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THE GENESIS OF THE CONCEPT OF ABDUCTION, APPROPRIATION, EXTORTION AND OTHER FORMS OF APPROPRIATION OF MILITARY PROPERTY UNDER THE CRIMINAL LEGISLATION OF UKRAINE

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INTRODUCTION

Taking into account that the legislation of Ukraine at various stages of its history contained many norms establishing responsibility for encroachment on someone else's property, we will first of all talk about those that are constructed by the modern legislator with a qualifying feature. «By a person using an official position», i.e. about fraud, embezzlement, kidnapping and extortion, as well as about specific criminal law norms constructed by the legislator in relation to military personnel, i.e. about norms of military criminal law.

On the basis of the conducted research, it is intended to show the historically formed features of the application of the norms of criminal law to military personnel who use their official position to commit theft of military property in various ways (fraud, embezzlement, extortion, and kidnapping), as well as to justify the need (or lack thereof) of introducing special criminal – legal norms that would establish responsibility for such embezzlement.

The object is social relations, which have been protected for more than 500 centuries, regarding the storage of military property in the event of theft by military personnel.

The subject is the norms of responsibility of the past years, regarding prosecution for the theft of military property committed by military personnel.

Research methods were used: comparative legal, systematic and historical analysis.

In order to consistently solve the tasks of the section of the monography research in this section, the author considers it necessary to consider and analyze the legal norms establishing the concept of theft, appropriation, extortion by a military serviceman of weapons, ammunition, explosive or other combat substances, means of transportation, military and special equipment or other military property, as well as their acquisition through fraud or abuse of official position at various historical stages of the development of the legislation of Ukraine.

In particular, it is intended to analyze the development of this concept and its implementation in specific criminal law norms in criminal legislation of the pre-Soviet period (before 1917), in Soviet and post-Soviet criminal law (before the adoption of the Criminal Code in 2001), as well as in modern criminal law and projects of the new Criminal Code.

Taking into account that the legislation of Ukraine at various stages of its history contained many norms establishing responsibility for encroachment on someone else's property, we will first of all talk about those that are constructed by the modern legislator with a qualifying feature. «By a person using an official position», i.e. about fraud, misappropriation, Illegal possession and extortion, as well as about specific criminal law norms constructed by the legislator in relation to military personnel, i.e. about norms of military criminal law.

On the basis of the conducted research, it is intended to show the historically formed features of the application of the norms of criminal law to military personnel who use their official position to commit theft of military property in various ways (fraud, misappropriation, extortion, and Illegal possession), as well as to justify the need (or lack thereof) of introducing special criminal – legal norms that would establish responsibility for such misappropriation.

1. The first origins of the establishment of responsibility for the commission of military property criminal offenses on the territory of modern Ukraine

This judge had several editions. The early editions (Short and Big) were compiled in the XI-XII centuries. Russka Pravda in the Short Edition was the result of the activity of the ancient Russian princes to systematize law. Its composition includes the oldest part (Articles 1 – 18), which was named Yaroslav's Truth, and the Yaroslavich Truth, to which new norms were added (Articles 19-41).

The study of Russian Truth shows that, establishing the right of private individuals to movable and immovable things, it established criminal liability for a number of acts that encroach on it [1].

Russian Pravda distinguished tatba (thefts) by the place and time of their commission, and even provided responsibility for damage and destruction of other people's property. Russka Pravda also mentioned the destruction of

[1] Сворак С. Д. Генеза та трансформація органів державної влади Київської Русі : автореферат дис. ... канд. юрид. наук. : спец. 12.00.01 – «Теорія та історія держави і права; історія політичних і правових учень» / С. Д. Сворак. – К., 2011. – С. 8.

weapons, seizing other people's real estate was highlighted separately, but she did not know about fraud and misappropriation or theft[2].

It is known that Russka Pravda became the basis of the Judicial Code of 1497, and then of the Code of Criminal Procedure of 1550, which to a large extent organized and detailed the rules on criminal offenses against property.

Thus, the Court Book of 1550 contained the first references to fraud: fraudsters were mentioned as persons who commit crimes against other people's property. In Art. 58 The judge was told: «I cheat the same execution as my father.» It should be noted that initially in the criminal law literature, the meaning of the term «fraud» acquired different interpretations[3]. I.Ya. Foynytsky believed that the term «fraud» meant pickpocketing. He associated the term «fraudster» with the word «moshna», i.e. «wallet»[4]. His view was shared by L.S. Bilogryts-Kotlyarevskyi, who believed that fraudsters are thieves who cut the victims' wallets with money from their waists[5].

However, in Art. 58 of the Court, the word «fraudster» stands next to the word «swindler» (swindler). From this it follows that the Judge understood by fraud not only pickpocketing, since property («moshny») can be taken both by its secret theft, but also in the form of other, in particular, fraudulent actions[6].

M.F. Volodymyrskyi-Budanov believed that in Art. 58 of the court, it was about fraudsters precisely as criminals who fraudulently took possession of other people's property[7].

After the signing of the Union of Lublin in 1569, which resulted in the unification of Poland and the Grand Duchy of Lithuania into a single federal state – the Polish-Lithuanian Commonwealth, the Lithuanian Statute of 1566

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[2] Сворак С. Д. Генеза та трансформація правового статусу особи за юридичними документами Київської Русі / С. Д. Сворак, Р. В. Грегулецький // Конституційно-правовий статус людини і громадянина в Україні : матеріали Міжрегіональної наук.-практ. конф., присвяченої проголошенню Загальної декларації прав людини, м. Івано-Франківськ, 8 грудня 2009 р. – Івано-Франківськ, 2010. – С. 86.

[3] Історія держави і права: підручник. – У 2-х т. / за ред. В. Я. Тація, А. Й. Рогожина, В. Д. Гончаренко. – Том 1. – К.: Концерн «Видавничий Дім «Ін Юре», 2003. – С 356.

[4] Фойницкий И.Я. Курс уголовного права. Часть Особенная: Посягательства личные и имущественные / под ред. А.А. Жижиленко. 7-е изд. Санкт-Петербург, 1977. С. 178.

[5] Історія держави і права України. У 2-х томах : підручник для студентів юридичних спеціальностей ВНЗ / наук. ред. В.Я. Тацій, А.Й. Рогожин, В.Д. Гончаренко. Київ, 2003. Т. 1. С. 543.

[6] Захарченко П. П. Історія держави та права України: Навч. посіб. для дист. навч. К.: Університет «Україна», 2005. С 56.

[7] Обзор истории русского права / Владимирский-Буданов М.Ф., 7-е изд. Петроград; Киев: Н. Я. Оглоблин, 1915. С. 353.

remained in force on Ukrainian lands. In 1588, the III Lithuanian Statute was adopted, the provisions which spread to all Ukrainian lands[8].

