

**The text of the Criminal Code as a matter of hermeneutical analysis
(for example, the text of section XVII of the Special Part of
“Crime in the area of performance and professional activities related
to the provision of public services”)**

Abstract: It is considered the problems of the text of the Criminal Code as a matter of hermeneutical analysis. Consider the example of the text of section XVII of the Criminal Code of Ukraine “Crimes in the sphere of performance and professional activities related to the provision of public services”, we can conclude that he as subject hermeneutical analysis inherent traits such as informative, temporality, goal orientation, pragmatism (pragmatic setting) structuring.

Keywords: the text of the Criminal Code; informative; temporality; goal orientation; pragmatism (pragmatic setting); structured.

Any interpretive practice is somehow connected with the text. M.M. Bakhtin wrote that the immediate reality of thought and experience, from which alone can be come the humanities, is text. Where there is no text, there is no facility for research and thinking [1]. Without a doubt, the legal text is one of the life forms of law. “Law cannot exist without being embodied in textual form” [2, p. 19].

Legal theorists have different definitions of the term “text of law”. So, I.N. Gryazin gives this description text of law: “a special conceptual world, symbolizing the proper way. Overall, the abstract nature of the concepts included in this world is a reflection of life or the personification of his involvement in his own dynamic existence” [2, p. 19]. This author considers the text as a significant expression of the right legal meanings. T.V. Gubaeva believes that “the text of the law – a landmark phenomenon created by culture system of laws” [3, p. 78]. N.A. Vlasenko said that “right found its verbal expression in symbolic form, is the

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most important form of his life” [4, p. 29]. I.P. Malinova broadly interprets the term “text of law”. This, said the scientist, any legal phenomenon “that is the law, its interpretation, legal reality, the real evidence of a crime – all this for a lawyer text that can be “read” and from which can be extracted different meanings [5, p. 58]. O.A. Prokhorov defines the legal text as text containing legal information [6, p. 70].

Thus, the text of law is understood differently. However, you must remember that here we are talking about the text of law in the broadest sense and includes any legal document. They, in turn, may take the form of legal acts, acts of law enforcement, legal contracts, and other acts of interpretation. Each group has its own legal documents text features. As the text of the Criminal Law of Ukraine – this is the text of legal acts (legislative text), then we are primarily interested in the views of scholars regarding features just such texts.

German scientists R. Gläser, B. Fleischer rank legal texts to legislative policy, arguing that that the main Aim of legislative texts – sent to prescribe certain rules and norms of behavior and encourage him to follow the laws and orders issued by the addressee - coincides with a directive function [7, p. 52; 8, p. 81]. The same line of the legislative text to highlight and offer other scientists, calling it a peremptory [9, p. 100; 10, p. 55; 11, p. 188]. Among other signs of legislative text, scholars have identified: accuracy, preventing different interpretation; impersonal nature of business communication; nominal character official style; standardizing business language; special formality of expression and emotionless (N.M. Kozhanina) [12, p. 177], completeness, consistency, logical completeness (A.F. Cherdantsev) [13, p. 188], and the value prescription accuracy, impersonal nature of standardization (G.S. Boyarintseva) [10, p. 55], the limiting accuracy, objectivity, formality, standardizing, short (N.N. Ivakina) [13, p. 22], the accuracy, impersonal nature of standardization, it is the character (T.V. Gubaeva) [9, p. 100], completeness, timeliness, accuracy, conciseness, standardizing (typology), objectivity, clarity, formality (O.A. Prokhorov) [6, p. 74]. In fact, all of the above requirements to the legislative text are stylistic basis.

Today in legal theory there is new direction in understanding the nature of the texts. One of them is based on the fact that this text is not perceived as an ideal that can only interpret uniquely, while taking into account the fact that the legal text - is historically rooted historic structure. Thus, P. Goodrich believes that a legal text can have multiple meanings, and it is necessary to take language study law as historically organized structure, and not as a universal and unambiguous code [14, p. 118].

A.I. Sitnikova, who dedicated the text of criminal law monographic study, believes he has such features of the text as follows: “1) the presence of the name (title) of the Act, part, section, chapter, article; 2) objectification in the legal act, and; 3) a textual completeness; 4) literary treatment in accordance with the type of regulation and; 5) the presence of specific units, combined different types of communication; 6) focus inherent in the criminal act of a whole; 7) pragmatic setting, i.e. focus on achieving socially significant results” [15, p. 43].

