

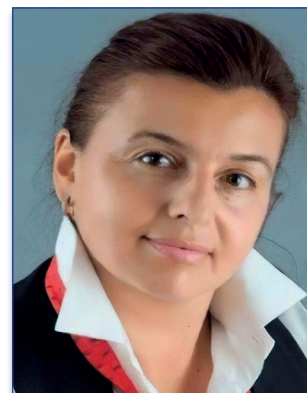
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Peculiarities of deliberate destruction or endamagement of public utilities (Article 270–1 of the Criminal Code of Ukraine)



Iryna Tur

The article outlines problematics related to the direct object of deliberate destruction or damage of public utilities. Two dominant, directly opposing positions have been analyzed with regard to the object of the specified crime, which manifests itself in property relations and social relations in the field of public safety. The study of theoretical papers by researchers addressing the indicated problematics and the analysis of court practices have confirmed the existing shortcomings in providing description for the investigated crime, particularly violations of systematicity in criminal law while formulating criminal law circumstances, simultaneous presence of three types of socially dangerous consequences within one offense, and multiobjectiveness. Taking into account the goal and objectives of the draft law, which criminalize deliberate destruction or endangerment of public utilities, peculiarities of drawing socially dangerous consequences of the element of this crime, as well as the importance of public utilities for meeting the needs of population, it is proposed to recognize social relations in the field of public safety as the primary object of the crime under investigation, along with additional mandatory objects encompassing alternatively life, health, and property.

Keywords. Criminal offense (crime) object, public utilities, criminal liability, property, public safety.

Introduction. The object of a criminal offense remains a cornerstone in the system of circumstances constituting criminal offense element, serving as the basis for criminal liability. The accuracy and proper understanding of the object during the criminalization of a particular socially dangerous act have a substantial impact not only on justifying the legislative prohibition of a particular socially dangerous act but also, in many instances, on ensuring the clarity and unambiguous application of a relevant criminal law norm.

While scientists in the past dedicated considerable attention to the issue of criminal offense objects, contemporary researchers continue to debate their content, essence, and nature as a legal phenomenon. Scholars such as Bielohryts-Kotliarevskiy N. S., Havrysh S. B., Hlistin V. K., Demydov Yu. O., Zahorodnikov M. I., Kairzhanov E. K., Korzhanskyi M. Y., Naumov A. V., Nikiforov B. S., Pashkovska A. V., Piontkovskyi A. A., Savchenko A. V., Serheievskiy M. D., Tatsii V. Ya have studied general aspects of criminal offense object. Public safety as an object of criminal offenses, including those involving destruction or damage of public utilities, has been outlined in research papers by Antypov V. V., Borysov V. I., Hrinberh M. S., Danshyn I. M., Demydova L. M., Dudorov O. O., Zerkalov D. V., Ivanenko I. V., Kyrychenko O. V., Mostepaniuk L. O., Navrotskyi V. O., Neznaiko S. V., Serbin N. O., Sokolovskiy V. L., Tykhyi V. P., Khavroniuk M. I.

Article Purpose. Relying on the legal analysis of the Criminal Code of Ukraine norm stipulated in Article 270–1 and its application practice, it is

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Declaration of Competing Interest

The author declare that they have no conflict of interest.



ОСОБЛИВОСТІ ОБ'ЄКТУ УМИСНОГО ЗНИЩЕННЯ АБО ПОШКОДЖЕННЯ ОБ'ЄКТІВ ЖИТЛОВО-КОМУНАЛЬНОГО ГОСПОДАРСТВАМ (СТ. 270-1 КК УКРАЇНИ)

У статті розглянуто проблематику безпосереднього об'єкта умисного знищення або пошкодження об'єктів житлово-комунального господарства. Проаналізовано дві домінуючі, прямо протилежні, позиції щодо об'єкта зазначеного злочину як суспільних відносин власності та суспільних відносин у сфері громадської безпеки. Вивчення теоретичних напрацювань дослідників вказаної проблематики та аналіз судової практики дозволило підтвердити наявні недоліки у конструюванні диспозиції досліджуваного злочину, зокрема, порушення системності кримінального права при формулюванні кримінально-правових ознак, одночасну наявність у складі одного правопорушення трьох видів суспільно небезпечних наслідків, багатобічність. Враховуючи мету та завдання законопроекту, яким проведено криміналізацію умисного знищення або пошкодження об'єктів житлово-комунального господарства, особливостей формулювання суспільно небезпечних наслідків складу даного злочину, а також значення об'єктів житлово-комунального господарства для забезпечення потреб населення пропонується визнавати безпосереднім об'єктом досліджуваного кримінального правопорушення суспільні відносини у сфері громадської безпеки, а додатковим

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required to determine the object of deliberate destruction or endamagement of public utilities and its impact on human rights practice.

