

LYUDMILA KULEVA

Candidate of Legal Sciences, Senior  
Lecturer of the Department of Criminal  
Law and Criminology of the P. G. Demidov  
Yaroslavl State University

### CATEGORIZATION OF CRIMINAL ACTS IN THE LEGISLATION OF THE POST-SOVIET COUNTRIES

DOI 10.30729/2541-8823-2021-6-4-235-248.

**Abstract.** *The article analyzes the legislative models for the classification of crimes (criminal acts) of the former Soviet republics and their impact on criminal law consequences. The author puts forward a proposal for borrowing promising norms for the domestic system of categories of crimes. The analysis of the categorization of crimes in the Russian Federation was carried out. An intermediate conclusion is made about the legislator ignoring the rules on the unity of dividing these categories, since in addition to the nature and degree of social danger of the crime, the form of guilt is also taken into account — first as part of a sanction that reflects the nature and degree of social danger of the crime, and then as an independent criterion. In this regard, foreign categorization models are described and presented for comparison.*

**Keywords:** *categorization of crimes, crime, punishment, form of guilt, criminal offense, social danger.*

In the criminal legislation of the countries of the post-Soviet space, there are various models for the gradation of criminal acts: a five-term model (Moldova); four-term as in the Criminal Code of the Russian Federation (Turkmenistan, Tajikistan, Armenia); a four-term model, the structure of which includes both the categories that are in the Criminal Code of the Russian Federation and those that are not in it (Azerbaijan, Uzbekistan, Belarus); three-term gradation (Georgia); division of all criminal acts into crimes and misdemeanors (Kyrgyzstan, Kazakhstan, Ukraine, Latvia, Lithuania, Estonia).

The Russian categorization of crimes consists of crimes of minor gravity, medium gravity, grave and especially grave crimes (Article 15 of the Criminal Code of the Russian Federation).

Intentional and reckless acts are recognized as crimes of minor gravity, for the commission of which the maximum punishment provided for by the Criminal Code of the Russian Federation does not exceed three years of imprisonment. The legislator refers to crimes of average gravity intentional acts, for which the maximum punishment provided for by the Criminal Code of the Russian Federation does not exceed five years of imprisonment, and reckless acts, for which the maximum punishment provided for by the Criminal Code of the Russian Federation does not exceed ten years of imprisonment. Serious crimes are understood as intentional acts for which the maximum punishment does not exceed ten years of imprisonment, as well as reckless acts for which the maximum punishment does not exceed fifteen years of imprisonment. Especially grave crimes are intentional acts, for the commission of which punishment is provided in the form of imprisonment for a term of more than ten years or a more severe punishment.

An analysis of this norm shows that the legislator ignored the logical rule on the unity of the basis for division, since in addition to the nature and degree of social danger of the crime, the form of guilt is also taken into account — first as part of a sanction that reflects the nature and degree of social danger of the crime, and then as an independent criterion. In other words, the form of guilt, as an indicator affecting the level of social danger, has already been taken into account when categorizing crimes. For example, simple murder is a particularly serious crime, and causing death by negligence is a minor crime.

In this regard, those foreign models look preferable, in which categories are not made dependent on the form of guilt along with punishment (for example, Moldova). In contrast to the Criminal Code of the Russian Federation, the criminal law of Moldova has a five-term categorization of crimes, the basis of which is the nature and degree of harm of the crime: minor crimes (for their commission a maximum deprivation of liberty is provided for up to two years inclusive), crimes of medium gravity (the maximum sentence imposed is five years of imprisonment), grave crimes (the maximum sentence imposed is twelve years in prison), especially grave crimes (the term of punishment established for their commission exceeds twelve years of imprisonment), and extremely grave crimes (for which a life imprisonment is provided) (Art. 16)<sup>1</sup>. This norm rightly does not mention the form of guilt, since it is one of the indicators of such a criterion as harmfulness.

<sup>1</sup> See: Criminal Code of the Republic of Moldova // URL: <http://lex.justice.md/ru/331268/> (date of access: 20.12.2021).

