

illegal and violates the rights of the whistleblower if the employer or manager cannot prove in court the absence of a causal relationship between the whistleblower's report and the dismissal. Forced resignation should be understood as direct or indirect actions of the manager or employer aimed at persuading the whistleblower to resign at his/her own will (articles 38-39 of the Labor Code) or termination by mutual agreement of the parties (paragraph 11 of article 36 of the Labor Code).

Thus, any actions that make it difficult or uncomfortable for a whistleblower to do the job can be seen as coercion to terminate the employment. These actions can include threatening to fire whistleblowers for reasons related to their qualifications, unjustly punishing them, publicly condemning them, or withholding benefits like vacations or bonuses. It is important to note that these actions can be carried out not just by the employer or manager, but also by other people in the workplace. To effectively combat corruption, it is crucial to protect whistleblowers from these types of coercive behavior. Providing a proper level of protection for whistleblowers is essential for ensuring that they feel safe and empowered to report any corrupt activities they may witness. This can include legal protection, anonymous reporting options, and supportive workplace policies.

The guarantee of successful implementation of the task of minimizing the manifestations of corruption is to ensure a proper level of protection for whistleblowers. Summing up, this policy of legal protection contributes to the effective operation of preventive anti-corruption mechanisms established by the law and reduces the risk of violating the basic rights and freedoms of citizens in everyday life.

References:

1. Закон України «Про запобігання корупції» (15 березня 2023 р.) / Верховна Рада України. Київ : Парламентське видавництво, 2023. 110 с.
2. Кодекс законів про працю України / Верховна Рада України. – Київ : Парламентське видавництво, 2023. 120 с.
3. Сучасний англо-український юридичний словник / Укл. Л. В. Мисик, І. В. Савка; Ред. В. Т. Нор. – Київ: Ін Юре, 2018. 880 с.

EXEMPTION FROM CRIMINAL LIABILITY: CONTROVERSIAL ISSUES

OLENA OKHABSKA, student

IRYNA SEN, Associate Professor, Scientific Adviser

LILIA KUZNETSOVA, Associate Professor, PhD in Philology, Language Adviser

Ivan Franko National University of Lviv

Formulation of the problem. The institution of exemption from criminal responsibility is provided for by the criminal law, which allows not to apply any of

the forms of implementation of criminal responsibility to a person, such as condemnation, punishment or criminal record. The impact on a person by the means of criminal law regulation in case of exemption from criminal responsibility differs significantly, for example, from the institution of exemption from punishment or its serving.

The existence of these two legal institutions allows the legislator to take a differentiated approach to the application of the forms of implementation of criminal responsibility in relation to the subject who committed a criminal offense.

There are often cases in which courts exempt from criminal responsibility, both on general and special grounds. This institution is a favorable factor for persons who, due to their fulfillment of the conditions of exemption from criminal responsibility, do not need to apply influence measures related to the forms of realization of criminal responsibility. In addition, it is worth noting that exemption from criminal liability on special grounds is justified, because the conditions of such exemption are closely intertwined with the specifics of the committed criminal act [1]. The application of exemption is useful both for the individual and for the state, since the special conditions of exemption quite often provide for active actions that either eliminate the harm, or significantly simplify the work of law enforcement agencies, or make it impossible to commit other criminal offenses.

However, courts often encounter problems in understanding the provisions of the Criminal Code of Ukraine on exemption from criminal liability. Answers to debatable questions that arise cannot always be found in the code, in most cases they are formed by the court during the application of the relevant criminal law norms. Judicial practice contains a number of important conclusions regarding the resolution of controversial issues relating to the institution of exemption from criminal responsibility.

Goal. Research and analysis of debatable issues that arise in practice and relate to the institution of exemption from criminal liability.

To achieve the goal, we set the following **tasks**:

- Analyze the conditions for exemption from criminal liability in connection with effective remorse;
- Analysis of release from criminal liability in connection with the reconciliation of the guilty party with the victim;
- To analyze the possibilities of releasing a person from criminal liability in connection with the expiration of the statute of limitations.

