Theoretical Aspects of the Crime of Legal Entities in Ukraine and the World

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Abstract

The purpose of the paper is to conduct an independent study of the leading characteristics of the state of modern legal regulation for bringing legal entities to criminal responsibility in Ukraine and foreign countries, as well as to conduct a comparative analysis of scientific views on the institution of criminal liability of these subjects. Modern methods of cognition developed by legal science and tested in practice were used to solve the tasks outlined by the purpose of the study, in particular. The author's conclusion allowed forming a conceptual understanding of theoretical ideas about the crime of legal entities in Ukraine. The relevant legal mechanisms and comments proposed by scientists can be implemented in the legislation of Ukraine regulating the procedure for introducing the Institute of criminal law measures and form the basis for further search in this area.

Keywords: corporate liability, legislation development, civil relations, enterprise management, corruption.

Introduction

Crime is a historically changing, widespread (mass) and systemic social phenomenon that manifests itself in society as a set of socially dangerous criminal acts and persons who committed them in a certain territory for a certain period of time (Grebennikova, 2016). At the same time, the increase in crime of legal entities is conditioned upon the weakened reform of socio-economic and political relations in society, so qualitative and quantitative changes are required due to the needs of society to protect the newly established public relations from criminal encroachments. In relation to legal entities, it can be argued that this category occupies a special place in civil law and in the legal doctrine in general. In most cases, views, approaches, and assumptions about the definition of a legal entity are based on the specific features of laws developed by states, social regulations, as well as legal and political systems (Quintana Adriano 2015; Imamov & Babajanova, 2020). A legal entity is an abstract subject created in accordance with the law and which has free will, rights, obligations, and a legal essence that give it a separate identity in legal relations and create a set of economic, financial, and commercial obligations. In the modern market economy, a legal entity has become the most important and widespread participant in civil relations. This implies the need for a qualitatively new approach to understanding the category of a legal entity and improving the regulatory framework. The complex management
structure of enterprises mostly complicates and, sometimes, makes it not possible to identify persons who are really involved in the commission of offences. Even in cases where it is possible to identify the employee of the enterprise responsible for committing an offence, proving the involvement of senior management in the offence may be problematic. Moreover, each individual offence can be the result of separate decisions, actions, or omissions of different persons, although they correspond to the general atmosphere created by the management of the enterprise (Fedorov, 2015; Kuzmin et al., 2021). In such cases, bringing an individual to justice may not be possible but even if this turns out to be successful, true liability should also apply to other persons, given that the application of sanctions to an individual is not effective enough to prevent the enterprise from committing offences.

It is necessary to emphasise that the prerequisites for the development of the institution of legal entities' criminal liability can be both external, consisting of a combination of factors for the development of qualitatively new public relations, and internal, due to the current provisions of state legislation. The effects of the COVID-19 pandemic, including global economic uncertainty, rising unemployment, disruptions in trade structures, and increased government stimulus, have increased the risk of corporate criminal activity (Kvashis & Sluchevskaya, 2016; Novikova et al., 2020; Kerrigan et al., 2021). The concept of criminal liability is growing and spreading all over the world. Thus, in the 21st century, a legal entity can be held responsible for the committed act by its officials, agents, or managers (Adua & Abdul-Hamid, 2018). Thus, according to Article 10 of the United Nations Convention Against Transnational Organised Crime (2000), subject to compliance with the principles of state party law, the liability of legal entities can be criminal, civil, or administrative. But this convention also explicitly recommends that involved countries (including Ukraine) introduce criminal liability of legal entities for certain criminal acts. In the fight against corruption, criminal liability of legal entities is of particular importance since in the absence of obstacles, bribery can become a profitable business for corporations (Liability of Legal, 2020).

The paper used scientific developments of Ukrainian and world scientists. It is especially advisable to pay attention to the work of P. Malanchuk "Problems of criminal liability of legal entities" (2020). It allowed forming the author's idea of law enforcement trends in the field under study on the territory of Ukraine, and the author's conclusions helped to adjust the vectors of further scientific search for the short term. Considering the transformation of modern public relations, the reform of legal regulation and the development of new aspects by representatives of science and practice on the essence and content of criminal liability of legal
entities, the chosen subject requires more detailed development, considering the realities.

