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CRIMINAL LIABILITY FOR SAME-SEX RELATIONS IN DIFFERENT PERIODS OF TIME

In the civilized part of the world where there is an existential crisis in society, three generations of rights have been clearly spelled out in its legislation and implemented in a practice, the general issue is considered more than ensuring fundamental rights and a decent economic quality of life. Society begins thinking about its spiritual component and the need to expand rights and freedoms in this area. One of these rights is the right to enter into a same-sex marriage. Currently, this is an extremely controversial topic in Ukraine, as the state is already implementing processes aimed at European integration. Therefore, we should pay attention and understand the legal path of this right through its historical context.

Attitude towards same-sex marriage and relationships have varied over the time. For example, in ancient Rome and Greece, they were acceptable and even practiced among the aristocracy and emperors. In Greece, there were myths that described the relationship between male gods and mortal young men. But with the advent of Christianity, the attitude to this phenomenon became completely

opposite. After all, a religion forms a significant part of a person's worldview. According to A.V. Grubinko, in Roman law, classical and post-classical times, same-sex relationships were considered as crimes against morality and carried legal responsibility [1, p. 88]. If we take an earlier period of time, Byzantine, we can see in the legislation of that time criminal liability for same-sex sexual relations between men. At that period of time, it was considered as a crime against morality and family, and the most severe punishments could be imposed: death penalty, exile, mutilation [1, p. 153].

If we look at the times of the British Empire, we also realize that attitude towards same-sex relationships did not change for the better. In 1533, the Buggery Act was passed, which provided for the death penalty for sodomy, including same-sex sexual activity. Persons who were guilty of the crime were sentenced to death by hanging. Over the years, the responsibility for same-sex relations in England decreased. Only in 1967, same-sex sexual relations between men were decriminalized [2]. The Buggery Act of 1533 was also valid on the territories of the colonies. Accordingly, this law was in force in the USA until its independence.

Also, in 1885 the Labouchere Amendment was implemented to the British Criminal Code. It stated that same-sex relations between men were "gross indecency". For which a guilty person could be imprisoned for up to 2 years with or without hard labor [3]. Alan Turing, the most prominent mathematician who changed the course of events in World War II and helped to crack the German secret code "Enigma", was punished for "gross indecency". Instead of imprisonment, he was prescribed a cycle of treatment with female hormones. Later, he became depressed and eventually committed suicide. In 2009, British Prime Minister Gordon Brown officially apologized for the fact that British authorities sentenced mathematician Alan Turing, who died 55 years ago, to forced "treatment" [4].

If we look at the history closer to Ukraine, in the twentieth century in the ussr, the Criminal Code of 1960 established legal liability for same-sex relations between men. Article 121 of the Criminal Code established liability in the form of imprisonment for a term of 5 to 9 years for any type of same-sex relations between men [5].

Ukraine was a member of the ussr for 72 years. During this time, Ukrainian society partially assimilated with russian society in all aspects, so their worldviews were largely similar. The legacy of the ussr in Ukraine is still considerable, especially in the legal system. The Criminal Code of Ukraine of 1961, which was in force until 2001, contained Article 122, which prohibited same-sex sexual relations between men, and in a case of violation was punishable by imprisonment for a term of 2 to 5 years [6].

Today, same-sex relationships are understood differently around the world, but no longer as extremely negative as in previous centuries. In Muslim

countries where Sharia law is in force, any manifestations of same-sex relationships are prohibited at the state and moral levels. But every year the world society continues to recognize this type of relationship between the same sex. As of 2023, the Verkhovna Rada of Ukraine has registered Bill No. 9103, which allows to register partnerships, it will have partial similarities to marriage. People of the same sex will be able to enter into a partnership [7].

So, if we look at the historical context of defending the right to same-sex relationships, this battle continues even nowadays. But every year, more states appear over the world where same-sex relationships are legally regulated.

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