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Classical Ideas of the Ultima Ratio Principle in the Modern Criminal Law Paradigm

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Abstract:

In this article, the author examines the concept of the criminal law principle "Ultima Ratio" from a scientific and theoretical position, taking into account law enforcement practice. In particular, the main ideas and directions of the classical school in interpreting this principle, as well as the scientific ideas of modern European scientists about the concept of "criminal legal minimalism" as the basis for criminalization and decriminalization, the idea of subsidiarity of criminal law, and the idea of saving criminal legal sanctions, have been studied. Based on an analysis of theories currently existing in the science of criminal law about the concept and essence of the "Ultima Ratio" principle, the author presents his scientific findings and conclusions.

Keywords: principle, Ultima Ratio, scientific schools, approaches, criminal law, criminalization, decriminalization, punishment, criminal legal sanction.

Introduction

The ideas of the classical school found their further development in the teachings of the liberal school, which occupies a dominant position in modern Western criminal law. According to the views of liberals, criminal law acts as a measure of protection of individual freedom and should be applied by the state exclusively as a last resort, or Ultima Ratio. In the context of modern criminal law, the Ultima Ratio principle implies that criminal punishment can only be applied to a person as a last resort. In other words, the Ultima Ratio principle indicates that criminal laws should be used by the state only when all other means of civil and administrative law have been exhausted or their application is considered ineffective.

This postulate remains undeniable for centuries. In the modern context, the liberal trend, which advocates a softening of criminal repression in general, supports fairly tough measures against violent crime. This direction can also be characterized as humanitarian, since it reflects the desire to protect the human rights of both victims of crimes and the criminals themselves. Proponents of this approach advocate a complete abolition of the death penalty as a form of criminal punishment.

However, let's imagine that in our society the achievements of the science of physics or mechanics were limited to the brilliant invention of the wheel? Could these disciplines be considered sciences? The question is rhetorical. However, the modern history of criminal law also has its own "wheel" - the concepts of crime and punishment. However, if in physics so many discoveries and inventions have been made on the basis of the wheel that almost the entire economy is occupied with their development, then in criminal law, it is worth recognizing that for centuries they have been doing nothing but endlessly polishing the rim of their "wheel" - General part of criminal law, and sort through the "spokes" - sections of the Special Part, endlessly replenishing them with new crimes. In this regard, the most serious problem for criminal law is the excessive criminalization of deviant behavior, excessive interference of criminal law in the economic sphere, challenges to criminal law in countering terrorism and other types of modern criminality [1].

Ideas of criminalization as a last resort

The ideas of criminalization within the framework of the Ultima Ratio principle are reflected in the works of many scientists who consider criminal law as an extreme means of protecting public order. According to this principle, criminalization of acts should be carried out only when other measures, such as administrative or civil sanctions, have proven insufficient to achieve the goals of law and order.

One of the most famous researchers in this field, Hans Heinrich Jeschek, in his work emphasizes that criminal law should only be applied if it is impossible to achieve the necessary social results by other means. He argues that "criminal law represents the Ultima Ratio of legal regulation, which means that it is necessary to strictly limit its application"[2]

These ideas are supported by other scientists. For example, Herbert Lionel Adolph Hart, a British legal philosopher, in his studies also points out the need to use criminal law solely as a last resort. In his book The Concept of Law, Hart emphasizes that "criminalization should be used only when other forms of legal action have failed to produce the desired result."[3]

Michael Moore, an American legal scholar, also supports the Ultima Ratio principle in his writings, noting that "criminal law should be a measure resorted to only after all other available and adequate means have been exhausted"[4].

There has always been heated debate around the idea of saving criminal justice resources. Thus, for many years, many European scientists have defended the idea of the need to narrow the boundaries of criminal law as much as possible, that criminal legal intervention should be carried out only where there are attacks on the most valuable goods, and the hypertrophy of criminal law inevitably entails a number of negative consequences for society [5].

The outstanding Russian theorist of criminal law N.S. Tagantsev formulated the ingenious postulate of criminalization: "A crime is an act that encroaches on an interest in life protected by the norm, which in a given country, at a given time, is recognized as so significant that the state, due to the inadequacy of other protective measures, threatens the offender with punishment."[6]

Developing his ideas, some Western criminologists, including Douglas N. Husak, define this theory of criminalization as criminal legal minimalism[7]. In his opinion, an important task of the theory was and remains the development of issues relating to the establishment of the limits of criminal law, and it does not matter whether this will have any impact on the legislator.

