

SOME PHILOSOPHICAL AND LEGAL PROBLEMS OF QUALIFICATION OF CRIMES AGAINST POLITICAL RIGHTS IN MODERN LEGAL STATES

Armen HARUTYUNYAN^{1,*}

¹ Russian-Armenian University, Yerevan, Armenia

* *Correspondence*

Armen HARUTYUNYAN, 64, second lane, Vahram Papazyan Yerevan 0012, Armenia

E-mail: armenh88@mail.ru

Abstract: This article is devoted to the study of problems of the qualification of crimes against the realization of political rights. Based on a comparative analysis, approaches to the concept of “crimes” within the Criminal Codes of the Republic of Armenia, the Russian Federation and the Republic of Artsakh are presented. The ancient foundations of the problems of proportionality of sentencing are considered, on the basis of which the similarities of the institutional punishment of the Republic of Armenia and the Republic of Artsakh were studied. Based on a comparative analysis of the post-election situations in the Republic of Armenia and the Republic of Artsakh, it turned out that even with the similarity and uniformity of the legislative settlement of problems related to the non-obstructive exercise of political rights, the results in Armenia and Artsakh are different. The presented article notes that crimes related to political rights, first of all, are levelled against the strengthening and development of democratic values and principles, and based on this and on the basis of a multi-faceted analysis of the nature of the problems of resolving issues related to the implementation of political rights, appropriate methodological and legislative proposals are made.

Keywords: democracy, political rights, political crimes, crimes against political rights, electoral law, punishment.

Introduction

The problems of qualification of crimes against political rights, that is, against the formation of the highest state elected bodies, are of fundamental importance in modern democratic, legal societies. From this point of view, before proceeding to the definition and consideration of the

problem of qualification of crimes against political rights and political crimes, it is first necessary to consider the concept of “crime” in general, as well as how the crime itself is defined in the Criminal Codes of the post-Soviet states and, in particular, the Republic of Artsakh, the Republic of Armenia and the Russian Federation. As you know, the concepts of “crimes” and “punish-

ments” are fundamental concepts of criminal law in general (Avetisyan & Chuchayev, 2014). According to the opinion of the famous Russian jurist N. S. Tagantsev, a crime should be understood as an act that involves a transition, a crime beyond a certain limit, deviation or destruction of something (Tagantsev, n.d.). And according to the definition of Johnny and James Steffen, a crime should be understood as any violation of private or public law, considered from the point of view of the evil tendency of such a violation against society as a whole and, as a result, punishable (Stephen & Stephen, 1863). There are many definitions of the concept of crimes, but mainly in the Russian, Armenian and professional literature of other states, “Crime” is defined as a legal concept, the general features of which are defined in the norms of the General part of the Criminal Codes.

According to Part 1 of Article 18 of the Criminal Code of the Republic of Armenia (2003/2015) and the Criminal Code of the Nagorno-Karabakh Republic (NKR) (2013), it is indicated that a crime is considered to be a culpably committed socially dangerous act, which is provided for by the Criminal Code. In accordance with Part 1 of Article 14 of the Criminal Code of the Russian Federation (1996/2021), a crime is a culpably committed socially dangerous act prohibited by the Code under threat of punishment. It clearly follows from the above that a socially dangerous, illegal and guilty act of a delinquent person, for which criminal punishment is provided, can be considered a crime. Part 1 of Article 28 of the Criminal Code of the Republic of Armenia (2003/2015), Part 1 of Article 27 of the Criminal Code of the NKR (2013) and Part 1 of Article 28 of the Criminal Code of the Russian Federation (1996/2021), which lists the types of guilt, states that guilt manifests itself both intentionally and by negligence.

It should be clearly noted here that, unlike political institutions, legal institutions and, in this case, the institution of punishment of the Republic of Artsakh almost completely coincides with the institution of punishment of the Republic of Armenia. From this point of view, it is advisable to consider the problems of qualification of crimes against political rights in the Republic of Artsakh not only within the framework of the fundamental identification of the essence and role of crimes against political rights but also in

the context of a comparative analysis of the institutions of punishment of the Republic of Armenia and the Republic of Artsakh.