Objectives. Analyzing current legislation in the field of criminal law for the protection of public utilities, along with exploring the theory and practice of its application.

Main Content Presentation. Scientific literature considers various viewpoints concerning the public safety category, including those that view it as: a system of measures and conditions ensuring the normal functioning of enterprises, institutions, organizations, and securing peace of citizens¹; objective state of society and its subjective sense of protection from dangers, including public peace, as well as safeguarding against the influence of increased danger objects (fire, explosive, radioactive, pyrotechnic, flammable substances, firearms and cold weapons, ammunition)². Similar views, related to the latter definition of public safety as a state of protection from sources of increased danger, are shared by Korzhanskyi M. Y., Navrotskyi V. O., and Sokolovskyi V. L.³ There are also more elaborate definitions of public safety as a set of social relations based on regulatory decisions and protected provisions of the Criminal Code of Ukraine. These provisions ensure protection of citizens' lives and health, preservation of property, normal operation of enterprises, organizations, and institutions during hazardous work, the use of objects of increased danger, and other items posing a threat to human and societal well-being⁴.

Some scholars consider public safety as a broader sphere of social relations aimed at ensuring the functioning of the state and society, without focusing directly on the objects of increased danger. In particular, O. V. Kyrychenko argues that the generic object of crimes against public safety is public safety itself as a significant value referring to the state of protection of vital interests of society and the state from negative consequences and phenomena of social, natural or technogenic origin. It is also about maintaining a sufficient level of such protection for their normal functioning⁵. M. S. Greenberg holds a similar position on this issue, considering that public safety as a type of social relations represents a system of people's social interaction that ensures the maintenance of technical systems in an orderly, safe state⁷. H. F. Fortuna⁸ views the public safety concept as a state of social relations in which there is no danger for a large number of people

¹ Кримінальне право України. Загальна частина: підруч. для студентів юрид. вузів і ф-тів / Г. В. Андрусів, П. П. Андрушко, В. В. Бенківський та ін.; за ред. П. С. Матишевського, П. П. Андрушка, С. Д. Шапченка. Київ: Юрінком Інтер, 1997. С. 191.

² Тихий В. П. Громадська безпека та деякі особливості складів злочинів проти неї // Законодавство України. Науково-практичні коментарі. 2004. № 4. С. 95.

³ Коржанський М. Й. Кримінальне право України. Частина загальна. Київ: Наук. думка та Укр. вид. група, 1996. С. 287; Навроцький В. Злочини проти громадської безпеки, громадського порядку та народного здоров'я. Львів, 1997. С. 11.; Соколовський В. Л. Громадська безпека як об'єкт злочину: дис. ... канд. юрид. наук: 12.00.08. Київ, 2017. С. 88.

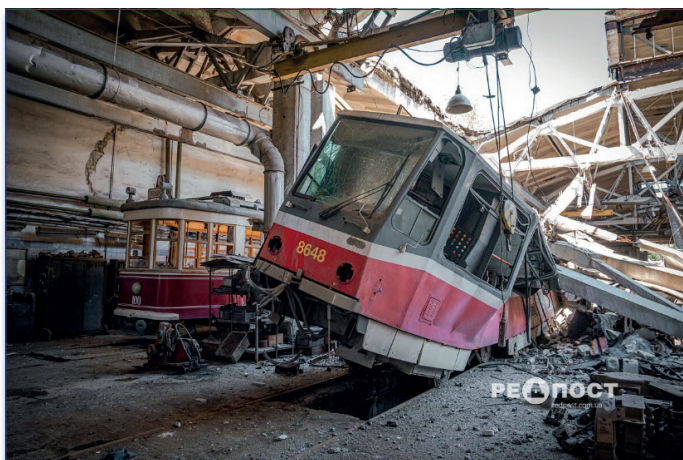
⁴ Даньшин І. Н. Общественная безопасность и система преступлений, посягающих на нее // Проблеми відповідальності за злочини проти громадської безпеки за новим Кримінальним кодексом України: матеріали Міжнар. наук.-практ. семінару (Харків, 1-2 жовт. 2003 р.). Харків: Схід.-регіон. центр гуманіст.-освіт. ініціатив, 2003. С. 25-28.

⁵ Там само.