At the beginning of the 18th century on the territory of modern Ukraine, the birth of military and criminal legislation begins. This was primarily due to the centralization of the state and the fact that organized armed formations appeared in Russia, created by the state to solve specific military tasks: guarding and defending the state border, protecting arsenals with weapons, maintaining public order, etc.[9].

Along with this, the state develops legal norms, which are now called military-criminal legislation.

Initially, such norms were a component of legal documents, where the main attention was paid to military-special issues: military construction and the conduct of military operations, information on the deployment of troops and their management, tactics of conducting military operations, regulation of the duties of various officials and rules of military conduct. These documents established responsibility for military offenses[10].

One of such documents, which, along with military-tactical and military-technical regulations, contained regulations on punishment for committing military criminal offenses, was the «Statute of military, gunnery and other matters relating to military science» in 1621[11]. Later, the norms of military-criminal legislation «moved» from the sources of military law to inter-branch legal norms. This was the case in the Council Constitution of 1649, which consisted of 25 chapters and 967 articles, one of the chapters (Ch. VII) was entitled «On the Service of All Military Men of the Moscow State» and was mainly devoted to the responsibility of «military men» for offenses[12].

After the conclusion of the treaty between Ukraine and Muscovy in 1654, there was a need to codify and unify the law on criminal responsibility. The sources of the criminal law norms of that time were: customary law, Hetman legislation, the Lithuanian Statute, the Saxon Mirror, Magdeburg law, Russian imperial legislation. Substantial codification took place in 1673. It was called the

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[8] Усенко І., Чехович В. Литовські статути. Українське державотворення: невитребуваний потенціал: Ред. О. М. Мироненка, Київ: Либідь, 1997. С. 187.

[9] Трофанчук Г. І. Історія держави і права України: навч. посіб. / Г. І. Трофанчук. – К.: Юрінком Ін тер, 2011. С. 67.

[10] Захарченко П. П. Історія держави та права України: Навч. посіб. для дист. навч. К.: Університет «Україна», 2005. С. 78.

[11] Історія держави і права України [Текст]: акад. курс: підручник / проф. Б. Й. Тищик, проф. І. Й. Бойко; Львів. нац. ун-т ім. Івана Франка. Київ: Ін Юре, 2015. С. 678.

[12] Гурбик А. О. Статути Великого князівства Литовського // Енциклопедія історії України: у 10 т. / редкол.: В. А. Смолій (голова) та ін.; Інститут історії України НАН України. К.: Наук. думка, 2012. Т. 9: Прил. С. 834.

Rights by which the Little Russian people are judged, but it did not receive legislative confirmation at the level of creative norms. According to this document, criminal offenses were classified into criminal offenses: against religion, monarchy, life, personal integrity, property, bribery, misappropriation, etc. The system of punishments included: death penalty, imprisonment, church penances, exile, exile to hard labor (for life or term), etc.[13].

In the period of the XVIII century. a special place among regulatory legal acts belonged to the Military Article of 1715 with a brief interpretation. The military article was intended primarily for military personnel and was to be used by military courts.

With regard to the tasks of the dissertation study, the study and analysis of the Article of the Military is of increased interest, since the norms contained in it establish criminal liability for crimes against property, in their essence, were originally developed as special, that is, establish the responsibility of military personnel.

A study of the decisions of the Article on criminal liability for crimes against property shows that they differed from the previous legislation by significant innovations.

So, along with the already known crimes (theft, robbery, etc.), the Article named new ones: misappropriation, misappropriation of state money, misappropriation (disposal) of property deposited for safekeeping, misappropriation of a find. The composition of appropriation, waste of state money is formulated in Art. 194. It was stated: «Whoever, having His Majesty's or State money in his hands, hides some of it, steals it and uses it for his own benefit, and in the expenditure less is recorded and calculated than he received, he will lose his stomach and must be hanged «. It can be seen from the above text that the objective side of the crime was the appropriation of state money and its use for personal needs. Moreover, it was a matter of simple appropriation, not related to the concealment of criminal acts by forgery in documents[14].

This is directly indicated by the words «... less will be recorded and calculated in the expense» (that is, it will be established that according to the reporting, the expenses are less than the amount actually received by the guilty party).

Thus, the Article did not establish responsibility for the appropriation and waste of state money with the commission of forgery in reporting. This

[13] Бабаніна В. В., Шармар О. М. Виникнення та розвиток законодавства України про кримінальну відповідальність. Митна справа. 2012. No 4. С. 85.

[14] Харитонов С. О. Історично-порівняльний нарис кримінальної відповідальності за військові злочини. Порівняльно-аналітичне право. 2017. № 3. С. 206. URL: http://www.pap.in.ua/3_2017/62.pd

opinion would be correct if in Art. 194 it was written: «in the parish, less is recorded and will be considered than he received.»

Note that the punishment for misappropriation of state money did not depend on the size of the stolen amount, nor on the place, time, and circumstances of the crime. This allows us to conclude that in this case, the grounds for establishing increased criminal liability for misappropriation and misappropriation are three main factors:

1) theft of state money (property) encroaches not only on property relations, but also on state security and the authority of state power;

2) state money (property) has a special «privileged» position;

3) the subject of the crime is empowered by the state in relation to the stolen property.

Article 193 of the Article provided for responsibility for the appropriation of someone else's property given for safekeeping. Moreover, in order to find a person guilty of concealing someone else's property, it is necessary that the property taken for safekeeping somehow tried to hide it or denied the very fact of taking the property for safekeeping.

In the Article, the legislator for the first time drew a distinction between types of appropriation based on the price of the stolen item. Also, for the first time, it referred to theft at the place of guard duty, during a military campaign, in a military camp (art. 188), which, in fact, legally established the criminal liability of a serviceman taking into account the specifics of his official position (for example, in a military camp or for place of guard duty).

According to the Article, a serviceman bore increased criminal responsibility due to the fact that he had a certain status, which gives him the right to be in a military camp, campaign, guard, etc.

In Art. 59, the tendency to consolidate a special status of military property in the form of establishing penalties for the loss of certain types of it can be traced. For example, «whoever loses his uniform, rifle, sells it or gives it as a salary for the first time and suddenly is cruelly punished with spitzruten and payment for what was lost, and the third time he is shot.»

It is noteworthy that even the acquirer of such property according to the Article («as well as the one who accepts and buys such things from a soldier») was punished not only by confiscation of the acquired property, but also by a fine in the amount of its value, as well as «at the invention of a person punished with spitzruten will be».

Fraud as a separate type of crime was not mentioned by the Article, but he was aware of measurement and fraud, which was understood as a crime against the management order.