Methodology

The research methodology is based on a comprehensive method, including the analysis of scientific and normative literature. The study uses comparative legal, historical, statistical and field research methods. The following approaches are used to solve the identified problems: institutional, philosophical-legal, political-legal, historical-legal, value, etc. Methods of quantitative and qualitative content analysis and monitoring are used to form the empirical base of the study. The research involves the integration of various scientific fields (constitutional law, theory of state and law, criminal law, philosophy of law, etc.).

Philosophical and Legal Foundations of Proportionality of Punishments

The problems of justice and proportionality were the focus of attention of ancient Greek philosophers, in particular, Pythagoras and the Pythagoreans (Mirumyan, 2004). They formulated a key provision according to which justice consists in giving equal for equal, which is a philosophical interpretation of the ancient talion principle “an eye for an eye”, and by the concepts of “appropriate measure” and “proportionality”, thinkers understood a certain proportion, numerical in nature, that is, certain equality. In their position, the Pythagoreans have learned the importance of determining the initial principle since if the beginning is taken incorrectly, then we risk the fidelity of the whole and everything. That is, according to the position of the Pythagoreans, if a mistake is made in the truth of the beginning, then nothing that follows it will be correct anymore. This provision is of fundamental importance for all theoretical, sometimes practical constructions, including legal ones. That is why the principle of proportionality underlies various branches of law and, in particular, criminal law. The principle of proportionality of crime and punishment is an important principle for determining the composition of offences and sanctions. That is, the penalties for crimes should not

be less and not milder in comparison with the crime being committed; the punishment should be proportionate since only by assigning a commensurate punishment can social justice be restored.

It is no coincidence that we consider crimes against the exercise of political rights to be one of the most serious obstacles in the process of forming a legitimate, legal state power. From this point of view, the legislative bodies of the Republic of Armenia and the Republic of Artsakh have established criminal liability for crimes in the sphere of the exercise of political rights. The following articles of the Criminal Code of the Republic of Armenia (2003/2015) and the Republic of Nagorno-Karabakh (2013) belong to this category of crimes.

- “Obstruction of the exercise of the right to vote, the work of election commissions or the exercise of their powers by a person participating in elections.” (Article 149 of the RA Criminal Code; Article 147 of the NKR Criminal Code),
- “Coercion to agitation or refusal to agitate.” (Article 149.1 of the RA Criminal Code; Article 147.1 of the NKR Criminal Code),
- “Falsification of election or voting results.” (Article 150 of the RA Criminal Code; Article 148 of the NKR Criminal Code),
- “Dissemination of defamatory information about a candidate, party (party bloc) during the elections.” (Article 151 of the RA Criminal Code (Article expired in accordance with HO-57-N of May 25, 2016); Article 148 of the NKR Criminal Code (Article expired in accordance with HO-99-N of July 22, 2019)),
- “Violation of the procedure for compiling voter lists, providing them to citizens and political parties or publishing them.” (Article 152 of the RA Criminal Code; Article 150 of the NKR Criminal Code),
- “Voting more than once or instead of another person.” (Article 153 of the RA Criminal Code; Article 151 of the NKR Criminal Code),
- “Violation of the secrecy of voting”. (Article 154 of the RA Criminal Code; Article 152 of the NKR Criminal Code),
- “Production of forged ballots or envelopes for voting, stamps, coupons or transfer or sale of knowingly forged ballots or envelopes for voting, stamps, coupons” (Article 154¹ of the RA Criminal Code), “Production of fake ballots or envelopes for voting or transfer or sale of knowingly false ballots or envelopes for voting” (Article 153 of the NKR Criminal Code),
- “Giving a bribe to voters, receiving a bribe, violating the ban on charity during elections or obstructing the free expression of the will of a voter.” (Article 154² of the RA Criminal Code, Article 154 of the NKR Criminal Code),
- “Non-return of the seal, violation of the established procedure for keeping the seal of the election commission.” (Article 154³ of the RA Criminal Code; Article 155 of the NKR Criminal Code),
- “Entering a polling station with a weapon.” (Article 154⁴ of the RA Criminal Code; Article 156 of the NKR Criminal Code),
- “Preventing a proxy, a member of the election commission, an observer or a representative of the mass media from familiarizing with election documents, non-issuance of copies of the protocols of the election commission.” (Article 154⁵ of the RA Criminal Code; Article 157 of the NKR Criminal Code),
- “Non-fulfillment or improper fulfillment of the powers of the Chairman of the Election Commission.” (Article 154⁶ of the RA Criminal Code, Article 158 of the NKR Criminal Code),
- “Theft of a ballot box, a signed list of voters, the registration log of the precinct election commission, the seal of the commission, the personal seal of a member of the precinct election commission, a self-adhesive stamp containing information about the voter of a voting coupon or numbered coupon, technical equipment for electronic voter registration, a video camera installed by a specialized organization selected by the Government, a single-use bag for election documents or a package of election documents.” (Article 154⁷ of the RA Criminal Code, Article 158¹ of the NKR Criminal Code),
- “Making a false announcement about voting instead of another person or submitting an announcement with a fake signature to the application.” (Article 154⁸ of the RA Criminal Code), (Article 154.8 was amended in accordance with HO-160-N of October 20, 2016, amended in accordance with HO-320-

