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Some questions of responsibility of criminal participants under the legislation of the Republic of Kazakhstan

The article is devoted to a theoretical review of the regulation of the ground for criminal liability of the accomplices of a criminal offense. The current Criminal Code of the Republic of Kazakhstan of 2014 largely retained the norms of criminal law of 1997 (understanding of participation, types of accomplices, grounds and limits of their responsibility). To determine the current state of counteraction to criminal offenses, committed in complicity, the authors conducted a comparative study of the norms of the Criminal Code of the Republic of Kazakhstan of 1997 and the Criminal Code of the Republic of Kazakhstan of 2014. The object of the study is the effectiveness of countering criminal offenses, committed in complicity, based on the analysis of domestic investigative and judicial practice for the period of 2015-2018. The subject of the study is the rules on the types of accomplices in a criminal offense and their responsibility. The aim of the study is to develop an effective model for countering criminal offenses, committed by the group. Responsibility of accomplices is based on the principles of independent and strictly individual responsibility for the committed act. In article 28 of the Criminal Code the nature of the criminal acts of each identified accomplice in it is clearly differentiated. Considering the interdisciplinary nature of the studied problem, the author used dialectical, formal and logical, comparative and legal, statistical, historical and legal research methods. The empirical base of the study was compiled by the statistical data of the Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office, information materials of the Supreme Court (procedural documents of the Judicial Office service, «Taldau» forum) of the Ministry of Internal Affairs of the Republic of Kazakhstan. Direct analysis of investigative judicial practice allowed the authors to offer a number of scientifically based recommendations for improving criminal law and improving the work of law enforcement agencies.

Keywords: complicity in a criminal offense, performer, organizer, instigator, accomplice, criminal and law and criminological features, responsibility of accomplices.

Introduction

In the theory of criminal law the extent of damage resulted in committing crimes by several people is more than individual crime. As well as the number of crimes committed by accomplices in crime connected with appearing of new types of socially dangerous act increased. Therefore the problems of individualization of the liability and punishment of criminal participants are always important. According to judicial scrutiny crimes with criminal complicity have complex purport.

In connection with it is characterized by the necessity to realize of the individualization rule of the inflicting punishment and to define a part of participant in general criminal result in every crime, the degree and peculiarity of socially dangerous crime for courts, the liability of criminal participants.

There are some peculiarities among the types of every participants' charges of crime during committing crimes. Without defining these peculiarities one cannot designate the usage level of sentence and the degree of participation in crime of every participant.

It is impossible to be identical in absolute type the action of criminal participants in one crime. Our Criminal legislation and the legal theory are important to define the peculiarities among them. According to Article 28 of the Criminal Code of the Republic of Kazakhstan, the organizer, instigator and accomplice are recognized as accomplices in a criminal offense along with the perpetrator. In special part of Criminal Code the article shows some possible crimes committed by group of people and forms of participation in crime, examination and court organs to define properly the liability of criminals and give sentence to the criminal participant and find out the action of every participant.

According to the article 28 of the Criminal Code of the Republic of Kazakhstan, it is necessary to pay attention to the nature and extent of participation. In other words defining and sentencing the joint criminal act that is to solve main problems of complicity in crime is impossible without dividing into types of the joint actions of people.

Methods and Materials

The methodological basis of this study is the dialectical method as the basis for the knowledge of social and criminological phenomena of reality in their development. Considering the interdisciplinary nature of the studied problem, private scientific research methods were also used in writing the work. In particular, formal and logical, comparative and legal, statistical, historical and legal methods of scientific knowledge were used.

In the process of writing the article, the Constitution of the Republic of Kazakhstan of 1995 (as amended), the Criminal Code of the Republic of Kazakhstan of 1997, the Criminal Code of the Republic of Kazakhstan of 2014 (as amended), the Concept of Legal Policy of the Republic of Kazakhstan from 2010 to 2020, approved by the Decree of the President of the Republic of Kazakhstan, No. 858 dated August 24, 2009 were used.

