

A.M. Kalguzhinova, B.A. Amanzholova, Zh.B. Ualiyeva

*Ye.A. Buketov Karaganda State University, Kazakhstan
(E-mail: aigul.kalguzhinova@ksu.kz)*

On trends of criminal and legal policy for countering extremist crime in the Republic of Kazakhstan

To determine the current state of counteraction to this negative phenomenon, the authors conducted a comparative study of the norms of the Criminal Code of the Republic of Kazakhstan of 1997 and the Criminal Code of the Republic of Kazakhstan of 2014. The study object is the effectiveness of countering extremist crime based on the analysis of official statistics for the period 2015–2019. The study subject is the signs of extremist crimes. On the basis of the analysis of trends and amendments made to the Criminal Code of the Republic of Kazakhstan aimed at countering criminal extremist structures, the necessity to ensure stable criminal law prohibitions in this area is concluded. In order to develop anti-criminal measures, it is proposed to apply an approach based on continuous monitoring of both: criminal situation and criminal law policy trends, building appropriate criminological models using quantitative and qualitative indicators. The significance of the formation of a scientifically based forecast of extremism as a negative social and legal phenomenon, which should be the basis for the planned activities, is separately indicated. It is noted that not all methods for analyzing time series and statistical tables make it possible to ensure the necessary accuracy of the forecast formed.

Keywords: anti-extremist legislation, trends of criminal policy, extremist crimes, statistical accounting, countering extremism.

Introduction

In recent years, private theories related to resolving issues of countering extremism and terrorism have been actively developed by local and foreign scholars.

In our opinion, the position of Russian criminologists, who combine criminal violence, terrorism and armed criminal activity in the section called «Violentology» (the doctrine of violence), is noteworthy. Describing terrorism as a system of violence, the authors analyze its subsystems of the social demand for terrorism, the artificial mass, self-preservation and self-reproduction [1; 273–280].

Some scientists consider terrorist crime or terrorism in the broad sense of the word. At the same time, in their opinion, terrorism as a complex social phenomenon includes three main elements: 1) extremist, terrorist ideology; 2) relevant organizations implementing a policy of violence in the form of extremist and terrorist manifestations; 3) the very practice of extremist and terrorist activities [2; 640–643].

As it can be seen, in the causal complex of this negative phenomenon, an ideology of an extremist sense and its distribution among various segments of the population, is becoming increasingly prominent. This is due to the socio-political nature of terrorism, the diversity of extremist manifestations, the heterogeneous composition of extremist organizations.

In accordance with the topic of the scientific research, we have analyzed some of the basic laws of the criminal law policy on countering extremist crime. The choice of extremist crime as an object of research is determined by the following circumstances: an increased level of public danger, which is a system-forming and goal-setting sign [3; 132–133]; high latency of extremist crimes; its substantial resource endowment and transnational character; the constant appearance of new forms and methods of committing criminal offenses, including using modern technologies, involving specialists of the appropriate profile, etc.

However, despite the basically common approaches used for the definition of extremist crime, until now its unified definition has not been developed. At the same time, according to the fair opinion of researchers, the lack of a legislative definition and unity in the use of terminology is a key point that reflects the understanding, approach and measures to counter extremist crime in the Republic of Kazakhstan [4]. Therefore, we will use the criminal law and theoretical models contained in the Criminal Code of the Republic of Kazakhstan and representing signs of specific elements of extremist crimes as formalized criteria for extremist crime.

Materials and methods

The methodological background of this study was made of the dialectical method as a basis for cognition of social and criminological phenomena of reality in their development. Taking into consideration the interdisciplinary nature of the problem studied, private scientific methods (formal logical, comparative legal, statistical, historical and legal methods of scientific knowledge) were also used, when writing the article. Historical and legal research was based on work with the texts of the Criminal Code of the Republic of Kazakhstan of 1997 and the Criminal Code of the Republic of 2014.

The used statistical method revealed the existing dependencies between changes in legislation and the state of investigative and judicial practice.

Results

Analysis of the current anti-extremist legislation

In order to determine trends in the legal policy of countering extremist crime in the Republic of Kazakhstan, we have analyzed the regulatory acts adopted since the independence of Kazakhstan at the international, regional and national levels.

The international community, emphasizing that «terrorism and extremism cannot and should not be associated with any religion, nationality or civilization», and in this context, highlighting «the importance of promoting tolerance and inter-religious dialogue», calls on all relevant institutions to support states, international, subregional and regional organizations in order to maintain peace, security and stability.

The Shanghai Convention on the Suppression of Terrorism, Separatism and Extremism, signed on June 15, 2001, ratified by the Law of the Republic of Kazakhstan dated April 18, 2002, includes twenty-one articles and Appendix.

Protocol on amendments to the Shanghai Convention was ratified by the Law of the Republic of Kazakhstan dated April 7, 2008.

