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**Features of criminal liability for fulfilling professional duties by a crew member or air traffic control dispatcher while being intoxicated or under the influence of narcotic or psychotropic substances**

*This article defines and analyzes the objective and subjective features of the crime, provided for in Art. 276-1 of the Criminal Code of Ukraine, as a professional activity of a crew member or air traffic control by the air traffic controller (traffic control dispatcher) in a state of intoxication or under the influence of narcotic or psychotropic substances, a crime is recognized.*

Ensuring a high level of flight safety, in particular, depends on the steady compliance with the duties of crew members and other aviation personnel. However, today, cases of gross violations of the requirements of aviation security are very frequent, the reasons for which are professional activities in the state of alcohol intoxication or under the influence of narcotic or psychotropic substances that can lead to disasters, aviation events, incidents, deaths of people and property damages.

In order to ensure safety and prevent negative consequences on air transport, measures of criminal legal influence are important, namely, prosecution, in particular for carrying out professional activities by a crew member or serving the air traffic controller by air traffic controller (traffic control dispatcher) in the state of alcoholic Drinking or under the influence of narcotic or psychotropic substances. This approach corresponds to the general trends in the development of criminal legislation of foreign countries, since the criminal liability for managing a vehicle under the influence of alcohol is foreseen in Albania, Andorra, Bulgaria, the Federation of Bosnia and Herzegovina, the United Kingdom, Hungary, Germany, Denmark, Spain, Canada, Latvia, Poland, Portugal, USA, Finland, Switzerland and Estonia [1, p. 384].

Thus, in order to resolve issues of criminal responsibility, it is necessary to correctly identify the features of the composition of the crime envisaged in Art. 276-1 of the Criminal Code of Ukraine.

As all know, the crime consists of four main elements: an object, an objective side, a subject, a subjective side. In the science of criminal law, the object of the crime is divided into: general, generic and direct. Crime envisaged by Art. 276-1 of the Criminal Code of Ukraine, located in Section XI of the Criminal Code of Ukraine "Crimes against traffic safety and operation of transport", and therefore the generic object of the crimes that it covers, is the safety of traffic and operation of transport [2, p. 107].

In general, the object of the crime should be understood as the social relations taken under the protection of the criminal law rules, which were committed and harmed.

In turn, under the safety of movement or operation of transport should be understood as the absence of danger and the presence of a state of protection of vital interests of the state, society, a person, in which not caused and can not be harmed by life and health of people, property, other social values due to movement or operation of transport.

Since the crime provided for in art. 276-1 of the Criminal Code of Ukraine is committed on air transport and affects the safety of traffic and operation of air transport, the main direct object of this crime is the safety of flights of aircraft, that is, the state of air transport, in which the risk of damage or damage is reduced or limited to acceptable equal.

Drawing attention to the fact that the violation of the safety of aircraft flights poses a threat to disasters, aviation events, incidents, deaths and property damage, it is necessary to select an additional optional object, which can be life and health of people, property, public safety, environment and other.

The objective side of the crime, stipulated in Art. 276-1 of the Criminal Code of Ukraine is expressed in two acts: 1) the exercise of a professional activity by a crew member; or 2) air traffic control by the air traffic controller (traffic control dispatcher), if such acts are committed in the state of alcohol, narcotic or other intoxication or under influence drugs that reduce attention and speed of reaction.

Thus, this crime has a formal composition and is considered complete from the moment of its commission.

Carrying out professional activities by a crew member is the procedure provided for by the management of aircraft operation, maintenance of the equipment, mechanisms, devices required for the flight of the aircraft and equipment installed on the aircraft necessary for the flight task, as well as ensuring passenger safety procedures aboard and servicing the aircraft.

Air Code of Ukraine, namely Part 4 of Art. 58 prohibits a crew member from drinking alcohol less than eight hours before the scheduled time of performing his duties in flight or announcing a readiness regime, taking flight duty with alcohol levels in excess of 0.2 pounds and using alcohol during Flight or Standby [3].

In addition, Art. 50 PCs of Ukraine establishes that the owner of the certificate (aircraft pilot, air traffic controller (traffic control dispatcher), crew member of the passenger cabin (flight attendant), etc.) is prohibited from carrying out professional activities provided for by the certificate and corresponding ratings, being under the influence of any psychotropic substances that may lead to the inability to perform properly the professional functions in accordance with the established safety requirements.

In accordance with clause 2.1.28 of the Rules for issuing certificates to aviation personnel in Ukraine and clause 1.3 of the Rules of Civil Aircraft flight in the airspace of Ukraine, alcohol, opioids, cannabinoids, sedatives, hypnotics, cocaine, other psychostimulants, hallucinogens are classified as psychoactive substances, and volatile solvents.

It should be noted that normative legal acts in the field of civil aviation use, in particular, a term as a psychoactive substance, which in turn includes the notion of alcohol, narcotic drugs, psychotropic substances and other substances and agents that affect work of the brain, changing the psyche and human behavior.

An offense should be considered as having ended from the moment a person in the state of alcohol, narcotic or other intoxication commences his duties. The fact of intoxication must be certified by a medical examination and confirmed by an appropriate act.

Article 276-1 of the Criminal Code establishes criminal liability for crew members and air traffic control dispatcher (traffic service dispatcher). In this case, the subject of this crime is special - the crew members (the person of the flight composition, which includes the crew of the flight crew and the crew of the passenger and cargo salon) and the air traffic control manager (the person who carries out air traffic control services and has a certificate of the traffic service dispatcher with valid ratings according to the given rights).

For the subjective side, the presence of guilt in the form of direct intent is characteristic. Thus, a person of aviation personnel is aware that he carries out his professional duties and duties in the state of intoxication under the influence (action) of psychoactive substances (alcohol, narcotic drugs, psychotropic substances) or any preparation that can lead to inability properly perform professional functions and may endanger the safety of flights and the operation of air transport, and wishes to carry out its functions in such a condition.

In this situation, the motives and the purpose of committing such an act may be different. They do not influence the qualification, but are taken into account only when sentencing [4, p. 541].

Consequently, for the onset of criminal liability under Art. 276-1 of the Criminal Code of Ukraine it is necessary to have the fact of committing a crime as the actual ground of criminal liability, and the legal basis, namely the presence in the committed person of a socially dangerous act of the crime – all its objective and subjective features.

## References

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