Historical and legal research was based on working directly with the texts of the laws and consisted in analyzing the peculiarities of the regulation of liability of the accomplices of a criminal offense in regulatory acts in force in Kazakhstan (Criminal Code of the Russian Soviet Federal Socialist Republic of 1922, Criminal Code of the Russian Soviet Federal Socialist Republic of 1926, Criminal Code of the Kazakh Soviet Socialist Republic of 1959).

The used statistical method revealed the existing relationships between changes in legislation and the state of investigative judicial practice.

Other sources of information were also used that contain criminological and forensic information (the Unified Automated Information and Analytical System of the Judicial Authorities of the Republic of Kazakhstan, the Judicial Study Service and the «Taldau» forum).

Results

Criminal law is an important means and guarantee of maximum protection of rights, freedoms, legitimate interests of the individual, society and the state from criminal attacks. According to the Committee on legal statistics and special records of the General Prosecutor's Office of the Republic of Kazakhstan, a significant part of the crimes reflected in the official data is committed in complicity. However, complicity is a more dangerous form of criminal behaviour than the criminal behaviour of a single individual. Combining the efforts of accomplices pushes them to commit, including difficult to carry out crimes belonging to the category of serious or particularly serious crimes, makes it easier for them to bypass obstacles to achieving a criminal goal, more reliably mask the traces of criminal occupation.

Unfortunately, in our country there is no consistent statistics of group crimes by their types. Not all cases of group crimes are recorded in the official statistics. The level of identification and proof of the perpetrators is also low. The share of recorded crime is a small part of the real state of group crime, as it is in this area there is the highest latency.

The normative decision of the Supreme Court of the Republic of Kazakhstan of 21 June 2001 «On certain issues of the application by the courts of legislation on liability for banditry and other crimes committed in complicity» is intended to facilitate the correct qualification of group crimes by law enforcement agencies. However, this decision does not take into account the features of the newly adopted criminal law, and does not meet the needs of practice.

The correct identification of the types of accomplices is a prerequisite for the correct qualification of the criminal offense, a prerequisite for the correct solution of the question of the nature and degree of participation of each, that is, in the end – a necessary condition for the individualization of responsibility and punishment of accomplices.

The degree of responsibility of the person is not unconditionally dependent on the function performed by him in the criminal offense committed in complicity. Criminal law solves the problem of individualization of responsibility in a slightly different way: by defining the types of accomplices, i.e., revealing in General form the signs of criminal activity of each of the accomplices, the law thus gives the court the opportunity to identify the nature of the activities of any accomplice and the degree of public danger of his activities in the Commission of a specific criminal offense.

An objective criterion, which adheres to the criminal law in the delimitation of species partners, is a character made by every one of their actions in a joint criminal enterprise. Each of the accomplices contributes to the common cause, i.e. has some share in it. Thus the objective party of structure of a concrete criminal offense is carried out only by the performer.

If the classification of forms of complicity is intended to show the typical features of joint activities of accomplices, the identification of types of accomplices is aimed at establishing the individual role of each of them.

Discussion

There are 4 types of complicit in the crime along with the perpetrator: an executor, an organizer, an instigator and an accomplice. All of them have their sings. They are shown in different points of articles 28-29 of the Criminal Code of the Republic of Kazakhstan.

A person who directly committed the crime, either directly participated in its commission together with other persons (accomplices), as well as the perpetrator of the crime through the use of other persons not to be criminally responsible by reason of age, insanity or other circumstances prescribed by this Code, and well through the use of persons who have committed an act of negligence.

The organizer is the person who organized the crime, or directed its execution, as well as the person who created an organized criminal group or criminal association (criminal organization) or to control them.

The instigator is a person who incited another person to commit a criminal offense by persuasion, bribery, threat or other means.

A person who has assisted in the commission of a crime advice, instructions, information, tools, or means of committing a crime or the removal of impediments to commit a crime, as well as the person who had previously promised to conceal criminal instruments or other means of committing a crime, traces of the crime or articles obtained by criminal means, as well as a person who previously promised to acquire or sell such items.