N of May 4, 2018, edited in accordance with HO-374-N of September 7, 2018)

- “Mediation in election bribery”. (Article 154⁹ of the RA Criminal Code, (Article 154.9 amended in accordance with HO-320-N of May 4, 2018); Article 158² of the NKR Criminal Code (Article 1582 amended in accordance with HO-99-N of July 22, 2019)),
- “Coercion to participate or to refuse to participate in a strike.” (Article 155 of the RA Criminal Code, Article 159 of the NKR Criminal Code),
- “Obstructing the exercise of the right to form associations (public or trade unions) or the creation of parties or obstructing their activities.” (Article 161 of the RA Criminal Code, Article 165 of the NKR Criminal Code),
- “Obstruction of meetings or participation in them.” (Article 163 of the RA Criminal Code, Article 167 of the NKR Criminal Code),
- “Obstruction of the legitimate professional activity of journalists” (Article 163=4 of the RA Criminal Code, Article 168 of the NKR Criminal Code).

Analysis of Approaches to the Qualification of Crimes Against Political Rights in the Context of the Criminal Codes of the Republic of Armenia and the Republic of Artsakh

As it was already noted above, in crimes aimed at the realization of political rights, we are dealing with a deliberate crime with a specific purpose of seizing state power. This, in turn, means that the punishment for such crimes must correspond to the crimes committed.

Thus, part one of Article 147 of the Criminal Code of the Republic of Artsakh states: “Obstruction of the free exercise of the electoral right by citizens, or participation in a referendum, or participation in the work of election or referendum commissions, or obstruction of the exercise of the rights of a member of an initiative group, a proxy of a candidate or candidate, an observer or a representative of the media, a proxy of a party (bloc of parties) is punishable by a fine in the amount of five hundred to seven hundred times the minimum wage or imprisonment for a period of six months to a year.” The same punishment

was provided for in Article 149 of the Criminal Code of the Republic of Armenia. However, after the adoption of the Law of the Republic of Armenia on Amendments and Additions to the Criminal Code of the Republic of Armenia dated April 28, 2021, for the same act, the Criminal Code of the Republic of Armenia provides for punishment in the form of a fine in the amount of seven hundred to a thousand times the minimum wage or imprisonment for up to three years. Moreover, according to the amendments and additions, when punishing for the above-mentioned crime, the legislator provided for the right to be deprived of certain positions from one to three years. In other words, Armenia has taken the path of tougher penalties.

