Very soon the right of "liberum veto" became abused. It started to be a formidable tycoons' weapon who were seeking after hegemony under the weakened central government. But none of their groups was strong enough to take all the power into their hands. So they united with the gentry and were hoping for preserve the balance of power through the liberum veto as a brake, as a way to block unwanted decisions. The state of equilibrium of forces just helped idealization installed image, the desire to keep it intact.

Another important characteristic of the gentry democracy was the right to create confederations. A confederation was not recognized by the King. It was called Rokash and was an official form of armed struggle against the government. During the 17 century confederations rose in the Commonwealth dozens of times - whether to revolt against the monarchy and achieve their demands, or to support it. Achieving their political goals confederations drew into public life wide circles of the gentry and the army. And illustrious lords besides the number of the serving nobility had various military units that were sometimes stronger than the state army. For example, "Slutsky Jerome Prince Radziwill Florian (1715–1760) held the 6000 regular army and as many Cossacks and shooters. In order to prepare officers for his army Radziwill opened in his residences in Slutsk and Nyasvizh special cadet corps, and his brother Jerome said Florian Hetman Michael Casimir founded in Nyasvizh his own military academy. The presence of such a force in the ambitious oligarchs led to the decentralization of power and risks of political anarchy in the Commonwealth" [4].

Gradually gentry democracy turned into an aristocratic oligarchy. Groups of large magnates who owned a strong reputation in the state were formed. These groups included the gentryklientela magnates.

Disorder undermined the already weak state. In such circumstances, the nobility was demoralized. Gifted with all the privileges, dominating over the whole society, the gentry, as the state, was experiencing apathy and degenerates. For general internal disorder new particularism revolted again which paralyzed weak Rzeczpospolita. A huge multinational state is one outwardly seemed to be more united. It had already been eroded by internal antagonisms for a long time and politicians' mistakes only deepened them. It was very hard to change something because as it has been mentioned the magnaterii and Catholic clergy resisted the reforms.

In the last third of the XVIII century an opportunity of internal reforms appeared in Rzeczpospolita. Many of the reforms of the state system were taken as a result of the so-called four-year Sejm. However, the reform of the political system could not be implemented to a certain extent, it was too late. Just in a few years Rzeczpospolita ceased to exist as an independent state and was divided between Russia, Prussia and Austria.

REFERENCES

1. Вішнеўскі, А.Ф. Гісторыя дзяржавы і права Беларусі : вучэб. дапам. / А.Ф. Вішнеўскі, І.У. Вішнеўская. – Мінск: Тетра-Сістемс, 2005. – 192 с.
2. Галечанка, Г. Развіццё шляхецкай дэмакратыі ў Вялікім княстве Літоўскім у XVI–XVIII ст. / Г. Галечанка ; пер. з рус. А. Шаланда // Герольд Litherland. – 2001. – № 3. – С. 85 – 102.
3. Кутшеба, С. Очерк истории общественно-государственного строя Польши / Пер. с польского и вступительная статья Н.В. Ястребов. – СПб. : А.С. Суворина, 1907. – 231 с.
4. Сагановіч, Г. Нарыс гісторыі Беларусі ад старажытнасці да канца XVIII ст. / Г. Сагановіч. – Мінск : Энцыклапедыкс, 2001. – 412 с.

UDC 343.2(476)=111

THE SUBJECT OF CRIMINAL LIABILITY IN THE REPUBLIC OF BELARUS

INGA VASILYEVA, VLADZIMIR KHOMICH
Polotsk State University, Belarus

The subject (perpetrator) is one of the obligatory elements of a crime. Actually, without his participation, a forbidden act cannot be committed. Criminal law defines the subject of a crime as the person who is able to bear criminal responsibility for the commission of forbidden acts stipulated by the penal code. Nevertheless, as the practice demonstrates, not every perpetrator bears criminal responsibility, because not everyone can do this. It is, therefore, necessary to consider what characteristics determine the ability of the perpetrator to bear criminal responsibility, who stipulates these characteristics, and what is their scope.

The characteristics of the subject of a crime have been defined in the penal code of the Republic of Belarus (PC RB) of 1999 in chapter 5 of division II titled, "Terms of criminal responsibility". They are listed in art. 27 of the PC RB, which says that "only a person who is accountable, and who has reached the age specified

in this Code is the subject of criminal responsibility". Consequently, this provision means that the characteristics of the subject of a crime are: accountability, being a natural person, and having a certain age. These characteristics constitute the obligatory characteristics of a subject of any crime.