This convention discloses the content of terrorism, separatism, extremism, which have the unified nature, while the definition of extremism focuses on the violent nature of assaults: extremism is an act aimed at seizing or keeping power through the use of violence or changing violently the constitutional regime of a State, as well as a violent encroachment upon public security, including organization, for the above purposes, of illegal armed formations and participation in them, criminally prosecuted in conformity with the national laws of the Parties.

The Action Plan for the Prevention of Violent Extremism (report of the UN Secretary-General at the seventieth session of the UN dated December 24, 2015) states that the definition of this concept «is the prerogative of member states and must comply with their obligations under international law, in particular international law in the field of human rights» [5]. The Action Plan contains an analysis of the conditions and factors contributing to violent extremism; program of action: recommendations for the prevention of violent extremism; call for concerted actions.

However, the term «violent extremism» has not received widespread support and application at the legislative level in the Republic of Kazakhstan.

At the regional level, post-Soviet countries see «terrorism» as one of the forms of «other violent manifestations of extremism», also without revealing the content of these terms.

The concept of cooperation of the member states of the Commonwealth of Independent States in the fight against terrorism and other violent manifestations of extremism, approved by the Decision of the Council of Heads of CIS States dated August 26, 2005, fixed the goals, objectives and principles of cooperation of the CIS member states in the fight against terrorism and extremism; main directions and forms of cooperation in the fight against terrorism and extremism.

The mechanism for the implementation of the Concept has been reflected in medium-term cooperation programs:

- for 2005–2007 (approved by the Decision of the Council of Heads of CIS States dated August 26, 2005);
- for 2017–2019 (approved by the Decision of the Council of Heads of CIS States dated September 16, 2016);
- for 2020–2022 (approved by the Decision of the Council of Heads of CIS States dated October 11, 2019).

Interstate procedures at the CIS level are carried out in the following areas: Organizational and legal measures; Organizational and practical activities; Information and analytical activity; Scientific and methodological work; Personnel training; Financial provision.

The legal and organizational frameworks of countering extremism in order to protect the rights and freedoms of man and citizen, the foundations of the constitutional system, ensuring the sovereignty of the Republic of Kazakhstan, the integrity, inviolability and inalienability of its territory, national security are defined in the special Law of the Republic of Kazakhstan dated February 18, 2005 «On countering extremism». It shall be noted that in the original version, Article 1 of the Law disclosed the content of the basic concepts in the following sequence: organization of extremist actions; countering extremism; extremism prevention; extremist acts; extremism; extremist organization; extremist materials; financing of extremism.

Considering the requirements of legal writing, according to which the terms and definitions in a regulatory legal act in Russian must comply with the order of their presentation in the Kazakh language, the Law of the Republic of Kazakhstan dated November 3, 2014 «On Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on Countering Extremism and terrorism» the corresponding changes were made to this article. The current wording of Article 1 of the Law, first of all, explains the meaning of the concepts of «extremism», «countering extremism», and then «financing of extremism», «prevention of extremism», «extremist actions», «organization of extremist actions», «extremist materials», «extremist group», «extremist organization».

In the normative definition of extremism, three main forms of its manifestation are distinguished: political, national and religious. Meanwhile, as reasonably noted by A.A. Biebayeva, F.S. Zhaksybekova at the practical level the listed forms of extremism are poorly separated, since they never really appear in a «pure» form [6].

The state five-year programs to combat religious extremism and terrorism in the Republic of Kazakhstan (for 2013–2017, 2018–2022) include goals, objectives, target indicators and performance indicators of the programs; main directions, ways to achieve the goals of the programs and related measures; program implementation stages. As can be seen, the names of the program documents of Kazakhstan reflect the counteraction to religious extremism as a priority. It shall be noted that in order to characterize this form of extremism, researchers use various terms: messianic terrorism, inspired by religious beliefs (M. Tehranyan); fundamental religious terrorism (O.K. Balan); group of religious nature, and others.

At the same time, any ideology can potentially have representatives who hold extreme views and resort to violence. Therefore, extremism cannot be associated with only one particular religion.

We also note that the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, speaking at the Human Rights Council on December 23, 2014, presented the report «Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right for development (General Assembly)» noted the following. Recognizing generally the presence of religious and ethnic pluralism in Kazakhstan, there is a negative attitude towards some non-traditional religious communities. Exposure to religious radicalism is largely due to the Soviet legacy, resulting in that the majority of believers do not have a deep understanding of their own religious traditions. Moreover, the lack of a clear definition of extremist crimes, the use of broad terminology leads to legal uncertainty with associated negative consequences for freedom of expression and freedom of religion and belief, and an extremely broad and vague definition of religious extremism creates the conditions for its arbitrary application. It is recommended that Kazakhstan use the Rabat Plan of Action introduced by the Office of the United Nations High Commissioner for Human Rights in 2012 as a practical guide [7].