According to the new amendment and supplement, the first part of article 149.1 RA Criminal Code: “Coercion to participate in pre-election campaigning or campaigning at a referendum or participation in pre-election campaigning or refusal to conduct campaigning at a referendum or obstruction of participation in pre-election campaigning or campaigning at a referendum” provides for punishment for “Coercion to participate in pre-election campaigning or campaigning at a referendum or participation in pre-election campaigning or refusal to conduct campaigning at a referendum or obstruction of participation in pre-election campaigning or campaigning at a referendum in any way” in the form of a fine in the amount of seven hundred to a thousand times the minimum wage or imprisonment for a term not exceeding three years with deprivation of the right to hold certain positions or engage in certain activities for a period of one to three years. And Article 149.2 of the Criminal Code of the Republic of Armenia, adopted for the first time: “The use of violence or the threat of violence in the precinct centre or on the territory adjacent to it”, provides for punishment for “The use of violence or the threat of violence in the precinct centre or on the territory adjacent to it, which affected or could affect the natural election process” in the form of a fine in the amount of three hundred to five hundred times the minimum wage, or arrest for a term not exceeding two months, or imprisonment for a term not exceeding three years. The second paragraph of the same article for “The same act committed by a group of persons by prior agreement or an organized group” provides for punishment in the form of imprison-

ment for a term of four to six years with deprivation of the right to hold certain positions or engage in certain activities for a period of one to three years or without it. It should be noted that the above articles, which were adopted by the legislative body of the Republic of Armenia relatively recently, have not yet found their place in the Criminal Code of the Republic of Artsakh and, from this point of view, the above-mentioned acts in Artsakh are still not punishable.

Article 148 of the Criminal Code of Artsakh and the 150th article of the Criminal Code of Armenia: falsification of election results or voting, providing for a penalty of imprisonment for a term of three to five years for knowingly incorrect counting of votes during a referendum or election or knowingly incorrect determination of the results of a referendum or election, theft of a ballot box, as well as falsification of election results or voting in any other way, is essentially one of the most serious crimes of a democratic, rule-of-law state. Moreover, it clearly follows from the disposition of the article that under the falsification of the results of voting of elections or voting, we should understand the falsification of the result of national elections and voting, and in this case, we are not dealing with a crime against political rights, but a classic usurpation of power. From this point of view, it turns out that for falsifying 51% of votes, that is, for a crime against the foundations of the constitutional system, the legislator, even with strict punishment, provides only 5 years of imprisonment.

The above fully applies to the rest of the articles, in one way or another, related to crimes related to the exercise of political rights.

According to Article 149 of the Criminal Code of Artsakh and Article 151 of the Criminal Code of Armenia: The dissemination of defamatory information about a candidate or party (party bloc) during the elections is punishable by a fine in the amount of six hundred to eight hundred times the minimum wage or imprisonment for a term of two to five years, and article 150 of the Criminal Code of Artsakh and article 152 of the Criminal Code of Armenia, the subject of which is an exclusively responsible official, provides for criminal liability in the form of a fine or imprisonment of up to five years maximum, for “violation of the procedure for compiling voter lists, providing them to citizens and political par-

ties or publishing them”. And when voting more than once or instead of another person - Article 151 of the Criminal Code of Artsakh and article 153 of the Criminal Code of Armenia, the legislative bodies of both states provided for punishment in the form of a fine in the amount of five hundred to seven hundred times the minimum wage or imprisonment for a period of two to three years. In our opinion, the penalties provided here are also not proportionate since it turns out that when spreading slanderous information about a candidate, where everyone can be the subject of a crime and when violating the compilation of lists, where the subject is an exclusively responsible official, almost the same punishment is provided. Moreover, the public danger in violation of the rules for drawing up election lists is much greater than the dissemination of defamatory information, and if the voter list is compiled incorrectly, we can have a completely different result in voting or elections.

Article 152 of the Criminal Code of Artsakh and 154 of the Criminal Code of Armenia – “violation of the secrecy of voting”, provide for criminal liability in the form of a fine in the amount of five hundred to seven hundred times the minimum wage or imprisonment for a period of two to three years in Artsakh and from two to five years, indicating an open list of ways of violation: “forcing a voter to report the result of voting in order to violate the secrecy of voting, checking the ballot, penetration into the voting booth (room) in order to clarify the result of voting, as well as violation of the secrecy of voting in another way”.

Articles 153 of the Criminal Code of the Republic of Artsakh and 154¹ of the Criminal Code of the Republic of Armenia provide for punishment in the form of imprisonment for a period of three to seven years (and from six to ten years for the same act committed by a group of persons by prior agreement) with or without confiscation of property or deprivation of the right to hold certain positions or engage in certain activities for a period of one to three years or without it, for “Making forged ballot papers or envelopes for voting, stamps, coupons or the transfer or sale of knowingly forged ballots or envelopes for voting, stamps, coupons”.

