

ON THE ISSUE OF CRIMINAL LIABILITY FOR INFORMATION COLLABORATION ACTIVITIES

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Annotation. The article examines the peculiarities of theoretical and practical problems of the legal qualification of criminal liability for information collaboration activities. It has been stated that information collaborationism is defined as the conscious, voluntary cooperation of a person with the aggressor or his temporary administration, which consists of spreading disinformation, propaganda, or justifying the aggressor's actions. It is indicated that, according to the main punishable actions under Part 6 of Article 111-1 of the Criminal Code of Ukraine, according to the relevant judicial practice, information activities had the following manifestations, namely: (1) giving interviews of a propaganda nature to state television channels of the Russian Federation; (2) distributing publications on the Internet; (3) creation of a network of accounts in which propaganda materials were distributed; (4) development of the concept of information policy as a component of the policy of the aggressor state on the occupation of territories and the retention of occupied territories; (5) coordinating the work of the media in the occupation administration with the dissemination of propaganda materials on the Internet; (6) creating propaganda materials on request, etc. It is revealed that the subject of collaborative activity belongs to the special category, namely: it can be a sane individual who has reached the age of 16 and is a citizen of Ukraine. It was found that the object of criminal offenses provided for in Article 111-1 of the Criminal Code of Ukraine is the foundation of Ukraine's national security. It has been established that the objective side of the criminal offense provided for in Part 6 of Article 111-1 of the Criminal Code of Ukraine is expressed in four forms: (1) organization of political events; (2) holding political events; (3) carrying out information activities; (4) active participation in such events. It has been determined that in accordance with Part 6 of Article 111-1 of the Criminal Code of Ukraine, responsibility for information activities arises in the absence of signs of high treason. Similar actions may also be qualified under other articles of the Criminal Code of Ukraine: "Justification, recognition as lawful, denial of the armed aggression of the Russian Federation against Ukraine" (Article 436-2). The need for clear criteria for distinguishing public objections and public appeals as forms of collaborative activity, provided for in Part 1 of Article 111-1 of the Criminal Code of Ukraine, from information activities under Part 6 of Article 111-1 of the Criminal Code of Ukraine is indicated. It has been established that the acts provided for in Part 6 of Article 111-1 of the Criminal Code of Ukraine are punishable by corrective labor for a term of up to two years or arrest for a term of up to six months, or imprisonment for a term of up to three years with deprivation of the right to hold certain positions or engage in certain activities for a term of ten to fifteen years.

Key words: collaborative activity, information collaborative activity, crimes against the foundations of national security of Ukraine, protection of the rights of accused persons, criminal liability.

1. Introduction.

According to the Constitution, Ukraine is a sovereign and independent state. The sovereignty of Ukraine extends to its entire territory, which, within its external borders, is integral and inviolable [1]. According to the Law of Ukraine "On National Security of Ukraine", threats to the national security of Ukraine are phenomena, trends and factors that make it impossible or difficult or may make it impossible or difficult to realize national interests and preserve national values of Ukraine [2]. Such a threat is, in particular, the hybrid war waged by the Russian Federation against Ukraine, including in the information sphere. Thus, in Ukraine, as of June 15, 2024, law enforcement officers had opened

9,179 criminal proceedings under the article on collaborationist activities. By the end of 2024, the Register of Court Decisions already had more than 1,442 verdicts in cases of collaborationism, and the largest number of convictions (484) under the first part of Article 111-1 of the Criminal Code of Ukraine - on public denial of Russian aggression. It should be noted that by the end of 2023, Ukrainian law enforcement officers investigated 7,556 criminal proceedings for collaboration activities [3]. The above data indicate an increase in the number of criminal proceedings for information collaborationism, emphasizing the relevance of the chosen research topic.

2. Analysis of scientific publications.

Research into problematic issues of qualifying criminal liability for collaborative activities in the information sphere was studied by such researchers as A.P. Bertash, V.I. Borisov, B.M. Golovkin, S.S. Kudinov, O.Yu. Mokrousova, V.O. Navrotsky, N.V. Netesa, E.O. Pysmensky, O.E. Radutny, M. Rubashchenko, T. I. Shynkar, V. Ya. Tatsii, O. M. Khavronyuk, I. Yakovyuka and others. There is also interest among foreign researchers in studying collaborative activities. In particular, M. Mozgawa and M. Shupyan in their article attempted to analyze the issues of making amendments to both the general part of the Criminal Code of Ukraine (mainly the issue of so-called combat immunity), and to its special part, where new types of crimes were defined, cooperation with the enemy, denial of the fact of aggression against Ukraine [4, p.112]. It is necessary to pay attention to the work of S. Darcy, who investigated the legal challenges of collaboration during wartime [5]. However, certain problematic issues of qualifying criminal liability for collaborative activities in the form of carrying out information activities in cooperation with the Russian Federation have remained incompletely investigated, some of the statements of scientists are debatable, and a number of legislative provisions in this area have shortcomings. The above indicates the validity of the choice of this work.