Extremely grave crimes are of interest, the commission of which entails the following criminal legal consequences: preparation for them is criminally punishable, they affect the recognition of a particularly dangerous relapse, the imposition of punishment in the form of deprivation of military or special rank, class rank, state awards, the statute of limitations for bringing to prison criminal liability is twenty-five years, and the statute of limitations for a guilty verdict is twenty years. They affect the designation of the type of correctional institution, block the possibility of applying a conditional sentence, parole can be applied after the person has served at least three-quarters of the sentence imposed, the terms of the conviction are canceled after ten years after serving the sentence for their commission. The current domestic categorization is also proposed to be supplemented with crimes of "exceptional gravity"<sup>1</sup>. They are understood as more dangerous acts, for the commission of which it is worth providing only punishment in the form of life imprisonment and the death penalty (terrorist act, genocide, and others). The assignment of such acts to one class is justified by the fact that their commission entails special legal consequences, for example, serving a sentence of imprisonment in correctional colonies of a special regime, release on parole upon actual serving of at least twenty-five years of imprisonment (part 5 of Art. 79 of the Criminal Code of the Russian Federation).

It seems that the introduction of a similar category into Russian legislation is practically not justified. Firstly, when concluding a pre-trial agreement on cooperation (part 4 of article 62 of the Criminal Code of the Russian Federation), with a jury verdict on finding guilty, but deserving of leniency, life imprisonment is not applied (part 1 of article 65 of the Criminal Code of the Russian Federation), for unfinished it is not a crime (part 4 of article 66 of the Criminal Code of the Russian Federation). If the court does not release a person who has committed a crime punishable by life imprisonment from criminal liability due to the expiration of the statute of limitations, then this punishment will also not be applied (part 4 of article 78 of the Criminal Code of the Russian Federation); if the court does not apply the statute of limitations for a guilty verdict to such a person, then this punishment will be replaced by imprisonment for a certain period (part 3 of article 83 of the Criminal Code of the Russian Federation). Thus, the proposed category of crime will not entail clear criminal law consequences. In addition, the list of acts that entail life imprisonment is not large in order to give them an independent place in the categorization of crimes (part 2 of article 105, 277, 295, 317, 357 of the Criminal Code of the Russian Federation).

---

<sup>1</sup> See: *Trukhin A.M.* Categorization of crimes and the retroactive effect of the criminal law // Criminal law. 2012. No. 5. P. 122.

In our opinion, the norms of the Criminal Code of Moldova, which establish differentiated penalties depending on the type of recidivism (Article 82), as well as the prohibition of probation of persons who have committed the most serious crimes (Article 90), needs to be borrowed.

E. V. Blagov correctly, in our opinion, notes that since the types of recidivism depend on categorization, they have a different typical social danger, which should be reflected in Art. 68 of the Criminal Code of the Russian Federation<sup>1</sup>. The original version of the Criminal Code of the Russian Federation in this part was more perfect, since it established differentiated rules for sentencing depending on the type of recidivism. Thus, the term of punishment for simple recidivism could not be less than half the maximum term of the most severe type of punishment, for dangerous recidivism of crimes — at least two thirds, and for especially dangerous recidivism of crimes — at least three quarters. Federal Law No. 162-FZ of December 8, 2003 excluded these sizes, and Art. 68 of the Criminal Code of the Russian Federation unified the rules for sentencing — the term of punishment for any type of relapse cannot be less than one third of the maximum term of the most severe type of punishment<sup>2</sup>.

As for borrowing the norm on the prohibition of probation of persons who have committed the most serious crimes, we believe that, firstly, when restricting the use of probation, it is worth considering the social danger of the acts committed, which acts as a criterion for categorizing crimes and is expressed in the sanction of the norm, and secondly, the humanization of criminal legislation and the economy of measures of criminal repression should not infringe on the inevitability of punishment, as well as the rights of victims. The special gravity of the crime acts as an obstacle to the application of Art. 73 of the Criminal Code of the Russian Federation, therefore, in order to differentiate liability in the institution of probation, it is necessary to introduce a ban on its use in relation to persons who have committed especially serious crimes. Such acts should entail the most stringent criminal law consequences, among which there is no place for probation.

In addition, it seems expedient from the point of view of differentiation of criminal liability that the Criminal Code of Moldova has such *corpus delicti* as concealment of a serious crime (Article 323).

In our opinion, the proposal to introduce criminal liability for harboring serious crimes has the right to be implemented in domestic legislation, since serious crimes, as well as especially serious ones, are predominantly intentional (with the exception of 4 elements of serious negligent crimes) and the most socially dangerous. Why

<sup>1</sup> See: *Blagov E. V.* Actual problems of criminal law (General part). Yaroslavl, 2008. S. 181–182.