In the judgment of scientist F.G. Burchak «executive act of criminal participant appropriate to any other actions because initially he was an organizer or an instigator but later — a person participating in committing crime is considered to be as executor». He offered to consider the liability of actions of organizer and an instigator as aggravant [1; 17].

The first form of complicity group of persons is without prior agreement. Usually, this form of participation is formed by joining partners already committed to the assault. At the same intent of all partners should be directed to the infliction of the same criminal harm (death, property damage, etc.). All accomplices in this case wholly or partially perform the objective side of crime, their actions are in direct causal relationship with causing criminal damage. Consequently, they are recognized as co-perpetrators of the crime.

According to the article 54 of the Criminal Code typically, participation is considered more dangerous form of criminal activity than the commission of a crime by one person. It indicates that the essence of participation is «not a mere composition of forces of several criminal elements, and such joint efforts, which gives their work a new quality».

When the joint commission of the crime, several accomplices ... usually caused by more serious damage than committing the same crime by one person.

There are two main viewpoints on the legal nature of complicity. The first of these is based on the idea of an accessory (Latin accessorium — «extra», «adjective»), the nature of complicity. According to this theory, the basis of complicity is the work of the Executive, and the actions of all other partners are additional (accessory) in relation to it, so the legal assessment of these actions entirely based on the estimate of Executor: if they are considered criminal and punishable, then punished and actions partners, and for the same article of criminal law that the action performer, and if the actions of the Executive untouchable, cannot be held responsible and partners.

Limited accessory is that the voluntary withdrawal from the perpetrator of the committed crime does not preclude the prosecution of other partners.

In criminal legal theory of law it is not analyzed in practical tendency. There is no definite denotion to the meaning initiator in special literature. For example M.A. Schneider, as initiator, considers the organizator and instigator of crime. F.G. Burchak believed that the initiator can recognize any accomplice, except the accomplice.

In judicial practice, along with the perpetrators, organizers, instigators and accomplices, the role of the initiator of the crime is sometimes distinguished. And for some members of joint actions in the indictment and the verdict says that they are the initiators, and to any particular type of accomplices charged in the proceedings of the case is not specified. In theory, criminal law, this trend is the practice, in fact is not

analyzed. Moreover, the literature also uses the concept initiator without specifying its content, and an arbitrary list of range of the initiators. In fact, almost all of them acted as an organizer.

Thus, M.A. Schneider found it possible to take the initiative instigator and organizer of the crime. To the question about the legal nature of the actions of the initiator, indirectly, only F.G. Burchak answers, noting that the manifestation of the initiative indicates the degree of participation of the person in the crime.

On the content of the concept «initiator» is very uncertain. Literally, it means taking the initiative in all activities. Initiative in the sense of unusual resourcefulness can show any partner. At what degree of a person's initiative, determine it is hardly possible. Functions of the accomplice of this concept do not disclose. Consequently, the initiator can not be regarded as a kind of accomplice. The name of the perpetrator does not relieve the authorities initiated the investigation and the court from the obligation to install, what kind of partners he belongs. Range of outlined partners is sufficiently complete. Any acts covered by the combined features of known accomplices. Complement to them, initiator does not allow the Article 28 of the Criminal Code, in which this role is not mentioned. Jurisprudence is logical to abandon the use of the concept under consideration, impedes the process of identifying species of accomplices. Pointing to the role of initiator in some way reveals the degree of activity of accomplice. However, the unit co-actors on the activity, the degree of participation in the crime has a different meaning than their classification by type.

According to the article 28 of the Criminal Code for partners to ascertain the degree of participation of each of them with a crime. The degree of participation characterizes the actual proportion, the proportion of acts of the perpetrator in a joint crime. To a large extent it determines the functions of accomplice: the organizer is usually invested in a large proportion of crime than an other partner, singer and abettor are active accomplice.

In this regard, the division of the nature and extent of participation in a crime are closely related. Moreover, the division of accomplices in mind is subject to the problem of clarifying the extent of their participation in the crime.

