Summary The paper reveals the features of doctrinal analysis of the process of criminalization and systematization of crimes related to illegal handling of minerals. Levels of legal regulation and possible personal features of criminalization of actions are found out. The purpose of the article is to clarify the nature, features, legal nature and characteristics of criminal law protection of minerals of national importance, to identify problems of formation of a set of legal regulations on combating illegal mining (Articles 240, 2401 of Criminal Code of Ukraine), as well as the development of proposals and recommendations for improving the legal regulation of the problem. To this end, the paper identifies economic, legal and methodological principles for combating illegal handling of minerals (Articles 240, 2401 of the Criminal Code of Ukraine) and formalizing the relevant provisions of criminal law. The need to reconstruct Criminal Law in force is argued.

Key words: sustainable development, minerals, criminal policy, criminal offenses related to illegal handling of minerals, amber.

Introduction

Crimes against the environment are socially dangerous, criminally unlawful intentional or negligent acts committed by the subjects of these crimes with the use of tools, means, sources of crimes, or with the use of the circumstances of their commission, which encroach on the relationship, which ensure the existence of a multifunctional balanced unified system of life and man and cause significant harm to these relations or endanger them to cause such harm. Every state must have effective mechanisms for the protection and preservation of the environment, which stimulate compliance, prevent future violations, and compensate for the damage caused. One of the mechanisms to ensure compliance with environmental standards is the institution of legal liability, which can actually occur and which is commensurate and adequate to the damage caused to the environment.

Main Part.

The study of criminal law protection of minerals as a socially and historically determined phenomenon is a complex process to study the social preconditions for criminalization of such crimes, the peculiarities of the modern concept of criminal law protection and prospects for improving the relevant rules [1,2]. Under criminal law protection are measures to ensure the security of existing public relations and interests and deter citizens from criminal encroachment by defining in criminal law harmful to the individual, society and the state offenses and establishing criminal penalties and other measures of criminal law influence.
The presence of numerous scientific positions, which are sometimes contradictory on certain debatable issues regarding the regulation of criminal law protection of minerals, property aspects indicates both the urgency of the issue and the significant complications in the process of qualifying crimes that affect the relevant objects [3,4].

We are trying to clarify the nature, features, legal nature and characteristics of criminal law protection of minerals of national importance, to identify problems of formation of a set of legal regulations on combating illegal mining (Articles 240, 2401 of Criminal Code of Ukraine), as well as the development of proposals and recommendations for improving the legal regulation of the problem [5].

To this end, the paper identifies economic, legal and methodological principles for combating illegal handling of minerals (Articles 240, 2401 of the Criminal Code of Ukraine) and formalizing the relevant provisions of criminal law; theoretical and methodological analysis of scientific research on the state of counteraction to illegal handling of minerals (Articles 240, 2401 of the Criminal Code of Ukraine); the content, nature and purpose of modern criminal law policy to combat environmental crimes in the comparative legal sense are revealed.

It is proved that among the crimes against the environment, the illegal extraction of minerals of and international national importance has a special place. The negative consequences of crimes in this category lead to damage to the country's economy and environment in those regions where minerals are located and are actively extracted. That is why, in order to effectively protect this constitutional right, the state faces the task of protecting the environment and controlling the rational use of minerals [6].

The legislation governing these relations needs to be improved, as it has such features as inconsistency, some inconsistency with other general rules, incompleteness, lack of stability, clear legal definitions and guarantees. The relevance of this research is also due to the insufficient level of theoretical development of the problem of criminal law management of natural resources in general, and minerals [7].

The lack of a comprehensive study of the law of geological study of subsoil necessitated a theoretical definition of its concept, types, object-subject composition, practical solutions to organizational, procedural, economic and jurisdictional support, as well as identifying prospects for development and improvement of legislation governing relations, criminal and legal support for the management of natural resources. Numerous amendments to Section VIII of the Special Part of the Criminal Code, introduced by the legislator over the past few years, have not strengthened the system of environmental prohibitions, but, on the contrary, "unbalanced" the system that was observed in the first years after the current Criminal Code.

The purpose of liability is not only the application of negative consequences in the form of punishment of the violator, but also the correction of the latter, prevention of similar violations through the fault of this and other violators, as well as compensation for the restoration of the situation that existed before the violation [7].