<sup>2</sup> See: Federal Law of December 08, 2003 No. 162-FZ “On Amendments and Additions to the Criminal Code of the Russian Federation” // Consultant Plus.

is a citizen, realizing that he is hiding a person who has committed such a serious crime as, for example, a qualified robbery (part 2 of article 161 of the Criminal Code of the Russian Federation), or intentionally causing serious bodily harm (parts 2, 3 of article 111 of the Criminal Code of the Russian Federation), should avoid criminal liability? At the same time, it is logical to differentiate criminal liability for concealment of crimes “vertically” by highlighting 2 compositions: part 1 — concealment of serious crimes not promised in advance (crime of minor gravity); part 2 — not promised in advance harboring especially grave crimes (crime of medium gravity).

In the criminal legislation of Turkmenistan<sup>1</sup>, Tajikistan<sup>2</sup> and Armenia<sup>3</sup> there are the same categories of crimes as in the Russian code, only the established terms of punishment for their commission differ. A distinctive feature of the categorization of crimes, enshrined in the Criminal Code of Turkmenistan, is the presence of two criteria for dividing crimes (the degree of severity and the form of guilt), although the amount of punishment depending on the form of guilt is not graded, which seems justified from the point of view of the unity of the basis for division. So, for example, for intentional and negligent crimes of minor gravity, the maximum punishment is in the form of imprisonment for a term not exceeding two years; for intentional and negligent crimes of medium gravity — not more than eight years; for intentional and reckless grave crimes — up to fifteen years (Article 11).

The categorization of crimes in Turkmenistan is a means of differentiating criminal liability. In particular, it establishes differentiated sizes of the minimum possible punishments depending on the type of recidivism, which is determined taking into account the categories of crimes (Article 62). In our opinion, such an approach should also be manifested in the domestic criminal law, as mentioned above. The borrowing of the norm on the prohibition of imposing a conditional sentence on persons who have committed especially serious crimes (Article 68) and the introduction of criminal liability for harboring serious crimes (Article 210) is also seen as positive.

In the legislation of Tajikistan and Armenia, the categories of crimes are taken into account when determining recidivism, preparing, determining and imposing punishment, determining the type of correctional institution, as well as when exempting from liability and punishment, when establishing the terms for the

<sup>1</sup> See: Criminal Code of Turkmenistan // URL: [http://online.zakon.kz/Document/?doc\\_id=31295286](http://online.zakon.kz/Document/?doc_id=31295286) (date of access: 12/20/2021).

<sup>2</sup> See: Criminal Code of the Republic of Tajikistan // URL: [http://online.zakon.kz/Document/?doc\\_id=30397325#pos=191;-54](http://online.zakon.kz/Document/?doc_id=30397325#pos=191;-54) (date of access: 12/20/2021).

<sup>3</sup> See: Criminal Code of the Republic of Armenia // URL: <http://www.parliament.am/legislation.php?ID=1349&sel=show&lang=rus#3> (accessed 20.12.2021).

expiration of a conviction and the specifics of the criminal liability of minors, when constructing elements of crimes. It should be noted that in the criminal codes of these states, as well as in Turkmenistan, the concealment of serious crimes is criminalized (Article 347 of the Criminal Code of Tajikistan, Article 334 of the Criminal Code of Armenia).

The Criminal Code of Azerbaijan, along with less grave (they are punished for a term of not more than seven years in prison), grave (the maximum imposed deprivation of liberty does not exceed twelve years), especially grave crimes (they are punished for a term of more than twelve years in prison) freedom) highlights acts that do not pose a great public danger (the maximum sentence imposed does not exceed two years in prison or a milder punishment is established) (Article 15)<sup>1</sup>. Thus, as well as in the Criminal Code of Turkmenistan, the limits of punishment for a particular category are not graded depending on the form of guilt, which ensures the unity of the basis for division. Moreover, the Criminal Code of Azerbaijan also establishes differentiated rules for imposing punishment in case of recidivism of crimes (Article 65) and criminal liability for harboring a grave crime not promised in advance (Article 307).

The Criminal Code of Uzbekistan contains a similar four-term categorization, but the limits of punishment for each of the categories differ from those enshrined in the Criminal Code of Azerbaijan, with some of them being the most specific. So, for example, for the commission of intentional less serious crimes, the law provides for imprisonment for a term of more than three years, but not more than five years, and for the commission of serious crimes, it provides for imprisonment for a term of more than five, but not more than ten years (Article 15)<sup>2</sup>. Establishing clear limits of punishability makes it possible to exclude the intersection of members of the categorization of each other.