A. Ashworth calls this a minimalist approach (he is "for minimalism"), which is based on a special concept of the relationship of criminal law to other forms of social control. According to him, criminal law is a preventive mechanism, but there are others. Morality, social conventions, and peer, peer, and community pressure are three informal sources of control, and in many areas it seems preferable to leave the regulation of certain behavior to these forces. The law itself has at least two other important methods besides criminalization: civil liability, best exemplified by the laws of torts and contracts, and administrative regulation, including measures such as licensing and franchising.[8]

Many scholars in the field of criminal law talk about Ultima Ratio, but for some reason it is still unclear what this concept implies. If coercive measures are necessary, they do not necessarily have to consist of sanctions. If sanctions are necessary, private law sanctions may be preferable to administrative sanctions [9].

It is often said that the Ultima Ratio principle implies that criminalization should only be used as a “last resort in the most extreme cases”[10]. The question that arises regarding these "most extreme cases" is: in what comparison are they "extreme"? and whose interests must be weighed against each other to produce the result of “extreme” values? whose violations should be compared, and which of them are then called “extreme”? Ultima Ratio suggests that the same social or individual interests should be protected by different areas of law. As a consequence, criminal law is not used as a basis, but as an alternative, an additional means, applied on the basis of pre-existing provisions of administrative or civil law[11].

This means that less serious offenses involving the same or comparable interests should be subject to less stringent sanctions set by strict rules. At the same time, the most serious violations of interests should be punished by the most severe sanctions. This also follows from the general recognition of the principle of proportionality.

Therefore, criminal law - as a last resort - represents the most severe set of legal measures only in comparison with other legal interventions that counteract the infringement of the same or at least comparable legitimate interests. A good example is luxury brand counterfeiting: confusing product labeling may violate (i) the legal definition of anti-competition or (ii) the definition of advertising infringement, (iii) a regulatory violation, or (iv) a criminal offense, which ultimately depends from further objective and subjective circumstances to be taken into account.

Without pre-existing external protection of comparable interests outside the realm of criminal law, criminal law cannot serve as a last resort. If in the legal order there are important values of society that are protected only by criminal law, then it is unreasonable to talk about Ultima Ratio in connection with them. For example, personal liberty and sexual liberty[12] may be typical protected interests in criminal law, but if other areas of law are “activated” in relation to them, they may only contain rules about further consequences[13].

Thus, criminal law is quite “fragmented”[14], since the presence of prohibitory provisions in any other branch of law is not (always) sufficient to activate criminal law[15].

The Ultima Ratio is more of a tool for comparing legal responses to legal violations. This is a valid distinction, but it does not put the Ultima Ratio in a better position since deciding on the “most extreme means” requires distinguishing between less severe, severe, more severe or extreme (etc.) sanctions in the legal order. The Ultima Ratio itself does not have the necessary essential elements, such a test can only be carried out in close connection with proportionality, therefore, we must avoid any general and vague references to the Ultima Ratio principle when talking about criminal law, since the limitations of the Ultima Ratio must prevail taking into account the escalation of violation of social value.

For example, in the case of rape, criminal law is not the last but the only response. Consequently, if such a principle is universal in its scope, there is no reason to talk about Ultima Ratio as a principle of criminal law. We can recognize this only if we consider different chains of increasing degrees of violation of the same social value or interest.

In general, we agree with the opinion of prof. S. Melander that in modern European criminal law there is no consensus or general understanding of the need to limit the scope of criminal law and criminal legislation. It can be said that the situation is exactly the opposite: the Europeanization of criminal law has so far rather expanded and deepened the scope of substantive criminal law and strived for more effective procedural cooperation between state authorities[16].

At the same time, in the development of modern criminal law, including in Uzbekistan, there is a clearly visible trend of expansion and intensification of repression, in the light of which the question inexorably arises: is it not today the upholding of the positions of criminal legal minimalism in any, even the most moderate, form? a pure utopia that has nothing to do with the goals pursued by the legislator?