Such approach means that the Belarusian legislator links criminal responsibility with the person's ability to recognize his or her actions and to direct them. A lack in the perpetrator of one of these elements excludes his or her criminal responsibility.

The Belarusian criminal code considers only a natural person, or **a human**, i.e. a rational creature who has free will, as a subject of a crime. This means that neither animals nor objects can be considered as perpetrators of a crime. According to Belarusian lawyers, such an approach completely fulfills the tasks of criminal law, its principles, the notion of a crime, and the purposes of a punishment defined in the law itself.

Consequently, in accordance with the classical criminal law principle of individual responsibility that the Russian law incorporates, the penal code does not allow a legal person to be considered the perpetrator of a crime. Although during the works leading to the enactment of the current penal code, the inclusion of this category of persons as subjects of criminal responsibility was considered, but ultimately such a provision of law was dismissed. The responsibility of such entities was regulated in civil and administrative law.

Another characteristic of a subject of crime is his or her **age**. The Belarusian legislator, in determining the age at which criminal responsibility becomes possible, used the psychological criterion. The age limit was linked to the level of intellectual development of the individual, his or her ability to comprehend the nature and social impact of the act, to evaluate the act, and on the ability to realize his or her needs in accordance with social norms. The legislator concluded that the ability to recognize the surrounding world, its appraisal, the ability to make a choice between various motives occurs inline with a person's biological and social development; at the moment when a certain level of legal awareness is in place. Therefore, criminal responsibility should be effective once a person reaches a certain age. In Art. 27 of the PC RB, the legislator stipulated two age limits that constitute a basis for criminal responsibility. In principle, persons who have reached the age of 16 at the time the crime is committed face criminal responsibility(art. 27, item 1, PC RB); except for responsibility of persons who have reached the age of 14 (art. 27, item 2, PC RB). Article 27,item 2, of the PC RB states that a minor who, at the moment of committing a crime, has reached the age of 14, is subject to criminal responsibility for: committing a homicide (art. 139), deliberately causing a grave bodily injury (art. 147), deliberately causing a medium bodily injury (art. 148), rape (art. 166), committing sexual acts using violence (art. 167), kidnapping a person (art. 182), theft (art. 205), plunder (art. 206), robbery (art. 207), extortion (art.208), illegal seizure of a car or another means of transportation (art. 214), deliberately destroying or damaging property in aggravating circumstances (art. 218, item 2, 3), taking a hostage (art. 291), theft or extortion of weapons, ammunition and explosive materials (art. 294), incapacitating means of transportation or roads (art. 309), theft or extortion of intoxicating or psychotropic substances (art. 327), hooliganism in incriminating circumstances (art. 339), false message about the dangers (art. 340), vandalism (art. 341), and other . The legislator has concluded that the nature of these crimes, their danger to the society, and the fact of deliberate commission, are adequately understandable for 14 years old persons.

However, this does not mean that minors bear responsibility on the same level as adults. In sentencing the court takes into consideration the principle of humanism, as well as regulations concerning sentencing in cases involving minors, the course of serving the sentence, the ability to release them from criminal responsibility. The issue of criminal responsibility of minors is regulated in the general part of the PC RB, in chapter V "Criminal responsibility of minors". Moreover, in art. 27, item 3, of the PC RB, the legislator provides for the release of a minor from responsibility despite reaching the age of criminal responsibility in situations where, as a result of a delay in his or her mental development, nor related to a mental disorder, he or she is unable to fully realize the actual nature and the threat to the society caused by his or her actions (or omissions) or to direct his or her actions [1, p. 122]. Thus, the abovementioned provision, called the age non-accountability, excludes criminal responsibility of minors. Because the age of a perpetrator of a crime is determined at the time the crime is committed, the exact date of the person's birth (day, month, and year) is important with respect to his or her criminal responsibility. Belarusian legislator states that "a person is considered to have reached the age where the criminal responsibility starts, not starting on the day of birth, but after twenty four hours which starts the next day, i.e. starting at 12.00 AM". The Belarusian penal code does not provide for a category of a juvenile Perpetrator.