Criminal liability for extremist crimes

According to paragraph 39 of article 3 of the Criminal Code of the Republic of Kazakhstan, acts stipulated by articles 174, 179, 180, 181, 182, 184, 258, 259, 260, 267, 404 (parts two and three) and 405 of the Criminal Code of the Republic of Kazakhstan are classified as extremist crimes.

As a comparative study of the norms of the Criminal Code of 1997 and the current Criminal Code shows, there is a trend of increase of the number of extremist crimes from eleven to twelve components of crime, as well as qualitative changes in the content of criminal law norms.

Thus, the increase in the number of crimes classified as extremist occurred due to the criminalization of the compositions of the Separatist activity and the inclusion in the list of extremist crimes of the compositions of the Establishment, leadership of the extremist group or participation in its activities; Terrorist or extremist training.

The article-by-article analysis of the elements of extremist crimes (according to the Criminal Code of the Republic of Kazakhstan of 2014) in comparison with the elements of crimes containing elements of extremism (according to the Criminal Code of the Republic of 1997) is characterized by the following innovations. In part 1 of article 177 of the Criminal Code, the element of incitement of «class» hatred is criminal-

ized. The purpose in the composition of the Armed Rebellion has been expanded (part 1 of article 181 of the Criminal Code). Qualifying elements were criminalized in part 2 of article 179 of the Criminal Code, part 2 of article 181 of the Criminal Code, part 2 of article 288 of the Criminal Code. The punishments have been toughened in the sanctions of parts 1–3 of article 174 of the Criminal Code, part 3 of article 189 of the Criminal Code, part 2 of article 181 of the Criminal Code, article 184 of the Criminal Code, parts 1–2 of article 259 of the Criminal Code.

Taking into account features of the immediate object and the proximity of the construction of the objective side of the elements of crimes, the legislator placed extremist crimes in the following chapters:

- crimes encroaching on the peace and security of mankind (one crime is extremist — Inciting social, national, tribal, racial, class or religious hatred);

- criminal offenses encroaching on the foundations of the constitutional system and the security of the state (five crimes are extremist — propaganda or public calls for seizing or holding power, as well as seizing or holding power or forcibly changing the constitutional system of the Republic of Kazakhstan; Separatist activity; Armed rebellion; Establishment, leadership of extremist group or participation in its activities; Sabotage);

- criminal offenses encroaching on public safety (four crimes are extremist — Financing terrorist or extremist activities and other aiding terrorism or extremism; Recruiting or training or arming individuals to organize terrorist or extremist activities; Undergoing terrorist or extremist training; Organization of illegal paramilitary forces);

- criminal offenses encroaching on the administrative order (two crimes are extremist — Establishment, leadership and participation in the activities of illegal public and other associations committed under aggravating circumstances; Organization and participation in the activities of a public or religious association or other organization after a court decision to prohibit their activities or liquidation in connection with their extremism or terrorism).

Taking into account the increased public danger, extremist group and terrorist group are determined as independent sub-types of the organized group. Extremist group is an organized group aimed at the commission of one or several extremist crimes (paragraph 40 of article 3 of the Criminal Code of the Republic of Kazakhstan). Terrorist group is an organized group aimed at the commission of one or several terrorist crimes (paragraph 31 of article 3 of the Criminal Code of the Republic of Kazakhstan).

It shall also be noted that for the first time in the current domestic legislation the Supreme Court of the Republic of Kazakhstan adopted a special normative resolution «On some issues of judicial practice on the application of legislation on terrorist and extremist crimes» on December 8, 2017.

The necessity for a highest court to clarify the qualifications of terrorist and extremist crimes is due to the fact that they «cause significant harm to public security and undermine the foundations of statehood».

Discussion

Features of statistical records of crimes related to extremism, terrorism

The competent authority — the Committee on the Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan — independently records crimes related to extremism and terrorist activities.

By the order of the Prosecutor General of the Republic of Kazakhstan dated March 29, 2012 No. 33, the form of report No. 1-ET «On crimes and offenses, related to extremism, terrorist activity and the state of prosecutor's supervision» was approved, the Instructions for its compilation and maintaining a database of individuals, brought to justice for crimes and offenses related to extremism, terrorist activities and organizations recognized by the court as extremist, terrorist.

In accordance with this order, the statistical report included summary information on eight sections: «Information on crimes related to extremism and terrorist activities»; «Information on the persons who committed crimes related to extremism, terrorist activity»; «Information on the seizure of extremist materials, weapons, ammunition and explosives»; «Supervision of the application of laws in the adjudication of criminal acts related to extremism and terrorist activities»; «Information on individuals convicted of crimes related to extremism and terrorist activity»; «Information on offenses related to extremism and terrorist activities»; «Information on the state of prosecutorial supervision of countering extremism and combating terrorist activity»; «Supervision of the legitimacy of the arrest, detention of suspects in the commission of crimes related to extremism, terrorist activities».