⁶ Кириченко О. В. Громадська безпека як об'єкт кримінально-правової охорони. *Право і суспільство*. 2012. № 3. С. 189.

⁷ Там само. С. 188.

⁸ Там само.





and the normal functioning of the main institutions of society (enterprises, organizations, institutions, etc.). L. M. Demydova also avoids pointing out the threat from sources of increased danger and emphasizes public safety as social relations ensuring the protection of safe conditions of society's life in various areas of state and public life⁹. Public safety is seen as an internal state of affairs within a certain society, where each of its representatives has the right and can independently, as well as with the help of the state, exercise constitutional, intrinsic, and other rights and freedoms depending on the factors arising from the activities of other members of society, taking into account their common social life, which would prevent him/her from doing this, contradict his/her legitimate interests, and put them under threat with their existence or manifestations¹⁰.

Despite such a variety of standpoints, the majority of scientists recognize the main content of public safety as the state of society's protection from various kinds of dangers, whether it is human behavior or property of certain things in the material world. In this regard, there is no objection to the conclusion that the main peculiarity of criminal offenses of this section is the ability to inflict or create a threat of harming public peace, safety, and life activity as a result of certain antisocial behavior or illegal handling of sources of danger. At the same time, such damage must necessarily be associated not with damage to individual public goods (life, health, property), but with public peace, the state of society's protection as a whole¹¹.

Consequently, it can be asserted that the direct object of criminal offenses set out in Section IX of the Criminal Code of Ukraine Special Part is public safety as a state of society's protection from various kinds of dangers, including the influence of increased danger sources¹².

In 2011, an amendment was made to Section IX of the Special Part, introducing criminal liability for deliberate destruction or damage of public utilities (Art. 270-1 of the Criminal Code of Ukraine)¹³. As stated in the explanatory note, the draft law's purpose is to prevent injuries and deaths associated with intentional damage of public utilities by third parties (theft of manhole covers and grates, reconstruction of ventilation systems, damage to switchboard, theft of elevator equipment). It is noteworthy that before the first reading in the Verkhovna Rada of Ukraine, amendments were proposed by adding Article 194-2 to Section VI of the Special Part Criminal Offence Against Property. That is, in the opinion of the draft law's initiators, the direct object of the mentioned offense in the proposed first version was public relations in the field of property. In the course of the discussion, however, the deputies leaned towards the idea that the direct object of this offence should be recognized as public safety. As stated in the proposal to the draft submitted by People's Deputy Karmazin Yu. A., the offense outlined in Article 194-2 (the numbering of the article proposed by the draft law), which suggests amending the Criminal Code of Ukraine, is multi-objective (its objects are the right to property, public order, life, and health of a person, as well as environmental safety). In view of the above, it is advisable to place the legislative norm that establishes criminal liability for the actual damage or destruction of public utilities in Section IX Crimes Against Public Safety

обов'язковим - альтернативно життя, здоров'я, власність.

Ключові слова. об'єкт кримінального правопорушення, об'єкт житлово-комунального господарства, кримінальна відповідальність, власність, громадська безпека.

Iryna Tur

PECULIARITIES OF DELIBERATE DESTRUCTION OR ENDAMAGEMENT OF PUBLIC UTILITIES (ARTICLE 270-1 OF THE CRIMINAL CODE OF UKRAINE)

The article outlines problematics related to the direct object of deliberate destruction or damage of public utilities. Two dominant, directly opposing positions have been analyzed with regard to the object of the specified crime, which manifests itself in property relations and social relations in the field of public safety. The study of theoretical papers by researchers addressing the indicated problematics and the analysis of court practices have confirmed the existing shortcomings in providing description for the investigated crime, particularly violations of systematicity in criminal law while formulating criminal law circumstances, simultaneous presence of three types of socially dangerous consequences within one offense, and multiobjectiveness. Taking into account the goal and objectives of the draft law, which criminalize deliberate destruction or endangerment of public utilities, peculiarities of drawing socially dangerous consequences of the element of this crime, as well as the importance of public utilities for meeting the needs of population, it is proposed to recognize social relations in the field of public safety as the primary object of the crime under investigation, along with additional mandatory objects encompassing alternatively life, health, and property.

Keywords. criminal offense (crime) object, public utilities, criminal liability, property, public safety.

⁹ Демидова Л. М. Кримінальна відповідальність за створення злочинної організації : дис. ... канд. юрид. наук: 12.00.08. Харків, 2003. С. 8.