Thus, it is relevant to consider the main issues related to the criminal-legal characteristics of the crime of legal entities in Ukraine and foreign countries. The following tasks were defined:

1) to summarise the leading and characteristic features of the state of modern legal regulation of the legal entities' criminal liability institution in Ukraine;

2) to conduct a comparative analysis of the approaches formed by representatives of the criminal law doctrine to the issues of criminal liability of legal entities;

3) to identify a positive practice of implementing criminal liability of legal entities in the criminal legislation of a number of foreign countries.

Materials and Methods

Modern methods of cognition developed by legal science and tested in practice were used to solve the tasks set by the purpose of the work, in particular: Aristotelian, historical, systematic, comparative, analytical, statistical, concrete-sociological (document research) etc. The methodological basis is formed by the dialectical method, which allowed comprehensively and objectively considering the problems of criminal liability of legal entities. It is also formed by the approbation of fundamental theoretical provisions of the general theory of law, interpreted within the subject of the study, in accordance with general scientific developments of principles and methods for constructing theoretical and applied research. The leading practical method that was used during the study was the observation method. In particular, using this method, it was possible to reflect the author's perception of the essence of the institution of criminal liability of a legal entity. It was this method that allowed identifying the features of the subject composition and a set of grounds for bringing legal entities to criminal responsibility. The following methods were also used: legal modelling, observation (research of modern trends in the current legislation of Ukraine and the activities of subjects of legal realisation), Aristotelian (various theories of bringing legal entities to criminal responsibility are identified), hypothetical-deductive (can be traced in the entire paper and in the conclusion that is proposed), comparative-legal (analysis of Ukrainian and international legal regulation in the field under study), structural-functional (structural analysis of the functions of legal entities, the features of their involvement in criminal offence), historical and legal (the legal basis for introducing the institution of criminal liability in retrospect is considered).

In the course of research, to assess the possibility and necessity of recognising a legal entity as a subject of criminal liability, a comprehensive comparative analysis of foreign legislation (primarily those countries where this
criminal law institution exists) was carried out. The study also used a civilisational approach – as a basis for studying the interpersonal interaction of subjects who are participants in legal relations in the field of bringing legal entities to criminal responsibility. The system-activity approach was useful in the process of analysing the mechanisms of transformation of social relations in society as an integral organism. The socio-cultural approach was aimed at identifying the transformation of public relations based on changes in the value orientations of society, attitudes to criminal manifestations in corporate structures of legal entities. The basis of the research was also the conflict theory of power, which allowed analysing the process of politicisation of bringing legal entities to justice and the use of such consequences as a positive tool for avoiding competition between legal entities. Within the framework of the architectonics of the study, regulatory acts in the field of criminal liability of legal entities both on the territory of Ukraine and other states became the leading empirical material. It was the comparative analysis of legal regulation in this area that allowed formulating comprehensive conclusions and outline further research vectors on this issue.

Results

Attributing responsibility to an artificial entity is a particularly difficult problem for many jurisdictions, as most legal systems base their criminal laws on physical behaviour and mental state. While the element of physical behaviour is relatively simple, attributing mental states such as "intent" or "knowledge" to a legal entity is more complex. In this context, some countries have decided to make the liability of a legal entity dependent on that of individuals. Thus, in jurisdictions that have adopted such an approach, the company can be held liable for a criminal offence committed by an official or employee of the organisation. Legal entities can use the means of protection against liability. An example is the protection of "due diligence". Due diligence is essentially the opposite of negligence. That is, the defendant can reduce liability or avoid liability if they can prove that they have taken all reasonable measures to ensure compliance with the relevant law.