The new statistical form of report No. 1-ET «On offenses related to extremism and terrorism and the state of prosecutorial supervision», as well as the Instructions for its compilation and formation, were approved by order of the Prosecutor General of the Republic of Kazakhstan dated October 9, 2014 No. 113.

Comparison of this form of the report with the previously used form shows that, in general, the statistical indicators are preserved and brought into line with the provisions of the Criminal Code and the Code of Criminal Procedure.

Analysis of the data of reports posted on the website of the Committee on the Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan shows that only information for the period 2013–2017 is publicly available.

So, in 2013, the statistical report included summary information on the first four sections.

In 2014, the report was supplemented by section 5 «Information on individuals convicted of crimes related to extremism and terrorist activities».

The current state of extremist crime in Kazakhstan

In order to determine the current state of countering extremism, we studied the statistical reports of the Committee on the Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan for the period 2015–2019 [8].

The state of extremist crime in Kazakhstan for the period of 2015–2017 is characterized by positive dynamics (Figure 1), however then the number of reported extremist crimes was consistently decreasing. At the same time, the «peak» period is 2017, when 279 extremist crimes were registered.

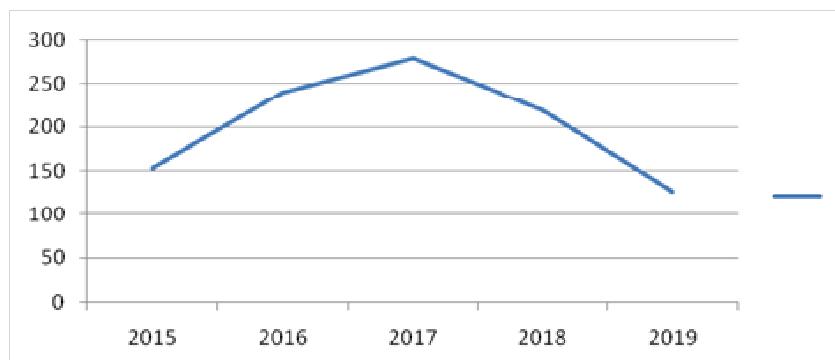


Figure 1. Dynamics of registered extremist crimes in Kazakhstan for 2015–2019

The movement of the crime, presented in Table 1, shows the change in the number of detectable extremist crimes during the validity period of the Criminal Code.

Table 1

The intensity of reported extremist crimes in Kazakhstan for 2015–2019

	2015	2016	2017	2018	2019
Article 174 of the CC of Kazakhstan	82	151	219	139	68
Article 179 of the CC of Kazakhstan	2	5	1	6	3
Article 180 of the CC of Kazakhstan	4	3	1	1	2
Article 181 of the CC of Kazakhstan	-	-	-	-	-
Article 182 of the CC of Kazakhstan	-	3	-	-	-
Article 184 of the CC of Kazakhstan	-	-	-	-	-
Article 258 of the CC of Kazakhstan	13	20	18	14	3
Article 259 of the CC of Kazakhstan	19	18	13	11	2
Article 260 of the CC of Kazakhstan	6	-	3	-	2
Article 267 of the CC of Kazakhstan	-	-	-	-	-
Article 404 of the CC of Kazakhstan	2	2	4	-	2
Article 405 of the CC of Kazakhstan	16	38	20	49	45
Total extremist crimes	154	240	279	220	127

As it can be seen, similarly to the dynamics of the total number of recorded extremist crimes, the composition of the crimes on Inciting of social, national, tribal, racial, class or religious hatred; and Establishment, leadership and participation in the activities of illegal public and other associations, is characterized: growing from 2015 to 2017, then decreasing to 2019. At the same time, the fast growth of extremist crimes was accompanied by their transition from passive types (spreading general judgments, involving new adherents), to crimes involving active actions (calls for acts of rebellion) [9].

The facts of separatist activity (Article 180 of the Criminal Code of the Republic of Kazakhstan) and receiving terrorist or extremist training (Article 260 of the Criminal Code of the Republic of Kazakhstan) were reduced.

The highest rates of decrease in the number of criminal acts are observed in the detection of the composition of the Financing of terrorist or extremist activities and other aiding terrorism or extremism (Article 258 of the Criminal Code of the Republic of Kazakhstan) and the Recruitment or training of individuals in order to organize terrorist or extremist activities (Article 259 of the Criminal Code of the Republic of Kazakhstan).

The downward trend, including to zero value, is typical for cases of establishment, leadership of an extremist group or participation in its activities (Article 182 of the Criminal Code of the Republic of Kazakhstan).