Liability was also established for violation of the order of receipt, use, storage and distribution (expenditure) of introduced state (tax) property.

Regarding this type of crime, the Military Statute states the following: «...the root of all evil is love of money; for that, every commander ... must keep himself from usury ... and cruelly dissuade others from it, and be satisfied with certain ones, because many state interests are lost because of this evil. Because such a commander ... can easily buy death or dishonorable life with such wealth...» (ch. 9 «On the Generalissimo» of the Military Statute).

Crimes related to non-payment or incomplete payment of monetary and other gratification to soldiers were considered dangerous: «... Let no one take from his subordinates salary, wages, food, clothing and other things that they can keep, because when a soldier does not receive them this is how it is done ... all kinds of evil can easily happen from it ... if the soldiers from poverty and hunger fall into illness because of stopping in His Majesty's service ... «(Interpretation of art. 66, ch. 8 «About food and wages») .

However, considering the provisions of the Article on the theft of military property, I would like to note that the criminal law prohibitions were quite comprehensive in content and expressive in form.

The differentiation of misappropriation towards increased criminal liability for actions committed by persons in state (military) service, and even in relation to state (military) property, was clearly outlined[15].

Yes, M.I. In his work, Karpenko considered the Comparative Table «Military Criminal Legislation of the Times of Peter I», in which he noted that the historical development of military criminal legislation, it can be noted that Peter I made a significant contribution to its development. Special attention should be paid in the context of war crimes « Military Statute» of 1716, an edition consisting of four parts. Part II defined the norms of military criminal law. At that time, this was the military criminal code entitled «War article with short interpretation». This part was the military criminal code, which consisted of 24 chapters and 209 articles with an interpretation, in which a separate city was occupied by «Crimes against military property: a) leaving weapons, damaging, losing, selling or pawning them; b) waste of a uniform; c) putting a horse in an unusable state for the purpose of evading service; d money, as well as failure to report about it», which are fully responsible for the content of the current Article. 410 of the Criminal Code of Ukraine[16].

As you know, in the 19th century on the territory of Ukraine, extensive work was carried out on the systematization of normative legal acts.

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[15] Гурбик А. О. Статути Великого князівства Литовського // Енциклопедія історії України: у 10 т. / редкол.: В. А. Смолій (голова) та ін.; Інститут історії України НАН України. К.: Наук. думка, 2012. Т. 9: Прил. С. 701.

[16] Злочини проти встановленого порядку несення військової служби (військові злочини) : наук.-метод. посіб. / М.І. Карпенко ; за заг. ред. В. К. Матвійчука. Х. : Право, 2016. С. 17.

The main source of criminal law in this period should be called the Regulations on Criminal and Correctional Punishments of 1845 (effective with subsequent changes and additions until the revolution of 1917).

A study of the Constitution shows that it significantly expanded the types of crimes against «property and treasury revenues», providing for theft, as well as misappropriation and appropriation (Article 383) of state property (intentionally or through negligence), forcible acquisition of state real estate, arbitrary use of property .

The statement clearly distinguished the possession of someone else's property from the composition of theft. As a sign distinguishing between appropriation and theft of someone else's property, «the presence or absence of someone else's property in the hands of the perpetrator at the time of appropriation» was accepted.

The drafters of the Constitution considered that stolen property at the time of the illegality constitutes a violation of ownership. When appropriating someone else's property, the ownership right is violated without violating the actual, valid possession of a certain thing.

Fraud was defined as «any theft of someone else's things, money, or other movable property committed by means of any deception» (Article 2252 of the Constitution as amended in 1857, Article 1665 of the Constitution as amended in 1866, 1885).

Deception as a form of fraud was treated as the reporting of any false information, but also the concealment of valid facts. It is noteworthy that, as a circumstance that increases the punishment for all types of fraud, the Provisions actually called the sign of the person's use of his official position, i.e. «a person, by his title or place» (Article 2181)[17].

The last codified criminal law act of the Russian Empire, which included Ukraine at that time, was the Criminal Code of 1903.

Chapter 31 of the Criminal Code of 1903 included norms that established responsibility for misappropriation of someone else's property, disclosed the general concept of appropriation, which was classified as intentional retention for the purpose of taking ownership, and intentional waste of someone else's property (Article 572). The subject of appropriation could only be deliberately someone else's movable property. Appropriation of someone else's property was divided into two already known types: appropriation of a find and appropriation of a trustee.

Legislation on the appropriation of entrusted property, despite its comparative brevity, with the necessary completeness revealed a distinctive feature of this

[17] Історія держави і права України [Текст]: акад. курс: підручник / проф. Б. Й. Тищик, проф. І. Й. Бойко; Львів. нац. ун-т ім. Івана Франка. Київ: Ін Юре, 2015. С. 564.

criminal offense – its subject included someone else's property that came into the possession of the guilty party at the will of the owner for a specific purpose. In this, the commission of this act by a person to whom the property is entrusted by the service was especially distinguished (articles 573-576).

Evidently, the norms of the 1903 Statute on fraud differed in novelty. Thus, the legislator referred to the subject of this criminal offense as movable property, as well as various kinds of general property goods and their rights. At the same time, liability was established separately for fraud committed by a person who pretended to be an employee for this purpose or a person carrying out an assignment of an employee (Article 595).

Interesting is the position of the legislator, who provided in Art. Art. 577 and 578 of the Criminal Code, responsibility for breach of trust, which is understood as unlawful intentional harm by a person who was supposed to protect property interests and take care of them, with the help of such dispositions of other people's property, which were within the scope of the guilty party's duties, but by their content constitute the recovery of a debt owed to him, and such damage may be self-interested or self-interested.

Regarding this position of the legislator, it was noted in the literature that the subject of abuse of trust can be any person: the norm based on this concept has a general and a private character; it applies only to some persons who are in a special relationship with someone else's property.

It should also be noted that Art. 582 Provisions that provided for responsibility for theft from graves, for public calamity or state military property (weapons, cartridges, etc.)[18].

Summarizing the brief results of the analysis of the legislation of the pre-Soviet period, one should come to the conclusion that, despite the lack of a legal definition of misappropriation and often casuistic and imprecise norms, the concepts of fraud and misappropriation were developed and legally enshrined. As in these warehouses, and separately from them, norms were developed on the responsibility of officials for misappropriation using their official position.

[18] Харитонов С. О. Історично-порівняльний нарис кримінальної відповідальності за військові злочини. Порівняльно-аналітичне право. 2017. № 3. С. 206. URL: http://www.pap.in.ua/3_2017/62.pd

2. Criminal law characteristics of military property criminal offenses during the first formation of Ukraine as an independent country and in Soviet times

One of the distinguishing features of this period can also be called the division of misappropriation by type of property with the undisputed priority protection of state (public) property, and in addition, the establishment in a number of cases of responsibility for the commission of misappropriation of military property by both military personnel and civilians within the framework of special legal norms military criminal law.