3. The aim of the work consists of studying the peculiarities of theoretical and practical problems of qualifying criminal liability for information collaboration activities and problems.

4. Review and discussion.

Regarding the understanding of the categories of «collaborationism» and «information collaborationism». Thus, A.P. Bertash defined collaborationism as cooperation of a person with an aggressor state, which is carried out with direct intent, which is carried out with direct intent, to commit actions that harm the sovereignty, territorial integrity or inviolability, defense capability, economic, law enforcement, informational or other interests of Ukraine [6, p. 99.] O.Yu. Mokrousova, while investigating criminal liability for information collaborationism, drew attention to the subjective side, expressed in the form of intent, as well as the objective side, which includes public dissemination of information and cooperation with the occupation authorities. She emphasized that information collaborationism is defined as the conscious, voluntary cooperation of a person with the aggressor or his temporary administration, which consists in spreading disinformation, propaganda, or justifying the aggressor's actions [7, p. 99].

As for crimes against the foundations of national security, the information sphere is subject to the provisions of Articles 109, 110, 111, and 114 of the Criminal Code of Ukraine (hereinafter referred to as the Criminal Code of Ukraine) [8]. The object of criminal offenses provided for in Article 111-1 of the Criminal Code of Ukraine is the foundations of national security of Ukraine. Given the content of Article 111-1 of the Criminal Code of Ukraine, an additional object of criminal offenses is the life and health of people and the property right. In our opinion, the objective side of the criminal offense provided for in Part 6 of Article 111-1 of the Criminal Code of Ukraine is expressed in four forms: (1) organization of political events; (2) holding political events; (3) carrying out information activities; (4) active participation in such events.

According to Part 6 of Article 111-1 of the Criminal Code of Ukraine, responsibility for information activities arises in the absence of signs of high treason. Similar actions may also be qualified under other articles of the Criminal Code of Ukraine, for example, "Justification, recognition as lawful, denial of armed aggression of the Russian Federation against Ukraine" (Article 436-2). Therefore, liability

under Part 6 of Article 111-1 of the Criminal Code of Ukraine arises provided that there are no other signs of high treason in the actions of the subject of the criminal offense, provided for in Article 111 of the Criminal Code of Ukraine, in particular, such as defection to the enemy, espionage and assisting a foreign state, foreign organization or their representatives in carrying out subversive activities against Ukraine. [7, p.383].

According to N.O. Symonenko, the subjects in Part 4 and Part 6 of Article 111-1 of the Criminal Code of Ukraine are any persons (general subject) [9, p.92]. In particular, the author indicates that the subjective side is direct or indirect intent. In terms of the components for the correct criminal-legal qualification of a criminal offense, the purpose is: under Part 3 – the purpose of propaganda; under Part 6 – the purpose of organizing and conducting events or actively participating in them to support the aggressor state or to avoid its responsibility for armed aggression against [9, p. 92]. The subject of collaborative activity belongs to the special category, namely: it can be a sane individual who has reached the age of 16 and is a citizen of Ukraine [10, p.343].

For example, M. Rubashchenko and his co-authors analyzed relevant judicial practice and determined that information activities punishable under Part 6 of Article 111-1 of the Criminal Code of Ukraine had the following manifestations, namely: giving interviews with propaganda content to state-run Russian television channels; distributing publications on the Internet; creating a network of accounts in which propaganda materials were distributed; development of the concept of information policy as a component of the policy of the aggressor state on the occupation of territories and the retention of occupied territories; performance of the functions of the general director of a propaganda television and radio company or editor of print media; coordination of the work of the media in the occupation administration with the distribution of propaganda materials on the Internet; creation of propaganda materials to order; production of leaflets with the letter «Z» and their transfer to the Ministry of Defense of the Russian Federation for further distribution in order to support the military of the aggressor state, etc. [11, p. 399, 400].