According to the official statistics of the crimes committed in the Armed Rebellion (Article 181 of the Criminal Code of the Republic of Kazakhstan), Diversion (Article 184 of the Criminal Code of the Republic of Kazakhstan), the Organization of the illegal paramilitary formation (Article 267 of the Criminal Code of the Republic of Kazakhstan), were not revealed during the analyzed period.

Crimes such as propaganda or public calls for the seizure or retention of power, as well as the seizure or retention of power or the forcible change of the constitutional order of the Republic of Kazakhstan (Article 179 of the Criminal Code of the Republic of Kazakhstan); and The organization of the activities of a public or religious association or other organization after a court decision to prohibit their activities or liquidate in connection with their extremism (Article 405 of the Criminal Code of the Republic of Kazakhstan) is characterized by an abrupt change in statistical indicators: growth — decrease — growth — decrease (Figure 2).

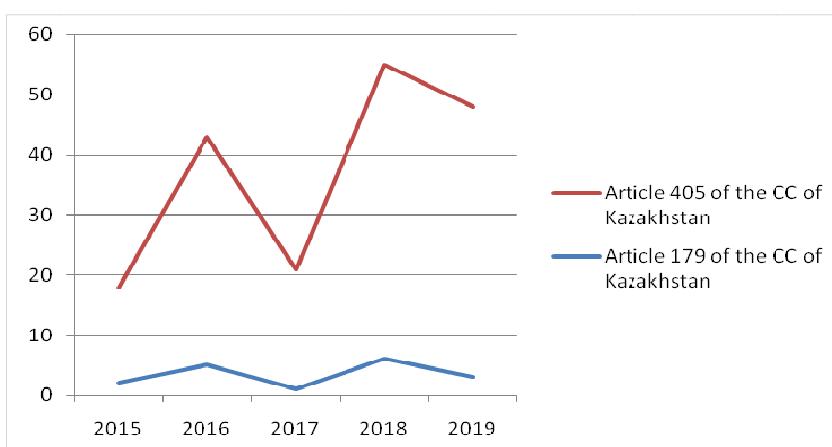


Figure 2. Dynamics of crimes specified in the Articles 179, 405 of the Criminal Code of the Republic of Kazakhstan registered in Kazakhstan for 2015–2019

According to the researchers of Kazakhstan, the fast growth of extremist crimes was accompanied by their transition from passive types (spreading general judgments, involving new adherents), to crimes involving active actions (calls for acts of rebellion).

Particular interest is taken in the consideration of the dependence of the characteristics of extremist crime on territorial factors. The increased activity of religious extremist and radical political elements in recent years has been noticed in the central, eastern and northern parts of the country. The maximum registration of extremist crimes is typical for Karaganda, Almaty, Aktobe, Atyrau, South Kazakhstan regions, Astana and Almaty [9].

An analysis of the structure of extremist crime in Kazakhstan for 2017, displayed on Figure 3, shows that the proportion of extremist crimes amounted to:

- Incitement of social, national, tribal, racial, estate or religious hatred — 78,5 %,
- Organization and participation in the activities of public or religious associations or other organization after a court decision to prohibit their activities or liquidate in connection with their extremism or terrorism — 7,2 %,
- Financing terrorist or extremist activities and other aiding of terrorism or extremism — 6,4 %,
- Recruitment or training or arming individuals in order to organize terrorist or extremist activities — 4,6 %,
- Other extremist crimes — 3,3 %.

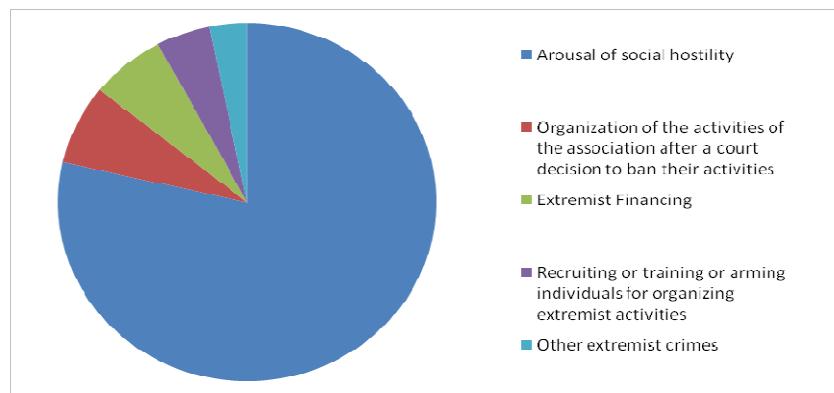


Figure 3. The structure of extremist crime in Kazakhstan in 2017

The official website of the Committee on the Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan contains a list of terrorist and extremist organizations [10], as well as a list of literature and information materials recognized as terrorist, extremist and prohibited from importing, publishing and distributing on the territory of the Republic of Kazakhstan [11].

