

harm along with the main direct object, and which in other cases may be independent the main direct object of the crime. [1]

**Conclusion.** Vertical classification of objects of a crime has great theoretical and practical significance. It helps to better understand the essence of the object of the criminal offense, to distinguish the crime from another offense, to determine the degree of public danger of the crime and correctly qualify the relevant crime.

**References:**

1. Васильєв А. А., Гладкова Є. О., Житний О. О. та ін. Кримінальне право України. Загальна частина: підручник / за заг. ред. проф. О. М. Литвинова; МВС України, Харків. нац. ун-т внутр. справ. Харків, 2020. 428 с.

2. Тацій В. Я., Пономаренко Ю. А. Об'єкт кримінального правопорушення. Вісник Асоціації кримінального права України, 2022, № 2(18). С. 207 – 210.

## **APPOINTMENT OF PUNISHMENT FOR COMPLEX CRIMINAL OFFENSES: LEGAL REGULATION AND FEATURES OF IMPLEMENTATION IN COURT PRACTICE**

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**Introduction.** When imposing a punishment based on a set of sentences, the court is dealing with a special case that proves the increased public danger of the guilty person. Therefore, in the Criminal Code of Ukraine, this provision is highlighted in separate Articles 70 and 71 of Chapter 11, which provides for the application of stricter measures of influence on a person found guilty of a criminal offense (crime) and somewhat more complex requirements for imposing a punishment on him.

**Objectives.** The main task is to study the practice of the Supreme Court of Ukraine and the practice of the rest of the courts of Ukraine and foreign countries.

**Methods.** The main methods used in the study are description, analysis, abstraction, and generalization.

If the actions of a person involve repetition of identical criminal offenses, of which one or more offenses were committed before the adoption of the previous sentence, and the other(s) – after its adoption, then the special rules of Part 4 of Art. 70 of the Criminal Code could not be applied. In such case, the court qualifies criminal offenses under one article or part of an article of the Special Part of the Criminal Code, assigns the punishment provided by its sanction and determines the final punishment according to the rules of Art. 71 of the Criminal Code according to the totality of sentences.

This was emphasized by the Joint Chamber of the Criminal Court of Cassation of the Supreme Court when considering case [No. 390/235/19](#).

According to Art. 32 of the Criminal Code, repetition of criminal offenses is defined as the commission of two or more criminal offenses provided for by the same article or part of the article of the Special Part of the Criminal Code. There is an exception to this rule, according to which the commission of two or more criminal offenses provided for by different articles of the Criminal Code is recognized as repeated only in the cases provided for in the Special Part of the Criminal Code [1].

According to the rules of Art. 33 of the Criminal Code, a set of criminal offenses is recognized as the commission of two or more criminal offenses by a person, provided for by different articles or different parts of one article of the Special Part of the Criminal Code, for none of which he was convicted.

In cases of a set of criminal offenses, each of them is subject to qualification under the corresponding article or part of the article of the Special Part of the Criminal Code, and punishment is assigned separately for each of them, which is part of it, with further determination of the final punishment according to the rules, provided by Art. 70 of the Criminal Code, which regulates the procedure for imposing punishment for a set of criminal offenses.

In the case of a set of criminal offenses, the court, having assigned a punishment (main and additional one) for each criminal offense separately, determines the final punishment by absorbing a less severe punishment with a more severe one or by fully or partially adding up the prescribed punishments. In accordance with the requirements of part 4 of this article, according to the rules provided for in Art. 70, part 1-3, a punishment is imposed if, after the verdict in the case, it is established that the convicted person is also guilty of another criminal offense committed by him before the previous verdict. In this case, the term of punishment, finally assigned for the totality of criminal offenses, shall include the punishment served in whole or in part under the previous sentence, in accordance with the rules provided for in Art. 72 of the Criminal Code.

Norms of Art. 71 of the Criminal Code regulates the procedure for imposing a punishment in the event that a convicted person commits a new criminal offense after the sentence has been passed, but before the sentence is fully served. In such circumstances, the court shall fully or partially add the unserved part of the sentence of the previous sentence to the punishment imposed under the new sentence [1].

The decision of the joint chamber of the Criminal Court of Cassation dated June 25, 2018 (case No. 511/37/16-k, proceedings No. 51-830km18) made a conclusion on the application of the rules of law, according to which when after the verdict in the case it is established that the convicted person is guilty of several more crimes, some of which were committed before, and others - after the first sentence, the punishment for the most recent sentence is imposed with the application of Art. 70, as well as Art. 71 of the Criminal Code: initially - according

to the rules of Part 1 of Art. 70 of the Criminal Code for the totality of crimes committed before the first verdict; after that - according to the rules of Part 4 of Art. 70 of the Criminal Code, then - according to the totality of crimes committed after the first verdict; and finally - according to the set of sentences in accordance with Part 1 of Art. 71 of this Code.