Another characteristic of a subject of crime is **accountability**. The Belarusian law specifies that only an accountable (able in body and mind) person can be the subject of a crime. However, the PC RB does not provide a precise definition of the notion of accountability. Nevertheless, it defines non-accountability, in art. 28 of the PC RB, as a state in which a person "could not realize the actual nature and the danger to the society posed by his or her actions (omissions) or to direct them, due to a chronic mental disorder, a temporary mental disorder, a

mental handicap or another pathological mental state". The consequence of actions (omissions) in such a state is exemption from criminal responsibility. This definition indicates that the legislator has characterized the state of non-accountability by two criteria. One of them constitutes a basis of determining the biological pathological state of the body, which consists in:

– a chronic mental disorder, characterized by a long duration and frequency of pathological states (e.g. schizophrenia, epilepsy, manic-depressive psychosis);

– a temporary mental disorder (e.g. pathological drunkenness, alcoholic psychoses);

– mental handicap (oligophreny, imbecility, idiocy);

− other mental condition.

The second criterion characterizes the mental state of the person at the moment the crime is being committed. It is such a level of intellect that makes it impossible to realize the actual nature and the danger to the society posed by one's actions (omissions), as well as an element of will which makes it impossible to direct one's actions. This criterion is called legal or psychological [2, p. 134].

In order to conclude a state of non-accountability it is necessary to determine, through psychiatric expert examinations ordered by the court, the presence in a person of one form of a mental disorder. The conclusion of a mental disorder in the perpetrator of a crime testifies to the lack of one characteristic required of a subject of crime. Consequently, actions conducted by a person who cannot, due to a pathology, realize the nature of his or her actions or to direct them, ought not to be considered as criminal, and such a person is not subject to a punishment. Consequently, according to the provisions of law, such a person does not commit a crime and does not bear criminal responsibility [3, p. 201]. On the other hand, on the basis of art. 28item 2 of the PC RB the court may apply towards this person the means of coercion of medical nature stipulated in the PC RB.

At this moment we should mention the issue of criminal responsibility of persons with a mental disorder which does not eliminate accountability. This is how the Belarusian law describes limited accountability. According to art. 29, item 1, of the PC RB, "an accountable person who, at the moment of committing the crime, due to a mental disorder, could not fully realize the actual nature and the threat to the society posed by his or her actions (omissions) or direct them, is subject to criminal responsibility".

This means that the legislator has identified limited accountability not as a state between accountability and non-accountability, but as a part (manifestation) of accountability [2, p. 146]. Thus, the legislator has provided for a full criminal responsibility in such cases.

On the other hand, according to art. 29 item 2 of the PC RB, acting in the state of limited accountability should be taken into consideration by the court at sentencing and may constitute a basis for applying measures of coercion of medical nature. At this stage of the analysis it is necessary to present a regulation concerning the responsibility of a drunk or intoxicated perpetrator of a crime.

This regulation demonstrates that the Belarusian penal code does not release a person from responsibility for crimes committed by him or her in a state of intoxication that resulted from consumption of alcohol, narcotics or other intoxicating substances. What this means is that such a person is responsible on the basis of general principles. Consequently, a state of intoxicationis not considered at all by the legislator in the aspect of non-accountability. The legislator concludes that intoxication with alcohol or narcotics does not constitute a mental illness, although consumption of such substances may cause pathological conditions (e.g. drug craving or delirium tremens) [3, p. 124]. Such a solution should be considered as rightful, especially in a country where the proportion of crimes committed under influence of alcohol to the total number of crimes amounts to approximately 20%.

In contrast to the above considerations, the legislator treats differently the commitment of crimes in the state of pathological intoxication. It may occur, for instance, as a result of severe stress, a physical or mental weakening of the human body, even after consuming a small amount of alcohol.

Such intoxication is considered to be a manifestation of a temporary mental disorder which precludes accountability and thus releases the person from criminal responsibility [1, p. 124].

At the conclusion of this discussion, it is necessary to mention that the characteristics of the subject of the crime discussed above are obligatory.

REFERENCES

1. Уголовное право. Часть общая. Часть особенная / А.В. Арендаренко ; под ред. Н.И. Ветрова, Ю.И. Ляпунова. – М., 2007. – 178 с.
2. Уголовное право России. Части общая и особенная : учебник / М.П. Журавлев [и др.] ; под ред. А.И. Рароги. – М., 2007. – 603 с.
3. Гилинский Я.И. Девиантология / Я.И. Гилинский. – СПб., 2004. – 306 с.