Sometimes, however distribution partners in mind does not reflect their proportion in the degree of activity. Usually more than a passive accomplice could demonstrate such persistence to develop this activity, which will not appear in the artist or the instigator. Alexander, who had access to the Seals, systematically forged documents for others to receive a pension. Damage caused by his actions, tens of thousands rubles, and the size of the theft of any perpetrator is not a major one. The court rightly recognized Alexander's helpers' actions as more dangerous than the actions of other accomplices. Therefore, to characterize the socially dangerous acts accomplice indication only of its kind is impossible.

Therefore, Article 29 of the Criminal Code of the RK requires the division of responsible for the degree of involvement in crime.

In the Soviet criminal law there is no pre-established exponents of the person of a crime. In judicial practice and legal theory there are recommendations that enable the need to identify partners classified by the criterion in question.

A.A. Piontkovsky recommended to distinguish the degree of guilt of the main and secondary contributors. In practice and in the theory of criminal law, there is a single tendency of the division of joint actors according to the degree of participation in a crime on the main and secondary ones.

This unit is responsible for article 29 of the Criminal Code and the basic features show a possible distribution of the degree of activity of the joint actions. Establishing in advance who of them plays a key role and who of them plays a secondary one, it is hardly possible, because the danger of acts of an accomplice of the same species varies depending on the particular case.

A.A. Piontkovsky offered to divide criminal participants into first or second degree according to the degree of crime [2; 27]. Joining practice and theory, we see the tendency to divide into main and second degrees.

As mentioned above according to the articles 28, 29 of the Criminal Code of the Republic of Kazakhstan it is necessary to define two ways of joint participation in crime during the crime investigation:

a) legal type of criminal participant;

b) to define the main or second role degree connected with participant in fact.

In the Criminal Code of the Republic of Kazakhstan of 1997 by official law the liability of criminal participant according to the article 29 of Criminal Code of the Republic of Kazakhstan is determined by the nature and extent of participation of each of them in a crime.

According to the article 29 of Criminal Code of the Republic of Kazakhstanthe liability of criminal participant is determined by the nature and extent of participation of each of them in a crime. Some criteria:

– by the nature of participation;

– degree of participation of different situations.

But there are some difficulties in subjective crimes, for example, rape and the special subject of the article 120 of the Criminal code is a man. The objective side of this component of crime is sexual relations with using the violence or with threat of his using to aggrieve or to the other persons or with the use of the helpless condition aggrieved. Rape, that is sexual intercourse accompanied by violence, or a threat of violence to a victim, or to other persons, or with the use of the helpless state of a victim, shall be punished by deprivation of freedom for a period from three to five years.

According to part 2 of article 120 of the Criminal Code of the Republic of Kazakhstan, rape committed by a group of persons is punishable by a group of persons by imprisonment from five to ten years.

For the commission of rape, a criminal group is punished with imprisonment for a term of ten to fifteen years with deprivation of the right to hold certain positions or engage in certain activities for a period of ten years or without it.

In accordance with article 57 of the Criminal Code of the Republic of Kazakhstan, when sentencing a criminal offense committed in complicity, the nature and degree of the person's actual participation in the commission, the significance of this participation in achieving the goal of the criminal offense, and its impact on the nature and extent of the harm or possible harm are taken into account. Circumstances which mitigate or aggravate liability and punishment, which relate to personality of one of the participants, shall be taken into consideration only when establishing punishment to this participant.

According to the article 28 of the Criminal Code of the Republic of Kazakhstan a person who directly committed the crime either directly participated in its commission together with other persons, as well as the perpetrator of the crime through the use of other persons not to be criminally responsible by reason of age, insanity or other circumstances prescribed by this Code, and well through the use of persons who have committed an act of negligence for developing the rule of defining order, the initiative was offered by professor Telnov. He showed the necessity of appropriate article 17 of Criminal Code of the Russian Soviet Federal Socialist Republic (article 28 Criminal Code of Republic of Kazakhstan) [3; 14].