As of today, four international organizations have been recognized as extremist organizations (Hizbut-Tahrir al-Islami, Tablighi-Jamagat, At-takfir al-hijra, Yakyn Inkar), and the republican public association «Senim. Bilim. Omir», unregistered public association «Public movement «Halyk Maidany» — «National Front», unregistered public association «People's Party Alga» and «Democratic Choice of Kazakhstan» (DCK).

The list of religious literature and information materials recognized as extremist and prohibited from importing, publishing and distributing on the territory of the Republic of Kazakhstan includes 877 materials, including in printed form — 314, in electronic form — 138, audio materials — 323, video materials — 102.

At the same time in 2010, 2011 and 2015 Kazakhstan courts did not consider and, accordingly, did not make decisions on recognition of information materials imported, published, produced and (or) distributed on the territory of the Republic of Kazakhstan as extremist. The largest number of the materials content was recognized as extremist in 2013–2014, which is largely due to the «informational effect of events in Syria», as well as the «spread of cases of imparting a form of religious opposition to criminal intentions that increased during the socio-economic crisis». The territorial strengthening of the ideological effect on people who find themselves in a difficult social or personal situation through social networks was especially active in Astana (168 materials), Atyrau (140 materials) and West Kazakhstan regions (138 materials).

Conclusions

As it can be seen, the anti-extremist legislation of the Republic of Kazakhstan has a short history. The introduction and normative definition of the terms «extremism» and «extremist crimes» is conditioned by the official negative attitude towards terrorist, extremist and paramilitary organizations.

The analysis of official statistics showed an abrupt change in the quantitative indicators of extremist crimes, which can be justified by the absence of established trends, as well as the instability of legal regulation.

To overcome the existing situation, we consider it necessary to build an appropriate system of measures to counter extremist crime, based on a scientifically proven forecast of the considered negative social and legal phenomenon. The improvement of the Kazakhstan's system of counteraction to extremism and terrorism should be aimed at realization of the goal of forming immunity to rejection of radical ideology, showing zero tolerance for extremist crimes, and also reducing the number of people with intentions to incite religious hatred or discord.

References

- 1 Частная криминология / Отв.ред. Д.А. Шестаков. — СПб.: Юридический центр «Пресс», 2007. — 771 с.
- 2 Криминология: учеб. / под общ.ред. А.И. Долговой. — М.: Норма, 2002. — 848 с.
- 3 Васин Ю.Г. О тенденциях уголовно-правовой политики противодействия организованной преступности / Ю.Г. Васин // Актуальные проблемы российского права. — 2017. — № 10 (83). — С. 131–139.
- 4 Гусарова А. Особенности противодействия насилиственному экстремизму и терроризму в Казахстане [Электронный ресурс] / А. Гусарова. — Режим доступа: <https://cabar.asia/ru/osobennosti-protivodejstviya-nasilstvennomu-ekstremizmu-i-terrorizmu-v-kazahstane/#> (Дата обращения: 10.01.2020 г.).
- 5 План действий по предупреждению насилиственного экстремизма (A/70/674) // ООН. — 2015. — 24 дек. [Электронный ресурс]. — Режим доступа: <https://undocs.org/ru/A/70/674>. (Дата обращения: 12.02.2020 г.).
- 6 Биебаева А.А. Правовые основы противодействия экстремизму в Республике Казахстан / А.А. Биебаева, Ф.С. Жаксыбаева [Электронный ресурс]. — Режим доступа: http://www.rusnauka.com/41_PWSN_2014/Pravo/5_184321.doc.htm; <http://www.konspekt.biz/index.php?text=55723> (Дата обращения: 15.01.2020 г.).
- 7 Доклад Специального докладчика по вопросу о свободе религии или убеждений Хайнера Билефельдта. Совет по правам человека от 23 декабря 2014 года «Поощрение и защита всех прав человека, гражданских, политических, экономических, социальных и культурных прав, включая право на развитие (Генеральная Ассамблея)» [Электронный ресурс]. — Режим доступа: <http://adilet.zan.kz/rus/docs/O1400000005> (Дата обращения: 10.03.2020 г.).
- 8 Официальный сайт Комитета по правовой статистике и специальным учетам Генеральной прокуратуры Республики Казахстан > Главная > Информационный сервис «Правовая статистика» > Статистические отчеты о зарегистрированных преступлениях и лицах, их совершивших, за 2015–2019 гг. [Электронный ресурс]. — Режим доступа: <http://service.pravstat.kz/portal/page/> (Дата обращения: 17.02.2020).
- 9 Билялов Б.С. О состоянии террористической и экстремистской преступности в Республике Казахстан / Б.С. Билялов // Уголовная юстиция. — 2017. — № 10. — С. 129–132.
- 10 Официальный сайт Комитета по правовой статистике и специальным учетам Генеральной прокуратуры Республики Казахстан > Главная > О КПСиСУ > Список экстремистских организаций [Электронный ресурс]. — Режим доступа: <http://pravstat.prokuror.gov.kz/rus/o-kpsisu/spisok-ekstremistskih-organizaciy> (Дата обращения: 18.02.2020 г.).
- 11 Официальный сайт Комитета по правовой статистике и специальным учетам Генеральной прокуратуры Республики Казахстан > Главная > О КПСиСУ > Список религиозной литературы и информационных материалов, признанных экстремистскими и запрещенных к ввозу, изданию и распространению на территории Республики Казахстан [Электронный ресурс]. — Режим доступа: <http://pravstat.prokuror.gov.kz/rus/o-kpsisu/spisok-religioznoy-literatury-i-informacionnyh-materialov-priznannyh-ekstremistskimi-i> (Дата обращения: 18.02.2020 г.).