¹⁰ Іваненко І. В. Бандитизм: кримінологічне та кримінально-правове дослідження : автореф. дис. ... канд. юрид. наук: 12.00.08. Одеса, 2003. С. 6.

¹¹ Кримінальне право України. Особлива частина. А. А. Васильєв, О. О. Житний, Є. О. Гладкова та ін.; за заг. ред. О. М. Литвинова. Харків : Право, 2020. С. 298.

¹² Соколовський В. Л. Громадська безпека як об'єкт злочину : дис. ... канд. юрид. наук: 12.00.08. Київ, 2017. С. 88.

¹³ Закон України "Про внесення змін до деяких законодавчих актів України щодо посилення відповідальності за окремі правопорушення в житлово-комунальному господарстві" № 2924-VI від 13.01.2011. URL: <https://zakon.rada.gov.ua/laws/show/2924-17#Text>

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**BESONDERHEITEN
DES GEGENSTANDS
VORSÄTZLICHER
ZERSTÖRUNG ODER
BESCHÄDIGUNG
VON OBJEKTEN DER
WOHNUNGS- UND
KOMMUNALWIRTSCHAFT
(ARTIKEL 270-1 DES
STRAFGESETZBUCHS DER
UKRAINE)**

Der Artikel behandelt die Problematik des unmittelbaren Gegenstands der vorsätzlichen Zerstörung oder Beschädigung von Objekten der Wohnungs- und Kommunalwirtschaft. Zwei dominierende, direkt gegensätzliche Positionen hinsichtlich des Gegenstands des genannten Verbrechens als gesellschaftlicher Eigentumsbeziehungen und gesellschaftlicher Beziehungen im Bereich der öffentlichen Sicherheit wurden analysiert. Die Untersuchung der theoretischen Erkenntnisse von Forschern zu diesem Thema und die Analyse der Rechtsprechung bestätigten bestehende Mängel beim Aufbau der Disposition des untersuchten Verbrechens, insbesondere die Verletzung der Systematik des Strafrechts bei der Formulierung der strafrechtlichen Merkmale, das gleichzeitige Vorhandensein von drei Arten gesellschaftlich gefährlicher Folgen in einem einzigen Rechtsverstoß und die Vielfach-Objektivität. Unter Berücksichtigung des Zwecks und der Aufgaben des Gesetzentwurfs, durch den die vorsätzliche Zerstörung oder Beschädigung von Objekten der Wohnungs- und Kommunalwirtschaft kriminalisiert wurde, der

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of the Special Part of the Criminal Code, rather than in Section VI Criminal Offence Against Property¹⁴.

Thus, according to the legislative perspective, a characteristic circumstance of the action proposed for criminalization is the danger to the life and health of an undefined group of people. This conclusion is supported by the description of the article in its initial version, where the mandatory consequence of intentional destruction or damage to public utilities is not only property damage or a threat to health, but also the impossibility of operating such facilities or disrupting their normal functioning, thereby posing a danger to human life¹⁵. However, during further discussion, the draft law was supplemented with a reference to alternative socially dangerous consequences in the form of substantial property damage. Consequently, a situation has taken place where life, initially an obligatory object of the crime element, is transformed into an additional, non-binding one, and criminal liability is now associated not only with the danger to human life but also with the possibility of causing substantial property damage. Despite insufficient judicial practice since the entry into force of the relevant amendments to the Criminal Code introducing liability for deliberate destruction or damage to public utilities, its analysis indicates a shift in emphasis by law enforcement and judicial authorities towards establishing and documenting only material damages of a certain magnitude¹⁶. Accordingly, in such cases, the necessity of assessing the threat to public safety as a result of destruction or damage to public utilities remains overlooked.

Thus, the Proletarskyi District Court of Donetsk City convicted person_1 under Part 2 of Art. 270–1 of the Criminal Code of Ukraine, sentencing her to 3 years of imprisonment for repeatedly (three times) stealing manhole covers belonging to JSC UKRTELECOM in March 2011. As stated in the court decision, intentional acts committed for selfish reasons, involving theft of property, resulting in damage to public utilities and causing material damage in the amount of 109 UAH 20 kopecks¹⁷, constitute grounds for the conviction of person_1 under Art. 270-1 of the Criminal Code of Ukraine.

