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FOREIGN EXPERIENCE OF BRINGING TO CRIMINAL RESPONSIBILITY FOR HIGH TREASON

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Abstract: Analyzing Part 2 of Article 111 of the Criminal Code of Ukraine, we consider it useful to refer to criminal law of foreign countries. This will allow you to compare common and different in the regulation of the norm of exemption from criminal responsibility for treason, identify positive and negative traits, and, for opportunities to gain positive experience. So, after analyzing the rules on exemption from criminal responsibility for treason of states such as the Federal Republic Germany, the Republic of Belarus, the Republic of Poland and the Republic of Kazakhstan, came to the conclusion that they are similar to Part 2 of Article 111 of the Criminal Code of Ukraine, but have some differences. In particular, in Ukraine one of the reasons is not to take any action on execution of a criminal task of a foreign state, foreign organization or them representatives, and in the legislation of Belarus, Germany, Poland, the basis is voluntary cessation of the crime, but with additional grounds. In particular, if the person was coerced, if he had to be distracted harmful effects, etc. In addition, in Poland, in general, are fixed separately grounds for dismissal for preparation and attempt to commit a crime. Thus, although not all countries provide for criminal the law provides for the possibility of releasing a person from criminal liability for treason, but this approach is shared by a number of states. Oh, because Today, the national security of any country is in such danger tendency to regulate and apply the institution of exemption from criminal liability can be assessed positively.

Keywords: crime, criminal law, subject of the crime, espionage, subversion, national security, territorial integrity and inviolability.

Analyzing Part 2 of Article 111 of the Criminal Code of Ukraine, we consider it useful to refer to criminal law of foreign countries. This will allow you to compare common and different in the regulation of the norm of exemption from criminal responsibility for treason, identify positive and negative traits, and, for opportunities to gain positive experience.

The main systems of law include: 1) Romano-Germanic; 2) general law (Anglo-Saxon) and 3) socialist. There are also groups of countries that have specifics to these systems of law. These are Muslim countries, Hindu and Jewish law, as well as the Far East, Africa and Madagascar [1]. The Romano-Germanic system includes the law of the countries in which legal science developed on the basis of Roman law. A feature of this legal system is that in the foreground are the rules of law, which are considered as norms of behavior that meet the requirements of justice and morality. Consider the legislation of the countries that are part of the Romano-Germanic law system, as Ukraine is trying to get closer to this family.

Let's start consideration of foreign criminal law with Federal Republic of Germany. Criminal Code of Germany as amended on November 13, 1998 year in the Special Part contains Chapter II "Treason" and threats to external security " [2]. About 10 articles regulate this species crimes, but only one of them provides an incentive rate. Trace note that § 94 "Treason" does not contain an indication of exemption from criminal liability. Instead, §98 "Treasonous agent activity ", which consists in activities in favor of a foreign state, directed to receive or transfer a state secret or to consent to its implementation of this activity to a foreign state or its representative, provides for exemption from certain features. First, the provisions of this article do not only apply for German citizens, secondly, paragraph 2 of this article contains a rule, according to with which the court may mitigate or release from punishment if a person voluntarily renounce the act and notify the authorities civil service. That is, it is a right, not an obligation, of the court. Third, the same paragraph provides for the mandatory release of a person if there are grounds in aggregates: 1) a person was forced to commit an act through coercion of a foreigner the state or its representatives and 2) voluntarily renounced these acts and immediately inform the relevant authority. So, in German In criminal law, voluntariness is a sign of rejection committing an act, not an application to law enforcement agencies; in addition, from the wording of the disposition of the article shows that the subject of the crime is released and for the initiated act, but with one condition - coercion of a foreign state.

The Criminal Code of the Republic of Belarus of June 2, 1999 contains Chapter 32 "Crimes against the state" [3]. It is in the note to Art. 356 "Treason" of this The chapters provide grounds for the release of a person from criminal liability for this crime. To do this, a person must: 1) voluntarily and timely declare state bodies on the actions committed by her; 2) terminate the activities aimed at to harm the national security of the Republic of Belarus; 3) to promote in the prevention of

harmful effects. The last reason is not peculiar to criminal legislation of Ukraine, it sees both positive and negative sides. Yes, it is thanks to the effective work of the relevant bodies and the assistance of the person who has communicated directly with the enemy of the state, knows specific information, negative consequences for national security can be prevented states. However, if it is impossible or extremely difficult to prevent, the person, fearing punishment, will stop this activity, but will not apply to public authorities, or, conversely, will continue to commit criminal offenses a task that will do even more damage to the state.