Article 154 of the Criminal Code of the Republic of Artsakh: “Obstruction of the free exercise of the will of the voter” and the RA Criminal

Code in Article 154² provide for the same liability, in the form of a fine in the amount of five hundred to seven hundred times the minimum wage or imprisonment for a period of one to three years, for obstructing the free expression of the will of the voter: “receiving a bribe from candidates personally or through an intermediary with the condition of voting for or against one of the candidates, participation in elections or refusal to participate in elections” in the Republic of Artsakh, and: “Receiving or demanding a bribe from candidates, parties (party blocs), agitation initiatives of holding a referendum personally or through an intermediary for yourself or for another person with the condition of voting for or against one of the candidates, parties (party blocs), agitation initiatives of holding a referendum or participating in elections or refusing to participate in elections, or voting more than once or instead of another person, that is, receiving or demanding money, property, property rights, securities or any other advantage” under the Criminal Code of the Republic of Armenia. And the second part of Article 154 of the Criminal Code of Artsakh and part 3 of Article 154² of the Criminal Code of the Republic of Armenia for the same acts that were accompanied by violence or under the threat of violence provides for a more severe punishment: “a fine in the amount of two thousand to two thousand times the minimum wage or imprisonment for a term of three to five years in the Republic of Artsakh (three to six in the Republic of Armenia).” Moreover, if the Criminal Code of Artsakh stops at the above, then the Criminal Code of the Republic of Armenia, part 2, Article 154² provides for punishment in the form of imprisonment from three to six years and for “Giving a voter personally or through an intermediary a bribe to a voter or another person, that is, offering, promising or providing money, property, property rights, securities or any other advantage from candidates, parties (party blocs), referendum campaigning initiatives or refusing to participate in elections or voting more than once or voting instead of another person, that is, an offer, promise or provision of money, property, rights to property, valuable”. Continuing the logic of preventing electoral crimes, part 5 of Article 154² provides for a penalty of imprisonment for a term of two to six years if: “From the date of entry into force of the decision to call elections or a referendum

until the generalization of the results of elections or a referendum (and in the case of elections to the National Assembly – decisions on elections to the National Assembly), free of charge or on preferential terms, the transfer (promise) of money, food, securities, goods (except for campaign printed and other materials or items containing the name or symbols of the party or the name, surname or image of the candidate, and the cost not exceeding three times the minimum wage) or the provision of services (promise) to voters, as well as participants of the referendum or the conduct of election campaigning or campaigning on referendum issues simultaneously with charity personally by the candidate, a member of the party (party blocs) or an authorized person, a proxy, a member of the referendum campaign initiatives or an authorized representative or on their behalf (including on behalf of the party or bloc) or in any other way or under the guise of charity”.

However, it should be noted that Article 153³ of the Criminal Code of the Republic of Armenia, “Non-return of the seal, violation of the established procedure for storing the seal of the election Commission”, which, in accordance with HO-57-N of May 25, 2016, has become invalid, according to Article 155 of the Criminal Code of the Republic of Artsakh, is still in force in Artsakh and provides for a penalty of imprisonment from one to three years for “failure to return the seal of the election commission within the prescribed period by the person responsible for it, as well as violation of the procedure established for storing the seal”.

Article 154⁴ of the Criminal Code of the Republic of Armenia and Article 156 of the Criminal Code of the Republic of Artsakh include a penalty of imprisonment from one to three years for “Demonstrative penetration of a person entitled to carry a weapon into a precinct centre on the day of voting without official necessity”. And Article 154⁵ of the Criminal Code of the Republic of Armenia and Article 157 of the Criminal Code of the Republic of Artsakh provide for punishment in the form of imprisonment from three to five years for: “Preventing an authorized person, a member of the election commission, an observer or a representative of the mass media from familiarizing with election documents, non-issuance of copies of the protocols of the election commission”.