In Ukraine, today there is an institution of measures of a criminal legal nature (quasi-criminal liability) concerning liability of legal entities (Law of Ukraine No. 314-VII,2013), while the Civil Code of Ukraine (2003) defines a legal entity of private or public law as an organisation that is established and registered in accordance with the procedure established by law, is endowed with civil legal capacity with the ability to act as a party in court. Therewith, the Criminal Code of Ukraine was supplemented by Section XIV-1 "Measures of a criminal legal nature concerning legal entities" (Criminal Code of Ukraine, 2001). It made appropriate amendments to the Criminal Procedure Code of Ukraine and other regulatory acts. For the first time in Ukraine, measures of a criminal legal nature were used in
relation to a legal entity, provided that an offence was committed on behalf of and in the interests of a legal entity by its authorised person. The legislator determined that the subjects of such crimes are authorised persons of a legal entity who have committed criminal offences provided for in the relevant articles of the Criminal Code of Ukraine (2001). In particular, they are: articles 209 – legalisation (laundering) of income received as a result of committing a crime; articles 258 – 258-5 – terrorism; article 306 – use of funds obtained from drug trafficking; articles 368 – 369-2– corruption crimes. In addition, criminal measures are applied to legal entities in cases of voter bribery, illegal deprivation of liberty, propaganda of war, genocide, mercenary activities, committing crimes against institutions with international protection, etc.

In practice, responsibility for illegal actions of a legal entity is assigned to its authorised persons. According to Article 96 of the Criminal Code of Ukraine (2001), authorised persons of a legal entity imply officials of a legal entity. Other persons who, according to the law, constituent documents of a legal entity, or contractual legal relations, have the right to act on behalf of the legal entity. Criminal offences are recognised as committed in the interests of a legal entity if they led to the receipt of an illegal benefit by it or created conditions for obtaining such a benefit, or were aimed at evading the liability provided for by law. Legal entities may be subject to such criminal measures as a fine, confiscation of property, and liquidation (Criminal Code of Ukraine, 2001). Therewith, the fine and liquidation are applied as the main types of measures, and confiscation. Corporate criminal liability started from the imitation of criminal liability. There were models and theories of criminal liability that were designed to fit and better structure the corporation. The American system of corporate criminal liability is still the most developed relevant example (Mrabure, & Abhulimhen-Iyoha, 2020). In most countries that support a similar model of criminal prosecution, such types as personal liability and liability of a legal entity exist side by side, simultaneously, and do not replace or exclude each other. Thus, the Finnish Criminal Code (2012) contains an example of an objective obligation in Section 9, Section 2, Paragraph 1.A legal entity can be sentenced to pay a fine if they have not shown in their activities the proper degree of attention and diligence necessary to prevent an offence.

It is advisable to refer to the theories that are put forward by scientists, considering the practice of law enforcement to the essence and content of the institute of criminal liability of legal entities. According to the theory of strict liability (absolute liability), criminal liability can be borne by the person responsible for a criminal act without proving the guilt of the criminal (intentional or negligent). This teaching is an exception to the application of the principle "actus non facit reum, nisi mens sit rea". According to this theory, the prosecutor is
only required to prove "actus reus" regarding the causal relationship between "actus reus" and the consequences that it entails. Agency theory (liability for deputies) was first developed in the law on delicts and gradually moved to the criminal aspect. In this case, the corporation is responsible for the actions and intentions of its employees. Such responsibility is based on the principle of "respondeat superior", which means to allow the expert to respond. This is a general rule of delicts, according to which an employer can be held responsible for all actions of employees committed during work. General liability is usually applied in the United States. The agency theory is based on the fact that criminal offence involves two elements: "actus reus" and "mens rea" – action and intent. Since a corporation is a legal entity, the only way to determine intentions is to consider the mental health status of employees. The person who is in the company is part of the corporation, and therefore the employee's intention is also the corporation's intention. Identification theory (attribution or alter ego) is a more conventional method, according to which companies are liable in most countries based on general law, which has led to the construction of the theory of direct liability. The theory requires companies to be responsible for individuals who have the authority to make decisions about corporate policies, rather than those who implement such policies. It focuses on the company's management minds and the fact that the company's intentions and actions are the results of the company's employees.

