

Summary

The year: 2020.

Specialty / field of study (code and full name): 40.03.01-Law

Level of study: bachelor's degree.

Institute or Higher school: Law University.

Department of criminal law disciplines and forensic expertise

The subject of the final qualifying work: "Crime Preparation: Qualification and Accountability Issues ".

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The relevance of the research topic.In recent years, the problem of crime has acquired special significance for Russian society. Its widespread rampant became a genuine social disaster for our country.

The implementation of the objectives of the criminal law formulated in Art. 2 of the Criminal Code of the Russian Federation (hereinafter - the Criminal Code, the Criminal Code of the Russian Federation) on the protection of human and civil rights and freedoms, property, public order and public safety, the environment, the constitutional system of the Russian Federation against criminal attacks, on ensuring peace and security of humanity, for the prevention of crime involves the determination on the basis of the law of the circle of criminal attacks. And immediately the question arises of the extent to which acts are recognized criminal and punishable for preparations for a crime, aimed at creating the conditions for their commission, but interrupted due to circumstances beyond the control of a person. A necessary sign of preparation as a type of unfinished criminal activity under the current legislation (Article 14 of the Criminal Code of the Russian Federation) is the public danger of its actions. She acts as the basis for the criminalization of preparation for the crime. The public danger of preparing for a crime consists, as a rule, in putting objects in danger of causing damage, in creating a real threat to public relations. The punishment of socially dangerous cases of preparation for a crime contributes to the formation in the public mind of the inevitability of punishment, which is of particular importance in the fight against the most dangerous crimes. The criminalization of preparation for a crime is consistent with the principles of the criminal law, such as: guilt, justice, humanism, because provides protection of the person from criminal encroachments.

The purpose of the work: is a comprehensive criminal law study of the institution of preparation for crime and the development of theoretical and practical recommendations to improve the quality of legislation and its application.

Objectives: identify signs of preparation for a crime as a socially dangerous act; determine the composition of the preparation for the crime and identify its specifics; show the difference between preparation for a crime and attempted crime; to study the issues of criminal law qualification of preparation for a crime; consider criminal penalties for preparing for a crime.

Theoretical and practical significance of the research: determined by the fact that the study covers a wide range of problems of preparation for a crime, and also that the conclusions formulated in it can be used in the development of theoretical problems of criminal law. The practical significance of the work is manifested in the fact that its results can be applied in the

process of improving the criminal law in building norms for preparing for a crime, as well as in the educational process when conducting classes in criminal law.

Results of the study:

1. Preparing for a crime can be defined as any creation with the explicit intent of the preconditions for committing a crime, including finding, manufacturing or adapting means or tools for committing a criminal act, if the crime being prepared was not committed due to circumstances beyond its control faces. Criminal liability comes for preparatory actions for crimes of medium gravity, grave and especially grave.

2. The analysis of preparation and attempt made it possible to identify the following differences, by which it is possible to distinguish between them:

- cooking is characterized by less public danger than the attempt, because there is no direct effect on the object during cooking;
- preparation for a crime and attempted crime have their own separate elements of the crime, different from each other;
- preparation creates various conditions for the commission of a crime, and an attempt is an action aimed at committing a crime;
- preparation is included in the objective side of the impending crime, and the attempt is in the objective side of the completed crime;
- preparation for a crime is impossible under the influence of passion, while an attempt on a crime is quite possible here;
- cooking is possible in crimes with different compositions, while attempt is impossible in crimes with a truncated structure;
- during preparation, preparation for grave and especially grave crimes is criminally punishable; during attempt, all categories of crimes are criminally punishable;
- preparation for a crime is punished more leniently - Art. 66 of the Criminal Code - half the maximum term or amount of the most severe punishment, while - the attempt - more severely - three quarters of the maximum term or size of the most severe punishment.

Recommendations

- The title of Chapter 6 of the Criminal Code of the Russian Federation should be formulated as "Finished and unfinished crimes". Article 29 of the Criminal Code of the Russian Federation must be divided into two separate articles: article 29 "Finished crime", which will be formulated as follows: "A crime is recognized as completed if the act committed by a person contains all the signs of a crime under this Code"; Article 291 "Unfinished crime", which may be presented as follows: "1. Preparation for a crime and attempted crime are recognized as unfinished crime. 2. Criminal liability for an unfinished crime occurs under the article of this Code, which provides for liability for the completed crime, with reference to article 30 of this Code. "

Article 30 of the Criminal Code will contain the rule on preparation for a crime, and article 301 of the Criminal Code will contain an attempt on a crime.

- It is proposed to introduce liability into the current criminal law for preparatory actions for moderate crimes, because their decriminalization has created the possibility of open preparation for many common crimes.

- We propose to exclude from the legislative definition such a form of the objective side of preparation for a crime as conspiracy to commit a crime, which implies only intent, which is not punishable under current law.

- It seems necessary to supplement Part 2 of Art. 66 of the Criminal Code of the Russian Federation with an indication that "the term and amount of additional types of punishment for

preparing for a crime also decreases by half from that stipulated by the corresponding article of the Special Part of the Criminal Code”.

- A correction of the content of Article 78 of the Criminal Code of the Russian Federation is proposed, consisting in the fact that a person is exempted from criminal liability for preparing for a crime of medium gravity, for a grave or especially grave, if the deadlines equal to half of those specified in Part 1 of Art. 78 of the Criminal Code, i.e. three years after the commission of a crime of moderate gravity; five years after the commission of a serious crime; seven and a half years after the commission of a particularly serious crime.

- It seems possible in article 86 of the Criminal Code to include part 3.1 of the following content: “a criminal record is extinguished for preparation for a crime:

- in relation to persons sentenced to imprisonment for crimes of moderate gravity, - after one and a half years after serving the sentence;

- in relation to persons sentenced to imprisonment for serious crimes, - after three years after serving the sentence;

- in relation to persons convicted of especially serious crimes, after four years after serving the sentence. ”