Article 154⁶ of the Criminal Code of the Republic of Armenia and Article 158 of the Criminal Code of the Republic of Artsakh provide for punishment in the form of imprisonment for a period of two to five years with deprivation of the right to hold certain positions or engage in certain activities for a period of one to three years or without it, for: “Non-performance or improper performance by the chairman of the election commission of his powers, as a result of which it became impossible for the election commission to generalize the results of voting or elections” And Article 154⁷ of the Criminal Code of the Republic of Armenia, which is absent in the Criminal Code of the Republic of Artsakh, provides for punishment in the form of imprisonment for a period of two to four years with deprivation of the right to hold certain positions or engage in certain activities for a period of one to three years or without it, for: “Theft of a ballot box, a signed voter list, the registration log of the precinct election commission, the seal of the commission, the personal seal of a member of the precinct election commission, a self-adhesive stamp, a voting coupon or numbered coupon containing voter data, technical equipment for electronic voter registration, a video camera installed by a specialized organization selected by the Government, a one-time bag for election documents or a package of election documents”, and “ The same act committed by a group of persons by prior agreement, - is punishable by imprisonment for a term of three to six years with or without deprivation of the right to hold certain positions or engage in certain activities for a term of one to three years” and “ The same act committed by a member of the election commission is punishable by imprisonment for a term of four to eight years with deprivation of the right to hold certain positions or engage in certain activities for a term of one to three years”.

The Criminal Code of the Republic of Artsakh also lacks the article “Mediation in electoral bribery”, which exists in the Criminal Code of the Republic of Armenia: 154⁹ and provides for punishment in the form of a fine from five hundred to seven hundred times the minimum wage or imprisonment for a period of one to three years, for: “Mediation in electoral bribery, that is, facilitating the achievement of an agreement or the implementation of an agreement already reached on a bribe between an electoral

bribe-giver and an electoral bribe-taker”, and for “The same act, committed with the use of official position or authority emanating from the position”, provides for imprisonment for a term of two to five years.

The first parts of the dispositions of article 161 Criminal Code of the Republic of Armenia and 165 Criminal Code of Artsakh – “obstruction of the exercise of the right to form associations (public or trade unions) or the creation of parties or obstruction of their activities” provides for punishment in the form of a fine in the amount of one hundred to three hundred times the minimum wage or arrest for a period not exceeding one month for obstructing the exercise of the right to form associations (public or trade unions) or the creation of parties or obstruction of the legitimate activities of an association or party or interference with it, while the second parts – for the same acts that entailed a significant violation of the rights and legitimate interests of an association or party, it provides for punishment in the form of a fine in the amount of two hundred to four hundred times the minimum wage or arrest for a period not exceeding two months. And according to article 161¹ “Coercion or obstruction of joining a party or termination of membership”, which, unlike the Criminal Code of the Republic of Armenia, has not found a place in the Criminal Code of Artsakh, for “Coercion or obstruction of joining a party or termination of membership” provides for punishment in the form of a fine in the amount of one hundred to three hundred times the minimum wage or arrest for a period not exceeding two months. For “The same act committed”: 1) in relation to two or more persons; 2) using an official position is punishable by arrest for a term of two to three months or imprisonment for a term not exceeding two years.

Article 163 of the Criminal Code of the Republic of Armenia and article 167 Criminal Code of the Republic of Artsakh, “obstruction of meetings or participation in them”, consisting of two parts, the first part provides for punishment in the form of a fine in the amount of one hundred to three hundred times the minimum wage, or arrest for a period not exceeding three months, or imprisonment for a period not exceeding one year for obstruction of legal meetings, and according to the second part of the same article: coercion to participate in legal meetings, with the use of vio-

lence or with the threat of its use is punishable by a fine in the amount of five hundred to one thousand times the minimum wage, either by arrest for a term not exceeding three months or by imprisonment for a term not exceeding three years.

According to the logic of the provided punishments, the public danger of crimes directed against the political rights associated with holding meetings or participating in the latter is greater than the promised danger of crimes directed against the rights associated with the creation of public organizations, trade unions, parties and their activities? Again, we are deeply convinced and taking into account the fact that as a result of constitutional reforms and the adoption of a new constitution, as a result of which the Republic of Armenia switched from a semi-presidential form of government to a form of parliamentary government, and the role of parties and other political organizations has significantly increased. Therefore, crimes directed against the right to form political parties or the further activities of the latter should be punished proportionately, that is, stricter.