Another significant drawback of the approved version is that there are three types of socially dangerous consequences (main, derivative, and intermediate) in one element of the offence, the determination of which is mandatory for the investigation and the court. In view of the definition of the main direct object and the reference in the description of the article to the

¹⁴ Порівняльна таблиця до проекту Закону України “Про внесення змін до деяких законодавчих актів України щодо посилення відповідальності за окремі правопорушення в житлово-комунальному господарстві” від 27.12.2010 р.: URL: https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?pf3516=6505&skl=7; Висновок Головного науково-експертного управління на проект Закону України “Про внесення змін до деяких законодавчих актів України щодо посилення відповідальності за окремі правопорушення в житлово-комунальному господарстві” від 05.07.2010 р. URL: https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?pf3516=6505&skl=7

¹⁵ Порівняльна таблиця до проекту Закону України “Про внесення змін до деяких законодавчих актів України щодо посилення відповідальності за окремі правопорушення в житлово-комунальному господарстві” від 27.12.2010 р. URL: https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?pf3516=6505&skl=7

¹⁶ Так, в ЄДРСР з 2011 р. міститься трохи більше 10 вироків за ст. 270-1 КК України і більшість з них пов'язані з обвинуваченням у заподіянні саме матеріальної шкоди.

¹⁷ Вирок Пролетарського районного суду м. Донецька. Справа № 1-324/11. Єдиний державний реєстр судових рішень. URL: <https://reyestr.court.gov.ua/>





destruction or damage of public utilities resulting in danger to human life or health, it is necessary to highlight the harm to property, as well as to the life and health of the population, as intermediate and derivative consequences¹⁸. The consideration by the investigation and the court of only a portion of the socially dangerous consequences specified by law leads to the legitimate question of the conformity of the qualification with the content of the offender's actions. In cases where the absence of harm to public safety or a threat to the life and health of people becomes evident, there arises an issue of choosing the legal qualification, specifically whether to apply Article 270–1 of the Criminal Code of Ukraine (deliberate destruction or endamage of public utilities) or Article 194 of the Criminal Code of Ukraine (intended destruction or endamage of property). From our perspective, it was the deficiencies in the criminal law framework that emerged during the discussion of the draft law that prompted People's Deputy V. D. Shvets to propose adding an additional circumstance — substantial property damage — to the description of the article¹⁹. However, such expansion of socially dangerous consequences of this offense, as mentioned above, does not preclude the necessity of establishing and proving the actual threat to public safety.

Overall, during the discussion of the draft law in the session hall of the Ukrainian Parliament without expert analysis, the conceptual shift in approaches to the criminalization of deliberate destruction or damage to public utilities has led to a significant complication in the application of Article 270–1 of the Criminal Code of Ukraine. Thus, in the period from 2014 to 2022, 124 criminal proceedings were recorded under Article 270–1 of the Criminal Code of Ukraine. Little more than ten of them were brought to trial with a guilty verdict, while another 71 cases were closed during the reporting period in accordance with clauses 1 and 2 of Article 284 of the Criminal Procedure Code of Ukraine, i.e., due to the absence of an event or elements of a criminal offence.

Moreover, considering the fact that in practice deliberate destruction or endamage of public utilities is a concomitant result or continuation of other socially dangerous actions, the implementation of the criminal law norm envisaged in Art. 270–1 of the Criminal Code of Ukraine takes place through the actual establishment of damage to property relations. Thus, by the verdict of the Ovruch District Court of Zhytomyr Region, PERSON_1, who stole a metal manhole cover of a water supply network for selfish motives, was held liable under Part 1 of Art. 185 and Part 1 of Art. 270–1 of the Criminal Code of Ukraine²⁰. Since the damage to public and utility services is only a derivative consequence of the direct selfish appropriation of parts of such facilities, the collection of evidence under Article 270–1 of the Criminal Code of Ukraine during pre-trial and judicial investigations is confined to the sum of material damages and the documentation of the disassembly of the public utility. Issues related to determining the actual threat to the functioning of the facility and the danger to the life and health of people as mandatory elements of the composition of this offense, as well as the peculiarities of the perpetrator's psychological attitude towards these consequences, are disregarded²¹. That's why, criminalists focus specifically on the issue of legal application of the investigated criminal law norm. As

Besonderheiten der Formulierung der gesellschaftlich gefährlichen Folgen des Tatbestands dieses Verbrechens und der Bedeutung der Objekte der Wohnungs- und Kommunalwirtschaft für die Deckung der Bedürfnisse der Bevölkerung, wird vorgeschlagen, als unmittelbaren Gegenstand der untersuchten Straftat die gesellschaftlichen Beziehungen im Bereich der öffentlichen Sicherheit anzuerkennen und als zusätzlichen verbindlichen alternativen Gegenstand Leben, Gesundheit, Eigentum.

