

inheritance. From the above law there are exceptions established by Art. 1224 of the Civil Code of Ukraine, due to which we can speak about the presence or absence of testability of an individual.

To summarize, I want to note that the Roman private law significantly influenced the formation of the legal system of many foreign countries, including the formation of our own Ukrainian legislation. Inheritance law is one of the most important institutes in any developed society, so the study of its original principles is important for countries, which are interested in raising the level of legal awareness of citizens.

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ROMAN CRIMINAL LAW AND CRIMINAL LAW OF UKRAINE

At the present time, Ukraine is making a lot of efforts to comply with the requirements of today – to be a strong and civilized country. For this purpose, new criminal law reforms are being introduced. For the implementation of these reforms in life it is vital to take into account the experience of the past. By studying and

analyzing it, we learn the patterns of development of real-life phenomena, avoid repetition of mistakes in the future.

The main provisions of the modern law of Ukraine originate from the rights of Ancient Rome – a huge heritage of ancient civilization [1]. Although many centuries have passed since the fall of the Roman Empire, the influence of Roman norms is still observed in many laws of modern countries.

In Rome, in the main three stages, there was a transition from a private punishment based on the principle of «equal in equal», «tooth for a tooth...» through the establishment of a system of redemptions – voluntary or mandatory for a state court, when the protection of citizens becomes a matter of the state [2].

Primary Roman law was closely connected with the religion and kept the features of the tribal system. In determining the penalties for crimes they guided by customs and traditions. Most of the offenses were considered in private prosecution. At the same time, however, they began to distinguish crimes of public and private characters. Issued in 451 AD the laws of the XII tables mainly interpreted and determined the punishment for private offenses, but there were several points regarding crimes against the Roman state – receiving bribes and assisting the help the enemies of Rome [3].

The criminal laws of the XII tables were extremely harsh and cruel, unlike the modern criminal law of Ukraine, where there is no such type of punishment as the death penalty. So, according to the laws of the XII tables everyone, who would damage or gather the harvest from the field of other person, was killed (Table VIII) (4). It was considered lawful to kill a night thief or a thief with the weapon in hands on the crime scene (Table VIII) [4]. However, according to the p.1 article 185 the Criminal Code of Ukraine, the secret theft of another's property (theft) is punishable by a fine of fifty to one hundred non-taxable minimum incomes of citizens or public works for a term from eighty to two hundred forty hours, or corrective labor for a term up to two years, or arrest for a term up to six months, or by deprivation of liberty for a term up to three years [5, art. 264, 62, 98].

The laws of the XII tables dictate to execute anyone, who supports enemies of Rome in an attack on the Roman state or one, who betrays Roman citizen to enemies. However, according to the p.2 article 109 the Criminal Code of Ukraine, public appeals for violent change or overthrow of the constitutional system or the seizure of state power, as well as distribution of materials with appeals for such actions, are punishable by restraint of liberty for a term up to three years or imprisonment for the same term with or without the confiscation of the property [5].

The death penalty in the ancient Rome was intended for the one who composed or sang a song that contained a slander or disgraced another one (Table VIII) [4].

In distinction from the essence of the present criminal law of Ukraine, Roman society was characterized by a clear hierarchy, where everyone knew his place in the literal sense of the word. The degree of the punishment depended on the origin of the person who committed the crime and the type of crime. A typical feature of that society was that the Roman legislator considered the slave to be a thing, a movable property. From the tyranny of slave-owners there was no protection; they tried to keep their slaves in retaliation with the use of cruel punishments [6].

In the ancient Rome, the purpose of punishment was primarily intimidation. Publicity and ways to implement them were perceived by society with fear and influenced the increase of legal responsibility. In addition to the punishment, penalties, deprivation of citizenship, hard labor, bodily harm were applied as punishment. The death penalty, according to the researcher G. Tiraspolsky existed in two forms: traditional and special. A regular execution was carried out by a method of cutting off a head, cutting a throat, slaughtering a knife or a sword, poisoning, drowning, dumping from the Tarpeic rock. The last according to the laws of the XII tables was carried out for slaughter.

Persons could be punished by drowning or poisoning because of the resistance to power [7]. A special death penalty, as a rule, was not foreseen by Roman law. It included the beating of stones, the appointment of a suicide bomber, an exotic execution (body breaking, trampling up, sawing, etc.), decimation (the execution of every tenth soldier), execution as the completion of torture (slaughtering to death by sticks, chains), ritual.

Analyzing the Roman law of the classical period, we can conclude that at that time the concept and significance of the legal fact were defined, the implementation of its division into events and actions. Actions were divided into lawful and unlawful. Concepts appear about crimes, misconduct and civil cases. There are two forms of guilt: intent and negligence, carelessness, and the latter was divided into rude and easy, moreover carelessness was not always the basis of responsibility. These provisions were subsequently also embodied in the criminal law of many countries, in particular Ukraine, and have survived to this day.

In the criminal law of the period of the empire a large role played by the acts of the emperors themselves. During the reign of Emperor Justinian, the main body of normative material on crimes and punishments was collected in Digest's 47 and 48 books, although they were not systematized in punishment [8].

Unlike the Republican period, the death penalty for the Romans appeared again, which was used in particularly painful forms. The system of confiscations, imprisonment, hard labor, expulsion from the state, corporal punishment became widespread.

With the advent of troops in Ancient Rome, there were rules that established the criminal responsibility of soldiers for the offense. They were laid out in their works by the Roman lawyer Atria Menander «On the military affair» [1]. The death penalty was punished for calling for rebellion, for failure to comply with the order, desertion during the war, the image of the commander and disobedience to him, and others like that. For general criminal offenses against warriors were used different types of punishment (hanging, sending to mines).

Analyzing all these information , I can conclude that in Ukraine, unlike the Roman society, during determining the extent of punishment, it is taken into account that citizens have a legal status determined by the constitution. In a democratic society today, during determining the extent of punishment, such an important position as equal before the law, as well as the moral foundations of society are taken into account. The aim is not to intimidate the harsh types of punishment, but to show the inevitability of punishment in violation of legal norms and laws.

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