The object of the work is the institution of the release of a person from criminal responsibility.

Research methods. The work used the comparative legal method of research, which was used during the study of the norms established at the legislative level of the institution of exemption from criminal responsibility, and the practice of applying the corresponding norms by courts.

Research results. It is common knowledge that at the legislative level, a number of conditions are provided for exemption from criminal liability in connection with effective remorse. This type of exemption can be applied in cases where a person has committed a criminal misdemeanor or a careless non-serious crime for the first time, except for corruption crimes. The person's effective remorse should consist of sincere remorse for the committed criminal offense, active assistance by the person in the disclosure of the committed criminal offense and compensation for damages or elimination of the damage caused, if possible [1]. But attention should be paid to the resolution of the panel of judges of the First Judicial Chamber of the Criminal Court of Cassation (hereinafter referred to as the Criminal Court of Cassation) dated April 11, 2019 (case No. 308/7582/17, proceeding No. 51-4104KM18), which states that the absence of at least one of the specified components active remorse excludes the release of a person from criminal liability under Art. 45 of the Criminal Code; an exception may be made only in cases of the commission of a criminal offense or an attempt to commit it, as a result of which no damage or loss was caused.

In Art. 46 of the Criminal Code specifies the grounds and conditions for exemption from criminal liability in connection with the reconciliation of the guilty party with the victim [2]. However, how should the court act in the event of the victim's death and whether close relatives of the deceased, who are victims of criminal proceedings, can reconcile with the culprit. The decision of the Grand Chamber of the Supreme Court (hereinafter referred to as the Grand Chamber of the Supreme Court) dated January 16, 2019 (case No. 439/397/17, proceedings No. 13-66kc18) states that if the victim dies as a result of a criminal offense, no one else can express his will when solving issues related to compensation for damage in the form of death as a basis for exemption from criminal liability under Art. 46 of the Criminal Code. This conclusion is based on the fact that in Art. 46 of the Criminal Code, the term victim is used in its material and legal aspect. The right to reconciliation is a personal right of the victim. Also, in view of the principles of humanism and the economy of criminal law repression, it is the victim (i.e. the person who was directly harmed by a criminal offense) who can express his will to forgive the guilty, on the basis of which a decision is made to close the criminal proceedings and release the person from criminal liability according to Art. 46 of the Criminal Code [2]. In view of the above, damage caused by a criminal offense within the meaning of Art. 46 of the Criminal Code must be such that, by its nature, it is amenable to compensation (elimination). Death is an irreversible consequence. Thus, damage in the form of death compensation or elimination within the meaning of Art. 46 of the Criminal Code is not applicable.

Therefore, in the event of a criminal offense causing damage in the form of the death of the victim, it is not possible to be released from criminal liability in connection with the reconciliation of the perpetrator with the victim (Article 46 of the Criminal Code).

In judicial practice, there are situations when the conditions for release from criminal liability in connection with the reconciliation of the guilty party with the victim are absent at one of the stages of the criminal proceedings, but are present at the following stages [3]. On this issue, the resolution of the panel of judges of the First Judicial Chamber of the CCC dated August 13, 2019 (case No. 537/1772/17, proceedings No. 51-1493km19) states that the reconciliation of the guilty party with the victim means reaching an agreement between them, in which it is recorded that the victim has reconciled with the guilty party, is satisfied with the latest measures taken to compensate for the damage caused or eliminate the damage caused, and as a result does not object to the release of the guilty party from criminal liability (or requests such release). It is worth noting that if, during the consideration of the proceedings by the court of first instance, the grounds and conditions for the release of the guilty party from criminal liability under Art. 46 of the Criminal Code did not yet exist (for example, the court did not receive a statement from the victim before the verdict was passed), in the opinion of the Criminal Court, the court of appeal does not relieve the appellate instance of the obligation to assess whether such grounds and conditions have arisen and exist at the time of the appeal. In this case, the appellate court can close the criminal proceedings both on the basis of the materials received from the court of first instance and on the basis of new materials provided by the participants in the process or requested by the appellate court itself if there are grounds to exempt a person from criminal liability and the relevant decision.

