

**Biblenko V.S.**

postgraduate student of the department of national,  
international law and law enforcement, Kherson State University

**CRIMINAL RESPONSIBILITY FOR ILLEGAL HUMAN RESEARCH:  
A COMPARATIVE STUDY**

According to the provisions of Art. 7 of the International Covenant on Civil and Political Rights of 1966 [1], which are reflected in the Constitution of Ukraine, where, in accordance with Part 3 of Art. 28 no person without his free consent can not be subjected to medical, scientific or other experiments [2]. According to the Helsinki Declaration of the World Medical Organization of 1964, medical research is based on ethical standards that proclaim respect for all people and protect their health and rights [3]. In accordance with the Convention for the Protection of the Rights and Dignity of Man in connection with the use of biology and of Medicine of 1997, the participating States are obliged to ensure the protection of the dignity and individual integrity of a person and guarantee everyone, without exception, respect for the inviolability of the person and other rights and fundamental freedoms in connection with the application of the achievements of biology and medicine [4].

It should be noted that in many European countries the process of criminalization of actions related to experiments on humans already took place a long time ago. Special rules on liability for conducting illegal experiments on humans exist in Ukraine and in the criminal codes of a number of foreign countries, including those located in the post-Soviet space (Azerbaijan, Armenia, Georgia, Estonia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova). Such content standards are usually blanket, that is, they refer to the standards regulated by national health laws. The disadvantage of the blanket rule is that it does not contain an exact indication of a specific rule where certain information can be found; therefore, when a blanket presentation of the content of a rule of law, remains uncertain. Although it is difficult

to avoid this, especially in the medical field, otherwise the norm would become extremely cumbersome, not typical of the norms of criminal law.

Under the rules providing for criminal liability for conducting experiments on people, in most cases, an experiment is understood to mean any research conducted on a person, including any actions on his body (chemical, radiation, operational, and others), the creation of special living conditions during the experiment human, in order to expand the scope of the experimenter's knowledge about anatomy, physiology, any properties, reactions of the human body, the degree of its endurance or replenishment of medical knowledge [5]. At the same time, there is a difference between a “criminally punishable experiment” and a legally carried out one - the lack of consent to the experiment on the part of the person in respect of whom the experiment is carried out. According to these norms, responsibility arises for the very fact of coercion, which is one of the guarantees of compliance with the voluntariness of experimentation. The concept of voluntary consent was developed relatively long ago and has been widely used in medical practice. This term is used not only by international legal documents but also by national legal acts regulating the implementation of biomedical research on humans.

The concept of "voluntary consent of a person undergoing a biomedical experiment" should be interpreted as personal consent to the experiment, given in writing, voluntarily and legally. That is, the person at the time of giving consent must be capable, namely, to understand the meaning of his actions, without any deception, threats or other overt or covert forms of coercion. Voluntary consent requires the experimenter to have a sufficient level of knowledge necessary to understand the essence of the subject of the experiment and make an informed decision. Therefore, it is necessary to provide the object of the experiment with a full amount of information about the course of the experiment, including the possibility of pain, malaise, existing risks, side effects and the likelihood of their occurrence, the consequences for his health, maintaining general and professional performance, and the purpose of the experiment. , methods and processes of its implementation.

As a rule, the qualifying signs in the norms under consideration are an experiment on vulnerable categories of people. Especially qualifying signs are, as a rule, the conduct of an experiment that will knowingly cause serious injury or serious harm to human health, regardless of his consent.

Consequently, in foreign countries, the problem of bringing criminal responsibility for conducting biomedical experiments on humans is solved in several ways. Either by establishing legislative norms on a reasonable risk, as well as causing specific physical or mental harm to a person, or methods are applied to solve this problem through the institution of circumstances precluding the criminality of the act. Thus, the criminal law regulation of conducting biomedical experiments on humans is carried out using the institution of reasonable risk and the rules on causing specific physical or mental harm to a person corresponding to the nature of the specified socially dangerous act.

### **List of references**

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