It seems that in order to comply with the logical rule that the members of the classification should be mutually exclusive, in Art. 15 of the Criminal Code of the Russian Federation, clear limits for each category of crime should also be indicated: "Crimes of medium gravity are acts for the commission of which the maximum punishment provided for by this Code exceeds three years, but does not exceed five years of imprisonment; Acts for the commission of which the maximum punishment provided for by this Code exceeds five years, but does not exceed ten years of imprisonment, are recognized as serious crimes. At the same time, the lower limit of punishment for minor crimes, as well as the upper limit for especially

<sup>1</sup> See: Criminal Code of the Republic of Azerbaijan // URL: [https://online.zakon.kz/m/document/?doc\\_id=30420353#sub\\_id=150000](https://online.zakon.kz/m/document/?doc_id=30420353#sub_id=150000) (date of access: 12/20/2021).

<sup>2</sup> See: Criminal Code of the Republic of Uzbekistan // URL: [http://online.zakon.kz/Document/?doc\\_id=30421110](http://online.zakon.kz/Document/?doc_id=30421110) (date of access: 12/20/2021).

serious crimes, are defined in Part 2 of Art. 56 of the Criminal Code of the Russian Federation, therefore, do not require repeated mention in Art. 15 of the Criminal Code of the Russian Federation.

The Criminal Code of Uzbekistan, like many of the acts analyzed above, contains a ban on the application of a conditional sentence to a person who has committed a particularly serious crime (Article 72), and also establishes criminal liability for the commission of harboring a serious crime (Article 241).

The Criminal Code of the Republic of Belarus contains the following categories of criminal acts — crimes that do not pose a great public danger, less grave, grave and especially grave crimes (Article 12)<sup>1</sup>. The first category includes intentional and reckless crimes, for the commission of which punishment is provided in the form of imprisonment for not more than two years or another more lenient punishment. For less serious intentional crimes, a maximum penalty of six years' imprisonment is established, as well as imprisonment in excess of two years for reckless acts related to this category of crime. Grave and especially grave crimes are intentional, for the commission of the former, the established punishment does not exceed twelve years of imprisonment, and for the commission of the latter, the punishment is in the form of imprisonment for a term of more than twelve years, life imprisonment or the death penalty. At the same time, preparation for crimes that do not pose a great public danger is not punishable.

Such a gradation of crimes affects the establishment of types of recidivism, the definition of the type of correctional institution, the definition of punishments (in particular, deprivation of military or special rank, confiscation), other measures of criminal liability (conviction with a suspension of punishment, conviction with conditional non-application of punishment), types of release from criminal liability and punishment, the terms of repayment of a criminal record, the establishment of the features of the criminal liability of minors, the construction of elements of crimes. It is worth positively assessing the approach of the Belarusian legislator to the definition of legally established differentiated terms of punishment for different types of recidivism (Article 65), the rule on the inadmissible imposition of conditional non-imposition of punishment on a person who has committed especially serious crimes (Article 78), establishing liability for harboring serious crimes in part 1 tbsp. 405 along with liability for concealment of especially grave crimes, as well as the construction of an unlawful exemption from criminal liability using the sign “grave or especially grave crimes” (Article 399).

The latter provision is also relevant for the Russian system, since the Criminal Code of the Russian Federation contains in part 2 of Art. 299 composition of

<sup>1</sup> See: Criminal Code of the Republic of Belarus // URL: <http://pravo.by/document/?guid=3871&p0=hk9900275> (date of access: 12/20/2021).



unlawful bringing of a person to criminal liability, combined with accusing a person of committing a grave or especially grave crime, but for some reason does not construct an adjacent composition of illegal exemption from criminal liability using the specified qualifying feature. It seems that in Art. 300, it is necessary to construct a new composition: “The same act, combined with unlawful release from criminal liability in a case of a grave or especially grave crime, or causing major damage or other grave consequences” (part 2).

The legislation of Georgia has a three-part categorization: less serious, serious and especially serious crimes, which affects the definition of recidivism, the choice of a correctional institution, the imposition of punishment, release from liability and punishment, the calculation of statute of limitations and the expiration of a criminal record<sup>1</sup>. At the same time, in Art. 12 establishes that the criterion for gradation of categories is not the nature and degree of public danger of the act, but the maximum punishment in the form of imprisonment. For the commission of intentional and reckless less serious crimes, a punishment not exceeding five years' imprisonment is provided; for committing intentional grave crimes, it does not exceed ten years, and for committing reckless grave crimes, it exceeds five years; for the commission of especially grave crimes that are exclusively intentional, imprisonment for a term of more than ten years or indefinite imprisonment is provided.