In the future, there were difficult times in the establishment of Ukraine's independence, which was acquired on January 22, 1918 by the text of the IV Universal, which proclaimed that «...from now on the Ukrainian People's Republic becomes an independent, independent, free sovereign state of the Ukrainian people»[19].

What happened during the time of the Ukrainian People's Republic in 1918 was the approval of the coat of arms (trident – the coat of arms of Volodymyr the Great (without a cross)) and the anthem – P. Chubynskyi's song «Ukraine is not dead yet» to the music of M. Verbytskyi.

The blue-yellow flag became the national flag. Since December 1918, the Ukrainian People's Republic headed by the Directory has been restored in most territories. She passed a number of laws aimed at the development of the country, including on the state language, the Ukrainian Autocephalous Orthodox Church and the establishment of the hryvnia as a monetary unit.

On January 22, 1919, the Act of Unification of the Ukrainian People's Republic and the West Ukrainian People's Republic was promulgated. The event united Ukraine at the legislative, territorial, and mental levels and became the basis for counting the history of cathedral Ukraine. Then there were years of continuous war with the Bolsheviks and the «whites». The state existed for only 3 years.

The western lands of Ukraine were divided between neighboring countries – Poland, Romania, Czechoslovakia, where they entered as integral parts, without any special status. A communist (Bolshevik) regime was established on the remaining lands of the Ukrainian People's Republic due to the armed aggression of Bolshevik Russia. The Soviet government had little local support and relied on a powerful repressive apparatus, and its functioning was directly linked to the center of power in Moscow[20].

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[19] Універсал Української Центральної Ради (IV) URL : https://zakon.rada.gov.ua/laws/show/n0001300-18#Text

[20] Історія становлення незалежності України URL : https://miskrada.kherson.ua/pro-kherson/istorija-nashogo-mista/istoriia-stanovlennia-nezalezhnosti-ukrainy/

However, what is interesting is the legislation on criminal responsibility that was in force on the territory of Ukraine at the time of the country's independence, namely the development of criminal law from 1917-1922. Thus, hetman P. Skoropadsky had the goal of building an independent state.

According to O.A. Chuvakova, in the year of independence of Ukraine on its territory the following groups of laws: 1. Laws that created bodies, namely: courts, law enforcement agencies and determined their rights and duties; 2. Criminal laws, which provided for the types and amounts of punishment for committed acts; 3. All other decrees, laws, orders and resolutions. The process of law-making in those times was adopted by congresses of Soviets, the Council of People's Commissars, Military-Revolutionary Committees and People's Commissars. At the same time, the issue of legislative power was not regulated, so they were called decrees, laws, resolutions, appeals, instructions, orders, etc.[21].

In those days, the Directory imposed death sentences for criminal offenses for military aggression against Ukraine, crimes against the government, espionage, armed resistance to the government, murder, robbery, armed attack on the military, destruction or damage of ammunition, food products, technical warehouses, equipment belonging to the military communications and buildings related to military means of defense and attack, violation of military discipline, failure to comply with an order, attack on a guard, mutilation with the aim of avoiding military service, desertion, switching to the side of the enemy, violation of official duties during service (guard service or during military operations)[22].

However, E.M. Kisilyuk and O.A. Chuvakov come to the conclusion that the norms of criminal legislation during the period of Ukrainian state formation in 1917-1921 applied the norms of the criminal legislation of the Russian Empire, the reason for this was the very short period of independence, which was in the conditions of martial law and civil war, which made it difficult to create the latest criminal legislation for the specified time, in addition, on November 25, 2017, the Ukrainian Central Council adopted a law according to which all laws and regulations that were in force on the territory of the Ukrainian People's Republic until October 27, 1917 will continue to be valid in connection with , that they have not been canceled and changed[23].

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[21] Чуваков О.. Кримінальне право в Україні (1917-1922 рр.): дисертація канд. юрид. наук: 12.00.08 / Національний ун-т внутрішніх справ. – Х., 2003. – С. 17.

[22] Чуваков О.А. Некоторые виды преступлений в Украине в 1917-1921 гг. // Ринкова економіка. 2001. т. 4. С. 234.

[23] Кісілюк Е. М. Кримінальне законодавство в період українського державотворення (1917-1921 рр.): дисертація канд. юрид. наук: 12.00.08 / Національна академія внутрішніх справ України. К., 2003. С. 10.

Along with the development of international legal norms, the norms of national legal systems were also improved, for example, the Criminal Code of the Ukrainian SSR 1922, which takes into account the provisions of the Geneva and Hague Conventions and declarations of 1899 and 1907, established that criminal liability for the manufacture, storage or sale of explosive substances or projectiles without the appropriate permission, if the criminal purpose of committing these acts is not proven, as well as for looting[24].

One of the significant legislative projects of independent Ukraine in 1919 was the «Military Statute on Punishments», which is the 4th edition of the 22nd edition of the «Collection of Military Decrees» of 1969, which was translated by the department of the Main Military Judicial Administration in the city of Kamianets on Podol[25].

The essence, roles and content of the Military Criminal Statute is interesting as the first Ukrainian criminal law in history, which was written in Ukrainian, and in addition, it was borrowed by the Russian Empire, which provided for the responsibility of military personnel and provided for war crimes at the end of the 19th and the beginning of the 20th century[26]. This military penal statute consisted of 5 chapters, however, it was the 2nd chapter that related to our topic «On military and other crimes and offenses in military service», namely chapter 12 «on crimes and offenses regarding the management of property entrusted to the service and regarding its burial « (Articles 216-241). In section 1-3 «On crimes and misdemeanors in the case of misappropriation of treasure money and things, in relation to the treasure supplied, when extorting, collecting, surrendering. Issuance of these things and when taking care of the fulfillment of contracts» (articles 216-228); «On crimes and misdemeanors when burying property entrusted to the service» (Articles 229-239), «On crimes and offenses related to keeping income and expenditure books» (Articles 240-241)[27].

Solving the criminal-political task of protecting socialist property, the Soviet legislator established responsibility for specific forms of criminal encroachment on it in a number of normative legal acts. Thus, in the «Regulations on Revolutionary Military Tribunals» (Decree of the Central

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[24] Харитонов С. О. Щодо питання способу вчинення військових злочинів за кримінальним законодавством України. Актуальні проблеми вітчизняної юриспруденції. 2017. № 4. С. 177.