А.М. Қалғожинова, Б.А. Аманжолова, Ж.Б. Үәлиева

Қазақстан Республикасында экстремистік қылмыстылыққа қарсы іс-қимылдың қылмыстылыққа қарсы құқықтық саясатының бағдары жөнінде

Экстремистік қылмыстылыққа қарсы іс-қимылдың қазіргі заманауи жағдайын анықтау үшін авторлар 1997 жылғы Қазақстан Республикасының Қылмыстық кодексі мен 2014 жылғы Қазақстан Республикасының Қылмыстық кодексі нормаларына салыстырмалы зерттеу жүргізген. 2015-2019 жылдар аралығындағы реєми статистиканы талдау негізінде экстремистік қылмыска қарсы тұрудың тиімділігін анықтау зерттеу нысаны болып табылады. Зерттеу пәні ретінде экстремистік қылмыс құрамдарының белгілерін анықтау. Қылмыстық экстремистік құрылымдарға қарсы іс-қимылдарға бағытталған ҚР ҚК-не енгізілген езгертулер мен толықтырулар үдерісін талдау негізінде осы салада тұрақты қылмыстық-құқықтық тыйым салуды қамтамасыз ету қажеттілігі туралы тұжырым жасалған. Қылмыстылыққа қарсы шараларды жасақтау мақсатында сандық және сапалық көрсеткіштерді пайдалану арқылы, сәйкес криминологиялық үлгі құрастыру үшін криминогендік жағдайды әрі қылмыстық-құқықтық саясат бағдарын үнемі бақылауға негізделген тәсілдерді колдану ұсынылған. Жоспарланған шаралар негізінде жататын, экстремизмді келенсіз алеуметтік-құбылыс ретінде танитын, ғылыми негізделген болжамды қалыптастыру маңыздылығы жеке анықталған. Динамикалық катарлар мен статистикалық кестені талдаудың барлық әдістері жасалған болжамның қажетті дәлдігін қамтамасыз ете алмайтыны да анықталған.

Kітт сөздер: экстремизмге қарсы заңнама, қылмыстық саясат бағдары, экстремистік қылмыстар, статистикалық есеп, экстремизмге қарсы іс-қимыл.

А.М. Калгужинова, Б.А. Аманжолова, Ж.Б. Уалиева

О тенденциях уголовно-правовой политики противодействия экстремистской преступности в Республике Казахстан

Для определения современного состояния противодействия экстремистской преступности авторами проведено сравнительное исследование норм Уголовного кодекса Республики Казахстан 1997 г. и Уголовного кодекса Республики Казахстан 2014 г. Объектом исследования является эффективность противодействия экстремистской преступности на основе анализа официальной статистики за период 2015–2019 гг. Предметом исследования выступают признаки составов экстремистских преступлений. На основе анализа тенденций изменений и дополнений, внесенных в УК РК, направленных на противодействие криминальным экстремистским структурам, сделан вывод о необходимости обеспечить стабильные уголовно-правовые запреты в данной области. В целях выработки антикриминальных мероприятий предложено применять подход, основанный на постоянном мониторинге как криминогенной обстановки, так и тенденций уголовно-правовой политики, на построении соответствующих криминологических моделей с использованием количественных и качественных показателей. Отдельно указано значение формирования научно обоснованного прогноза экстремизма как негативного социально-правового явления, который должен бытьложен в основу планируемых мероприятий. Отмечено, что не все методы анализа динамических рядов и статистических таблиц позволяют обеспечить необходимую точность формируемого прогноза.

Ключевые слова: антиэкстремистское законодательство, тенденции уголовной политики, экстремистские преступления, статистический учет, противодействие экстремизму.

