

**ERROR VICTIM AND HER PENAL VALUE
(IN CASE OF CRIMES AGAINST REPRESENTATIVES OF PUBLIC
ADMINISTRATION THAT PERFORM OFFICIAL OR PUBLIC DUTIES)**

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The article deals with the influence of the error of fact in the victim to the legal qualification of crimes committed against members of the public authorities in connection with their official or public duties. The author analyzes theoretical and practical approaches of the legal significance of error in fact and formulates a generalized rules of legal qualification.

Error in fact, public administration, victim, qualification of the crimes.

The existence of any society is impossible without control. The term "management" (in Latin *regere*, English, control, management, French *administration*, the German - *regierung*) literally means the leadership of something. From the positions of Cybernetics management process takes a manifestation of almost any sphere of animate or inanimate nature and focuses on three global management systems: mechanical, biological and social. Depending on this, there are three main types of control: technocratic management technique, mechanisms, machines; biological - control organisms of plants and animals; social - managing people and teams. Social management is the subject of study of various Sciences, including the science of administrative law. As a rule, scientists in this area under management refers to the type of volitional activity, expressed in

purposeful and argentosoma effects implemented with the aim of ensuring consistency and orderliness of joint actions of individuals and their collectives in the interests of effective solutions to problems facing them.

Given the importance of managerial activity, the state takes under enhanced protection of the subjects, who on his behalf exercise the relevant functions in society. A prominent place in the system of measures of state protection of representatives of public administration and their close relatives from attacks on their lives, health and property, take penal action. Criminal-legal protection of safety of individuals performing the powers, connected with the existence in the current Criminal code of Ukraine a significant number of standards relevant content.

The doctrine of criminal law has always paid considerable attention to the problems of criminal-legal protection authorities and the public that perform management functions.

The purpose of this report is to define the rules of criminal legal assessment of the actions of the subject, which in the Commission of criminal attacks on representatives of the public administration makes a mistake on the special status of the victim.

In the scientific literature has repeatedly addressed the question of the qualification of the actions of an entity that commits murder with the intent to deprive the life of a person or his close relatives in connection with the performance by that person of official and public debt, but makes a mistake and in fact causes the death of another person, which does not possess the specified characteristics. The vast majority of authors believe that the qualification of actions in such circumstances must occur for multiple offenses - finished attempted premeditated murder under aggravating circumstances, and the completed crime "manslaughter". Another group of scientists believes that the qualifications of one of wilful killing, even when an error occurs in the victim cannot occur according to the rules together. There is a third approach, some scientists propose to

qualify the murder with the intent to deprive the life of a person or his close relatives in connection with the performance by that person of official and public debt associated with the error in the victim, that is, as the unfinished murder with incriminatory qualifying sign "in connection with the performance of duty."

In our opinion, the above approaches to the assessment of the subject's behavior, which in premeditated murder made mistakes in the identity of the victim, the most correct is the second qualification of actions as an attempt on the crime that was intended to make faulting. So:

1. A crime against a representative of the public administration or his close relatives in the absence of awareness of these characteristics of the victim suggests that the offender is not aware of the features of the object of abuse, in other words not aware of public danger of his behavior. Therefore, the error regarding the status of the victim, regardless of whether it was fair to exclude liability for senior 342 - 352 of the criminal code of Ukraine. Qualification of such cases, and when there is sufficient reason, shall be according to the norms, which include crimes against life and health of persons or crimes against property.

2. The assault on persons, which subject mistakenly believed the representatives of the public administration or their loved ones, should qualify as an attempt on the crime that the perpetrator was trying to do.