[25] Кісілюк Е. М. Кримінальне законодавство в період українського державотворення (1917-1921 рр.): дисертація канд. юрид. наук: 12.00.08 / Національна академія внутрішніх справ України. К., 2003. С. 9

[26] Чуваков О.А. Некоторые виды преступлений в Украине в 1917-1921 гг. // Ринкова економіка. 2001. т. 4. С. 231.

[27] Хавронюк М.І. Військові злочини: Навчальний посібник. – Київ: Українська академія внутрішніх справ, 1995. С. 17–18, 31–32.

Committee of the Central Committee of November 20, 1919), the following forms of criminal possession and disposal of property were specified: looting, robbery, robbery, misappropriation, misappropriation, official forgery, theft of weapons[28].

This Regulation was extremely important in the development of legislation on war crimes, as it provided a detailed list of various types of crimes that could be committed by military personnel.

So, in addition to the above-mentioned general criminal crimes, the Provision directly related to military crimes against property: intentional destruction or damage of special military facilities; theft, intentional damage and destruction of weapons, uniforms, equipment and other types of military property, as well as misappropriation of the same items; clearly careless storage of these items in warehouses.

According to the decree of the Central Committee of the Central Committee and the Supreme Administrative Court of the USSR «On measures to combat misappropriation from state warehouses and official crimes contributing to misappropriation» dated June 1, 1921, the position was assigned to the aggravating circumstances of the above-mentioned acts, which gave grounds for choosing a higher measure of punishment.

It must be said that in the normative legal acts of the first years of Soviet power, during the development of criminal law norms establishing responsibility for crimes against property, special attention was paid to the protection of state property, which was mainly expressed in increased criminal responsibility for these crimes.

Apparently, as early as the middle of 1918, the idea of unifying and systematizing the criminal legislation that existed in the Ukrainian SSR was put forward, in connection with which, in the second half of 1921, in the Ukrainian SSR, a project of the Criminal Code was developed[29].

The Resolution of the Central Committee of the Central Committee of the People's Republic of Ukraine dated May 24, 1922, with the aim of protecting the worker-peasant state and the revolutionary legal order from its violators and socially dangerous elements and establishing solid foundations of revolutionary legal consciousness, the Criminal Code of the USSR was put into effect on June 1, 1922. The special part of the Criminal Code of the Ukrainian SSR in 1922 consisted of 8 chapters. Chapter VI «Property crimes» provided for such encroachments on property as theft, robbery (open and

[28] Чуваков О.А. Судові реформи на Україні в 1919 році // Правова держава. 2000. № 2. С. 54-56.

[29] Чуваков О.А. Некоторые виды преступлений в Украине в 1917-1921 гг. // Ринкова економіка. 2001. т. 4. С. 229-236.

violent), robbery, misappropriation of entrusted property, fraud, extortion, damage to property.

Articles 184 and 186 of the Criminal Code of 1922 established responsibility for the appropriation of property. Appropriation included «arbitrary retention for a selfish purpose, as well as waste of property entrusted for a specific purpose.» Appropriation, as we can see, was understood quite broadly – in the form of retention (own appropriation) and in the form of waste (alienation) of property. At the same time, the property as the subject of appropriation had to have a special legal property – to be legally owned by the guilty party for a certain purpose. According to Art. 186 punished misappropriation committed by an official.

Fraud was defined as «obtaining property or rights to property for a selfish purpose in the form of abuse of trust or deception» (Article 187). In a note to the article, the concept of deception was revealed. It said that deception is considered to be the reporting of false information, and the clear concealment of circumstances, the reporting of which was mandatory. Property (material things) or a property declaration was included in the subject of fraud. Attracts attention and a special instruction as part of fraud for a selfish purpose, an illegal act.

The Criminal Code of the USSR of 1922 distinguished between simple and serious fraud. Simple fraud was provided for by Art. 187. It consisted in obtaining the property of a private person in the form of abuse of trust or deception. Fraud resulting in damage to state or public institutions was classified as serious.

The Criminal Code of the USSR of 1922 separated war crimes into an independent chapter (VII), consisting of 15 articles.

Article 200 of this code gave the following general definition of a military crime: «Special war crimes are recognized as criminal acts of servicemen of the Red Army and the Red Fleet, directed against the legally established order of military service and the fulfillment by the armed forces of the republic of their mission, moreover, such values cannot be committed by citizens who are not in military or naval service».

As can be seen, this legal definition limits the concept of a war crime both by the subject and by the object of encroachment and the nature of criminal actions.

After the formation of the Union of Soviet Socialist Republics, the Central Committee of the USSR, taking into account the need to ensure the unity of the criminal policy regarding military personnel, on October 31, 1924, approved the «Regulations on War Crimes», which were mentioned above.

The regulation, consisting of 19 articles, mostly reproduced the chapter on war crimes of the Criminal Code of the USSR of 1922, taking into account the following changes and additions.

Without significantly changing the general concept of a war crime, he only clarified the question about its subject. Yes, in Art. 1 The provision stated that crimes committed by servicemen of the Red Army and Red Navy, persons enrolled in service teams, and persons called up for service in territorial formations during their military service are recognized as war crimes, if at the same time these crimes by their nature and meaning do not could be committed by citizens who were not in military or naval service.

Adopted on November 22, 1926 by the 2nd session of the Central Central Committee of the XII convocation and put into effect on January 1, 1927, the new Criminal Code of the USSR provided for responsibility for crimes against property mainly in Chapter 7 of the Special Part – «Property Crimes».

Appropriation of entrusted property in the Criminal Code of 1926 was defined as keeping someone else's property, entrusted for a specific purpose, for a selfish purpose, or wasting this property (Part 1, Article 168). The composition of the assignment, as we can see, has undergone certain changes in comparison with the CC of 1922. Yes, the subject of the crime according to Art. 168 could only be someone else's property (Article 185 of the Criminal Code of 1922 generally referred to property entrusted for a specific purpose). Indication of the arbitrary nature of the actions of the person guilty of the assignment was excluded from the composition of the assignment. The subject of the crime in Art. 168 of the Criminal Code of 1926 was not specifically named (Article 185 of the Criminal Code of 1922 referred to a private person as the subject of appropriation). However, the interpretation of the Criminal Code of 1926 made it possible to come to the disappointing conclusion that the subject of assignment of entrusted property, qualified under Art. 168, could only be a private (non-official) person.

An official who appropriated the property entrusted to him from his official position was responsible for Art. 116 of the Criminal Code for official (official) crime. This article provided for punishment for misappropriation or misappropriation by an official or a person who performs any duties on behalf of a state or public institution, money, valuables or other property that is under his control by virtue of his official position or performance of duties . Moreover, misappropriation or misappropriation committed by the same persons, but in the presence of special powers, as well as misappropriation of particularly important state values, caused severe punishment.

