

legal activities, the following typical investigative situations arise: a) the person who involved a minor in illegal activities is known and detained, there is sufficient material and personal evidence reports of suspicion; b) the person who involved the minor in the illegal activity is known, but the material and personal evidence is not sufficient to inform him of the suspicion; c) the person who involved the juvenile in illegal activities is known to have a sufficient amount of material and personal evidence, but the offender is hiding from law enforcement agencies; d) the fact of involvement of the juvenile in illegal activity is revealed, but the identity of the criminal isn't established.

**Keywords:** *illegal activity, juvenile, involvement, typical investigative situation, investigative (search) action, organization.*

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**Vadym FURSA**®

Lecturer

*(Dnipropetrovsk State University  
of Internal Affairs, Dnipro, Ukraine)*

### **PROBLEMATIC ISSUES RELATING TO THE AGE OF THE VICTIM OF THE CORRUPTION OF MINORS**

**Вадим Фурса. ПРОБЛЕМНІ ПИТАННЯ ЩОДО ВІКУ ПОТЕРПІЛОЇ ВІД РОЗПУСНИХ ДІЙ ОСОБИ.** У статті, на підставі аналізу теоретичних напрацювань з кримінального права та діючих положень Розділу IV Особливої частини Кримінального кодексу України, здійснено спробу проаналізувати інститут потерпілої від розпусних дій особи. Зокрема, у статті зазначається, що Законом України від 14 березня 2018 «Про внесення змін до Кримінального кодексу України щодо захисту дітей від сексуальних зловживань та сексуальної експлуатації» було змінено редакції статей 155 та 156 КК України та фактично виконано вимоги ст. 18 Конвенції Ради Європи про захист дітей від сексуальної експлуатації та сексуального насильства в частині рекомендації країнам-учасникам визначити вік, до досягнення якого заборонені статеві відносини з дитиною навіть за добровільної згоди останньої, при цьому закріплено, що віком до досягнення якого заборонено будь-які статеві відносини з неповнолітнім є 16-річний вік.

Також у статті аналізуються аргументи вчених щодо підвищення віку потерпілої від розпусних дій особи. Загалом, погоджуючись із аргументами вчених, доводиться недоцільність на даному етапі підвищувати вік потерпілої особи до 18 років, оскільки підвищення віку не вирішить проблему вчинення розпусних дій в силу того, що значна кількість дітей вступає в добровільні статеві відносини ще в малолітньому віці. У зв'язку з цим акцентовано увагу на необхідності запровадження сексуальної освіти на рівні початкової та середньої школи, яка в кінцевому результаті приведе до формування сексуально свідомої людини із високими моральними цінностями, і як наслідок зменшить кількість ранніх статевих контактів малолітніх та неповнолітніх осіб, а також зменшить кількість статевих злочинів узагалі.

**Ключові слова:** *статеві зносини, розбещення неповнолітніх, розпусні дії, статеві злочини, потерпіла особа, вік потерпілої особи, сексуальна освіта.*

**Relevance of the study.** The topic of sexual crimes against minors remains relevant. They pose an increased public danger. The position that a child, due to his physical and mental immaturity, needs increased protection and guardianship, has long been universally recognized. As a result of the commission of a sexual crime against a minor, his further physical and mental development is often disrupted. Such persons may form the wrong, from a moral point of view, the idea of sexual relations. Subsequently, personality deformation is not excluded. Also, sexual crimes are characterized by high latency, therefore, the registered cases of this category of crimes do not reflect reality.

This largely intensified the search for ways to improve the current legislation in Ukraine, which is still taking place.

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ORCID iD: <https://orcid.org/0000-0001-5962-8327>

[k\\_tsp@dduvs.in.ua](mailto:k_tsp@dduvs.in.ua)

**Recent publications review.** The problems of the general criminal law and criminological characteristics of crimes against sexual freedom and sexual inviolability are reflected in the works of S. Avramenko, Yu. Aleksandrov, Yu. Antonyan, M. Bazhanov, Yu. Baulin, L. Brich, A. Dudorov, A. Ignatov, A. Savchenko, O. Sineokogo, A. Svetlichny, S. Chmut, I. Chugunikov, Y. Yakovlev and others. Despite significant scientific developments, advances in legal practice, discussions between scholars continue.

**The article's objective.** Analysis of the need to raise the age of the victim of lecherous actions of a person, taking into account the latest changes in criminal legislation.