Of interest is the criminal legislation of the Kyrgyz Republic. According to the Criminal Code, which was in force until January 1, 2019, all criminal acts, depending on the nature and degree of public danger, were divided into crimes of minor gravity (intentional with a maximum sentence of two years in prison and negligent with imprisonment for up to five years), less serious (deliberate with a maximum imprisonment of five years and negligent with imprisonment for more than five years), grave (intentional acts for which a prison sentence of more than five, but not more than ten years) was established) and especially grave crimes (deliberate acts with threatening imprisonment for more than ten years for their commission)<sup>2</sup>.

On January 1, 2019, the Code of Misdemeanors was put into effect, and a separate norm on the classification of crimes appeared in the criminal law of Kyrgyzstan, which recognizes the maximum term of imprisonment rather than public danger as the only criterion for grading crimes. Currently, less serious crimes are left in the Criminal Code (for which a punishment not related to

<sup>1</sup> See: Criminal Code of Georgia // URL: <https://matsne.gov.ge/ru/document/view/16426?publication=236> (date of access: 12/20/2021).

<sup>2</sup> See: Criminal Code of the Kyrgyz Republic 1997 // URL: [http://base.spininform.ru/show\\_doc.fwx?rgn=233](http://base.spininform.ru/show_doc.fwx?rgn=233) (Accessed: 12/20/2021).



deprivation of liberty, or imprisonment for a term not exceeding five years), grave (imprisonment for a term of five, but not more than ten years) can be imposed and especially grave crimes (imprisonment for more than ten years or life imprisonment) (Article 19)<sup>1</sup>. Such amounts of punishment, established for a particular category of crime, are the most optimal, since they do not depend on the form of guilt and outline clear limits.

A misdemeanor is understood as “a guilty, unlawful act (action or inaction) committed by the subject of the misconduct, causing harm or creating a threat of harm to an individual, society or state, the punishment for which is provided for by this Code”<sup>2</sup>. Such a definition does not reflect the specifics of a criminal offense, since it contains only an indication of the signs of a crime: guilt, wrongfulness, public danger, punishability. At the same time, the law on misdemeanors duplicates many provisions of the criminal law: on principles, insanity, guilt, complicity, circumstances excluding the wrongfulness of an act, on punishment and its appointment. It seems that this kind of illegal act could take place in the criminal law. So, in the Criminal Code, it would be worth pointing out that this category is taken into account in the institutions of the General Part (unfinished crimes, punishment, exemption from liability, statute of limitations, criminal record), as well as fixing the offenses in the Special Part, since both misdemeanors and crimes are varieties of criminal deeds. The main difference between a misdemeanor and a less serious crime is a formal sign, that is, the prohibition of an act by the Special Part of the Criminal Code or the Code of Misdemeanors.

The Criminal Code of Kazakhstan, along with such categories as crimes of small, medium gravity, grave and especially grave crimes, singles out a criminal offense as a type of criminal offense<sup>3</sup>. Crimes and criminal offenses, differing in the degree of public danger, are combined in the second section “Criminal offenses”. In this act, a criminal misdemeanor is understood as “a guilty act (action or inaction) that does not pose a great public danger, caused minor harm or created a threat of harm to an individual, organization, society or state, for the commission of which punishment is provided in the form of a fine, correctional labor, attraction to public works, arrest, expulsion from the Republic of Kazakhstan of a foreigner or a stateless person”. The definition, in our opinion, suffers from inaccuracies. Firstly, in the doctrine, social danger is understood as the property of an act to

<sup>1</sup> See: Criminal Code of the Kyrgyz Republic 2017 // URL: [http://base.spininform.ru/show\\_doc.fwx?rgn=94723](http://base.spininform.ru/show_doc.fwx?rgn=94723) (Accessed: 12/20/2021).

<sup>2</sup> Code of Misdemeanors of the Kyrgyz Republic // URL: <http://cbd.minjust.gov.kg/act/view/ru-ru/111529?cl=ru-ru> (date of access: 20.12.2021).