Aggregation theory (collective knowledge) was first developed in the law on delicts and gradually moved to the criminal aspect. Here, the corporation combines the general knowledge of various officials to determine responsibility. The company summarises all the actions and mental elements of important people in the company to determine whether they would constitute a crime if they were all committed by the same person. Aggregation theory is the result of the actions of the US federal courts. In addition to being held responsible for higher liability, US law makes it easier to hold corporations accountable through the "collective knowledge" doctrine. According to this doctrine, the government should not demonstrate that one person had the knowledge for satisfying the intentional corpus delicti. Instead, the government can combine the knowledge of many different employees of the corporation to form knowledge about violations within the corporation. This potentially extends corporate criminal liability in the United States to cases where no employee can be prosecuted (Tuson et al., 2018; Mrabure & Abhumen-Iyoha, 2020). Quite interesting in this context is the experience of Nigeria. Thus, the legal system of Nigeria complies with the provisions of common law. According to it, corporations can be held legally liable but not for all offences. In this state, the emphasis in assessing corporate criminal
liability is placed on the concept of "alter ego", which is a method used to assess real intentions and corporate "mens rea".

The US Code of laws, paragraph 18 defines the concept of "legal entity" as any person other than an individual, and Article 10 of the New York State Criminal Code defines that the concept of "personality" refers to a person and in some cases to a public or private corporation, an unincorporated society, or a government. US law recognised even the state as the subject of a crime since it explicitly provided for such a possibility in the above definition. According to the provision of § 20.20 of the New York State Criminal Code (2020), a corporation is found guilty of assault if the conditions are met. In particular, the conduct constituting an assault consists in failing to comply with the special duty imposed on the corporation by the right to perform affirmative action; or was committed, sanctioned, required, ordered, or negligently admitted by the executive board or a high-ranking agent-manager within their official position and in the interests of the corporation; or was committed by an agent of the corporation acting within their official position and in the interests of the corporation. The assault is: 1) a misdemeanour or violation, 2) one defined by law that clearly indicates the intention of the legislator to impose such criminal liability on the corporation, or 3) an offence described in § 71-27 of the Environmental Protection Act (2020). Therewith, "agent" is understood as a director, official, or employee of a corporation, or any other person authorised to act in the interests of the corporation; and "high-ranking agent-manager" is a corporate official or any other agent. The agent should have a certain authority over the formulation of the corporation's policy or management as a manager of subordinate employees (Consolidated Laws of…, 2020). The United States Sentencing Commission refused to make public corporate standards for fines for other offences, leaving such fines to the general legislative provisions on penalties. However, when sentencing, the court has the right to decide on the application of fines and can consider various factors, including the existence of an effective ethics and compliance programme. A corporation may be fined or its property may be confiscated, which may be taken by a court decision. There is no minimum amount in the charter but it provides for maximum amounts for various types of offences committed by organisations. Corporations may also be exempt from serving their sentences or may be required to pay compensation. Depending on the specific charter, other sanctions may be imposed, such as suspending or prohibiting contracts with the Federal Government.

For decades, companies have also been criminalised for offences in Great Britain. The corporation bears civil and criminal liability for the actions of authorised persons who acted in a certain illegal way. Courts in England have strongly rejected the idea that a corporate body cannot commit a criminal offence that is the result of a volitional act that requires a certain state of mind. To
eliminate the difficulty of imposing criminal liability on corporations, the UK has put forward two considerable corporate offences and developed legislation to address them. This is a corporate murder and an inability to prevent bribery. Sanctions imposed on companies usually come in two types: imprisonment (up to a certain number of years) and an unlimited fine. If a corporation is convicted, the court is likely to impose a fine, which takes into account the admission of guilt. A company that finds itself guilty of committing a crime or committing some minor offence can expect to receive a lower fine than if it denies its involvement (Linklaters Corporate criminal liability, 2016).

Criminal liability of corporations was introduced into French law in Article 121-2 of the French Criminal Code (1994) and generalised by the law "Perben 2", (2004). Corporate criminal liability was regulated by the "specialty principle": companies could only be held criminally liable for specific offences if it was specifically provided for by law. Violations that may lead to prosecution of companies must be committed "at their expense". An action is considered to be directly related to the company if it is aimed at ensuring the organisation, functioning, or goals of the company. Individuals whose actions have led to the prosecution of companies can also be prosecuted for the same crimes. These provisions are applied to foreign companies doing business in France, provided that they are formed as a legal entity in accordance with French law. In addition, the French Criminal Code (1994) provides for the penalties that can be applied to a legal entity. They are the following: fine (articles 131-38), confiscation of property (articles 131-21), liquidation of the legal entity (articles 131-37, articles 131-39).