Thus, the study of statistical indicators of the manifestation of the processes of penalization and depenalization in the Criminal Code makes it possible to determine the direction of the state's criminal legal policy in the field of punishment for economic crimes.

In 2016, large-scale changes occurred in the legal policy of the country, taking into account which changes were made to Article 45 of the General Part of the Criminal Code, Articles 178, 180, 181, 181^1, 188,189, 190 of the Criminal Code, providing for the non-imposition of punishment in the form of deprivation of the right to engage in entrepreneurial activity in relation to persons engaged in entrepreneurial activities, with the exception of cases resulting in the death of a person or other grave consequences.

In 2017, changes in the Criminal Code occurred in terms of sanctions (punishment in the form of arrest was excluded from the punishment system), in 2018 the sanctions of Articles 192^1 – 192^8 of the Criminal Code were tightened (Law of the Republic of Uzbekistan dated October 22, 2018 No. ZRU-503 "On Amendments and additions to some legislative acts of the Republic of Uzbekistan aimed at ensuring public safety")

Subsequently, only targeted changes were made to the Criminal Code concerning individual elements of economic crimes. Thus, in 2020, the wording of Article 186^3 of the Criminal Code was changed, in 2021 - Article 190 of the Criminal Code.

In general, during the period from 2001 to 2021, changes in terms of sanctions (penalization) for crimes in the economic sphere were made 7 times (confiscation was excluded, arrest was replaced by restriction of freedom, the sanctions of many articles included punishment in the form of compulsory community service) .

As for depenalization, that is, the exclusion from the sanction of any punishment or its mitigation (reduction), it is worth noting that this form of implementation of criminal policy in the Criminal Code is very rare. In fact, in the Criminal Code at the legislative level, depenalization was carried out 2 times (in 2001, the punishment in the form of confiscation was excluded, in 2017, arrest was excluded).

Thus, it is worth noting that in criminal policy at the present stage of development there are two contradictory trends:

firstly, the policy of liberalization and humanization of criminal penalties laid down back in 2001 (exclusion from the Criminal Code of more stringent types of punishments, with the inclusion instead of less stringent types, indication of incentive norms in many articles on economic crimes);

secondly, the trend of targeted changes observed in recent years (starting from 2018), aimed at reflecting the current criminogenic situation (for example, noticeable changes were made to Article

186[3] of the Criminal Code in 2018 and 2020, Article 168 of the Criminal Code was set out in a new edition in 2018; in 2022, serious changes were made to it again) in the form of the criminalization of new crimes in the economic sphere.

The above indicates a lack of consistency in the formation of national criminal policy, as well as its transient and extremely tendentious nature.

In general, although scholars and theorists of criminal law still believe that criminal law must meet certain standards of legitimacy,17 legislators are increasingly less likely to think about this, unless, of course, questions of legitimacy are directly related to expected political gains or losses.

It is safe to note that the general line in the development of today's criminal legislation (including in Uzbekistan) can be defined as **criminal legal expansionism**[18].

Ideas of subsidiarity of criminal law

As mentioned above, the Ultima Ratio principle is recognized as an important limitation on the power of states[19] and is valid in all European countries except Germany, which stands in the way of the civil law doctrine.

The ideas of subsidiarity of criminal law and the Ultima Ratio principle are key concepts in modern criminal law science. They emphasize that criminal law should only be used as a last resort when other legal means have been exhausted or have proven ineffective. The principle of subsidiarity suggests that criminal law comes into play only when other branches of law are unable to adequately protect public interests. This reflects the need for minimal interference of criminal law in private and public life, limiting its application to cases where other measures, such as administrative or civil sanctions, cannot achieve the required results. The Ultima Ratio principle, in turn, concretizes the idea of subsidiarity. He points out that criminal punishment should be considered as a last resort, applied only in cases where all other available measures have already been exhausted. This principle finds expression in the works of many scholars, such as Hans Heinrich Jeschek and Herbert Lionel Adolph Hart, who emphasize the need to strictly limit the application of criminal law. Together, these ideas contribute to the development of more humane and rational criminal legislation, which aims to minimize the repressive impact on individuals and society, while ensuring the effective protection of public interests.

In a modern, developed democratic society, **subsidiarity of criminal law** is a recognized principle, which implies that criminal law and liability based on criminal law apply only if the infringement of the relevant legitimate interests cannot be eliminated by measures of other, less severe legal norms . This concept has two defining elements: criminal law is both essentially and structurally harsher or harsher than other branches of law.