References

- 1 Shestakov, D.A. (Ed.). (2007). *Chastnaia kriminolohiia [Private criminology]*. Saint Petersburg: Yuridicheskii tsentr «Press» [in Russian].
- 2 Dolgova, A.I. (Eds.). (2002). *Kriminolohiia [Criminology]*. Moscow: Norma [in Russian].
- 3 Vasin, Yu.G. (2017). O tendentsiiakh uholovno-pravovoii politiki protivodeistviia orhanizovannoii prestupnosti [On the trends in the criminal law policy of combating organized crime]. *Aktualnye problemy rossiiskogo prava — Actual problems of Russian law*, 10 (83), 131–139 [in Russian].
- 4 Gusarova, A. (2019). Osobennosti protivodeistviia nasilstvennomu ekstremizmu i terrorizmu v Kazakhstane [Features of countering violent extremism and terrorism in Kazakhstan]. *cabar.asia/ru*. Retrieved from <https://cabar.asia/ru/osobennosti-protivodejstviya-nasilstvennomu-ekstremizmu-i-terrorizmu-v-kazahstane/#> [in Russian].
- 5 Plan deistvii po preduprezhdeniiu nasilstvennogo ekstremizma (A/70/674) // OON. 2015. 24 dekabria [Plan of Action for the Prevention of Violent Extremism (A / 70/674) // UN. 2015.24 December]. *undocs.org*. Retrieved from <https://undocs.org/ru/A/70/674>
- 6 Biebaeva, A.A., & Zhaksybekova, F.S. (2014). Pravovye osnovy protivodeistviia ekstremizmu v Respublike Kazakhstan [Legal framework for countering extremism in the Republic of Kazakhstan]. *rusnauka.com*. Retrieved from http://www.rusnauka.com/41_PWSN_2014/Pravo/5_184321.doc.htm <http://www.konspekt.biz/index.php?text=55723> [in Russian].
- 7 Doklad Spetsialnogo dokladchika po voprosu o svobode reliii ili ubezhdenii Hainera Bilefeldta. Sovet po pravam cheloveka ot 23 dekabria 2014 hoda «Pooshchrenie i zashchita vsekh prav cheloveka, hrazhdanskikh, politicheskikh, ekonomicheskikh, sotsialnykh i kulturnykh prav, vkluchaiia pravo na razvitiie (Generalnaia Assambleia)» [Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt. Human Rights Council of 23 December 2014 «Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (General Assembly)»]. *adilet.zan.kz*. Retrieved from <http://adilet.zan.kz/rus/docs/O1400000005> [in Russian].
- 8 Ofitsialnyi sait Komiteta po pravovoi statistike i spetsialnym uchetam Heneralnoi prokuratury Respubliki Kazakhstan > Hlavnaya > Informatsionnyi servis «Pravovaia statistika» > Statisticheskie otchety o zarehistrovannykh prestupleniakh i litsakh, ikh sovershivshikh, za 2015–2019 hh. [Official website of the Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan> Home> Information service «Legal statistics»> Unharvested 2015–2019]. *service.pravstat.kz*. Retrieved from <http://service.pravstat.kz/portal/page/> [in Russian].
- 9 Biljalov, B.S. (2017). O sostoianii terroristicheskoi i ekstremistskoi prestupnosti v Respublike Kazakhstan [On the state of terrorist and extremist crime in the Republic of Kazakhstan]. *Uholovnaia yustitsiia — Criminal justice*, 10, 129–132 [in Russian].
- 10 Ofitsialnyi sait Komiteta po pravovoi statistike i spetsialnym uchetam Heneralnoi prokuratury Respubliki Kazakhstan > Hlavnaya > O KPSiSU > Spisok ekstremistskikh orhanizatsii [Official site of the Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan> Home> About KPSiSU> List of extremist organizations]. *pravstat.prokuror.gov.kz*. Retrieved from <http://pravstat.prokuror.gov.kz/rus/o-kpsisu/spisok-ekstremistskikh-organizaciy> [in Russian].
- 11 Ofitsialnyi sait Komiteta po pravovoi statistike i spetsialnym uchetam Heneralnoi prokuratury Respubliki Kazakhstan > Hlavnaya > O KPSiSU > Spisok relihioznoi literatury i informatsionnykh materialov, priznannyykh ekstremistskimi i zapreshchennykh k vvozu, izdaniiu i rasprostraneniiu na territorii Respubliki Kazakhstan [The official website of the Committee on Legal Statistics and Special Accounts of the General Prosecutor's Office of the Republic of Kazakhstan> Home> About the KPSiSU> List of religious literature and information materials recognized as extremist and prohibited from importing, publishing and disseminating on the territory of the Republic of Kazakhstan]. *pravstat.prokuror.gov.kz*. Retrieved from <http://pravstat.prokuror.gov.kz/rus/o-kpsisu/spisok-religioznoy-literatury-i-informacionnyh-materialov-priznannyykh-ekstremistskimi-i> [in Russian].