The text of any legal act, including the text of the Criminal Code – is the subject of hermeneutic analysis, it serves as a kind of “material” for interpretation and understanding. At the same time, and very understanding of the text associated with the construction of this Code. It is therefore important to consider the text as an object of hermeneutic analysis is carried out in the course of what his understanding. The process of perception and understanding of the text of criminal law proceeds on the same laws, and the perception that the statements on the basis of the mechanisms of probabilistic forecasting. This process involves the reception of the visible elements of the language, establishing their relationship and specification of representations of their meaning. However, this process is subject to the laws of general psychological perception of the text. For example, as stressed by V.P. Belyanin, in the perception of the text as it would be mounted in the reader’s mind of the sequence of alternating segments, relatively complete semantically. The next stage is matching text elements. After that, the process of realizing content structure of the text as a whole is possible restructuring of their original ratio. In parallel there is awareness of the subject of understanding some common sense

(concept) of the text, which is largely formed by taking into account the possible implication [16, p. 68].

Given the nature of hermeneutic interpretation, the procedure for interpretation of the text of the Criminal Code is a specific type of legal activity with him. It is therefore important to identify those categories that are inherent in the text as the subject of hermeneutic analysis.

First, the text of the Criminal Code should have informative. This is the basic text category, which determines the functioning of the text as a unit of communication. In contrast to the work of art that can be re-read several times and each time to take it in a new way, get new experience, a legal text (the text of the law) cannot give room for such a perception. Dimensions information in it must be rigid, with strictly defined boundaries and how many times to read the same text, it must always be perceived unambiguously. The information in the legislative text is organized into information blocks cycles. Cyclicity of presenting information is achieved by constructing a hard text. Some of the required attributes of the Criminal Code includes text, primarily headers parts (“General Section”, “Special Part”), sections (for example, the name of the Special Part of Section 17 “Crimes in performance management and professional activities related to the provision public services”) and articles (for example, the name of art. 368 “Accepting the offer, promise or receipt of unlawful benefit by an official”). Nevertheless, in the headlines yet legislative information. They perform only a landmark, representative function. It serves as the title of the official summary of the relevant structure of the Criminal Code of Ukraine. Therefore, it must start with a hermeneutical analysis of the text of this Code, or part thereof. A.I. Sitnikova believes that “the title from a position of textual criticism is the text in the original theme-rhyme relations. Essentially header is a subject for your message. Text in relation to the title acts as a theorem, that is, the content of the message”. “Titles of the criminal law and its regulatory units act as semantic and structural landmarks, the presence of which allows you to quick access accurate and reliable information on the structure of the law, its institutions, systemic

linkages and criminal legal requirements, and generalized their relative content of each regulatory unit” [15, p. 44-45].

The text of the Criminal Code should “submit” to the addressee valuable information. This may be achieved primarily through the use of a legal textual lyrics completed regulatory Requirements. Conditionally incomplete prescriptions can be considered are those in which there are blanket disposition. Indeed, in the enforcement process in order to understand the content of the relevant regulations should contact their regulatory legislation. For example, the subject of offenses covered by articles 365-2 and 368-4 of the Criminal Code of Ukraine, is the auditor, notary, appraiser, another person who is not a public servant, official of local self-government, but exercising professional activities related to the provision of public services, including the services of an expert, the arbitration manager, an independent mediator, member of the labor arbitration, the arbitrator. To establish special features of the perpetrator must be treated to a variety of legal acts, such as the Law of Ukraine “On Auditing” [16] “On the assessment of property, property rights and professional valuation activities” [17], “On the reconstruction of solvency debtor or declaring bankruptcy” [18] and others.

The text of the Criminal Code has a composite structure. It uses both graphic and compositional tools. These include “the existence of groups with names (parts, sections, chapters, articles); sequentially numbered sections; chapters and articles, with names; alphanumeric literatsiya articles divided into parts that do not have names; composite partitioning text penal requirements paragraphing, and use as compositional elements graphic delimiters” [19, p. 201]. Let us make this position a scientist. We believe that the composition of the text – graphics resources of the Criminal Code are heading with the name “section ...”, “article ...”, “note ...”, section headings and articles; sequentially numbered sections, articles, numbering notes, digital and (or) character literatsiya parts of articles, paragraphs; delimiters (commas and hyphens).

Another feature of the text of the Criminal Code is its temporality, showing objective time in the text and serves to temporal orientation by means of different

linguistic means. Temporality in the text of a regulatory act may appear as dating, duration, recurrence, simultaneity, consistency, continuity [20, p. 46]; timeliness, duration or timing, speed or pace [21, p. 20], time, duration, consistency, concurrency, repetition, intensity (tempo), rhythm, continuity [22, p. 15].

When hermeneutic analysis of the text of the Criminal Code should be emphasized that it is one of the parameters that determines the point that causes legal consequences. First of all, you need to pay attention to the use of dispositions in the articles of the Criminal Code of Ukraine verbal nouns denoting a socially dangerous act. Use of verbs of the type and nouns formed from them indicates that the legislator binds offensive legal consequences not only with the fact that certain actions (or inaction), but the fact of the occurrence of a result which persecuted the subject in the commission of these acts for alone actions that are not pulled a certain result, and the consequences do not occur, provided the norm [23, p. 136].