Among the listed articles, Article 164 of the RA Criminal Code and Article 168 of the Artsakh Criminal Code are somewhat different, "Obstruction of the legitimate professional activity of journalists", which refers to the crime of obstructing the exclusively legitimate professional activity of journalists and has simple and qualified compositions. The second part of this article provides for cases when acts are committed by an official using an official position. That is, it follows from this that the subjects of this crime can be both officials and ordinary citizens. And part 3 of article 164 of the RA Criminal Code provides for cases where obstruction of the legitimate professional activities of journalists may be accompanied by the use of violence dangerous to the life or health of a journalist or his relative or with the threat of its use. And so part 1 of Article 164 for obstructing the legitimate professional activity of a journalist or forcing him to disseminate or refuse to disseminate information provides for punishment in the form of a fine in the amount of two hundred to four hundred times the minimum wage, while the second part of the same article punishes for the same acts committed by an official using his official position with a fine in the amount of four hundred to seven hundred times the minimum wage, or imprison-

ment for a term not exceeding three years with deprivation of the right to hold certain positions or engage in certain activities for a period not exceeding three years or without it, and for the same acts accompanied by the use of violence dangerous to the life or health of a journalist or his relative or with the threat of its use, part 3 of article 164 provides for punishment in the form of imprisonment for a period of three to seven years.

As already noted above, Article 164 relating to crimes directed against the legitimate professional activities of journalists differs from other articles of this kind; the disposition clearly distinguishes the subjects and the degree of public danger of the crime in different cases. This, first of all, should be associated with the diligent work of journalists with the legislative body during the writing of the law, which in turn means that any adopted law, especially criminal law, must clearly show the reality in which we live.

A comparative analysis of the relevant articles of the Criminal Codes of the Republic of Armenia and the Republic of Artsakh shows that the institutions of punishment of Armenia and Artsakh not only coincide but almost completely repeat each other. Moreover, even the editing or addition of an article of the Criminal Code of the Republic of Armenia in the shortest possible time leads to the editing or addition of the relevant articles of the Criminal Code of the Republic of Artsakh. However, it should be clearly noted that despite the repetition of the relevant articles of the Criminal Code of the Republic of Artsakh and the coincidence of the institutions of punishment of the Republic of Armenia and the Republic of Artsakh, in terms of pre-election processes and processes during voting, the situation in Artsakh and Armenia is radically different. Moreover, this difference also applies to post-election political and legal processes. That is, if in the Republic of Armenia, after almost every republican election, mass distrust of the election results is planned, followed by protest actions and legal processes, then in the Republic of Artsakh, almost always, post-election processes coincide with the pre-election situation.

And so, speaking about the differences and similarities in the problems of the realization of political rights and the imposition of punishments for crimes directed against the realization of political rights in the Republic of Armenia and

the Republic of Artsakh, as well as comparing the data received from the information centre of the Police of the Republic of Armenia with the data of the Republic of Artsakh, it can be noted that despite the similar work of the relevant state structures and the coincidence of the institutions of punishment of the Republic of Artsakh and the Republic of Armenia, the effectiveness and result of the fight against such crimes in Armenia are practically zero, and in Artsakh, the number of crimes regarding the exercise of political rights has been decreasing over the years.

Unfortunately, the trend of increasing crimes related to the exercise of political rights and the formation of elected bodies in the Republic of Armenia continues. Moreover, for the second time in the recent political history of the Republic of Armenia, after the republican elections, four political forces appealed to the Constitutional Court of the Republic of Armenia with a request to consider the election results invalid. This shows that the same legislative regulation of identical political and legal processes gives completely different results in the Republic of Armenia and the Republic of Artsakh, which in turn proves that regardless of everything, the political realities and challenges of the Republic of Artsakh do not coincide with the realities of the Republic of Armenia.

Conclusion

Summarizing the above, in order to fight crime in the sphere of the exercise of political rights, it is necessary to implement preventive measures at various levels of society and in all directions.

Despite the fact that both the Criminal Code of the Republic of Armenia and the Republic of Artsakh and many other states classify crimes against political rights as crimes against the constitutional rights and freedoms of man and citizen, we propose a completely new approach regarding the qualification of crimes against political rights.

