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GENERAL ANALYSIS OF THE COMPOSITION OF THE CRIME OF VENEREAL AND HIV DISEASE,TRANSMISSION OF AIDS

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Annotation: This article examines the issue of determining the direct object of the crime provided for in Article 122 of the Criminal Code of the Russian Federation "Infection with HIV infection".
Keywords: HIV infection,the object of the crime, life, health.

Introduction

According to experts, there are currently more than 40 million people affected by the immunodeficiency virus in the world.1 Since the registration of the first case of HIV infection in a resident of the Russian Federation in 1987 to the Federal Scientific and Methodological Center for the Prevention and Control of AIDS was registered before January 1, 2007 373,718 cases of infection of Russian citizens, and 31 In December 2016, this figure was already 1,114,815 people, of whom died for various reasons 243,863 HIV-infected people. But according to the estimates of the staff of the Federal Scientific and Methodological Center for the Prevention and Control of AIDS, the real number of HIV-infected people exceeds 2-3 times the registered number of infected.3 The deterioration of the epidemiological situation in this area formed the basis for the adoption of a strategy to counter the spread of HIV infection in the Russian Federation for the period up to 2020. One of

2 Certificate of HIV infection in the Russian Federation as of December 31, 2016 / Access mode: http://aids-centr.perm.ru .

3 Methodological recommendations on monitoring and evaluating the effectiveness of measures for the prevention and treatment of HIV infection 4 Decree of the Government of the Russian Federation dated 10/20/2016 No. 2203-r "On Approval of the State Strategy for Countering the Spread of HIV infection in the Russian Federation for the period.The directions of solving the tasks of countering the spread of HIV infection in the Russian Federation is the legal protection of citizens from intentional infection with HIV infection, including through the use of criminal legal means. As is known, the basis for criminalizing an act is its social danger, i.e. the material sign of a crime fixed in criminal legislation, reflecting its social essence.

Therefore, the main criterion for the public danger of an act is its harmfulness. As A. I. Martsev notes, a sign of social harmfulness is a legal consequence of the realized danger.6 A more precise definition was given by Agaev G.A. and Boziev T.O., who understand harmfulness as the ability of a socially dangerous act of a person to generate socially negative consequences, 7 that is, to cause real harm to the relations that ensure the safe existence of the individual, society and the state. These relations, which are harmed or threatened with harm, are referred to in the theory of criminal law as the object of a crime. As you know, the definition of the object of a crime allows you to determine the place of a crime in the system of norms of the Special part of the Criminal Code of the Russian Federation, as well as contributes to the correct qualification of the act as a crime.

Considering the corpus delicti under Article 122 of the Criminal Code of the Russia Federation,it should be noted that discussions are currently underway on the definition of the direct object of this crime. Therefore, in order to clarify the essence of the direct object provided for in Article 122 of the Criminal Code of the Russian Federation, it is necessary to determine the signs of those social relations on which a specific encroachment is being committed.

Some scientists define human health under the direct object of HIV infection.8 Other scientists define the immediate object of this crime as social relations that protect human life and

health.At the same time, supporters of this opinion also have different points of view. So L.A. Mozhaiskaya argues that HIV infection has two direct objects: a common direct object – human health and an optional one – human life. As a justification for your point.The scientist puts forward the thesis that, on the one hand, HIV infection does not always go into the AIDS stage, and therefore does not always lead to death.

Therefore, L.A. Mozhaiskaya, when infected with HIV infection, life should be considered as an optional object. This statement is controversial due to the fact that in the theory of criminal law, the optional direct object of a crime is recognized as the public attitude that this crime in some cases changes, and in others it does not.10 And as medical practice shows, infection with HIV infection always leads to death either from AIDS or from secondary concomitant diseases. Therefore, another opinion of scientists has gained the greatest popularity, who believe that the corpus delicti of Article 122 of the Criminal Code of the Russian Federation includes two main objects – human life and health.This opinion is justified by the fact that HIV infection is a slowly progressive infectious disease that occurs as a result of infection with the human immunodeficiency virus, which affects the immune system, as a result of which the body becomes highly susceptible to opportunistic infections and tumors that eventually lead to the death of the patient.

It is unequivocal that HIV infection is harmful to health. This is due to the fact that from a medical point of view, human health is a certain physiological (somatic and mental) state of the body in which all its components function normally, as well as which assumes the preservation of the anatomical integrity of organs and tissues, their physiological functions, the absence of diseases and pathological conditions. 12 It is also legislated that HIV infection is a chronic disease caused by the human immunodeficiency virus.This disease is characterized by a specific lesion of the immune system, leading to its slow destruction before the formation of AIDS, accompanied by the development of opportunistic infections and secondary malignancies.

The question remains debatable: are public relations that protect human life a direct object of HIV infection?Analyzing the medical aspect of the impact of HIV infection on the human body, it should be noted that in 2007, the legislator, having amended the preamble of the above-mentioned Federal Law, excluded the sign of incurable and inevitable death from HIV infection and indicated that this disease is chronic.14 Therefore, the introduction of these changes indicates that HIV infection has a negative impact only for the health of the human body.

Considering Article 122 "HIV infection" in the system of norms of Section 16 of th Special part of the Criminal Code of the Russian Federation,this norm is special in relation to the norms on liability for harm to human health.15 This is primarily due to the fact that the composition of Article 122 of the Criminal Code of the Russian Federation is designed so that the crime is considered completed from the moment of infection with HIV infection of a person, and the onset of socially dangerous consequences in the form of the death of the victim is not expected, as provided, for example, in Article 105 or part 4 of Article 111 of the Criminal Code The Russian Federation.

As Professor S.V. Rastoropov notes, HIV infection is one of the ways to cause harm to health, although in a generalized form.16Using the rules for determining the severity of harm caused to human health, the deterioration of human health, which is due to the nature and severity of injury, poisoning, disease, late start of treatment, his age, concomitant pathology and other causes, is not recognized as causing harm to health and even more so causing death.

Therefore, it is difficult to agree with those scientists who consider the direct object of Article 122 of the Criminal Code The Russian Federation public relations that protect human life. The most acceptable, in our opinion, is the scientific point of view that the direct object of HIV infection is social relations that protect human health.

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