It can be stated that the vast majority of laws on criminal liability in foreign countries provide for the possibility of applying criminal law measures (punishments) to legal entities, as a rule, in the case of committing corruption crimes, as well as crimes in the sphere of economic activity (crimes in the economic sphere). Therewith, that Ukraine has now introduced the Institute of measures of a criminal legal nature (quasi-criminal liability) concerning the liability of legal entities. Strict liability theory (absolute liability), agency theory (responsibility for deputies), identification theory (attribution or alter ego), aggregation theory (collective knowledge) are examples of approaches by which a company can be held accountable for a criminal offence committed by an official or employee of an organisation – tested on the territory of other states and implemented in their national legal field. The vast majority of laws on criminal liability in foreign countries, such as, for example, Finland, Nigeria, the United States, Great Britain, France, provide for the possibility of applying criminal liability and measures of a criminal legal nature (punishments) to legal entities, usually in the case of committing corruption crimes, crimes in the sphere of economic activity.
Crime acts as an integral component of people's relationships (Shakun, 2019). They are present in society at all stages of its development and imply the behaviour of independent individuals, which other members of society perceive as a crime. R. Sjahdeini (2017) states that the concept of corporate criminal liability was made up of various teachings, which the author later called "co-teaching". Criminal liability can be applied to corporations, however, it must have the necessary structural elements, which include the following:

1) such behaviour must be a criminal offence that was committed or inaction was present;
2) "actus reus" of crimes may be committed separately or directed by the controlling personnel (controlling mind);
3) "mens rea" of the crime belongs to the controlling personnel of the corporation; the criminal act must benefit the corporation;
4) the crime is committed by exploiting the corporation, namely by using elements specifically related to the corporation;
5) the said crime is internal;
6) criminal actions committed by the controlling personnel of the corporation must be carried out within the framework of the duties and powers of the legal controlling personnel in accordance with corporate rules;
7) if "actus reus" of the crime was committed not by the controlling personnel of the corporation but by someone else, the action must be based on orders or power of attorney from the controlling personnel of the corporation or must be approved by the controlling personnel of the corporation;
8) the act must be contrary to the law;
9) for criminal acts that require the presence of both elements "mens rea" and "actus reus", they do not have to be present only in one person, elements can be present in several people separately.

Discussion
In Great Britain, there has long been criminal liability for corporations, where criminal actions of senior employees (usually through the executive board) can be criminalised by the company. The imposition of criminal liability on an organisation has never been consistent with the concept of "mensrea" from the Criminal Law of England. Such liability does exist in a criminal context but only in some quasi-regulatory areas, including labour protection and environmental issues. However, in addition to liability for most criminal offences that require a mental state, prosecutors were able to hold the company accountable only based on the "identification principle". This requires the prosecutor to prove the criminal responsibility of the highest personnel who represent the "guiding mind and will" of the entire organisation, and whose mental state can be attributed to the company.
(or identified with it). This has long been the discretion of prosecutors, who face obvious challenges when harassing large corporations with opaque reports and decentralised decision-making. These difficulties partly explain the low level of corporate litigation that has historically existed in Great Britain.

Despite the advantages and clarity of the doctrine’s approach "alter ego" adopted in Great Britain and Nigeria, it has certain disadvantages (Yusuf, 2017; Tuson et al., 2018; Mrabure, &Abhulimhen-Iyoha, 2020). Some scientists are concerned by the requirement that in order to bring companies to criminal responsibility, crimes must be committed by a high-ranking official or manager is an obstacle in the fight against corporate crimes since most companies avoid responsibility by giving lower-level employees the opportunity to make decisions or act on their behalf. Although the advantage of the doctrine "alter ego" is that it is clear, predictable, and consistent with the general principles of criminal law, it still leaves a gap in issues of overall fairness and effectiveness. The US approach through a responsible executive establishes a broad system of corporate criminal liability that promotes overall justice and deterrence but does not consider the clarity and accuracy associated with the doctrine "alter ego". The adoption of the American doctrine of aggregation theory and the fact that any employee can be held criminally liable by corporations has a considerable advantage that facilitates the prosecution of companies within the framework of the unified approach of the doctrine "alter ego" (Mrabure & Abhulimhen-Iyoha, 2020).