This means that criminal law is always viewed as the most restrictive branch of law due to the abstract possibility of imposing the harshest sanctions (imprisonment) and the greatest restrictions on personal freedom for breaking the law.

At the same time, today it is also obvious that the contours of the categorization of various branches of law according to the severity of the sanctions applied are quite blurred; the imposition by administrative authorities of fairly high fines (or an obligation established by a civil court entailing compensation for damage in the settlement of a tortious obligation) cannot be considered less severe than, for example, probation.

This principle of subsidiarity is closely related to the Ultima Ratio principle, which provides an additional element to ensure compliance with subsidiarity. If other legal regimes for any reason have failed to eliminate the violation of the law, subsidiarity allows the activation of criminal law protection; in this case the Ultima Ratio is a "material and qualifying element", meaning that the criminal law should only be activated if the most important social values have suffered serious damage and harm.

This is well described by the European scholar Järeborg, who argues that the definition of Ultima Ratio logically follows that "criminalization should only be used as a last resort in the most extreme cases," and he also argues that the word "only" should be used to mean "last resort." a means of last resort", which will be used as a principle of criminalization"[20].

Criminal prosecution and sanctions can have a significant impact on the rights of citizens and include a stigmatizing effect. Thus, criminal law must always remain a measure of last resort ("Ultima Ratio"). This is reflected in the general principle of proportionality of criminal law measures, since the threats must be "substantial" in order to achieve the objective of effective policy implementation.

Thus, the legislator needs to carefully analyze whether measures other than criminal law, such as administrative or civil sanctions, can sufficiently ensure the implementation of public policy. In addition, it should be assessed whether criminal law can more effectively address emerging problems from the point of view of liberalizing criminal policy.

The idea of saving criminal sanctions

The ideas of Ultima Ratio also have quite practical significance in terms of choosing the applicable criminal punishment. Thus, in criminal law science, attention is increasingly drawn to the relevance of the application of the **theory of rational choice**, widely used in economics. One of the authors of this approach, G. Becker, won the Nobel Prize "for extending the scope of microeconomic analysis to a number of aspects of human behavior and interaction, including non-market behavior." An independent field of scientific research has emerged at the intersection of economics and jurisprudence, called economic analysis of law (Law and economics). The theory of rational choice proceeds from the fact that a person behaves rationally, performing certain actions, minimizing costs and striving for maximum benefit for himself. This theory makes it possible to objectively explain and predict human behavior based on retribution and reciprocity, which makes it also in demand in jurisprudence.

According to R. Posner, the main function of criminal law in a capitalist society is to prevent people from neglecting the possibility of voluntary compensatory exchange in a situation where transaction costs are minimal and the market mechanism for allocating resources is more effective compared to forced exchange [21].

An illustration of the application of economic theory in the field of criminal law regulation can be the following example: a criminal committed the theft of property belonging to the victim in the amount of, for example, 8 million soums. Criminal law requires that the offender be sentenced either to a fine or to imprisonment, including probation. We will proceed from the fact that the amount of punishment is previously known and amounts to 25 million soums. and one year imprisonment respectively. There is a possibility of reconciliation between the parties before the court verdict.

In the case of real imprisonment, the criminal's losses include lost earnings for one year, in the amount of approximately at least 75 million soums (the average wage for 12 months). Lost time of life in freedom is assessed subjectively. However, there are no "general prices".

The use of actual imprisonment entails significant government costs. Of course, these data are closed, but approximately, maintaining one prisoner per year costs, of course, more than 8 million soums.

Of course, in this example a number of important circumstances are not taken into account, and the methodology for determining benefits and losses requires improvement. For example, the numerous costs of operating the criminal justice system, from the capture of the criminal to the conviction of the criminal, were not taken into account. Although de jure the state bears the costs of executing a suspended sentence, de facto the mechanism for its implementation does not currently provide for serious budgetary expenses. The defendant may also not have the necessary funds to pay fines and damages, etc.

It can be concluded with a high degree of probability that government intervention in connection with a crime committed in the conflict between the perpetrator and the victim leads to huge transaction costs, which can at least be minimized. This is precisely the principle of economy of criminal repression (the principle of ultima ratio), well known in modern criminal law. Criminal law regulations can be recognized as justified only as a last resort (ultima ratio), if less repressive means (civil law or public law) do not provide effective protection of legal benefits[22].