Schlüsselwörter: Gegenstand eines Straftatbestands, Gegenstand der Wohnungs- und Kommunalwirtschaft, strafrechtliche Verantwortung, Eigentum, öffentliche Sicherheit.

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CARACTÉRISTIQUES DE L'OBJET DE DESTRUCTION INTENTIONNELLE OU DE DOMMAGES AUX OBJETS D'HABITATION ET DE SERVICES COMMUNAUX (ARTICLE 270-1 DU CODE PÉNAL DE L'UKRAINE)

Résumé. L'article traite des problèmes de l'objet direct de destruction ou de dommages intentionnels aux habitations et aux équipements collectifs. Deux positions dominantes, directement opposées, concernant l'objet du crime spécifié, à savoir les relations sociales de propriété et les relations sociales dans le domaine de la sécurité publique, sont analysées. L'étude des travaux théoriques des chercheurs sur les questions spécifiées et l'analyse de la pratique judiciaire ont permis de confirmer les lacunes existantes dans la construction du dispositif du crime enquêté, en particulier la violation de la systématique du droit pénal dans la formulation des caractéristiques du droit pénal, présence simultanée dans une infraction de trois types de conséquences socialement dangereuses, multiobjectivité. Compte tenu du but et des objectifs du projet de loi, qui criminalisait la destruction ou la détérioration intentionnelle des logements et des équipements collectifs, les spécificités de la formulation des conséquences socialement dangereuses de la composition de ce crime, ainsi que l'importance du logement et installations

¹⁸ Кримінальне право України. Особлива частина. А. А. Васильєв, О. О. Житний, Є. О. Гладкова та ін.; за заг. ред. О. М. Литвинова. Харків : Право, 2020. С. 298.

¹⁹ Порівняльна таблиця до проекту Закону України "Про внесення змін до деяких законодавчих актів України щодо посилення відповідальності за окремі правопорушення в житлово-комунальному господарстві" від 27.12.2010 р. URL: https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?pf3516=6505&skl=7

²⁰ Вирок Овруцького районного суду Житомирської області. Справа № 1-186/11. Єдиний державний реєстр судових рішень. URL: <https://reyestr.court.gov.ua/>

²¹ Там само.

communales pour répondre aux besoins de la population, il est proposé de les reconnaître comme un objet direct de l'infraction pénale enquêtée sur les relations publiques dans le domaine de la sécurité publique, et des obligations supplémentaires, alternativement la vie, la santé, la propriété.

Mots-clés : objet d'infraction pénale, objet d'habitation et d'économie communale, responsabilité pénale, propriété, sécurité publique.

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**CECHY PRZEDMIOTU
UMYŚLNIEGO ZNISZCZENIA
LUB USZKODZENIA
OBIEKTÓW MIESZKALNYCH I
USŁUG KOMUNALNYCH (ART.
270-1 KODEKSU KARNEGO
UKRAINY)**

W artykule podjęto problematykę bezpośredniego przedmiotu umyślnego zniszczenia lub uszkodzenia obiektów mieszkalnych i komunalnych. Analizie poddano dwa dominujące, wręcz przeciwstawne stanowiska dotyczące przedmiotu określonego przestępstwa, jakim są społeczne stosunki własności i stosunki społeczne w sferze bezpieczeństwa publicznego. Studium prac teoretycznych badaczy wskazanej problematyki oraz analiza praktyki sądowej pozwoliły potwierdzić istniejące niedociągnięcia w konstrukcji dyspozycji dotyczącej badanego przestępstwa, w szczególności naruszenie systematyki prawa karnego w sformułowanie cech prawa karnego,

noted in the research by Dudorov O. O. and Khavroniuk M. I., by destroying or damaging public utilities, the guilty party primarily harms to property rights for such facilities. Given the above, the placement of the norm dedicated to deliberate destruction or endamage-ment of public utilities in Chapter IX of the Special Part of the Criminal Code of Ukraine can hardly be considered justified. This novelty introduces nothing but unnecessary casuistry into the criminal law²².

Neznaiko S. V. and Serbina N. O. emphasize inconsistency in the legislator's position regarding the definition of the direct object of a criminal offense stipulated in Article 270–1 of the Criminal Code of Ukraine in their studies. As stated by the researchers, public utilities are not the only ones serving the interests of society and the state. Similar functions are performed by facilities of power engineering, trade, agriculture, but despite this, the violation of the latter is defined as an encroachment on property relations²³. Moreover, according to the researcher, public utilities are not potentially dangerous, and therefore cannot be the basis for attributing the mentioned norm to the section of criminal offenses against public safety. At the same time, Neznaiko V. S. points out that public safety can act as an additional non-binding object of the criminal offense's element²⁴ when defining public property relations as the direct object of the criminal offence envisaged in Art. 270–1 of the Criminal Code of Ukraine.

