

ность в уголовном праве, как признак объективной стороны состава преступления.

Список использованной литературы:

1. Про практику застосування судами України законодавства про звільнення особи від кримінальної відповідальності : Постанова Пленуму ВСУ від 23.12.2005 № 12 [Електронний ресурс]. – Режим доступу : <http://zakon5.rada.gov.ua/laws/show/v0012700-05>.
2. Бернаш У. Правовая система США 3-й выпуск / Перевод с англ. – М.: Новая юстиция; 2006. – С.864–865.
3. Музыка А. А., Багиров С. Р. Причинная связь : уголовно-правовой очерк. – Хмельницкий: Изд-во Хмельницкого университета управления и права, 2009. – 112 с.
4. Прохоров В. С. Объективная сторона преступления. Курс советского уго.права.Т.1 / Под.редакцией Н. А. Беляева, М. Д. Шаргородского. – Л. 1968. – 578 с.
5. Тер-Акопов А. А. Преступление и проблемы нефизической причинности в уголовном праве. – М. : «ЮРКНИГА». – 480 с.
6. Фріс П. Л. Кримінальне право України. Загальна частина: Підручник для студентів вищих навчальних закладів – К. : Атіка, 2004. – 488 с
7. Шаргородский М. Д. Детерминизм и ответственность // Правоведение 1968 – №1 – С.45.

Ключові слова: фізична причинність, нефізична причинність, склад злочину, кримінально-правова відповідальність.

Ключевые слова: физическая причинность, нефизическая причинность, состав преступления, уголовно-правовая ответственность.

Key words: physical causation, non-physical causation, corpus delicti, criminal liability.

TERTYCHNA ANASTASIIA ANDRIIVNA

*Taras Shevchenko National University of Kyiv,
candidate of the degree of Doctor of Philosophy,
Department of Criminal Law Policy and Criminal Law,
Institute of Law*

CRIMINAL LIABILITY FOR COURT DECISION NON-ENFORCEMENT IN COMMON LAW LEGAL SYSTEM (ON THE EXAMPLE OF THE STATES OF GREAT BRITAIN AND THE USA)

In writing this paper, the legal regulation of non-enforcement of a court decision in the criminal law of some countries in continental Europe, Central and South America, Africa, as well as Great Britain, USA, China, Japan, Pakistan, India, Israel, Australia and New Zealand was studied.

However, in the framework of this study, we decided to focus on criminal liability for non-enforcement of a court decision in the common law legal system (on the example of the United Kingdom and the United States).

As we know, the common law family is characterized by the following common features:

1. The general system of law has not been significantly influenced by Roman or canon law, it was developed not by universities but by legal practitioners, ie it is basically a judicial law.

2. The structure of this family consists of common law, the law of justice and statutory law.

3. Legal systems that belong to this legal family are not characterized by codification, although it sometimes occurs (for example, in the United States).

4. The most common source of law in this legal family is judicial precedent – a decision on a specific legal case, which is a model for consideration of similar cases in the future. This does not exclude the existence of other sources of law – statutory law, customs, doctrine, and so on.

5. The law-making powers of a judge shall be recognized.

6. The existence of the institution of a jury, which, not being professional judges, are endowed with power in resolving the case on the merits.

7. Priority of procedural law over substantive.

8. In the legal systems that belong to this family, there is no division of law into public and private, as well as the classification of law into relatively separate areas. And the rule of law is a case law in a particular case. These norms are not divided into imperative and dispositive, norms of laws and bylaws, etc. [1].