One of the arguments in favor of this principle in criminal law is the model of restorative justice, which also expresses the principle of saving criminal repression. Its comparison with criminal law, focused on retribution and restoration of justice, proves that the state not only ignores the interests of the victim (that is, most often does not solve one of the main problems that arise when committing a crime), but also contributes to the emergence of many new costs associated with the model of punitive justice, including recidivism, social degradation of the criminal in the process of serving his sentence[23]. The principle of saving criminal repression, the use of which seems to be a completely rational choice within the framework of restorative justice, allows, in addition to saving government expenses, to significantly increase the efficiency of criminal legal regulation in general.

In criminal law, the ideas of restorative justice are mainly expressed in the provisions of Art. 66 of the Criminal Code, which allows the offender to be released from criminal liability in connection with reconciliation with the victim. According to the Supreme Court of the Republic of Uzbekistan, in 2023, criminal cases against 14,698 defendants were terminated due to reconciliation with the victim. At the same time, the number of those convicted in 2023 amounted to 55,763 people.[24] That is, it can be stated that the courts quite often apply the provisions of Art. 66 of the Criminal Code. However, it should be noted that the criminal law is not effective enough and has significant potential for improvement.

Firstly, the criminal law provides little incentive for the parties (criminal and victim) to negotiate and conclude a reconciliation agreement.

Secondly, the criminal bears serious risks in the process of reconciliation, since this does not have any mandatory significance for the law enforcement officer, including the court.

Thirdly, the criminal law has too categorically limited the category of crimes for which reconciliation is allowed to only crimes of minor or moderate gravity. In particular, we are talking about the commission of criminal acts that fall into the category of grave and especially grave crimes that caused property damage (for example, theft or fraud on an especially large scale).

Fourthly, the criminal law does not provide for provisions in the event that someone released from criminal liability nevertheless commits a new crime, that is, violates his de facto obligation to lead a law-abiding lifestyle.

Of course, reconciliation between the parties should not turn into an attempt to pay off punishment. At the same time, it is difficult to agree with the thesis that when the victim dies, it is inappropriate to take into account reconciliation between his representatives and the perpetrator[25]. The very fact of the death of the victim does not at all exclude the need to resolve the conflict situation, nor does it indicate the need to apply criminal punishment.

Art. 66 of the Criminal Code assumes that the offender is committing a crime for the first time. All other things being equal, a person has a great chance of reforming without the use of criminal repression. According to some data, among those released from criminal liability due to reconciliation with the victim, about 17% commit crimes again[26, P.24].

It seems rational to refuse criminal prosecution only if the person does not plan to continue his criminal career. Otherwise, reconciliation of the parties will only be a delay before committing a new crime. Refusal of criminal prosecution due to reconciliation of the parties should not encourage the perpetrator to continue his criminal career. In this regard, a proposal has been made to make the exemption from criminal liability conditional (in particular, when committing crimes of moderate gravity)[26, P.17].

An alternative may also be to apply to a person who was previously released from criminal liability in connection with the reconciliation of the parties, who has repeatedly committed a crime, the most severe punishment provided for by the sanction of the relevant norm.

According to scientists, the use of Art. 66 of the Criminal Code in the current version is not possible if, in addition to the victim - an individual, the interests of society and the state are violated (for example, when violence is used against a law enforcement officer)[28]. From the point of view of the effectiveness of criminal legal regulation, this opinion is not controversial. The state, for unclear reasons, refuses to reconcile with the criminal, which the victim is ready to accept, ultimately placing on society the entire burden of costs associated with the use of criminal repression, including numerous social costs.

The theory of minimalist criminal sanctions argues that criminal law plays a key role in the effectiveness of the social exchange of crime for punishment. Obviously, it should stimulate the perpetrator and the victim to reconcile in order to, if possible, increase the efficiency of the exchange and minimize the use of criminal repression. As noted in science, people have succeeded in resolving conflict situations without the help of the law, developing more effective mechanisms than those offered by the legal system[27].