However, in the academic environment, there are other perspectives on the mentioned issue. O. P. Diachkin recognizes public safety in the functioning of energy and communication facilities as the primary direct object of criminal offenses outlined in Articles 194–1, 277, 292, and 360 of the Criminal Code of Ukraine²⁵. From the researcher's perspective, the very fact of encroachments on the specified life-support facilities provokes a real possibility of numerous socially dangerous consequences in various areas of human life, since these crimes are multi-object in nature. I. B. Hazdaika-Vasylyshyn does not consider public property relations as the primary direct object of a criminal offense, as outlined in Article 194–1 of the Criminal Code of Ukraine. Instead, she highlights the relations in the operation of energy and communication facilities as the primary objects of criminal influence²⁶.

L. O. Mostepaniuk supports the indicated position, stating that the primary direct object of deliberate destruction or endamage-ment of public utilities should be recognized as social relations ensuring public safety during the operation and functioning of public utilities²⁷. Furthermore, the

²² Дудоров О.О., Хавронюк М.І. Кримінальне право: Навчальний посібник. За заг. ред. М. І. Хавронюка. Київ : Ваіте, 2014. С. 657.

²³ Сербина Н. О. Кримінально-правова характеристика умисного знищення або пошкодження об'єктів житлово-комунального господарства: 12.00.08. Київ, 2015. 22 с.

²⁴ Незнайко С. В. Кримінально-правова характеристика умисного знищення або пошкодження об'єктів житлово-комунального господарства : автореф. дис. ... канд. юрид. наук. 12.00.08. Львів, 2016. С. 10.

²⁵ Дячкін О. П. Кримінально-правова охорона об'єктів електроенергетики та зв'язку : дис. ... канд. юрид. наук. 12.00.08. Дніпропетровськ, 2009. С. 9.

²⁶ Газдайка-Василишин І. Б. Некорисливі злочини проти власності за кримінальним правом України : автореф. дис. ... канд. юрид. наук: 12.00.08: Львів. держ. ун-т внутр. справ. Львів, 2011. С. 9; Газдайка-Василишин І. Б. Некорисливі злочини проти власності. Львів : Львів. держ. ун-т внутр. справ, 2012. С. 90.

²⁷ Мостепанюк Л. О. Місце злочину, передбаченого ст. 270-1, в системі норм Кримінального кодексу





researcher recognizes social relations concerning the realization of property rights to public utilities, ensuring public order, exercising the right to life and health, and the safety of the surrounding natural environment²⁸ as additional direct objects of the investigated crime.

Considering the above-mentioned viewpoints of scientists, it should be emphasized that there are two opposing views on the direct object of deliberate destruction or endamage of public utilities. While not denying the presence of extensive arguments from each side, it is desirable to highlight the gaps in scientific discussions of individual provisions. We hope that addressing these gaps will contribute to the future resolution of the issues associated with the direct object of the studied crime element.

Firstly, during the analysis of the preparatory materials contained in the draft law On Amendments to Certain Legislative Acts of Ukraine to Strengthen Responsibility for Certain Offenses in Housing and Utility Sector, including the explanatory note and conclusions of the Main Scientific Expert Department, emphasis is made on the key purposes of the law. In particular, the law aims to prevent injuries and deaths of citizens as a result of deliberate destruction or damage to public utilities by third parties. To support the proponents who recognize public safety as the direct object of the investigated crime, certain differences in the descriptions of Articles 270–1 and 194 of the Criminal Code of Ukraine are also evident. In the latter, damage to the life and health of persons is regarded as a qualifying rather than a primary circumstance of the element of a criminal offence.

Secondly, while the proponents argue that the object of the analyzed crime is public property relations, aligning with the content of Article 194–1 of the Criminal Code, and offer additional supporting arguments, in our opinion, it only confirms the admissibility of consolidating these articles into a single criminal law norm²⁹. However, the conclusion about the necessity of relocating this norm to Section VI of the Special Part is not entirely clear. Moreover, during the discussion of draft law No. 0971 On Amendments to Certain Laws of Ukraine in Connection with the Adoption of the Law of Ukraine: On Electricity, dated May 14, 2002, only in the second reading was the description of the future Part 1 of Article 194–1 of the Criminal Code of Ukraine supplemented with a reference to the threat to human life as a mandatory circumstance of the basic element of deliberate destruction or endamage of public utilities³⁰. Prior to these amendments, determining the placement and content of the direct object of a crime did not raise any doubts.