The methodology for addressing this issue is based on the concept of sustainable development, when economic growth, material production and consumption, and
other activities of society occur within the limits determined by the ability of ecosystems to recover, absorb pollution and sustain present and future generations.

The task of Ukraine's criminal policy in this direction is to form adequate prohibitions, harmoniously combining the characteristics of different legal families and unification of crimes, and, if possible, punishments in order to adequately respond to criminal challenges against human rights to a safe and sustainable environment.

In the course of the research the conceptual and categorical apparatus of the criminal-legal policy of counteraction to ecological crimes in the sense of determining the objective side of the warehouses of illegal use of minerals and amber mining was improved. Provisions have been developed on the thesis on the inexpediency of combining violations of the rules of protection and use of subsoil with illegal use of minerals. The personal characteristics of the subjects of criminal legal relations under investigation in the sense of recognition of mainly group commission of these types of crimes are revealed [9]

We argue that there is an urgent need to use the term "environmental crimes" instead of "crimes against the environment", which gives impetus to the use of the UN Sustainable Development Goals methodology in future criminal policy to improve the existing system and legal features of relevant crimes. development of new corpus delicti and actualization of the issues of application of criminal security measures in the sense of mechanisms for regulating liability for criminal offenses related to illegal handling of minerals.

Thus, an environmental crime can be understood as a socially dangerous, criminally illegal act committed by the subject of the crime and encroaches on public relations in the field of environmental safety, environmental protection as a set of natural and natural conditions and processes, as well as protection, use, preservation and reproduction of natural resources.

Noting the possibility of using the characteristics of the material feature of the crime (danger to the state and society) for the formation of criminal law policy in the field of combating environmental crimes, it should be emphasized that in modern society such crimes are determined by the importance of illicit practices for individuals (social groups). these norms in the subculture, or in society as a whole. This leads to the inefficiency of the system of criminal law counteraction in general.

In the legal literature you can read about different points of view on the definition of the generic object of crimes, the rules of which are located in section VIII of the Special Part of the Criminal Code, given that this section also contains rules governing the various spheres of social life covered [9].

At the same time, the position in the proposed discourse seems to be rational, according to which the understanding of the generic object of these crimes through the prism of public relations in the field of environmental security should be somewhat generalized - it needs a broader interpretation and should cover all areas.

Taking into account this thesis, expressed his understanding of the generic object of environmental crimes: it is a set of legal relations in Ukraine, consisting of the use, distribution, exchange and consumption of goods to ensure the established order of environmental protection, works and services in the context of
environmental safety.

It is logical to add that for greater specification of the features of the common object of certain groups of environmental encroachments, depending on a particular type of activity, in environmental crimes also distinguish species objects, which determine their system, more or less established classification into relatively autonomous groups of actions.

The objects of the crime provided by Article 240 of the Criminal Code of Ukraine are minerals of national importance. The list of minerals of national importance is established by the Cabinet of Ministers of Ukraine. Minerals are natural minerals of organic and inorganic origin that can be used directly or after processing. According to their purpose, they are divided into minerals of national and local importance. Minerals belong to non-renewable natural resources, the geological rate of formation or accumulation of which is much lower than the rate of human consumption. Illegal mining of national importance is the implementation of their extraction without a permit (without an act of granting a mining allotment or with a deviation from the conditions specified in this document). A crime will also occur if the permit is forged or expired. In addition, the disposition of Article 240\(^1\) of the Criminal Code of Ukraine is artificial, which does not meet the requirements of criminal law policy, and should be changed in the future. The development of the doctrine of combating illegal mining as an independent subsystem of norms in the sense of responsibility for environmental crimes; illegal handling of minerals is characterized as a subsystem consisting of general (Article 240 of the Criminal Code of Ukraine) and special rules (Article 240\(^1\) of the Criminal Code of Ukraine);

It has been proven that illegal handling of minerals is the dominant and main type of illegal use in the form of extraction, transportation, storage, processing, disposal, disposal, disposal or burial. It is concluded that it is necessary to clarify the objective side of the main components of illegal use of minerals and amber mining.

It is proposed to adopt a new rule on combating illegal handling of minerals, separated into the main composition of the criminal offense the composition of illegal handling of minerals, which clearly defines the system of actions in the field of illegal use of minerals, making illegal handling of amber. This corresponds to the temporary principles of effective functioning of norms aimed at counteracting the mechanisms of illegal economic use of Ukraine's natural resources.

