

Statutory rape: concept, criminalization and qualification

The article is devoted to the study of approaches to the concept and criminalization of abusive actions committed against minors, aspects of qualification of these actions in accordance with the Criminal Code of Ukraine and criteria for distinguishing them from other crimes.

Problematic aspects of crimes against sexual freedom and immunity of juveniles were investigated in works by K. D. Kulik, V. V. Stashis, M. I. Melnyk, Yu. V. Aleksandrov, V. Ya. Tatiya, V. V. Fursa and others. However, the topic of sexual offenses against minors, including their abuse, is quite relevant, since they represent an increased danger to society - in minor victims of sex crimes often happen disruption of normal physical and psychological development as a result of his injuries, which in some cases can lead to deformation of the individual [1].

In different countries, codified normative-legal acts defining the concept of abuse of minors may have differences. Thus, the Criminal Code of Ukraine states that the abuse of minors is committed indecent acts against a person who has not attained the age of sixteen (Art. 156 of the Criminal Code) [2]. On the contrary, the Criminal Code of the State of Arizona states that mistreatment of minors is the commission of perjury against a person under the age of eighteen [3]. It should be noted that these age limits are such that they meet the standards for age of sexual consent in legislative acts, and not the age from which a person acquires full legal capacity. However, the issue of differences in the definition of the deprivation of juveniles in the criminal law of different countries is deeper than the difference in age ratings. The list of offenses that qualify as abuse of minors may differ significantly.

Thus, it is commonplace for the United States and the United Kingdom that under the definition of abuse of minors there are sexual intercourse and other acts of a sexual nature without the use of physical or psychological coercion, and in the criminal law of most countries of continental law, in particular Ukraine and Germany, corruption of minors construed as exposure of genitals perpetrator or victim matsannya their other obscene touches that cause sexual arousal, learning masturbation, committed in the presence of the victim's sex, the act of masturbation, sexual insults way to influence a child by showing pornographic illustrations, images, listening to audio recordings of pornographic content or conducting conversations on relevant topics [4, p.525-527; 5, p.107-109].

The issue of criminalizing the abuse of minors has several components. One of the criteria for the criminalization of acts of a sexual nature is the question of reaching the age of sexual consent of the object of these actions. Thus, having analyzed the criminal legislation of different countries, we can conclude that the abuse of minors is considered to be sexual acts committed against persons who have not reached the age of sexual consent. In Ukraine, individuals are considered as

having reached the age of sexual consent, from the age of 16, in most other countries, the age of sexual consent varies from 13 to 18 years [6].

Another, not less important criterion for the criminalization of acts of sexual nature with respect to persons under the age of sexual consent is the age of the subject of these actions. The French Criminal Code provides for "sexual assault on a minor who has not attained the age of fifteen years committed by an adult without the use of violence, coercion, threat or deception" [7].

The criminal codes of some US states, in particular the state of California, contain provisions on the so-called "Romeo and Juliet laws" [8]. According to them, it is considered that acts of a sexual nature committed by one person who has not reached the age of sexual consent in relation to another such person, in case when the difference between them at the age does not exceed 3-4 years, is not considered to be a maltreatment of minors; and in cases where the difference in the age is more than 4 years old, the senior person is considered guilty regardless of who initiated sexually motivated actions and whether they were voluntary [9].

Thus, the legislators of these countries partially or completely decriminalize voluntary acts of a sexual nature, in particular sexual intercourse, between minors. In the Criminal Code of Ukraine there is no such rule, however, criminal liability for the actions of a sexual nature, in addition to natural or unnatural sexual intercourse between persons under 16 years of age, any individual member of these actions are not possible because under the Criminal Code of Ukraine is not reached age, from which there is a criminal responsibility for the corresponding crime, and voluntary sexual intercourse (natural or not natural) between persons under the age of 16 does not generally qualify as a violation of the norms of the Criminal Code of Ukraine.

Sexual activities in respect of a person under the age of 16 years are qualified within the limits of Articles 155 and 156 of the Criminal Code of Ukraine. Thus, Article 155 of the Criminal Code of Ukraine provides for criminal liability only for "natural or unnatural sexual intercourse with a person who has not attained the age of sixteen committed Adult", which during sexual intercourse implied decimal sexual acts involving contact with the genitals to meet sexual desire. [10].

Summing up the above, it should be noted that the available scientific research related to the theme of this work is not exhaustive, and given the public importance of this issue, it is necessary to continue research in this direction in order to create a scientific basis for improving the legislative framework.

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