interesting to review the criminal legislation of the Baltic countries (Lithuania, Latvia and Estonia), which, despite the almost fifty-year history of being a part of the USSR, were the first to leave it and after gaining independence went through the path of profound socio-economic and legislative transformations, which As a result, it created the preconditions for the entry of these countries in 2004 to the European Union and changed the face of the country as a whole. Today the Baltic countries are characterized by a significant level of ensuring the observance of human rights and freedoms and combating crime, as a negative phenomenon. In accordance with the indicators of the rule of law index for 2020 Estonia ranked tenth out of 128 countries in the world in terms of ensuring «fundamental human rights», a parameter consisting of eight separate sub-factors. Among them, the right to privacy is a profile on the issue studied in this case, the indicators of Estonia in which are even higher than the average figures for the countries of Europe or North America [1, p. 71]. Unfortunately, there are no similar data for Latvia and Lithuania in this index, but referring to the global Numbeo database, which collects various kinds of quantitative indicators in various branches of knowledge, among

which the crime index is calculated for individual countries and the largest cities in the world. In accordance with it, it is possible to assess not only the situation with the crime rate in the Baltic countries, but also indirectly the level of counteraction to these phenomena and the quality of legislative support, which creates the preconditions for such results. Based on the results of the previous 2020 – Estonia took 11th place, and Lithuania and Latvia took 36th and 43rd lines, respectively [2]. Considering that the index indicators are calculated among 129 countries of the world, the results obtained in this case demonstrate a high level of ensuring the safety of citizens.

However, these countries regulate in different ways the legal protection of various types of information of private character and the inviolability of a person's private life in general in criminal law. The Criminal Code of Lithuania considers various kinds of unlawful acts against information of a private nature within the framework of a separate Chapter XXIV «Crimes against inviolability of a person's private life» (Articles 165-168), which contains four relevant norms [3]. It is noteworthy that the code in these crimes also includes an unlawful violation of inviolability of a person's dwelling, which has an indirect character to ensure the inviolability of a person's private life. After all, the violation of the right to inviolability of the home usually precedes other crimes, in particular of a property nature, and the purpose of such a crime is by no means connected with the intention to invade the private sphere of another person.

At the same time, the Criminal Codes of Latvia and Estonia in their architecture of placing the norms are more reminiscent of the codes of other post-Soviet countries, which were formed under the influence of the provisions of the Model Criminal Code for the countries of the Commonwealth of Independent States. As a result, various norms are combined into a massive section that oversees issues related to the protection of fundamental human rights and freedoms as a whole, without highlighting separate areas. In the Criminal Code of Latvia it is Chapter XIV «Criminal Offenses against Fundamental Rights and Freedoms of a Person» [4]. In the case of the Estonian Criminal Code, this is Division 2 «Violation of Fundamental Freedoms», included in Chapter 10 «Offenses against political and civil rights» [5].

It is noteworthy that the Criminal Code of Lithuania differentiates between criminal liability for collecting (Article 167) and for disclosing or using in one's own interests (Article 168) information about the private life of another person [3]. This division is based on the characteristics of the very nature of behavior. In the first case, we are talking about its «illegality», that is, the collection of information occurs without the consent of its owner or in

violation of the current law. At the same time, actions related to the disclosure and use of information belonging to an outside person is «unauthorized». It is important to note that, despite the commission of such acts by an official, it does not aggravate guilt.

The criminal legislation of the respective countries also places great emphasis on the regulation of the protection of personal data. Thus, according to Article 157 of the Estonian Criminal Code «Illegal disclosure of personal data», criminal liability is established for disclosing information obtained as a result of professional activity by a person who, by virtue of the law, must not disclose this information [5]. In this case, it is necessary to pay attention to the fact that the rule is of a general nature and, despite its name, concerns not only personal data, but also equally other information that falls under the concept of professional secrecy. At the same time, according to Article 145 of the Criminal Code of Latvia – criminal liability for similar actions occurs on the condition that significant harm has been caused by the actions or if such data is used for revenge, acquisition of property, blackmail or influence on the administrator or operator of personal data processing, or data subject [4].

Certain differences in the criminal laws of the Baltic countries can also be traced in the analysis of the rules governing criminal liability for violation of confidentiality (inviolability) of correspondence. In accordance with the provisions of Article 166 of the Criminal Code of Lithuania, acts related to the violation of the «inviolability» of such correspondence are criminalized [3]. Among other things, not only violation of «confidentiality», as in the case of Articles 146 of the Latvian Criminal Code and 156 of the Estonian Criminal Code, is a criminal offense, but also the interception of postal items or parcels, which by its nature tends to be crimes against property [4; 5]. At the same time, the codes reveal in different ways the object of legal protection of these norms.

In a narrow sense, it is interpreted by Article 156 of the Criminal Code of Estonia and fixes responsibility only for violation of the confidentiality of messages transmitted by letter or other means of communication (2). [5]. On the other hand, Articles 166 of the Criminal Code of Lithuania and 144 of the Criminal Code of Latvia ensure the protection of person's correspondence in a more general sense [3; 4]. In this case, the object of unlawful encroachments under Article 144 of the Criminal Code of Latvia may also be «data or signals» that are transmitted through a telecommunications network [4]. It follows from this that various other private documents and their content, which are not publicly available and are exclusively confidential, are also subject to criminal law protection. Controversial are the provisions of Article 166 of the Criminal Code of Lithuania, according to which, along with the already prescribed methods,

violation of the inviolability of correspondence. Among which interception, illegal recording or wiretapping of conversations there is a reference to the possibility of committing such acts in a different way [3]. This approach obviously carries the risk of being too vague and could cause conflicts between norms.

Summing up, it can be noted that the criminal legislation of the Baltic countries pays considerable attention to the protection of information of private character and, in general, responsibility for violation of the inviolability of a person's private life. At the same time, the criminal law of each of the countries mentioned has its own characteristics, due to its own vision of this issue and the tasks facing it. In particular, the Criminal Code of Lithuania separates all relevant norms into a separate chapter. At the same time, the Criminal Code of Latvia and Estonia considers criminal offenses against inviolability of private life, in the context of other acts infringing upon the fundamental rights and freedoms of citizens. At the same time, the codes of the countries widely regulate the issues of responsibility for illegal actions with personal data and private correspondence, for illegal interception, receiving publicly inaccessible data or signals, recording or listening to conversations etc. The criminal codes themselves correspond to the modern level of public relations, which is proved by the ratings according to which the Baltic countries are among the most progressive countries in the world in terms of the rule of law and combating crime.

References:

1. The World Justice Project Rule of Law Index 2020. Washington. 2020. Page 212. URL: https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf.
2. Crime Index by Country 2020. Numbeo. URL: https://www.numbeo.com/crime/rankings_by_country.jsp?title=2020.
3. Law Republic of Lithuania On the approval and entry into force of the Criminal Code. 26 September 2000 No VIII-1968 (As last amended on 21 November 2017 – No XIII-791). URL: https://www.legislationline.org/download/id/8272/file/Lithuania_CC_2000_am2017_en.pdf.
4. Criminal Law of the Republic of Latvia of 17th June, 1998. Latvijas Vēstnesis, 199/200, 08.07.1998. (As last amended on 3 September 2020). URL: https://www.legislationline.org/download/id/8266/file/Latvia_CC_1998_am2018_en.pdf.
5. Criminal Code of the Republic of Estonia. Passed 06.06.2001. RT I 2001, 61, 364. Entry into force 01.09.2002. In force from: 31.05.2021 URL: https://www.legislationline.org/download/id/8244/file/Estonia_CC_am2019_en.pdf.