Art. was devoted to fraud in the Criminal Code of 1926. 169, which expanded the subject of fraud. It referred to obtaining by deception both property and rights, but also «other personal benefit», i.e. benefits that were of a property nature. CC 1926 excluded a beneficial purpose from the

composition of fraud. This greatly expanded the limits of its application. According to the content of the law, fraud could also occur in those cases when the person who took possession of someone else's property by deception gave the victim a full equivalent for it (but such a decision contradicted the idea of the essence of fraud).

The Criminal Code of 1926 distinguished the following types of fraud: simple (Part 1, Article 169); grave (Part 2 of Article 169) – causing damage to a state or public institution, which had its own consequences. It should be said that Part 1 and Part 2 of Art. 169 of the Criminal Code was not agreed on when the crime ended. Simple fraud was considered complete with breach of trust or deception for the purpose of obtaining property; serious – in those cases when damage (damage) was caused to a state or public institution.

In accordance with the policy of strengthened criminal-legal protection of socialist property, on August 7, 1932, the Central Committee and the Central Committee of the USSR adopted the Resolution «On the protection of property of state-owned enterprises, collective farms and cooperatives and strengthening of public (socialist) property.»

The idea of priority protection of state property formed the basis of the Decree of the Presidium of the Supreme Council of the USSR of August 10, 1940 «On criminal liability for petty theft at work and for hooliganism.» Decree, canceling the note to Art. 162 of the Criminal Code established that any theft at work is a crime. Paragraph 1 of the Decree established that «so-called petty theft», regardless of its size, committed at an enterprise or institution, is punishable by imprisonment for one year.

The Presidium of the Supreme Soviet of the USSR, which on June 4, 1947, adopted the Decrees «On criminal liability for theft of state and public property» and «On strengthening the protection of personal property of citizens» based on the need to fight encroachments on state, public, and personal property.

With the adoption of these decrees, the Decree of August 7, 1932, Art. 1 of the Decree of the Presidium of the Supreme Soviet of the USSR dated August 10, 1940 «On criminal liability for petty theft at work and hooliganism.» The crimes provided for by them were subject to qualification in relation to the relevant articles of the said decrees.

The decree of June 4, 1947 «On criminal responsibility for the theft of state and public property» established as an all-Union law uniform norms for the Union republics on responsibility for the theft of socialist property, a stricter punishment was provided for the theft of state property.

As we can see, the system of criminal legal norms dedicated to the protection of property was quite complex and contradictory. It was regulated by the CC of the Ukrainian SSR in 1960 (approved by the 3rd session of the Verkhovna Rada of the Ukrainian SSR of the 5th convocation on October 27, 1960 and put into effect on January 1, 1961).

In this code, two sections of the Special Part were dedicated to crimes against property: chapter – «Crimes against socialist property»; chapter 5 – «Crimes against personal property of citizens». Chapter 2 provided for equal responsibility for theft of state and public property. The following methods of its commission were named in it: theft, robbery, robbery, misappropriation, misappropriation, abuse of official position, fraud.

Theft of state or public property committed by fraud was defined as taking possession of state or public property by deception or breach of trust (Article 93)[30].

In Art. 92 of the Criminal Code of the Ukrainian SSR of 1960, the legislator provided for responsibility for the appropriation or waste of state or public property entrusted to the guilty party, as well as for taking possession of state or public property for selfish purposes by an official abusing his official position.

Article 931 of the Criminal Code (introduced by the Law of the Ukrainian SSR dated July 25, 1962) provided for increased liability (imprisonment for a period of 8 to 15 years with confiscation of property, with or without the death penalty with confiscation of property) for theft of state or public property, especially large sizes, regardless of the method of theft.

3. The current state of criminal responsibility for committing military property criminal offenses committed by military personnel

After the adoption of the Act of Proclamation of Independence of Ukraine on August 24, 1991, the Verkhovna Rada of Ukraine adopted the Law «On Legal Succession of Ukraine» on September 12, 1991. According to it, the laws of the Ukrainian SSR and other acts adopted by the Verkhovna Rada of the Ukrainian SSR, including codes, «are valid on the territory of Ukraine, as they do not contradict the laws of Ukraine adopted after the declaration of Ukraine's independence» (Article 3). Meanwhile, in the conditions of rapid changes in the life of the country, the old legislation, developed for the needs of the Union Republic, inevitably created numerous legal conflicts. Therefore, the question arose about improving the legal system of the state as soon as possible in the context of the general modernization of society[31].

In document 28/91, adopted on 31.12.1991 by the Decree of the President of Ukraine «On the procedure for the implementation by the troops of the Armed Forces on the territory of Ukraine of material means, equipment, weapons and real estate», the subordination of the Armed Forces of the former

[30] Кримінальний кодекс України: Затв. Законом Української РСР від 28 грудня 1960 р. // Кодекси України. – Кн.. 3. К.: Юрінком Інтер, 1998. С 121.

[31] Усенко І.Б. Кодифікаційні Роботи в незалежній Україні [Електронний ресурс] // Енциклопедія історії України: Т. 4: Ка-Ком / Редкол.: В. А. Смолій (голова) та ін. НАН України. Інститут історії України. К.: В-во «Наукова думка», 2007. С. 328 Режим доступу: http://www.history.org.ua/?termin=Kodyfikaciyni_roboty

USSR is established, stationed on the territory of Ukraine, causes a change in order relations between the central supply bodies of the former Ministry of Defense of the USSR, the troops and local state authorities of Ukraine. However, today there are facts of mass removal of material resources, weapons and equipment from bases, warehouses and arsenals, sale of equipment outside of Ukraine, seizure, lease and sale of real estate of the former Ministry of Defense of the USSR. In order to prevent the export of food, military-technical property, weapons, military equipment, including everything that is subject to write-off or sale for the needs of the national economy, from the territory of Ukraine, to prevent cases of seizure, transfer of movable and immovable property and other illegal agreements between representatives military units and citizens of customs organizations, as well as control over the deduction of funds to the account of the Ministry of Defense of Ukraine for their further use for the social needs of servicemen in the troops stationed on the territory of Ukraine[32].

On April 5, 2001, the Criminal Code of Ukraine was adopted, which entered into force on September 1, 2001[33]. This codified act established a ban on prosecution for crimes for which a person served a sentence abroad; eliminated the principle of differentiation of responsibility for crimes against property depending on its form; liability for refusing to testify against oneself, family members or close relatives, etc., is abolished. The Criminal Code of Ukraine has decriminalized a number of acts, etc. New types of punishments are foreseen, in particular: arrest, community service, restriction of freedom. The trends in the development of modern criminal legislation are determined by the international legal processes of globalization, which, in particular, requires clear observance of the principles of humanization, differentiation, and unification.