**Discussion.** The Law of Ukraine dated March 14, 2018 «On Amendments to the Criminal Code of Ukraine regarding the Protection of Children from Sexual Abuse and Sexual Exploitation» changed the disposition of Articles 155 and 156 of the Criminal Code of Ukraine. The law proposes a new version of Article 155 of the Criminal Code of Ukraine. In part of the first article, the legislator changed the evaluative concept of «sexual maturity» to a specific age – 16 years. He also consolidated the provision that only adults are subject to criminal liability. In the second part of the article, the list of special subjects of crime is replaced by the general concept of «close relatives or family members». Also, the article is supplemented with a note that refers to another normative act. There are much fewer changes to Article 156. In the second part of the article, the list of special subjects of crime is replaced by the general concept of «close relatives or family members».

With these changes, the legislator has complied with the requirements of Art. 18 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. It is legally stipulated that the age before reaching which any sexual relations with a minor are prohibited is 16 years of age.

At the same time, researchers have repeatedly raised the issue of raising the age of the victim to 18 years.

S. Avramenko believes that raising the age, firstly, will coordinate the title of Article 156 of the Criminal Code with the disposition of Part 1 of this norm, and secondly, the norms of the Ukrainian Criminal Code will be consistent with the provisions of international treaties ratified by the Verkhovna Rada of Ukraine; thirdly, criminal law protection will cover a diverse area of sexual inviolability of minors, fourthly, the normal sexual development of a person during the period of minority will lay high ideals of family values and promote the harmonious development of a new generation of Ukrainian citizens [1, pp. 70-71].

A. Svetlichny believes that the sexual sphere of life of young people and their safety is extremely important from the point of view of vulnerability. Consequently, the proposal to raise the age of the victim from the corruption of minors to eighteen years is an actual and demanded thought in modern society [2, c. 88].

The main argument in favor of raising the victim's age to 18 years is the child's physiological and mental development. The scientist points out that the peculiarities of the psychophysical sexual development of an individual do not distinguish the achievement of 16 years of age as a certain milestone in the development of minors. On the contrary, the period from 15 to 18 years old is defined as early adolescence and is the period of completion of the physical maturation of the body.

As the next argument, the researcher cites the provision that in the criminal legislation of many countries responsibility for the corruption of minors is established exclusively for persons of eighteen years of age. Thus, the legislator assigns full control over sexual relations in society to adults. Also, an argument in favor of an increase is that, recognizing as a victim of lecherous actions of a person who has not reached the age of sixteen, the legislator artificially deprived the criminal legal protection of persons who, for objective reasons, have not reached puberty and are in an active phase of sexual development [2, pp. 87-90].

Agreeing with the arguments of scientists, we consider it inappropriate to increase the age of the injured person to 18 years at this stage. We believe that raising the age will not solve the problem of committing lecherous acts, since a significant number of minors enter into voluntary sex at a young age.

In 2018, UNICEF released the results of a study on adolescent sexual initiation. The results obtained indicate that more than half of adolescents (56% among boys and 58% among girls) had sex with people of the opposite sex. With increasing age, the number of adolescents who have had sex with persons of the opposite sex is growing: among adolescents 10-13 years old, almost every ninth (11%) had sexual intercourse, among adolescents 18-19 years old – 92%.

Among adolescents who had sex with persons of the opposite sex, about half (46%) had

their first sexual experience at the age of 14-15, and 17% – at the age of 6-13. Among girls, every fifth (21%) had the first sexual intercourse at the age of 6-13, and every second or third (42%) – at the age of 14-15. Among adolescents, every seventh (15%) began sexual activity at the age of 6-13, every second (48%) – at the age of 14-15.

67% of adolescents had the first sexual intercourse at the age of 14-15 years. 56% of adolescents had the first sexual intercourse at the age of 16-17 years. 37% of adolescents had the first sexual intercourse at the age of 18-19 years.

Among adolescents who had sex with people of the opposite sex, almost a quarter (24%) had 3-5 partners in the last year, and 12% had 6 partners or more. The older the adolescents, the more among them are those who have had 3-5 partners in the last year: among adolescents 10-13 years old, such 14%, among adolescents 18-19 years old – 27%. Among adolescents who have had sex with people of the opposite sex, 60% have regular sexual partners (such 68% among girls and 57% among boys). The older the adolescents, the more among them are those who have regular sexual partners: 23% among 10-13 year olds, 67% among 18-19 year olds. Among adolescents who have regular partners, a quarter (26%) had 2 or more sexual partners in the last year. This concerns girls to a greater extent than boys (31% and 23.5%, respectively), as well as 14-15-year-olds, compared to representatives of other age groups (32%, among 16-17-year-olds – 24%, 18-19 year olds – 27%).