The Criminal Code of the Republic of Poland, adopted by the Law of June 6, 1997, in Chapter XVII "Crimes against the Republic of Poland" [4] provides for liability for encroachment on the external and internal security of Poland¹. Article 131 contains incentive standards. Yes, a person is not subject to punishment for attempting to participate in foreign intelligence activities against Poland (espionage), if it "Voluntarily ceased further activities and opened the body, competent to consider crimes, all significant circumstances of the act. To in addition, this article states that a person is not subject to punishment for preparing for of this crime, if there is a voluntary refusal to commit an act. In § 2 Art. 131 states that a person who: 1) is not subject to punishment for a crime. voluntarily ceased further activities; 2) has made significant efforts, aimed at preventing the commission of the intended prohibited act; 3) disclosed to the body competent to investigate crimes, all significant circumstances committed act.

So, compared to the criminal legislation of Ukraine, Polish establishes the basis of incentive rules with certain features. So, exemption from criminal liability for participation in foreign activities intelligence against Poland is regulated in the stages of preparation and assassination attempt on crime commitment. Instead, under Part 2 of Art. 111 of the Criminal Code of Ukraine dismissal for espionage is possible only at the stage of preparation. So, there is a significant difference that under Polish law a person may be exempted from liability, even if she has commenced criminal activity.

The national incentive rate is similar in content to the norm provided for in Part 2 of Art. 337 "Treason" of the Criminal Code of the Republic Moldova of 18 April 2002³ [6]. The same is exempt from criminal responsible citizen of the Republic of Moldova, recruited abroad intelligence service to conduct hostile activities against the Republic Moldova, if he, as in Ukraine, "for the execution of the criminal he did not take any action and voluntarily declared his opinion to the authorities liaison with a foreign intelligence service. "

It should be noted that the criminal law of Belgium, Italy, France, Switzerland does not provide for exemption from criminal responsibility for treason.

So, after analyzing the rules on exemption from criminal responsibility for treason of states such as the Federal Republic Germany, the Republic of Belarus, the Republic of Poland and the Republic of Kazakhstan [6], came to the conclusion that they are similar to Part 2 of Article 111 of the Criminal Code of Ukraine, but have some differences. In particular, in Ukraine one of the reasons is not to take any action on execution of a criminal task of a foreign state, foreign organization or them representatives, and in the legislation of Belarus, Germany, Poland, the basis is voluntary cessation of the crime, but with additional grounds. In particular, if the person was coerced, if he had to be distracted harmful effects, etc. In addition, in Poland, in general, are fixed separately grounds for dismissal for preparation and attempt to commit a crime.

Thus, although not all countries provide for criminal the law provides for the possibility of releasing a person from criminal liability for treason, but this approach is shared by a number of states. Oh, because Today, the national security of any country is in such danger tendency to regulate and apply the institution of exemption from criminal liability can be assessed positively.

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Зарубежный опыт привлечения к уголовной ответственности за государственную измену

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Аннотация. Анализируя часть 2 статьи 111 УК Украины, считаем целесообразным обратиться к уголовному законодательству зарубежных стран. Это позволит сравнить общее и разное в регулировании нормы освобождения от уголовной ответственности за государственную измену, выявить положительные и отрицательные черты, а также возможности для приобретения положительного опыта. Так, проанализировав нормы об освобождении от уголовной ответственности за государственную измену таких государств, как Федеративная Республика Германия, Республика Беларусь, Республика Польша и Республика Казахстан, пришли к выводу, что они аналогичны ч. 2 ст. 111 УК Украины, но имеют некоторые отличия. В частности, в Украине одной из причин является непринятие каких-либо действий по исполнению преступного задания иностранного государства, иностранной организации или их представителей, а в законодательстве Беларуси, Германии, Польши основанием является добровольное прекращение преступления, но с дополнительными основаниями. В частности, если лицо было подвергнуто принуждению, если его пришлось отвлечь вредным воздействием и т. д. Кроме того, в Польше вообще отдельно фиксируются основания для увольнения за приготовление и покушение на совершение преступления.

Таким образом, хотя не во всех странах уголовная ответственность предусмотрена законом, предусмотрена возможность освобождения лица от уголовной ответственности за государственную измену, однако такой подход разделяется рядом государств. Сегодня национальная безопасность любой страны находится в опасности, тенденцию регулирования и применения уголовной ответственности можно оценить положительно.

Ключевые слова: преступление, уголовное право, объект преступления, шпионаж, подрывная деятельность, национальная безопасность, территориальная целостность и неприкосновенность.