Conclusions

Firstly, for the full implementation of the ultima ratio principle in the criminal law, it is vitally necessary to have political will and serious support from scientists and practitioners; in this case, even in times of crisis, criminal legislation, while remaining within the boundaries established by the principle of the rule of law, is able to implement its functions (primarily protective) to the extent that it is realistic and reasonable to expect from it.

Secondly, the main guiding criterion in establishing the legitimate boundaries of criminal law protection is the protected object, and the principle of ultima ratio, as well as the subsidiary nature of criminal law, are directly related to it. With all its weaknesses, including lack of certainty and dependence on external legal criteria and values on which it is based, the concept of the object of criminal legal protection still contains the function of legitimizing the boundaries of criminal intervention.

Thirdly, the applied nature of the ultima ratio principle lies in the fact that when real deprivation of liberty is applied, the majority of subjects (society, state, criminal) suffer serious losses, and society and the victim receive an implicit and far from optimal benefit in the form of a symbolic restoration of social justice and temporary isolation of the offender, in connection with which, saving punitive sanctions in the form of a prison sentence significantly reduces the costs of all interested parties and ensures a more complete satisfaction of public interests and the interests of the victim, which should be a priority, since this is the meaning of state coercion.

Fourthly, the introduction of the ultima ratio principle requires a review of current criminal norms and practices in order to eliminate cases of excessive use of criminal sanctions. This involves a systematic analysis and revision of current legislation in order to reduce the number of crimes for which disproportionately severe penalties are provided, which also contributes to the humanization of criminal law.

Fifthly, the implementation of the ultima ratio principle also implies the active development of alternative methods of influencing offenders, such as mediation, rehabilitation programs and other restorative practices. These methods can effectively complement criminal law, reducing the burden on the justice system and allowing for more constructive resolution of conflicts.

Sixthly, the most important aspect of the effective application of the ultima ratio principle is to increase the legal awareness and cultural level of society. Public understanding and support for the principle of minimal criminal law intervention is necessary to ensure its sustainable implementation in practice and to avoid pressure on legislatures to increase penalties without sufficient justification.

The principle of ultima ratio involves the use of criminal sanctions as a last resort, which requires political will and scientific support for its full integration into legislation. The legitimate boundaries of criminal law protection are determined by the protected object, which helps to minimize excessive government intervention. This leads to cost savings as it reduces prisoner costs and redirects resources to more useful uses. Socially, it provides fairer compensation to victims and society through alternative measures such as mediation and rehabilitation programs, which also reduces the burden on the judicial system and contributes to the humanization of the law. Increasing legal awareness of society is necessary for the sustainable implementation of the ultima ratio principle, which reduces pressure on legislative bodies and prevents unjustified increases in penalties. Thus, the implementation of this principle not only improves the efficiency of the legal system, but also brings significant economic and social benefits, creating the conditions for fairer and more humane justice.

References:

1. Jalinsky A.E. Liberal-conservative idea and ee otrazhenie v UK RF // Gosudarstvo i pravo. 2007. No. 8; Kibalnik A.G. O protivostoyanii idey v ugolovnom prave // Rossiyskiy ejegodnik ugolovnogo prava. 2007. N 2. SPb., 2008.
2. Jescheck, H. H. Lehrbuch des Strafrechts: Allgemeiner Teil. 5. Auflage, 1996
3. Hart, H. L. A. The Concept of Law. 1961
4. Moore, M. Placing Blame: A Theory of the Criminal Law. 1997
5. Stojanović Z. Granice, possibilities and legitimacy of criminal protection. Beograd: Savremena administracija, 1987. 115 str.; Garland D. Kultur der Kontrolle: Verbrechensbekämpfung und soziale Ordnung in der Gegenwart. Frankfurt: Campus-Verlag, 2008. P.394; Schünemann B. Das Strafrecht im Zeichen der Globalisierun. Goltdammer's Archiv für Strafrecht, 150, no. 5 (2003): 299–313; Albrecht P.-A. Spezialprävention angesichts neuer Tätergruppen. Zeitschrift für die gesamte Strafrechtswissenschaft, 97, no. 4 (1985): 831–870.
6. Tagantsev N.S. Russkoe ugolovnoe pravo: Lektsii. Chast Obshchaya. 2-e izd. SPb.: Reprint, 2012. T. 1. S. 46
7. Husak D. Overcriminalization: The Limits of the Criminal Law. Oxford; New York; Toronto: Oxford University Press, 2008. X, 231 p.
8. ASHWORTH, ANDREW: Principles of Criminal Law. Clarendon Law Series, 1995. p. 33.