As in the case of robbery, where the crime has two objects at the same time: one object is the main one, property, and the second is an additional one, human health, so in the case of crimes against political rights, we are dealing with a crime with two direct objects. And if in

the case of robbery, the objects are human health and property, then in the case of crimes against political rights, the main object of the crime is the foundations of the constitutional system and the security of the state, and an additional one is the political rights of a citizen, since, in a democratic, rule-of-law state, violation of laws regarding political rights undoubtedly means, first of all, to act against the constitutional system and the security of the state.

As for the subject of the crime, it should be noted that despite the fact that everyone can be the subject of crimes against political rights, however, the legislator must clearly distinguish between crimes committed by ordinary citizens and crimes committed by civil servants, public servants, employees of law enforcement agencies and other government departments and local self-government bodies. The crimes committed by the above-mentioned people are of great public danger, and, therefore, the legislator should determine a more severe punishment for such people.

In order to reduce crimes against political rights, especially during the preparation and conduct of elections, in our opinion, it is necessary:

- Establish proportionate punishments among crimes directed against the exercise of political rights; that is, the legislator of a parliamentary republic should establish stricter penalties for such crimes.
- Articles 149, 149¹, 149², 150, 151, 152, 153, 154, 154¹, 154², 154³, 154⁴, 154⁵, 154⁶, 154⁷, 154⁸, 154⁹, 161, 161¹, 163, 164 of the Criminal Code of the Republic of Armenia should be moved from the block of crimes aimed at the constitutional rights and freedoms of man and citizen to the block of crimes against state power since crimes against political rights are primarily directed against the foundations of the constitutional system and the security of the state. Moreover, these actions do not allow the implementation of the first and second articles of the Constitutions of both the Republic of Artsakh and other democratic states.
- Clearly distinguish between crimes carried out by an ordinary citizen and a citizen holding a particular public position, since in our deep conviction - in the latter case, the public danger of a crime is much greater.

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References

- Avetisyan, S. S., & Chuchaev, A. I. (Eds.) (2014). *Ugolovnoe pravo Armenii I Rossii* (Criminal law of Armenia and Russia. General and special parts, in Russian). Moscow: Contract.
- Hayastani Hanrapetutyán orenqy, Hayastani Hanrapetutyán qreakan orensgrqum lracumner yev popokhutyunner kata-relu masin*The (Law of the Republic of Armenia on Amendments and Additions to the Criminal Code of the Republic of Armenia, in Armenian) (2021, April 28). Retrieved from <https://www.arlis.am/documentview.aspx?docid=152331>
- Hayastani Hanrapetutyán qreakan orensgrq* (Criminal Code of the Republic of Armenia, in Armenian) (2003, April 18). (Amend. and add., August 12, 2015). Retrieved from <http://www.parliament.am/legislation.php?ID=1349&lang=arm&enc=utf8&sel=show>
- Hayastani Hanrapetutyán qreakan orensgrq* (Criminal Code of the Republic of Armenia, in Armenian). (2003, April 18). (Amend. and add., 2015, August 12).
- Lernayin Gharabaghi qreakan orensgrq* (The Criminal Code of the Nagorno-Karabakh Republic, in Armenian) (2013, April 25). Retrieved from <http://arlexis.am/DocumentView.aspx?docid=23008>
- Mirumyan, K. A. (2004). *Istoriya politicheskoy nauki* (History of political science, in Russian). Yerevan: RAU Publishing House.
- Stephen, H. J., & Stephen, J. (1863). *New commentaries on the laws of England: (partly Founded on Blackstone)*. Butterworths.
- Tagantsev, N. S. (n.d.). *Ponyatie prestupleniya* (The concept of crime, in Russian). Retrieved May 20, 2022, from <http://www.pravozor.ru/criminal-law/chapter-ponyatie-prestupleniya.html>
- Ugolovnoe parvo Rossiyskoy federacii* (The Criminal Code of the Russian Federation, in Russian). (1996, June 13). (Amend., 2021, April 8). Retrieved from http://www.consultant.ru/document/cons_doc_LAW_10699/