Forming a special form of criminal activity, complicity is characterized by a number of objective and subjective signs. The absence of even one of these features eliminates the recognition of the crimes committed in complicity. Below are indications of complicity allocated in the Russian criminal legal theory.

Objective signs of complicity are quantitative and qualitative signs. For the presence of a quantitative sign of complicity, it is necessary that at least two displaced persons who have reached the legal age (16, and some 14 years old) take part in the commission of a criminal offense. This means that non-substitutable persons and persons who have not reached the age at which criminal responsibility takes place cannot act as accomplices.

Qualitative attribute means the consistency of their actions: the actions of each partner complement each other and are a condition for achieving a single result; the resulting criminal result is one and common to all partners; the presence of a causal connection between the actions of each of the accomplices and a single criminal result. According to F.P. Telnov, the content of the sign of compatibility includes not only the mutual dependence of the criminal acts of two or more persons, but also the criminal result that is common to them, as well as the causal link between the actions of each accomplice and the common criminal result.

The subjective sign of complicity is the unity of intent accomplices. This sign means that a person is aware of the socially dangerous nature of his act, realizes that his act joins the socially dangerous activity of another person, foresees the possibility of the onset of a common criminal result, wishes or does not wish, but consciously admits such joining and the onset of these consequences [4; 117].

Commonality of intent: to focus on committing the same acts, causing the same effects. The difference of motives and goals of partners does not preclude common intent. For example, the contract killing of singer can act out of selfish motives, and the customer may be guided by another motive: anger, hatred, resentment, revenge.

Complicity is usually accomplished by proactive partners, but can take place and the complicity by omission (for example, if the security guard, by prior arrangement with other persons who intend to commit a crime, allows these persons to a protected object, not doing so of their official responsibilities).

Complicity can occur in both crimes with the material and the formal composition, as well as a continuing and continuous offense, at any stage of the crime up to the end (except for pre-promised action accomplice to conceal the traces of the crime, its subject matter or criminal).

Complicity is possible only in the commission of an intentional criminal offense. The recognition of the possibility of complicity in reckless criminal offenses contradicts the legislative formula of complicity, which directly indicates the intentional nature of the activities of the participants. Several persons who have acted carelessly cannot intentionally participate in the commission of criminal offenses, as if a person is careless he does not foresee the onset of harmful consequences, although it should and could have foreseen or foresees, but lightly hopes for their prevention.

Rough complicity harm is its criminal negligence, the infliction of harm as a result of cumulative actions of several individuals. Rough complicity harm although has a higher degree of social danger as compared with the careless actions of a single person in the criminal law theory is regarded as separate from the complicity of the form of criminal activity

In order to give a more accurate characterization of the legal action partners, to individualize their criminal responsibility legislation may be provided various types of partners. Typically, such a selection criterion is the nature and extent of participation in the crime. Nature of participation is determined by the role played by this partner in the process of committing a crime. The degree of participation is a quantitative characteristic and determines the size of the specific contribution of an accomplice in the crime.

A person who, together with other persons (accomplices) are directly involved in committing a crime by performing some of those actions that are necessary to cause the total for all associates of criminal damage.

Person, subject to criminal liability, who is used to commit the crime, the person is not criminally liable: underage or insane, is not conscious and not able to realize the danger to the public commits an act under the influence of physical or mental coercion, or in other circumstances capable of incurring criminal responsibility. The use of such a person to commit an act has been called «mediocre infliction». In fact, such a person in this situation serves as a «living instrument» offense: «an instigator or an accomplice of a mentally ill person or a minor, who committed socially dangerous act, as well as persons acting in error, is responsible for the crime because the perpetrator is merely an instrument to commit this act in the hands of another». Regulations on the mediocre performance — characteristic for practically all legal systems. Executive action is the basis of actions of all partners. If the contractor does not fulfill his role, the offense will not be committed. «The basis of the general partners' liability is united action by all those implicated in the crime. The rod of this unity is a performer. And if not, then crumbles complicity as a house of cards».