There is no "due diligence" protection in the US. Instead, corporate compliance programmes can be a mitigating factor at both the prosecution and sentencing stages. This approach has drawn criticism concerning the fact that corporations with effective compliance programmes are at a higher risk of prosecution than corporations with ineffective ones or non-performing such programmes. It may also create a positive lack of incentive for corporations to report violations internally and externally, given that a compliance programme that detects a violation will not act as a defence against the possibility of criminal liability (Bronevytska and Serkevych, 2020; Navrotska, 2021). Corporate prosecutions, convictions, and punishments are still rare in the United States. Sanctions imposed on corporations range from those whose effectiveness remains unproven to those that are provably ineffective, and to those that are conceptually and practically inconsistent (Tuson et al., 2018; Diamantis &Laufer, 2019; Dongmei, 2020). As long as an employee acts criminally as part of their official activities, specific counter-instructions do not necessarily isolate the company. Even a company with a comprehensive compliance programme can be held criminally liable for the criminal actions of its employees in accordance with US law. Criminal liability of legal entities in a risk society is a consequence of the involvement of criminal law in the distribution of risks.
presumption of criminal liability of legal entities echo the globalisation, institutionalisation, and agnosticism of risks in a risk society, which contributes to solving the problem of including immeasurable risks in the sphere of criminal law regulation. The introduction of compliance programmes in corporations proposed to improve the effectiveness of punishment of legal entities provides for not to increase the severity of punishment but to encourage legal entities to take proactive measures to prevent internal risks.

From the standpoint of the prosecutor, it is more difficult to achieve successful prosecution in Great Britain using the identification model than using the subsidiary liability model. This is especially true in today’s corporate environment, where large companies mostly have decentralised decision-making structures and disaggregated corporate structures. Thus, it is quite difficult for prosecutors to link any potential criminal act committed by a corporation employee with the intentions and will of the management. But the US approach also gives prosecutors huge leverage in negotiations with the corporation (De Silva, 2018; Tuson et al., 2018). A corporation that has taken appropriate steps for trying to prevent wrongful actions committed by an individual should not be punished simply because the individual acted completely contrary to the corporate approach. This should be recognised in any approach to corporate criminal liability. In this sense, the strengthening of global law enforcement means that companies must be attentive to the risks of law enforcement and the need to report to a wider range of authorities when identifying and investigating potential violations, thus, timely self-assessment remains a key step towards obtaining the greatest recognition. Therewith, when a corporation is not held accountable for its actions, this will affect both the advantage of the corporation and the loss for the state in the future (Hamid et al., 2020; Lubis et al., 2021). Scientists emphasise that if criminal liability is not imposed on a corporation, law enforcement agencies are considered incapacitated since they do not comply with the norms established by law properly.

The greatest difficulty consists in solving the problem with the subjective side of the composition of the crime since one of the integral and most important signs of the composition of the crime is guilt. Guilt is a mandatory sign of the subjective side. However, this provision cannot be applied to a legal entity since a legal entity does not have a psyche and a mental attitude to the situation (Statsenko, 2015; Kvashis & Sluchevskaya 2016). The scientist emphasises that the amendments made to the criminal legislation of Ukraine are a novelty and, on the one hand, certainly have a positive effect on ensuring the rule of law in the economic and international spheres, but the introduction of this type of criminal liability requires a more detailed study and considerable changes to legislative acts to eliminate contradictions. In the context of modernisation, globalisation, and other development processes, criminal law cannot remain a conservative industry.
At the same time, it should be considered that the institution of criminal liability of legal entities is a rather complex tool, which requires not only the development of a fundamental theoretical basis but also the existence of social conditions that contribute to the effective functioning of self-regulation and control mechanisms on the part of legal entities. Scientists emphasise that if this institution turns into a weapon of influence on certain commercial and non-profit organisations, the introduction of criminal liability of legal entities not only discredits this institution but can also unbalance the internal structure and system of current criminal legislation and the science of criminal law.