Their ideas make it possible to formulate concepts and determine the structure of military criminal legislation, based on the following principles.

Military criminal legislation primarily includes norms that formulate the composition of military offenses (according to the Ukrainian Criminal Code – Criminal offenses against the established order of military service (military criminal offenses)). These norms form the core of military and criminal legislation, since the functioning of a military organization on a personnel basis presupposes the establishment of a certain order of military service in it and the use of criminal legal measures to protect it from illegal encroachments

[32] Указ Президента України «Про порядок реалізації військами Збройних Сил на території України матеріальних засобів, техніки, озброєння і нерухомості» від 31.12.1991 URL: https://zakon.rada.gov.ua/laws/show/28/91#Text

[33] Кримінальний кодекс України від 5 квітня 2001 р. URL: https://zakon.rada.gov.ua/laws/show/2341-14/ed20010405

both in peacetime and in wartime. These measures are a set of special norms addressed only to military personnel, which provide for liability for military criminal offenses.

However, it cannot be assumed that military criminal legislation is limited to legal norms that provide for criminal responsibility for committing military criminal offenses and establish specific types and amounts of punishment for them, i.e. consists only of the norms of the Special Part. Such a position, in our opinion, would significantly narrow the scope of military criminal legislation.

Thus, separate norms of the General part of criminal law, intended not only for application to military personnel, should also be included in the military criminal legislation. In some countries, these norms are included in the General Part of the Military Criminal Law (FRG), in others they are contained in normative acts on military justice in both a systematized (France) and unsystematized form (USA), in others they are formulated in general criminal laws as individual articles or its parts (Russia).

However, regardless of the form of legislative consolidation, the norms of the General Part, which establish the specifics of criminal liability and punishment of military personnel, are an important component of military criminal legislation. They operate in unity with the norms of Chapter XX of the Special Part of the Criminal Code of Ukraine and, together with them, form military criminal legislation.

At the same time, domestic literature emphasizes that some general criminal offenses committed by military personnel are «related to encroachment on the order of military service» and that «their consequences cause real damage to the interests of ensuring the constant combat readiness of the troops, weaken the military security of the state. Therefore, when applying general criminal norms to the specified criminal offenses, it is necessary to take into account the peculiarities caused by their orientation against the order of military service.

The question clearly arises: which of the generally criminal components of criminal offenses can be included in the system of military criminal legislation?

In principle, any crime committed by a military serviceman can be considered as a crime against the military service, since it is committed by a person called to be a guarantor of the security of the person, society and the state.

However, in our opinion, the dominant in this case should be the sign of military illegality.

There is no doubt that the theft, misappropriation, and extortion of military property, which are carried out by military personnel using their official position, already based on the definition, have this feature.

The current Criminal Code has a separate section XX, which contains 35 types of criminal offenses related to the service of military personnel. This is the specificity of the specified section, which is why some of the clauses are special in relation to the clauses provided for the general subject of the criminal offense. The subject of our study is no exception, namely the norm of Art. 410 of the Criminal Code of Ukraine

Currently, responsibility for the specified socially dangerous act is provided for in Art. 410 of the Criminal Code of Ukraine and has the following wording: «Theft, appropriation, extortion by a military serviceman of weapons, ammunition, explosives or other combat substances, means of transportation, military and special equipment or other military property, as well as taking possession of them by fraud or abuse of official position.»

Adoption of new criminal legislation was not the end of the development of Ukrainian criminal law, and the codification work during 2001–2020 has not yet transformed into reliable protection of human rights and freedoms, safe development of economic, political, legal and other positive social relations[34].

As of June 1, 2022, 20 codes adopted after 1991 and three codes adopted during the Soviet era are in force in Ukraine, in particular the Code on Administrative Offenses (CPA) of 1984, which contains many norms of a criminal nature. At the same time, according to information from the «Legislation of Ukraine» database, as of June 1, 2022, the Criminal Code of Ukraine of 2001 has 290 editions, and the Criminal Code of Ukraine – 750 editions.

Only 41 editions refer to «Chapter XIX Criminal offenses against the established order of military service (military criminal offences)». Thus, since the adoption of the Code in 2001, the name of the subdivision itself has changed in connection with the change in the classification of criminal offenses and the emergence of a new inherently socially dangerous act as a misdemeanor, which is included in the criminal legislation, but for which punishment in the form of deprivation of liberty is not provided. Therefore, the title of the chapter was changed from «crimes against the established order of military service (military crimes)» to «criminal offenses against the established order of military service (military criminal offenses).

[34] Вознюк А. А. Фундаментальне дослідження передумов походження, умов розвитку та сучасного стану українського кримінального права (рецензія на монографію М. І. Колос «Українське кримінальне право: походження, розвиток і сучасність»). Науковий вісник Ужгородського національного університету (Серія ПРАВО), 2019. Вип. 57. Т. 1. С. 141–143.

CONCLUSIONS

In addition, the article of Art. was changed and analyzed by us. 410 of the Criminal Code of Ukraine according to Law of Ukraine Law No. 194-VIII dated 12.02.2015 «On Amendments to the Criminal Code of Ukraine on Strengthening Liability for Certain War Crimes»[35]. As a result, Part 4 of Article 410 arose and Part 3 of Art. 410 of the Criminal Code of Ukraine. So, the table shows the chang

The editors of Art. 410 of the Criminal Code of Ukraine until 2015	The current edition of Art. 410 of the Criminal Code of Ukraine
Article 410. Illegal possession, misappropriation, extortion by a military serviceman of weapons, ammunition, explosives or other combat substances, means of transportation, military and special equipment or other military property, as well as taking possession of them by fraud or abuse of official position	**Article 410. Illegal possession, misappropriation, extortion by a military serviceman of weapons, ammunition, explosives or other combat substances, means of transportation, military and special equipment or other military property, as well as taking possession of them by fraud or abuse of official position**
1. Illegal possession, misappropriation, extortion by a serviceman weapons, military supplies, explosives or other explosives, means of transportation, military and special equipment or other military property or acquiring them by fraud - the punishment by imprisonment for a term of three to eight years.	1. Illegal possession, misappropriation, extortion by a serviceman weapons, military supplies, explosives or other explosives, means of transportation, military and special equipment or other military property or acquiring them by fraud - the punishment by imprisonment for a term of three to eight years.
2. The same actions committed by a military official from abuse of official position, or repeatedly, or for by prior conspiracy by a group of persons, or those who caused significant damage, - the punishment by deprivation of liberty for a term of five to ten years.	2. The same actions committed by a military official with abuse of official position, or repeatedly, or with a prior conspiracy by a group of persons, or such actions that caused significant damage, - the punishment by imprisonment for a term of five to ten years.
3. Actions provided for by parts one or two of this article, if they are committed under martial law or in hostilities	3. Actions provided for by parts one or two of this article, if they are committed in the conditions of a special period, except for martial law, -