Face, though abet, but no action required directly for the injury may not be a performer, a person is considered an accomplice to the crime. Also, perpetrator of the crime can not be recognized a person is not a necessary sign of special subject committed a crime, and such a person, depending on the nature of its action may be recognized by the organizer, instigator or accomplice to the crime. The organizer of the crime is the person who:

– organizes the crime, develops its plan, selects artists, allocates roles between them, provides the tools and means of committing crimes, etc [5; 62];

– directs its execution, regulates the activity, is directly complicit in the crime. Holder can either directly present at the crime scene and give directions with the use of telecommunications;

– organizes a criminal group or criminal association, selects participants to sustain their operations, develops the structure, determines the direction of criminal activities, provides materials and tools. Organizer of a criminal group or criminal organization, responsible for all crimes, committed by this group and the community that fall within its intent. Supervises a criminal group. The head of the criminal group may be its organizer or the person to lead it after creation. The organizer is always committed with direct intention. It is believed that the organizer is the most dangerous among all partners, he appointed long sentences than all other accomplices.

Conclusions

In criminal law, the division of accomplices into organizers, perpetrators, instigators and accomplices is accepted (Article 28 of the Criminal Code). The basis of this classification is the nature of the actions performed by each accomplice in their joint criminal activity.

The basis of liability for complicity in a criminal offense, as in the case of a criminal offense committed by one person, is the commission of an act containing all the elements of a criminal offense under a specific article of the Criminal Code.

The limits of liability of accomplices are established on the basis of the form of complicity, the nature and degree of participation of each of the accomplices in the commission of a criminal offense (Article 29 of the Criminal Code). Actions of the perpetrator of a criminal offense are qualified under the article of the Special Part of the Criminal Code without reference to Article 28 of the Criminal Code. Similarly (i.e., without reference to Article 28 of the Criminal Code), the actions of the organizer, instigator or accomplice are qualified, when committing a criminal offense, they act not only in this form, but also simultaneously as an executor of a criminal offense. The responsibility of the organizer, instigator and accomplice comes under the article of the Special Part of the Criminal Code, according to which the performer's actions are qualified, but with reference to Article 28 of the Criminal Code.

In case of failure of the executor of the criminal offense to the end due to circumstances beyond his control, the other accomplices shall be liable for complicity in the preparation for the commission of the crime or the attempted crime. For preparation for a crime, a person who, due to the circumstances beyond his control, was unable to persuade others to commit a crime is also criminally liable.

On the basis of imitation, it is possible to make a decision on the people who want it, but those who are willing to do so are responsible for the wrong perception, but they are involved in offensive response in the way of the protests in accordance with the role that they performed in partnership. Therefore, speaking about the importance of the institution of complicity, it should be noted that the rules of criminal law on complicity do not aim to unconditionally toughen the responsibility of all accomplices, the main purpose of the institution of complicity is to differentiate the responsibility of accomplices, taking into account their specific role in the implementation of a single criminal intent.

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Қазақстан Республикасының заңнамасы бойынша қылмысқа қатысушылардың жауаптылығының кейбір сұрақтары

Мақала қылмыстық құқықбұзушылыққа қатысушылардың қылмыстық жауаптылыққа тарту негіздерін реттеудің теориялық шолуына арналған. Қазіргі қолданыстағы 2014 жылғы Қазақстан Республикасының Қылмыстық кодексі 1997 жылғы Қылмыстық кодексінің нормаларының көпшілігін (қылмысқа қатысу түсінігі, қылмысқа қатысушылардың түрлері және олардың жауаптылыққа тартылу негіздері мен шектерін) қалдырды. Қылмысқа қатысумен жасалатын қылмыстық құқықбұзушылықтарға қарсы күрестің қазіргі жай-күйін анықтау үшін авторлармен 2014 жылғы Қазақстан Республикасының Қылмыстық кодексі мен 1997 жылғы Қазақстан Республикасының Қылмыстық кодекс нормаларына салыстырмалы талдау жасалған. 2015–2018 жж. аралығындағы отандық сот-тергеу материалдарын талдау негізінде қылмысқа қатысумен жасалатын қылмыстық құқықбұзушылықтармен қарсы күрестің тиімділігін артыру зерттеудің нысаны болып табылады. Зерттеудің пәні қылмыстық құқықбұзушылыққа қатысушылардың түрлері және олардың жауаптылығы туралы нормалар болып табылады. Топпен жасалатын қылмыстық құқықбұзушылықтарға қарсы іс-қимылдардың тиімді моделін дайындау зерттеудің мақсаты болып табылды. Жасалған іс-әрекет үшін қылмысқа қатысушылардың жауаптылығы дербес және қатаң жеке-даралық қағидаларына негізделеді. Қылмыстық кодекстің 28-бабында онда көрсетілген қатысушылардың әрқайсысының қылмыстық іс-әрекеттерінің сипаты нақты айқындалған. Зерттеліп