<sup>3</sup> See: Criminal Code of the Republic of Kazakhstan // URL: [https://online.zakon.kz/document/?doc\\_id=31575252](https://online.zakon.kz/document/?doc_id=31575252) (date of access: 12/20/2021).

cause harm, therefore, in the definition there is a duplication of terms. Secondly, the phrases “not representing a great public danger” and “insignificant harm” are evaluative. Thirdly, pointing to the sign of guilt, public danger and punishability, the legislator did not mention the prohibition of these acts by the criminal law, while the definition of the concept of “crime” contains this sign.

The category of criminal offenses included some crimes of minor gravity (beating, causing minor bodily harm, contracting a venereal disease, etc.), a number of administrative offenses (disclosure of medical secrets, disclosure of information about the private life of a person, bringing a minor to a state of intoxication, etc.)<sup>1</sup>. Thus, the Code distinguished between a crime and a criminal offense, since the latter has the least public danger than a crime, but more than an administrative offense, and does not entail a criminal record<sup>2</sup>. For the commission of a criminal offense, reduced penalties (fines, correctional and public works) are established, it affects the rules for sentencing, is one of the conditions for exemption from criminal liability and punishment (the statute of limitations is one year), acts as a constructive sign of the offenses (in Art. Article 419 establishes criminal liability for a knowingly false denunciation of a criminal offense, and Article 433 establishes liability for deliberate concealment of a criminal offense from registration).

The Criminal Code of Kazakhstan, as well as in the acts discussed above, establishes the criminal legal consequences that entail the commission of a particular category of crime. Of interest is Art. 49 of the Criminal Code, in which the application of such punishment as deprivation of a special, military or honorary rank, class rank, diplomatic rank, qualification class and state awards is not made dependent on the category of crime.

In the Criminal Code of the Russian Federation, the deprivation of a special, military or honorary title, class rank and state awards is applied only when a person is convicted of a grave or especially grave crime (Article 48). It seems that this significantly limits the possibilities of the court in imposing a sentence, the content of which dictates the need to take into account the circumstances of the commission of a particular crime. This type of punishment is not mentioned in any of the sanctions of the articles of the Special Part of the Criminal Code of the Russian Federation, which indicates it as a means of individualizing responsibility.

<sup>1</sup> See: *Rogova E.V.* Prospects for fixing the category of criminal offense in the legislation of some countries of the near abroad // Criminal law: development strategy in the XXI century: materials of the XII International scientific and practical conference. M., 2015. S. 507–508.

<sup>2</sup> See: *Akhmetova L.E.* Institute of criminal offense in the new Criminal Code of the Republic of Kazakhstan // Criminal law: development strategy in the 21st century: materials of the XIV International Scientific and Practical Conference. M., 2017. S. 593.

Numerous examples support the idea that the court should apply Art. 48 of the Criminal Code of the Russian Federation, taking into account the circumstances of the committed act, regardless of the category of crime. So, for example, the honored doctor of the Russian Federation did not provide assistance to the patient (parts 1, 2 of article 124 of the Criminal Code of the Russian Federation — crimes of small and medium gravity), the honored worker of science of the Russian Federation violated copyright (parts 1, 2 of article 146 of the Criminal Code of the Russian Federation — crimes of minor gravity), an honored teacher of the Russian Federation committed indecent acts against his student (part 1 of article 135 of the Criminal Code of the Russian Federation — a crime of minor gravity), a police major exceeded his official powers (part 1 of article 286 of the Criminal Code of the Russian Federation — a crime of medium gravity), etc. .d. Limiting this type of punishment to the categories of grave and especially grave crimes significantly reduces the possibility of its use in practice. Therefore, one should borrow Art. 49 of the Criminal Code of Kazakhstan.

In the Criminal Code of Ukraine, criminal offenses are also divided into crimes and criminal offenses. It is worth noting that at the end of 2018, the Verkhovna Rada of Ukraine approved a draft law on the introduction of a criminal offense as a type of criminal offense that has a lower degree of public danger, does not entail a criminal record, for which punishments are provided that are not related to deprivation of liberty<sup>1</sup>. Along with it, minor crimes were singled out (for their commission the main punishment is provided in the form of a fine in the amount of not more than ten thousand non-taxable minimum incomes of citizens or imprisonment for a term not exceeding five years), grave (for their commission the main punishment is provided in the form of a fine of in the amount of not more than twenty-five thousand tax-free minimum incomes of citizens or imprisonment for a term not exceeding ten years) and especially grave crimes (for their commission the main punishment is provided in the form of a fine in the amount of more than twenty-five thousand tax-free minimum incomes of citizens, imprisonment for a term exceeding ten years or life imprisonment), that is, in fact, the category previously referred to as “crimes of minor gravity” migrated to criminal offenses (Article 12)<sup>2</sup>. It is worth noting that the legislator made a gradation of crimes not only on the basis of punishment in the form of imprisonment, but also a fine, thereby comparing these punishments.

