

THE CONCEPT AND TYPES OF INTENT

MARIIA KRUPENIA, student

ALLA I. RADU, Associate Professor, PhD in Philology, Language Adviser

Ivan Franko National University of Lviv

The concept of intent and its types as a legal category is an extremely important and complex issue that requires detailed research, as in practice there are numerous difficulties in applying the rules on intent. It is known that most crimes under criminal law are intentional. Most crimes committed in life are also intentional. Intentional crimes are the most dangerous crimes, and therefore they attract the greatest attention of law-enforcers and cause the greatest indignation of public opinion.

In the theory of criminal law, there is no clear opinion on the emergence of intent and its inclusion in the commission of a crime. Some scholars (V. Tykhyi, R. Veresha) identify intent as a part of the commission of a crime, while others (N. Maslak, L. Fedorak) oppose its inclusion in the stages of the commission of a crime [5, p.139].

Any sane person, including a criminal, first acts mentally before proceeding to certain actions. Before committing a certain criminal act, a person's mind develops a general idea of the nature of the crime, the ways of its commission, and forms a psychological attitude to the future criminal act and the criminal result in the form of a desire to achieve the criminal goal. All these processes occurring in the mind of a person can be called the formation of intent.

The issue of intent, in general, and that in law is studied by many scholars, lawyers and sociologists. Among them, V.M. Burdin distinguishes the formation of intent as a stage of committing a crime along with the preparation for it, attempted crime and completed illegal act [2, p.29].

M. Allen [3, p.142] believed that the formation of intent is a conscious and volitional process of modelling future criminal behaviour by a person. Thus, the formation of intent is a conscious and volitional process, since at the stage of intent formation, a person develops a mental attitude not only to the criminal act, but also to the consequences that will arise as a result of this act, since any conscious action (inaction) of a convicted person is carried out for a specific purpose. R. Veresha [1, p.1883] considers the emergence of intent, preparation of a criminal act, the criminal act itself and the result to be parts of the commission of a crime. The initial stage is the emergence of intent, which is a purely internal process of consciousness and does not find any realisation or even manifestation outside. The study of intent has been greatly influenced by N. Maslak, L. Fedorak, V. Tykhyi, and many other lawyers.

It is worth starting with the fact that intent is a form of guilt. The form of guilt characterises a certain connection between the mental attributes that make up the content of guilt and the objective features of the crime. Current criminal law distinguishes two forms of guilt: intent and negligence.

According to the Criminal Code of Ukraine, a crime is deemed to have been committed intentionally if the person who committed it was aware of the socially dangerous nature of his or her action or inaction, foresaw its socially dangerous consequences and wished for them or deliberately allowed these consequences to occur [4, p.13].

Intent is the most common form of guilt and is divided into two types: direct and indirect. The legislative definition of direct and indirect intent contains three features that characterise a person's mental attitude to the act committed and its consequences: 1) awareness of the social danger of the act; 2) foresight of its socially dangerous consequences; 3) desire for such consequences or conscious assumption of their occurrence.

The first two features characterise the processes that take place in the subject's psyche and therefore constitute the intellectual element of intent. The third feature, that is the desire or conscious assumption of consequences, characterises the volitional sphere of a person and forms the volitional element of intent.

In the commission of specific crimes, different variants of combining intellectual and volitional elements are possible. Their certain ratio is the basis for the division of intent into direct and indirect. Indirect intent differs from direct intent in both intellectual and volitional aspects. On the intellectual grounds, their difference lies in the fact that with direct intent a person foresees consequences as a possible or inevitable result of his/her socially dangerous act, while with indirect intent he/she foresees only the possibility of such consequences. On the volitional grounds, a person desires the consequences to occur, strives to achieve them, the consequences are the purpose of the crime committed. With indirect intent, a person, knowingly assuming the occurrence of consequences, does not seek to achieve them, abstractly counting on their prevention.

Summing up, intent is the most common form of guilt, as the vast majority of crimes are committed intentionally. Intent is divided into two types: direct and indirect. The correct determination of the type of intent is crucial for the qualification of a crime, determining the degree of its social danger and fair punishment.

References:

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