Thus, in the criminal law of the United Kingdom, the Criminal Law Act of 1977 in Part II of Section 10, entitled «Obstruction of Law Enforcement Officials and Judicial Officers Performing the Proceedings of the High Court or District Court», contains the following: « A1) A person is guilty of a crime if he resists or intentionally obstructs any person who: (a) is a law enforcement officer or acts under the direction of an executive body; and (b) executes orders issued by the High Court. (1) Without prejudice to paragraph 2 of Article 8 of the Sheriff's Act 1887, but subject to the following provisions of this section, a person shall be guilty of a crime if he resists or intentionally obstructs any person who is in fact a court official, participates in any process issued by the High Court or the District Court for the purpose of enforcing any decision or order to return any premises or to transfer possession of any premises. [...] (3) In any proceedings for a crime under this section, the accused may defend the evidence that he believes that the person he resisted or obstructs is not a law enforcement officer, a person acting under the direction of the executive body, or a court official (depending on the case). (4) A person guilty of committing a crime under this section shall be subject to a court sentence of imprisonment for a term not exceeding six months or a fine, or both types of punishment may be applied» [2].

Section XVIII of the U.S. Code of Criminal Procedure in Part I, Section 74, Obstruction of Justice, contains a criminal law enshrined in Section 1509, Obstruction of Judicial Orders, as follows: or willfully attempt to obstruct, prevent, interfere with, or impede the proper exercise of rights or obligations

under any ruling, decision, or ruling of a United States court, be punishable by a fine under this paragraph or be punishable by a fine, imprisonment for not more than one year, or both types of punishment may be applied [3].

The above rule is enshrined in US federal criminal law. However, criminal law in some states rarely provides for such a rule – it is absent, for example, in the California Criminal Code (Section VII on Crimes Against Justice), the Florida Code (Section XLVI «Crimes» Chapter 843 «Obstruction of Justice»), the Criminal Code New York (Section L «Crimes against Public Administration», containing the section «Crimes Relating to Judicial and Other Procedures»), Pennsylvania Code (Section XVIII on Crimes against Justice).

Only in the criminal law of the state of Louisiana do we meet the corresponding norm. It is enshrined in Section 14 of Criminal Law, paragraph 133.1, «Obstruction of Judicial Acts» of the Louisiana Laws, and reads as follows: Obstruction of the proper exercise of rights or performance of duties by any decision, order or ordinance of a Louisiana court is punishable by a fine of not more than \$ 1,000 or imprisonment for a term not exceeding one year, or both types of punishment» [4].

Thus, the criminal law of the United Kingdom and the United States in one form or another provides for criminal liability for non-enforcement of a court decision as a separate type of criminal offense.

References:

1. Англо-американська правова сім'я. Common law legal. URL:https://uk.wikipedia.org/wiki/%D0%90%D0%BD%D0%B3%D0%BB%D0%BE-%D0%B0%D0%BC%D0%B5%D1%80%D0%B8%D0%BA%D0%B0%D0%BD%D1%81%D1%8C%D0%BA%D0%B0_%D0%BF%D1%80%D0%B0%D0%B2%D0%BE%D0%B2%D0%B0_%D1%81%D1%96%D0%BC%27%D1%8F 1509 (дата звернення 12.05.2021).
2. Criminal Law Act 1977. URL: <http://www.legislation.gov.uk/ukpga/1977/45/section/10> (дата звернення 12.05.2021).
3. U.S. Code Title 18. §1509. Obstruction of court orders. URL: <https://www.law.cornell.edu/uscode/text/18/1509> (дата звернення 12.05.2021).
4. Louisiana Laws Revised Statutes. 2014. TITLE 14 – Criminal Law RS 14:133.1 – Obstruction of court orders. URL: <https://law.justia.com/codes/louisiana/2014/code-revisedstatutes/title-14/rs-14-133.1/> (дата звернення 12.05.2021).

Ключові слова: кримінальне правопорушення, кримінальна відповідальність, англо-американська правова сім'я, Велика Британія, США, невиконання судового рішення.

Ключевые слова: уголовное преступление, уголовная ответственность, англо-американская правовая семья, Великобритания, США, невыполнение судебного решения.

Key words: criminal offense, criminal liability, Anglo-American legal family, Great Britain, USA, non-execution of a court decision.