9. AREBORG, NILS: Criminalization as Last Resort (Ultima Ratio). Ohio State Journal of Criminal Law 2004/2 p.526.
10. JAREBORG (2004) p.534.
11. LAGODNY, OTTO: Strafrecht vor den Schranken der Grundrechte, Mohr Siebeck, 1996. p. 348.
12. Soglasno hungerskomu ugolovnomu zakonodatelstvu.
13. See more at KARSAI, KRISZTINA: Fogyasztóvédelém és büntetőjog, Hvg-orac, 2011. pp. 37-51.
14. Fragmentary criminal law is a concept of KARL BINDING (1902) used until today. See ROXIN, CLAUS: Strafrecht. Allgemeiner Teil. 4. Auflage. Munich, C. H. Beck, 2006. p. 45.
15. See more FELIX, DAGMAR: Die Einheit der Rechtsordnung. Mohr Siebeck, 1998. p. 297.
16. Melander, S., 2013 Ultima Ratio in European Criminal Law. Oñati Socio-legal Series [online], 3 (1), 42-61. Available from: http://ssrn.com/abstract=2200871
17. Stojanović Z. Krivičnopravni expanzionizam i razvodvosti Srbije // Stanje criminalita u Srbiji i pravna sredstva reagovanja. IV deo / ur. D. Ignjatović. Beograd: Pravni fakultet University of Beograd, 2010. Str. 32–48; Melander, S., 2013 Ultima Ratio in European Criminal Law. Oñati Socio-legal Series [online], 3 (1), 42-61. Available from: http://ssrn.com/abstract=2200871
18. Albrecht P.-A. Kriminologie: Eine Grundlegung zum Strafrecht. 4th ed. Munich: C. H. Beck, 2010, XXXII+422
19. NAGY FERENC: General part of a magyar penitentiary. Hvg-orac, Budapest, 2010. 59.p. The opinions of the Hungarian scholars are analyzed in KARSAI, KRISZTINA: Az ultima ratio elvről - másčeúl. In: "Sapienti sat" Ünnepi kötet Dr. Cséka Ervin professor 90. syrádnadzára (edited by: FANTOLY ZSANETT - JUHÁSZ ZSUZSANNA-NAGY FERENC). Acta Jur. et Paul. Thomas LXXIV. Szeged, 2012. pp. 253 - 260
20. JAREBORG (2004) p. 534.
21. Posner RA. An Economic Theory of the Criminal Law // Columbia Law Review. 1985. Vol. 85. No. 6. P. 1195.
22. Wessels J., Beulke W. Strafrecht. Allgemeiner Teil. 35, neubearbeite Auflage. Heidelberg: C.F. Müller Verlag, 2005. 395 p.
23. Zer H. Vosstanovitelnoe pravosudie: novyy vzglyad na prestuplenie i nakazanie: per. English / obshch. ed. L.M. Karnozovoy; comment. L.M. Karnozovoy i S.A. Pashmina. M.: MOO Center "Sudebno-pravovaya reforma", 2002. URL: http://sprc.ru/?p=1323 (data obrashcheniya: 15.02.2016).
24. https://stat.sud.uz/file/2024/31.01.pdf
25. Urazbaev R.Sh., Mingalimova M.F. Prekrashchenie ugolovnyx del za primireniem storon po neschastnym sluchayam na proizvodstve so smertelnym iskhodom nezakonno // Zakonnost. 2015. No. 9. S. 64-69.
26. Tseneva V.V. Osvobojdenie ot ugolovnoy otvetstvennosti v svyazi s primireniem s poterpevshim: avtoref. dis. ... candy. walk science Tomsk, 2002. 24 p.
27. Friedman D.D. Law's order: what economics has to do with law and why it matters. Princeton: Princeton University Press, 2000. p. 276.

28. Shnitenkov A.V. Primirenie s poterpevshim kak osnovanie osvobojdeniya ot ugolovnoy otvetstvennosti: problemy zakonodatelstva i debnoy praktiki // Rossiyskaya yustitsiya. 2014. No. 11. S.76.