Below we will provide an analysis of a number of court cases under Part 6 of Article 111-1 of the Criminal Code of Ukraine. For example, the court case considered the fact of voluntarily occupying a leadership position in the occupation administration and systematically carrying out information propaganda. These are the materials of case No. 333/2910/24 (proceedings No. 1-кп/333/307/25) dated April 28, 2025 [12]. The court, having examined the evidence provided (protocols of the review of Telegram channels, expert opinions, testimonies), found person_7 guilty as proven under both parts of the Criminal Code of Ukraine. The court found that the accused, being a knowledgeable deputy of the city council, was aware of the socially dangerous nature of her actions and acted with direct intent [12]. The court ruled to impose a sentence for a set of crimes (Part 70 of the Criminal Code of Ukraine) in the form of: imprisonment for a term of 10 years, deprivation of the right to hold any positions in state and local government bodies for a term of 15 years, and confiscation of property (apartment and car) [12].

In the materials of court case No. 3/712/295/25 (proceedings No. 1-кп/712/295/25) dated June 16, 2025. The trial took place in special court proceedings (in absentia). The case examined the fact of systematic and voluntary cooperation with the occupation authorities through a public organization and holding political events. Person_5 gave interviews to occupation Telegram channels, where she publicly called for the Kherson region to join the Russian Federation, justified the aggression, and created her own Telegram channel to spread the main slogans of Russian propaganda. The court rejected the defense's position that her functional duties were not proven, as numerous pieces of evidence indicate her active informational and political role [13]. The court ruled to impose the following punishment: imprisonment for a term of 12 years, deprivation of the right to hold any public office for a term of 15 years, and confiscation of all property belonging to her [13]. Let us point out that the practice of special judicial proceedings (in absentia) is the main one for cases of collaborationist activities that arose in temporarily occupied territories. This allows courts to pass guilty verdicts and impose punishments, ensuring the principle of inevitability of liability. For example, sentences under Part 6 of Article 111-1 of the Criminal Code of Ukraine in court decisions concerned regarding the holding of political events, the implementation of information activities in cooperation with the aggressor state, and the qualified actions of individuals in attaching the flag of the Russian Federation to the building of an apartment building, as well as taking photos and videos for their subsequent transfer to representatives of the Russian Federation [14]; as well as information activities - production of leaflets to support the «spirit of Russian soldiers», with their subsequent distribution in the territory of Luhansk region [15].

One of the controversial issues of criminal law is the distinction between public objections and public appeals as forms of collaborative activity, provided for in Part 1 of Article 111-1 of the Criminal Code of Ukraine, and the implementation of information activities under Part 6 of Article 111-1 of the Criminal Code of Ukraine. [8]. N.V. Netesa notes that denial and justification of armed aggression specifically and only against our state should be recognized as an encroachment on the national security of Ukraine, and not on the international order [16, p.225]. According to O. E. Radutny, public objections or public appeals as part of a criminal offense under Part 1 of Article 111-1 of the Criminal Code of Ukraine are actions with a clearly expressed informational nature. Their main content lies not so much in physical movements and behavioral manifestations, but rather in the transmission of certain information from one person to another, or to an indefinite circle of people, and the influence on the consciousness of other people. From the researcher's point of view, during an information action, relevant information is provided to other persons by displaying it in verbal form, emojis or memes, drawings or photographs, etc., as well as in the form of various actions, the main purpose and content of which is the dissemination of information [17, p.99]. For example, in court case No. 725/338/25 (proceedings No. 1-кп/725/13/25) dated January 17, 2025, oral statements of support for the aggressor, especially in combination with a demonstration of a pro-Russian position (for example, through music), are recognized as a form of collaborative activity [18]. At the same time, sincere repentance is a key circumstance that influences the imposition of punishment for this criminal offense.

Let us point out that the acts provided for in Part 6 of Article 111-1 of the Criminal Code of Ukraine are punishable by corrective labor for a term of up to two years or arrest for a term of up to six months, or imprisonment for a term of up to three years with deprivation of the right to hold certain positions or engage in certain activities for a term of ten to fifteen years [8]. It is worth citing individual court decisions in the context of the qualification of criminal liability under Part 6 of Article 111-1 of the Criminal Code of Ukraine.

5. Conclusions.

The objective side of the criminal offense provided for in Part 6 of Article 111-1 of the Criminal Code of Ukraine is expressed in four forms: (1) organization of political events; (2) holding political events; (3) carrying out information activities; (4) active participation in such events. It is indicated that such activities include the creation, collection, receipt, storage, use, and dissemination of information to the detriment of Ukraine, in the absence of signs of treason. Citizens of Ukraine who have reached the age of 16 are subject to criminal liability for information collaboration activities. Criminal liability for information collaboration activities is punishable by deprivation of the right to hold certain positions or engage in certain activities, as the main punishment, a term of 10 to 15 years may be applied. This punishment can be both primary and additional, and its type and terms depend on the severity of the crime and the specific form of collaborative activity. If this punishment is imposed as an additional punishment to arrest, restriction, or imprisonment for a term of 1 to 3 years.

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