However, this conclusion on the application of the norms of criminal liability legislation does not cover cases when a person commits several criminal offenses both before and after the sentencing, which are provided for by the same article or part of the article of the Special Part of this Code, i.e. there is a repetition "broken" by the conviction criminal offences, which in the doctrine of criminal law have received the name identical.

The legislation on criminal liability and the criminal procedural legislation do not contain provisions that the criminal offenses that constitute part 1 of Art. 32 of the Criminal Code repetition and correspond to the same composition of the criminal offense (identical criminal offenses) and must be separately qualified in the decisive part of the conviction and for each offense qualified under one article or part of the article, a separate punishment must be imposed.

The qualification of two or more criminal offenses provided for by the same article or part of the article of the Special Part of the Criminal Code (identical criminal offenses) and the imposition of punishment for them is carried out in accordance with established judicial practice.

Thus, the rules of sentencing for a set of criminal offenses provided for by law (Article 70 of the Criminal Code) are applied in cases of independent qualification of the committed both under different articles and under different parts of one article of the criminal law, which provide for responsibility for separate components of criminal offenses and which have independent sanctions. According to the same rules, punishment is also imposed in the event that a person commits acts, part of which qualifies as a completed criminal offense, and the rest - as preparation for or attempt to commit a criminal offense. Punishment is not imposed for individual episodes of criminal activity or for individual items (parts of articles) of the Criminal Code that do not have an independent sanction [1].

If the committed criminal offenses, in addition to repetition, also form a set, they should receive a separate qualification in accordance with the second part of Article 33 of the Criminal Code (for example, theft without qualifying features and theft, committed repeatedly, or theft combined with breaking into a dwelling). If the criminal offenses that form a repetition correspond to the same composition of the criminal offense (for example, three thefts combined with breaking into a dwelling, five robberies committed by an organized group, etc.), their qualification is carried out under one article or part of an article A special part of the CC. In such cases, the repetition of criminal offenses must be noted in the procedural documents relating to the person's accusation as a qualifying feature of the relevant criminal offences.

This legal position is reflected in the existing practice of the Criminal Court of Cassation. In the resolutions of the panels of judges of the First Judicial Chamber of the Criminal Court of Cassation dated May 22, 2018 (case No. 187/1354/15, proceedings No. 51-1017km18), the Second Judicial Chamber of the Criminal Court of Cassation dated November 29, 2018 (case No. 541/715/17 , proceedings No. 51-7898km18) and dated July 10, 2019 (case No. 723/1538/16-k, proceedings No. 51-8625km18), of the Third Chamber of the Cassation Criminal Court dated January 15, 2020 (case No. 585/1603/17, proceedings No. 51-3290km19) and from July 29, 2020 (case No. 541/715/17, proceedings No. 51-7898km18) it was recognized that for certain episodes of criminal activity or for certain points of the article (parts of the article) of the Criminal Code, which do not have independent sanction, punishment is not assigned and the rules for assigning punishment for a set of criminal offenses on the basis of Part 4 of Art. 70 of the Criminal Code do not apply. When the repetition and relapse of criminal offenses is an element of the set of sentences, the punishment for them is assigned according to the rules provided by Art. 71 of the Criminal Code.

**Conclusion.** To sum up, the analysis of the judicial practice of sentencing based on a set of sentences gives grounds for concluding that the court's errors in this part are systematic. Some of them are related to the shortcomings of the legislative regulation of sentencing based on a set of sentences and can be corrected by making changes to the current Criminal Code of Ukraine and providing clearer explanations by the Plenum of the Supreme Court. This, in particular, concerns the introduction of amendments to Part 1 of Art. 71 of the Criminal Code of Ukraine and Part 4 of Art. 70 of the Criminal Code of Ukraine regarding the fact that the imposition of a sentence based on a set of sentences should take place only after the conviction of the court has entered into force and is enshrined in Art. 71 of the Criminal Code of Ukraine provides that it should be considered an unserved part of the sentence. However, the causes of errors are not only the shortcomings of the legislation or the clarifications of the Plenum of the Supreme Court. Their presence can also be explained by the insufficient qualification of the judicial corps and the not too responsible attitude of judges to the appointment of punishment in general.

#### **References:**

1. Кримінальний кодекс України: Кодекс України від 05.04.2001. № 2341-III: станом на 27 січ. 2023 р. URL: <https://zakon.rada.gov.ua/laws/show/2341-14#Text> (last accessed: 26.03.2023).