[35] Закон України Закону № 194-VIII від 12.02.2015 «Про внесення змін до Кримінального кодексу України щодо посилення відповідальності за окремі військові злочини» (Відомості Верховної Ради (ВВР), 2015, № 16, ст.113) / https://zakon.rada.gov.ua/laws/show/194-19#n5

circumstances, robbery for the purpose of seizing weapons, military supplies, explosive or other combat substances, means of transportation, military and special equipment, as well as extortion of these items, combined with violence dangerous to the life and health of the victim, - the punishment by imprisonment for a term from ten to fifteen years old.	the punishment by imprisonment for a term of five to twelve years.
	4. Actions provided for by the first or second parts of this article, if they are committed in the conditions of martial law or in a combat situation, robbery with the purpose of taking possession of weapons, military supplies, explosive or other combat substances, means of transportation, military and special equipment, as well as extortion of these items , combined with violence dangerous to the life and health of the victim,

It can be seen from the above table that even in the current legislation there are constant changes, which is dictated by time. Because, as we called it, the «new criminal code» has been in force for more than 20 years, which, accordingly, cannot but affect the change in legislation, which is dictated by the change in social relations in society.

Yes, the adoption of a new law of Ukraine on criminal responsibility is currently being planned, which is not happening only because Ukraine is in a state of war and, accordingly, cannot take such a step now, but it is already available on the Internet and you can familiarize yourself with it.

In this project, a separate section, which according to this project is called «Book», so the tenth book is dedicated to «Criminal offenses against the order of military service», while this book consists of 6 chapters, where in section 10.3 «Criminal offenses against the order» is provided the use of military property and the exploitation of means of warfare», however, it did not find the article that we are investigating, all criminal offenses that are provided for in this section are non-corrupt and not intentional, and if intentional, then not self-serving, for example, the destruction or damage of means conducting a battle that caused significant property damage is intentional, but not self-interested (10.3.4.) or varata, destruction or damage to the means of conducting a battle that caused serious property damage due to carelessness (10.3.5.) is a generally negligent crime and Arbitrary the use of means of combat is intentional, but not selfish (10.3.3.).

But in its essence, Art. 410 of the Criminal Code of Ukraine is a self-interested corruption criminal offense, which is reflected in book 9 «Criminal offenses against states», and chapter 9.5. «Criminal offenses against the order of honest performance of official powers in the public sphere», one article of which is a misdemeanor and the other a crime

Misdemeanor	Crime
Article 9.5.10. Abuse of official authority, position or related opportunities, which caused insignificant property damage	Article 9.5.4. Abuse of official authority, position or related opportunities
A public official who, through the use of official authority, position or related opportunities, illegally: 1) used state or communal property or provided it for use (rent, leasing) to another person, 2) received or provided assistance to another person in obtaining a loan, subsidy, subvention, subsidy, benefits, 3) exempted herself or another person from mandatory payment or reduced it, 4) established or increased an allowance, supplement, bonus, other incentive, compensation or guarantee payment for herself or another person, 5) obtained an unlawful benefit by using state or communal property or budget funds for purposes other than their intended purpose, 6) acquired an unlawful benefit by taking away someone else's thing for a fee, for which it was replaced with an equivalent equivalent, 7) provided an unlawful benefit due to overestimating the value of the work performed by another person or the services provided by him, 8) purchased goods, work or services before or without carrying out or in violation of the procurement procedure (simplified procurement) defined by law, or concluded a procurement contract that provides for the customer to pay for goods, work or services before or without the procurement procedure (simplified procurement), or in violation of such a procedure defined by law, or 9) obtained an illegal benefit by committing another action or omission, which caused insignificant property damage, – committed a misdemeanor.	A public official who, through the use of official authority, position or related opportunities, illegally: 1) used state or communal property or provided it for use (rent, leasing) to another person, 2) received or provided assistance to another person in obtaining a loan, subsidy, subvention, subsidy, benefits, 3) exempted herself or another person from mandatory payment or reduced it, 4) established or increased an allowance, supplement, bonus, other incentive, compensation or guarantee payment for herself or another person, 5) obtained an unlawful benefit by using state or communal property or budget funds for a purpose other than their intended purpose, 6) obtained an unlawful benefit by taking away someone else's property for payment, for which it was replaced with an equivalent equivalent, 7) provided an unlawful benefit at the expense of overestimating the value of the performed of works or services provided by another person, 8) purchased goods, works or services before or without carrying out or in violation of the procurement procedure (simplified procurement) defined by law, or entered into a procurement contract that provides for payment by the customer of goods, works or services before or without carrying out the procurement procedure (simplified procurement), or in violation of such a procedure defined by law, or 9) acquired or provided another person with an unlawful benefit by committing another action or inaction, except for the cases provided for in Articles 4.10.9, 5.1.6, 6.1.4–6.1.6 and 9.5.6 of this Code, which caused significant property damage, committed felony of the 1st degree

The table lists the same circumstances of the committed act, but the difference is precisely the amount of damage caused.

Therefore, social relations do not stand still, they are constantly changing, and accordingly, the legislation tries to be relevant, which is why there are constant changes in the legislation.

SUMMARY

Summarizing, it should be noted that:

1. in the legislation of Ukraine of the pre-Soviet and Soviet periods, the concepts of separate types of misappropriation (theft, fraud, misappropriation, misappropriation, etc.) were quite clearly developed, although at the same time there was no general (universal) concept of misappropriation;

2. the legislation of Ukraine practically during this period of time was aimed mainly at the protection of state (including military) property;

3. special legal norms were developed, establishing increased responsibility of officials for misappropriation using their official position;

4. in criminal law, there were special criminal law norms establishing the responsibility of military personnel (in particular, military officials) taking into account their special status;

5. there was a system of clear differentiation of criminal liability for misappropriation based on objective (object of encroachment – form of ownership of property) and subjective (subject of crime – status of this person) characteristics, which allowed not to leave illegal encroachments on optional objects (state military service);

6. The acquisition of independence of Ukraine affected the change in the current legislation;

7. However, the Ukrainian legislator avoids the use of the term misappropriation in the criminal legislation, trying to specify the method of committing the criminal offense in contrast to the Criminal Code of 1960, which in our opinion somewhat complicates the prosecution of embezzlers, with mandatory clarification of the method of committing the specified act, namely: Illegal possession, misappropriation, extortion, fraud, while the sanction is the same, whether it should be said exactly the way of committing remains too debatable.

8. In our opinion, the development of a new project of the Criminal Code has a positive effect on bringing the guilty to criminal responsibility for property crimes committed by military personnel using official duties.

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