In the practice of applying the criminal law by the Supreme Court, many questions arise regarding the possibility of releasing a person from criminal liability in connection with the expiration of the statute of limitations [4]. When deciding the issue of exemption from criminal liability on this basis, the courts must take into account that procedural actions cannot stop the running of the statute of limitations. Thus, in the decision of the panel of judges of the First Judicial Chamber of the CCC dated May 22, 2018 (case No. 665/2387/14-k, proceedings No. 51-240km18), it is stated that the grounds for releasing a person from criminal liability under Art. 49 of the Criminal Code is only the expiration of the relevant statute of limitations, which expired before the day of entry into force of a court's conviction against a person who committed a criminal misdemeanor or a crime of a certain degree of gravity. The statute of limitations expires both during the pre-trial investigation, and during the court proceedings, and after the court pronounces a guilty verdict. Any procedural actions during these periods do not stop their course. Therefore, the court noted that if the statute of limitations has expired before the day of the conviction of the court, then the person is subject to release from criminal liability, regardless of the stage of the criminal case against him.

Conclusion. Consequently, in practice, courts often encounter problems of understanding the norms of the Criminal Code of Ukraine on exemption from criminal responsibility. Answers to debatable questions that arise cannot always be

found in the code, in most cases they are formed by the court during the application of the relevant criminal law norms. Judicial practice contains a number of important conclusions regarding the resolution of controversial issues relating to the institution of exemption from criminal responsibility. We have considered the general grounds for exemption from criminal liability, however, there are a number of issues, namely when applying special types of exemption from criminal liability, but they require separate coverage.

References:

1. Дудоров О., Кримінально-правові проблеми сучасної України (вибрані праці). Київ: Ваіте, 2022 р., ст. 80.
2. Кримінальний кодекс України від 5 квітня 2001 року [Електронний ресурс] // Відомості Верховної Ради України. – 2001. – № 25-26. – Режим доступу: <http://zakon3.rada.gov.ua/laws/show/2341-14>
3. Батан Ю. Д., Гуменюк А. С. Інститут звільнення від кримінальної відповідальності: перспективи вдосконалення. Журнал східноєвропейського права, 2020 р., № 73, ст. 23-31.
4. Кіцен Н. В., Деякі кримінально-процесуальні аспекти інституту звільнення від кримінальної відповідальності, Право і суспільство, № 1 частина 2 / 2020 р., ст. 163.

SALARY AS A COMPONENT OF THE CONCEPT OF PROPERTY IN THE PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS

PAVLO ORDYNSKYI, student

ALLA I. RADU, Associate Professor, PhD in Philology, Legal English Supervisor
Ivan Franko National University of Lviv

In the practice of the European Court of Human Rights (ECtHR), the concept of property is broadly interpreted to include not only tangible assets, such as: land, buildings, and goods, but also intangible assets, such as: intellectual property, bank accounts, and salaries. The ECtHR recognizes that salary is an important component of an individual's property rights, and it has often stated that interference with an individual's salary can constitute a violation of Article 1 of Protocol No 1 to the European Convention on Human Rights (ECHR), which protects the right to peaceful enjoyment of possessions.

The purpose of the research is to gain a deeper understanding of how the concept of property is defined and protected in the European Union, specifically in relation to salaries. This research is important for various reasons, namely: 1) *legal clarity*: understanding how salaries are defined as property under the EU law and how they are protected can provide legal clarity for individuals, employers, and legal practitioners; 2) *protection of employee's rights*: employees have the right to receive fair compensation for their work, and this includes their salaries, analyzing how salaries are protected as property under the EU law can help to ensure that employee's rights are safeguarded; 3) *litigation*: in case with the unpaid salaries,