Among adolescents who have had sexual intercourse with persons of the opposite sex, every second (51.5%) has experience of sexual intercourse with a casual partner. This is predominantly typical for boys than for girls (58% and 38%, respectively). With increasing age, the proportion of adolescents who have had sexual contacts with casual partners increases: from 46% among 10-13-year-olds and 14-15-year-olds to 56% among 18-19-year-olds.

Among adolescents who had casual sexual partners, 38% had 2-3 partners in the last year, and 28% had 4 or more partners. There are no statistically significant sex differences in the number of partners during the last year. 2-3 casual partners had 40% of girls and 37% of boys, 4 or more partners – 25% of girls and 28% of boys. Those who had 2-3 casual sexual partners within the specified period are slightly less among those 10-13 years old (33%) and more among 16-17-year-olds (41%). Condoms are generally not used by minors in the case of casual sex [3, pp. 28-31].

At the same time, Ukraine continues to be the country with the largest number of HIV-infected people. Unprotected sexual intercourse remains the main mode of HIV transmission. According to the Public Health Center of the Ministry of Health of Ukraine, at the beginning of 2018, there were 244,000 HIV-infected people living in the country. Every hundredth citizen of Ukraine aged 15 to 49 is infected with HIV. This is one of the highest rates among countries in the region. According to the European Center for Disease Control and Prevention and the Regional Office for Europe of the World Health Organization, the region of Eastern Europe and Central Asia, to which Ukraine belongs, is the only one in the world where the number of new cases of HIV infection and deaths from AIDS continues to grow. As of 01.04.2019, 142,076 HIV-infected citizens of Ukraine were monitored in healthcare institutions (an indicator of 336.5 per 100,000 population), including 46,987 patients diagnosed with AIDS (111.3). In the structure of HIV transmission routes, the share of the sexual route continues to grow (65.6%). At the same time, the relevance of the parenteral route of transmission with the introduction of narcotic drugs remains high, despite the downward trend (20.8%) [4].

**Conclusions.** Almost every fifth child begins sexual activity at a young age. A significant number of children who have begun sexual activity have several sexual contacts a year with casual sexual partners, as well as regular sexual partners. Adolescents are sexually active. A significant number of sexually active adolescents do not use condoms and are at risk of contracting sexually transmitted diseases, including HIV.

We believe that in the aggregate of such circumstances, it is necessary not to raise the age of the victim, but to pay attention to the sexual education of adolescents. Sexuality education is not only education about sexual relations between people. This is education that is able to convey knowledge about nature and the construction of the human body and physiological processes that occur at a particular period in the development of a child or a healthy person. Sexuality education will provide knowledge about the physical and psychological problems that a person faces during sexual activity and ways to overcome them, provide information about reproductive health and sexually transmitted diseases, about contraception, the procedure for their use and their effect on the human body, about intimate hygiene and

its features depending on gender and the like. Also, sexuality education will convey knowledge about friendship, love and family values, about tolerance, mutual respect in relationships, responsible parenting, about sexual harassment, other crimes and ways to avoid them and not become a victim. Ultimately, sex education will lead to the formation of a sexually conscious person with high moral values and, as a result, will reduce the number of early sexual contacts of minors and minors, as well as reduce the number of sexual crimes in general. Also, sexuality education will serve as a kind of springboard for the fight against sexually transmitted infections.

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#### Abstract

In the article, based on the analysis of theoretical developments in criminal law and current provisions of Section IV of the Special Part of the Criminal Code of Ukraine, an attempt is made to analyze the institution of a victim of lewd acts. In particular, the article states that the Law of Ukraine of March 14, 2018 «On Amendments to the Criminal Code of Ukraine on Protection of Children from Sexual Abuse and Sexual Exploitation» amended the wording of Articles 155 and 156 of the Criminal Code of Ukraine and actually met the requirements of Art. 18 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse as regards the recommendation to member states to determine the age at which sexual intercourse with a child is prohibited, even with the latter's voluntary consent, stipulating that any sexual age is prohibited relationship with a minor is 16 years old.

**Keywords:** *sexual intercourse, abuse of minors, lewd acts, sexual crimes, victim, age of the victim, sex education.*