<sup>1</sup> See: Criminal offenses: 5 aspects of the novel that all Ukrainians should understand // URL: [https://zib.com.ua/ru/print/135393-ugolovnie\\_prostupki\\_5\\_aspektov\\_novelli\\_kotorie\\_dolzni\\_ponim.html](https://zib.com.ua/ru/print/135393-ugolovnie_prostupki_5_aspektov_novelli_kotorie_dolzni_ponim.html) (date of access: 20.07.2019).

<sup>2</sup> See: Criminal Code of Ukraine // [https://online.zakon.kz/Document/?doc\\_id=30418109&sub\\_id=110000&pos=150;-18#pos=150;-18](https://online.zakon.kz/Document/?doc_id=30418109&sub_id=110000&pos=150;-18#pos=150;-18) (date of access: 12/20/2021).

In the Criminal Code of the Republic of Latvia, along with less grave, grave and especially grave crimes, criminal offenses are distinguished, for the commission of which a deprivation of liberty for a term of not more than two years or a more lenient punishment is provided<sup>1</sup>. An attempt to commit such acts is not criminally punishable; the statute of limitations for criminal liability is six months in some cases, and two years in others. The actually served term, which allows a person to be released on parole from punishment, is at least half of the sentence imposed for committing a criminal offense. The categorization of criminal acts in Latvia is a clear separation of one category from another by establishing the minimum and maximum possible limits of punishment. For example, for the commission of less serious intentional crimes, imprisonment for a term of more than two years, but not more than five years, is prescribed, for the commission of intentional serious crimes, imprisonment for a term of more than five years, but not more than ten (Article 7). “This approach of the legislator eliminates the vagueness in understanding the categories and testifies to the completeness of the content of each category”<sup>2</sup>.

Useful from the point of view of implementation in domestic legislation is Art. 313 of the Criminal Code of Latvia, which establishes differentiated liability for harboring grave and especially grave crimes.

The Lithuanian legislator also outlines the boundaries of the categories of intentional crimes, but singles out small crimes (the maximum punishment does not exceed three years in prison), medium gravity (for their commission the maximum punishment exceeds three years, but does not exceed six years in prison), grave crimes (the maximum punishment exceeds six years of imprisonment, but does not exceed ten) and especially grave crimes (the maximum punishment exceeds ten years of imprisonment) (Article 11), as well as criminal offenses (Article 12). The latter variety is an act for which a punishment is established that is not related to deprivation of liberty, with the exception of arrest<sup>3</sup>. A criminal offense is one of the conditions for exemption from criminal liability, establishes reduced penalties (in particular, a fine, arrest), affects the deferment of punishment and the statute of limitations. At the same time, careless crimes do not belong to any of these categories, despite the fact that in the Special Part of the Criminal Code of Lithuania there are offenses that provide for a careless form of guilt.

<sup>1</sup> See: Criminal Code of the Republic of Latvia // URL: [ugolovnij-zakon-latvii.pdf](http://ugolovnij-zakon-latvii.pdf) (accessed 20.12.2021).

<sup>2</sup> Zubkova V.I. Criminal legislation of European countries: a comparative legal study. M., 2013. S. 84.

<sup>3</sup> See: Criminal Code of the Republic of Lithuania // URL: Criminal Code of Lithuania (date of access: 12/20/2021).

The Estonian Criminal Code is aware of crimes and misdemeanors<sup>1</sup>. Crimes have two categories (two degrees of severity — Art. 4 of the Criminal Code of Estonia). For the commission of a crime of the first degree, fixed-term imprisonment for a term exceeding five years or life imprisonment is provided. Imprisonment for crimes of the second degree does not exceed five years in prison, and a fine is also provided for this category. Each of these categories includes both intentional and reckless acts, which seems doubtful, since the most dangerous crimes should hardly include acts committed with a reckless form of guilt. For the commission of a misdemeanor, the main punishments are in the form of a fine, arrest or deprivation of the right to drive a vehicle. Moreover, if a person commits a misdemeanor and a crime, then he will be liable only for the crime.