Illegal handling of minerals of local significance should be considered a criminal offense after the relevant reform of the Criminal Code of Ukraine.

**Literature:**

1. Турлова Ю. А. Протидія екологічній злочинності в Україні: кримінологічні та кримінально-правові засади. дис…доктора юридичних наук 12.00.08 Київ, 2018. – С.3.

2. Нетеса Н. В. Кримінальна відповідальність за порушення правил охорони або використання надр : автореф. дис. …канд. юрид. наук : 12.00.08. Харків, 2012. 33 с.

3. Каракаш І. І. Теоретичні проблеми права власності на природні об’єкти та їх ресурси в Україні : автореф. дис. ... д-ра юрид. наук : 12.00.06 - Одеса,
2018. - 44 с.
4. Національна стратегія наближення (апроксимації) законодавства України до права ЄС у сфері охорони довкілля. URL: https://menr.gov.ua/files/docs/draft_NAS_FEB2015.pdf

Анотація В роботі визначені основні тенденції розвитку вчення про протидію незаконному поводженню з корисними копалинами як самостійної підсистеми норм у сенсі відповідальності за екологічні злочини; охарактеризовано незаконне поводження з корисними копалинами як підсистема, що складається із загальної (ст.240 КК України) та спеціальної норм (ст.2401 КК України).

Наявність численних наукових позицій, які іноді є протилежними з приводу окремих дискусійних питань щодо регламентації кримінально-правового забезпечення поводження з природними ресурсами, вказує як на актуальність проблематики, так і на значні ускладнення у процесі кваліфікації злочинів, які посягають на відповідні об’єкти.

Злочини проти навколишнього природного середовища – це суспільно небезпечні, кримінально-протиправні умисні або необережні діяння, вчинені суб’єктами цих злочинів із застосуванням знань, засобів, джерел вчинення злочинів, або за використанням обстановки їх здійснення, які посягають на відносини з приводу умов (стосунків), що забезпечують існування балансово-функціональної збалансованої єдиної системи життєдіяльності і людини та завдają їм істотною шкоди або ставлять їх під загрозу заподіяння такої шкоди. Отже під екологічним злочином можна розуміти суспільно небезпечне, кримінально протиправне діяння, що вчинене суб’єктом злочину та посягає на суспільні відносини у сфері забезпечення екологічної безпеки, охорони навколишнього природного середовища як суккупності природних і природно-соціальних умов та процесів, а також охорони, використання, збереження й відтворення природних ресурсів.

Констатуючи можливість застосування характеристик матеріальної ознаки злочину (небезпека для держави та суспільства) для формування кримінально-правової політики у галузі протиоди екологічним злочинам, слід підкреслити, що у сучасному суспільстві такі злочини демонструють значущістю недозволених практик для особистості (соціальної групи) та підкріплюється толерантністю до порушення нобих норм у субкультури, чи у соціумі у цілому. Це веде до неефективності системи кримінально-правової протидії злочинам.
Незаконне видобування корисних копалин загальнодержавного значення - це здійснення їх видобування без відповідного дозволу (без акту про надання гірничого відводу або з відхиленням від умов, зазначених у цьому документі). Злочин буде мати місце і в тому разі, коли дозвіл є підробленим або простроченим. Поруч з цим диспозиція ст.2401 КК України є штучною, яка не відповідає вимогам кримінально-правої політики, та у майбутньому повинна бути змінена.

Доведено, що незаконне користування корисними копалинами та бурштином існує у вигляді видобування, перевезення, зберігання, оброблення, утилізації, знищення, видалення або захоронення предмету злочину. У цілому воно може бути охарактеризовано як незаконне поводження з корисними копалинами.

Запропоновано прийняти нову редакцію норми про протидію незаконному поводженню з корисними копалинами, відокремив в основний склад кримінального правопорушення склад незаконного поводження з корисними копалинами, у якому чітко визначити систему дій у галузі незаконного використання корисних копалин, зробивши кваліфікованим складом незаконне поводження з бурштином. Це відповідає тимчасовим засадам ефективного функціонування норм, спрямованих на протидію механізмам незаконного економічного використання природних багатств України.

Ключові слова: сталій розвиток, корисні копалини, кримінальна політика, кримінальні правопорушення пов’язані із незаконним поводженням з корисними копалинами, бурштин.

Scientific advisor: LLD, professor Viacheslav Tuliakov

© Virt A.A.