Nouns derived from verbs perfect form, also show that an offense under that article, where it is used, will be considered completed after the completion of a specific action. We point out that all socially dangerous acts in Section XVII of the Criminal Code of Ukraine s legislator described using just such nouns (“acceptance of an offer or promise” - Part 1 of Art. 368, “receive” - Part 2 of Art. 368, Part 1 Art. 368-2, Part 3. 368-3, Part 3. 368-4, “a suggestion that” - Part 1 of Art. 368-3, Part 1, Art. 368-4, Part 1 Art. 369 of the Criminal Code of Ukraine). That is such a crime should be recognized over from the moment when fully implemented socially dangerous act – for example, a person accepted the offer or promise to give undue advantage. They should be referred to the formal elements of crimes.

Use dispositions of articles of the Criminal Code of nouns formed from verbs imperfective indicates that the offense is considered over from the commission of a socially dangerous act, regardless of its success. This type of nouns in the articles of Section 17 of the Criminal Code of Ukraine is not used.

Thus, interpreting the text of the Criminal Code of Ukraine in the context of its temporality, we can determine the end of the crimes. Thus, tangible offenses should be considered completed with the onset of socially dangerous consequences, which

are either expressly envisaged in the dispositions of articles of the Criminal Code of Ukraine, or are derived from the establishment of the content of other evidence of a crime; formal compositions – from the time when fully implemented socially dangerous act (action or inaction) directly provided in the disposition of articles of the Criminal Code of Ukraine; truncated – the moment when the subject of crime began to perform a socially dangerous act, directly referred to in the disposition of articles of the Criminal Code of Ukraine, regardless of its success.

In addition, the temporality of the text appears in Part 1 of Article disposition. 365-2 and 368-4, Part 1 of the Criminal Code, finding that the abuse of power by persons engaged in professional activities related to the provision of public services and bribery of such persons may be recognized crime only when the acts committed during the performance of such functions. That is, in the course of criminal law qualifications necessary to establish the starting and ending points of origin and termination of the offender functions. If the relevant acts committed in another period, they cannot be classified under articles 365-2 and 368-4 of the Criminal Code of Ukraine.

Another feature of the text of the Criminal Code of Ukraine is its goal orientation. According to information theory, the target text, the text as an integral communicative unit created for a specific purpose in accordance with the intention (intention) of the author's conception and purpose [24, p. 26]. According to A.I. Sitnikova, "legislative text forming its regulatory requirements and legal institutions express legislative intention, that is the intention of the legislator to protect the criminal law means the most important public relations , to ensure the preservation of peace and security of mankind, to prevent the commission of new attacks on legally protected objects" [15, p. 53]. The purpose of regulatory requirements stipulated in Section XVII of the Criminal Code of Ukraine – the protection of public relations in the field of performance management and professional activities related to the provision of public services.

The text of the Criminal Code should characterize and pragmatism (pragmatic installation). "The text contains information not only expresses the author's intention,

but also includes a commitment (installation) to achieve practically useful results” [24, p. 29]. We point out that the text of the Criminal Code of Ukraine pragmatic manifested primarily in units of the legislator. In so far as he can clearly explain the purpose of enabling legislation and what results he pursues it. Pragmatism often achieved through the implementation of international instruments into national legislation. What generally happened and articles of Section 17 of the Criminal Code of Ukraine. In order to implement the provisions of the UN Convention against Corruption of 31 October 2003 and the Criminal Convention against Corruption of 27 January 2009 in Ukraine was significantly updated anti-corruption legislation. Appropriate changes were made to Section XVII of the Criminal Code of Ukraine [25, p. 26]. When hermeneutic analysis of the text must be considered objective, in accordance with which they were taken or other criminal laws, as indicated in the explanatory notes to fit the bill. For example, in the explanatory memorandum to the draft Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on bringing national legislation into conformity with the standards of Criminal Law Convention against Corruption” states that the need for adoption of the draft law is due to the need to bring Ukrainian legislation in line with the recommendations Ukraine provided by the results of the third round of evaluation by the Group of States Against corruption (GRECO) [27]. That is, it is necessary to interpret the text of the Criminal Code of Ukraine through the prism of the goals set by the legislator during his acceptance.

The text of the Criminal Code should be properly structured. The largest “criminal law blocks” are General and Special Parts. Next, each part is divided into sections that include articles and notes on articles. Articles and notes on articles, in turn subdivided into parts, and some of them – into paragraphs. In the structural organization of the text of the Criminal Code and includes the appropriate headers.

Thus, for example, examined the text of Section 17 of the Criminal Code of Ukraine “Crimes in the sphere of performance and professional activities related to the provision of public services”, we can conclude that he as subject hermeneutical

analysis inherent traits such as informative, temporality, the target orientation, pragmatism (pragmatic setting) structuring.

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