Thirdly, the arguments of the supporters of the position of public property relations that these objects do not pose a public danger³¹, and therefore cannot be the subject of the section Criminal Offenses Against Public Safety are valid only for intact, properly functioning public utilities. Otherwise, on the contrary, such facilities become susceptible to harm, destruction,

jednoczesne występowanie w jednym przestępstwie trzech rodzajów skutków społecznie niebezpiecznych, wieloobiektywność. Uwzględniając cel i zadania projektu ustawy, która penalizowała umyślne niszczenie lub niszczenie obiektów mieszkalnych i komunalnych, specyfikę formułowania społecznie niebezpiecznych skutków tego przestępstwa, a także wagę mieszkalnictwa i obiekty użyteczności publicznej służące zaspokajaniu potrzeb ludności proponuje się uznanie ich za bezpośredni przedmiot ściganego przestępstwa public relations w zakresie bezpieczeństwa publicznego oraz obowiązek dodatkowy – ewentualnie życie, zdrowie, mienie.

Słowa kluczowe. przedmiot przestępstwa, przedmiot mieszkalnictwa i gospodarki komunalnej, odpowiedzialność karna, mienie, bezpieczeństwo publiczne.

України // Кримінальний кодекс України: 10 років очікувань : тези доп. та повід. учасн. Міжнар. симпозіуму, 23–24 вересня 2011 р. Львів : Львів. держ. ун-т внутр. справ, 2011. С. 270; Мосіпанюк Л. Об'єктивні ознаки злочину, передбаченого ст. 270-1 Кримінального кодексу України. *Публічне право*. 2011. № 4. С. 154.

²⁸ Там само.

²⁹ Незнайко С. В. Кримінально-правова характеристика умисного знищення або пошкодження об'єктів житлово-комунального господарства : дис. ... канд. юрид. наук. 12.00.08. Львів, 2016. С. 68.

³⁰ Проект Закону про внесення змін до деяких законів України у зв'язку з прийняттям Закону України "Про електроенергетику". Офіційний веб-портал Верховної Ради України. URL: https://w1.c1.rada.gov.ua/pls/zweb2/webproc4_2?pf3516=0971&skl=5

³¹ Незнайко С. В. Кримінально-правова характеристика умисного знищення або пошкодження об'єктів житлово-комунального господарства : дис. ... канд. юрид. наук. 12.00.08. Львів, 2016. С. 24.

damage, and the ability to cause death or bodily harm to an indefinite number of people.

As of today, considering the editorial amendments to the draft law, a situation has been created where investigative and judicial authorities need to determine the availability of at least three independent types of socially dangerous consequences in crimes against public utilities: 1) property damage in the form of destruction or damage to property, 2) harm to public safety due to the threat or actual impossibility of operating the specified facilities or disruption of their normal functioning; 3) harm to life or health of people or significant property damage.

As a preliminary conclusion, it is worth mentioning that the legislator's decision to relocate the proposed norm to Section IX Criminal Offenses Against Public Safety provides grounds to assert the multi-object nature of deliberate destruction or endamage-ment of public utilities. The primary direct object of this crime should be recognized as social relations in the field of public safety concerning the operation and maintenance of public utilities, with the additional mandatory object alternatively encompassing life, health, or property.

Conclusions. Therefore, taking into account the placement of the norm on deliberate destruction or endamage-ment of public utilities, the goals and objectives of the draft law, the primary direct object of the investigated crime should be recognized as social relations in the field of public safety regarding the operation and maintenance of public utilities. The additional mandatory object alternatively encompasses life, health, or property.

Due to the article's overload with references to various types of socially dangerous consequences, as well as the court practice ignoring the obligation to establish and prove them, we suggest refraining from simultaneously using three types of socially dangerous consequences in a single element. Instead, some of them should be reclassified as qualifying or especially qualifying circumstances.

Observing violations of the systematic approach in criminal law in the criminalization of deliberate destruction or endamage-ment of public utilities, we support proposals for the necessity of further in-depth scientific research on the mentioned issues, including the identification of specific norms regarding responsibility for destruction or endamage-ment of public utilities. Additionally, we advocate for clarifying socially dangerous consequences as a mandatory circumstance of the crime element outlined in Article 270–1 of the Criminal Code of Ukraine.

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