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THE VALUE OF THE CRIMINAL LAW TEXT IN THE INTERPRETATION OF NORMS OF CRIMINAL LAW BY THE CONSTITUTIONAL COURT OF UKRAINE

The complex process of interpretation of criminal law norms by the Constitutional Court of Ukraine (hereinafter – CCU) subjects to certain laws, regulations, principles that ensure the quality of the result. Each element of this process executes only its own peculiar feature.

In criminal law literature some authors recognize the text of the criminal law as a subject of interpretation. CCU itself interprets law norms, articles of legal acts, provisions or other legal acts, concepts, that provide clarification of the will of the legislator, article content of the term.

Note that according to the current legislation of Ukraine, namely Part 1 of Article 150 of Constitution of Ukraine, Article 13 of the Law of Ukraine “On the Constitutional Court of Ukraine”, the body of constitutional control provides the official interpretation of the Constitution and laws of Ukraine. Such legislation might serve as a basis for recognition of articles of legal acts, and not norms enshrined in these acts, as a subject of interpretation by the CCU.

The provisions of the Part 1 of the Article 150 of the Constitution of Ukraine, the Article 13 of the Law of Ukraine “On the Constitutional Court of Ukraine”, which define the text of the Constitution and laws of Ukraine as a subject of interpretation by the CCU, are unsound in principle and stand in need of change. Criminal legal norm, rather than the text of the criminal law, is a matter of interpretation by the CCU. The text of the criminal law is a means, by which the body of constitutional control of Ukraine interprets criminal law norms.

In particular, in the specified decision the CCU states that a main feature of a blanket disposition of a criminal law norm is that such norm has a general and specified content (Paragraph 7,8 Clause3 of the analytical part of the decision of the CCU on 19 April 2000 No. 6-rp/2000 9cause on the reserve action of criminal law through time). Understanding the blanket criminal law norms as such, which have two contents, is considered by the CCU as doubtful.

Legal statements (judgment), which is criminal law norm, may have two meanings (true or false) or several (that is, apart from true and false the judgment may have an additional meaning, such as “probable”, “possible”). Prevalent in logic is an idea that legal norms have one of two meanings: the meaning “true” or meaning “false”.

True meaning can have only one content as other content will be characterized by the false meaning. Thus the separation of the content of blanket criminal law norms on general and specific contradicts the rules of logic, as only one content of the criminal law may be true: either the general or specific.

Thus, the text of the criminal law determines the total scope of criminal norm, which refers to the regulatory requirements of the other branches of law, within which statutory provisions of other areas of law determine the final, true scope of the norm, its ambit.

On that ground we can claim that the text of the criminal law is a primary means of securing the criminal law norms, and, therefore, the primary means of knowledge of their content by the CCU.