отырған мәселенің пәнаралық сипатын ескере отырып, мақаланы жазу барысында диалектикалық, формалды-логикалық, салыстырмалы-құқықтық, статистикалық, тарихи-құқықтық зерттеу әдістері қолданылды. Зерттеудің эмпирикалық базасын Бас прокуратурасының арнайы есепке алу және құқықтық Статистика комитетінің статистикалық мәліметтері, Жоғарғы Соттың ақпараттық материалдары («Соттық кабинет» сервисінің және «Талдау» форумының процессуалдық құжаттары) Қазақстан Республикасының Ішкі істер министрлігінің статистикалық мәліметтері құрады. Сот-тергеу материалдарын тікелей талдау авторлармен құқыққолдану органдары қызметін жақсартуға және қылмыстық заңнаманы жетілдіруге байланысты бірқатар ғылыми негізделген ұсыныстар жасауға мүмкіндік берді.

Кілт сөздер: қылмыстық құқықбұзушылыққа қатысушылық, орындаушы, ұйымдастырушы, айдап салушы, көмектесуші, қылмыстық-құқықтық және криминологиялық ерекшеліктері, қылмысқа қатысушылардың жауаптылығы.

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Некоторые вопросы ответственности соучастников преступления по законодательству Республики Казахстан

Статья посвящена теоретическому обзору регламентации основания привлечения к уголовной ответственности соучастников уголовного правонарушения. Действующий Уголовный кодекс Республики Казахстан 2014 г. во многом сохранил нормы Уголовного закона 1997 г. (понятие соучастия, виды соучастников, основания и пределы их ответственности). Для определения современного состояния противодействия уголовным правонарушениям, совершаемым в соучастии, авторами проведено сравнительное исследование норм Уголовного кодекса Республики Казахстан 1997 г. и Уголовного кодекса Республики Казахстан 2014 г. Объектом исследования является эффективность противодействия уголовным правонарушениям, совершаемым в соучастии, на основе анализа отечественной следственно-судебной практики за период 2015–2018 гг. Предметом исследования выступают нормы о видах соучастников уголовного правонарушения и пределах их ответственности. Целью исследования является разработка эффективной модели противодействия уголовным правонарушениям, совершаемым группой. Ответственность соучастников основывается на принципах самостоятельной и строго индивидуальной ответственности за совершенное деяние. В статье 28 Уголовного кодекса четко разграничивается характер преступных действий каждого обозначенного в ней соучастника. Учитывая междисциплинарный характер изучаемой проблемы, при написании работы были использованы диалектический, формально-логический, сравнительно-правовой, статистический, историко-правовой методы исследования. Эмпирическую базу исследования составили статистические данные Комитета по правовой статистике и специальным учетам Генеральной прокуратуры, информационные материалы Верховного Суда (процессуальные документы сервиса «Судебный кабинет», форума «Талдау»), Министерства внутренних дел Республики Казахстан. Непосредственный анализ следственно-судебной практики позволил авторам предложить ряд научно обоснованных рекомендаций по совершенствованию уголовного законодательства и улучшению деятельности правоприменительных органов.

Ключевые слова: соучастие в уголовном правонарушении, исполнитель, организатор, подстрекатель, пособник, уголовно-правовые и криминологические особенности, ответственность соучастников.

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