Thus, the analysis of the criminal legislation of the countries of the post-Soviet space made it possible to identify provisions that can be taken into account when improving the Russian law. Positive from the point of view of borrowing by the Russian legislator are: 1) compliance with the logical rule on the unity of the basis for dividing the classification (Article 16 of the Criminal Code of Moldova, Article 15 of the Criminal Code of Azerbaijan); 2) establishing clear limits on the punishability of each category of crime in order to comply with the logical rule of mutual exclusion by members of the classification of each other (Article 15 of the Criminal Code of Uzbekistan, Article 19 of the Criminal Code of Kyrgyzstan, Article 7 of the Criminal Code of Latvia, Article 11 of the Criminal Code of Lithuania); 3) the imposition of punishment in the form of deprivation of a special, military or honorary rank, class rank, diplomatic rank, qualification class and state awards for committing a crime of any category (Article 49 of the Criminal Code of Kazakhstan); 4) the establishment of differentiated rules for imposing sentences in case of recidivism of crimes (Article 82 of the Criminal Code of Moldova, Article 62 of the Criminal Code of Turkmenistan, Article 65 of the Criminal Code of Azerbaijan, Article 65 of the Criminal Code of Belarus); 5) a ban on the application of a conditional sentence to a person who has committed especially grave crimes (Article 90 of the Criminal Code of Moldova, Article 68 of the Criminal Code of Turkmenistan, Article 72 of the Criminal Code of Uzbekistan, Article 78 of the Criminal Code of Belarus); 6) criminalization of harboring not only a particularly grave, but also a grave crime (Article 323 of the Criminal Code of Moldova, Article 210 of the Criminal Code of Turkmenistan, Article 347 of the Criminal Code of Tajikistan, Article 334 of the Criminal Code of Armenia, Article 307 of the Criminal Code of Azerbaijan, Article 241 of the Criminal Code of Uzbekistan, article 405

<sup>1</sup> See: Estonian Penitentiary Code // URL: <https://v1.juristaitab.ee/en/zakonodatelstvo/penitenciarnyy-kodeks> (accessed 20.12.2021).

of the Criminal Code of Belarus, article 313 of the Criminal Code of Latvia); 7) construction of a qualified composition of unlawful exemption from criminal liability using the feature “serious or especially serious crimes” (Article 399 of the Criminal Code of Belarus).

### References

*Akhmetova L. E.* Institut ugovnogo prostupka v novom Ugolovnom kodekse Respubliki Kazakhstan [Institute of criminal offense in the new Criminal Code of the Republic of Kazakhstan] // Ugolovnoe pravo: strategiya razvitiya v XXI veke: materialy XIV Mezhdunarodnoi nauchno-prakticheskoi konferentsii [Criminal Law: Development Strategy in the 21st Century: Proceedings of the XIV International Scientific and Practical Conference]. M., 2017. Pp. 592–594.

*Blagov E. V.* Aktualnye problemy ugovnogo prava (Obshchaya chast) [Actual problems of criminal law (General part)]. Yaroslavl, 2008. 303 p.

*Zubkova V. I.* Ugolovnoe zakonodatelstvo evropeiskikh stran: sravnitelno-pravovoe issledovanie [Criminal legislation of European countries: a comparative legal study]. M., 2013. 328 p.

*Rogova E. V.* Perspektivy zakrepleniya kategorii ugovnogo prostupka v zakonodatelstve nekotorykh stran blizhnego zarubezhya [Prospects for fixing the category of criminal offense in the legislation of some countries of the near abroad] // Ugolovnoe pravo: strategiya razvitiya v XXI veke: materialy XII Mezhdunarodnoi nauchno-prakticheskoi konferentsii [Criminal Law: Development Strategy in the 21st Century: Proceedings of the XII International Scientific and Practical Conference]. M., 2015. Pp. 507–510.

### Information about the author

**Lyudmila Kuleva (Yaroslavl, Russia)** — Candidate of Legal Sciences, Senior Lecturer of the Department of Criminal Law and Criminology of the P. G. Demidov Yaroslavl State University (14 Sovetskaya St., Yaroslavl, 150003, Russia; e-mail: [ljudmila-pavlova11@rambler.ru](mailto:ljudmila-pavlova11@rambler.ru)).

### Recommended citation

*Kuleva L. O.* Categorization of criminal acts in the legislation of the post-Soviet countries. *Kazan University Law Review*. 2022; 4 (6): 235–248. DOI: 10.30729/2541-8823-2021-6-4-235-248.