Yu. Bytko (2015) highlights the negative consequences that may occur due to the introduction of criminal liability of legal entities. They are the following: the emergence of norms on criminal liability of legal entities will allow eliminating competitive legal entities; when choosing any approach to the introduction of criminal liability of legal entities, it will be necessary to change the basics of criminal law devoted to issues of criminal liability, signs of crime, etc. V. Kachalov(2016) points out that the law enforcement agencies will have more opportunities to investigate and prevent economic, environmental crimes, etc. The introduction of criminal liability of legal entities will allow states to reach a new level of cooperation with economically developed countries in the fight against organised crime. The implementation of criminal prohibitions in this area will increase the level of legality in the actions of companies and their employees. Moreover, the introduction of the institution of criminal liability of legal entities will effectively counteract the use of fictitious organisations, "shell companies", and other corporate entities that do not have a proper legal "personality" in criminal activities.

Criminal liability of legal entities in accordance with the Criminal Code of Ukraine today cannot be considered finally resolved, considering the criminal law policy of the interests of the state, the postulates of legal theory and practice. This provision should be studied from the standpoint of awareness, comprehensive and interdisciplinary analysis with the involvement of specialists in various fields of science, with a comparative study of Ukrainian and International Criminal Legislation. This criminal liability of legal entities has led to difficulties in law enforcement practice, and which now actualises the reform and qualitative changes in the institutions of the General part of the Criminal Code of Ukraine (Gavrilishin & Kozyreva, 2018; Pilintsov, 2020). In addition, according to P. Malanchuk(2020), it is necessary to supplement the system of punishments by applying judicial supervision over the activities of a legal entity and assign a specific period of appropriate supervision. According to scientists, the testing of variable theories of bringing legal entities to criminal responsibility has both a positive and negative impact on the modern practice of law enforcement and the
further development of the criminal law doctrine. Based on the results of the discussion, it can be concluded that the application in practice of various theories of bringing legal entities to criminal responsibility has both a positive and negative impact. The introduction of this type of criminal liability in Ukraine requires a more detailed study and considerable changes to the relevant legislative acts.

Conclusions

Corporate criminal law is becoming increasingly important in countries around the world. At the same time, it was previously considered that a corporation should not and cannot be held responsible for any crime committed by the company. Currently, an analysis of case law shows recognition of "mens rea" by corporations, which directly affects the procedure for bringing legal entities to justice for committing a crime. Strict liability theory, agency theory, identification theory, aggregation theory are examples of approaches by which a company can be held liable for a criminal act committed by an official or employee of an organisation. A comparative legal analysis of legal regulation on the territory of states that do not adapt the above theories has shown that gradually the legislators of countries recognise that the it will allow states to reach a new level of cooperation with economically developed countries in the fight against organised crime. Moreover, criminal bans in this area will increase the level of legality in the actions of companies and their employees. Therewith, it was stated that the institute of criminal liability of legal entities will effectively counteract the use of fictitious organisations and other corporate entities created for criminal purposes.

The study has shown that Ukraine has introduced the institute of measures of a criminal legal nature (quasi-criminal liability) concerning the liability of legal entities, which is an important step towards the success of countering crime in the state. Currently, such criminal measures as fines, confiscation of property, and liquidation can be applied to legal entities in Ukraine. The amendments made to the criminal legislation of Ukraine are a novelty and, on the one hand, certainly have a positive effect on ensuring the rule of law in the economic and international spheres, but the introduction of it requires, according to scientists, a more detailed study and possible introduction of considerable changes to legislative acts to eliminate contradictions and archaic gaps. In addition, the area of further research will be to test the positive foreign practice and achievements of criminal law science in recent years in the legal field of the state.
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