

THE CORRELATION BETWEEN THE TIME OF COMMITTING THE CRIME AND THE MOMENT OF THE END (COMPLETION) OF THE CRIME

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1) Introduction.

The questions of **"the time of committing a criminal offense"** and **"the time of the completion of the crime (the end of the crime)"** constitute important components of the operation of criminal law over time. They are issues of great theoretical and practical importance and cause many legal disputes.

As Maria Blum pointed out, determining the exact moment or time of committing a crime is essential for several reasons: first, to establish the applicability of criminal law over time; second, to determine the illegality of a publicly dangerous act; third, to pinpoint the time of the emergence of criminal legal relations; and fourth, to define the preconditions of criminal responsibility, such as sanity, and to ascertain whether the individual has reached the legal age for criminal liability, etc.¹

The correlation between the statute of limitations for criminal liability and the moment of the commission of the crime possesses particular functional significance since the calculation of the statute of limitations commences from the day following the completion of the crime.

The issue of the time of the commission of the crime is particularly relevant because the RA Criminal and Criminal Procedure Codes came into force on July 1, 2022. For crimes committed before this date, it is crucial to consider the correlation between the law in force at the time of the act and the law in force at the time of applying a criminal-legal intervention measure. The precise determination of which law applies is key to assessing the criminality of the acts, determining the appropriate punishment, and applying other criminal legal consequences, including the calculation of the statute of limitations.

Based on the above, this article will provide a comprehensive analysis of diverse scientific approaches to the time of the commission of the crime, the moment of its completion, as well as their correlation. The methodology applied will involve legal comparative analysis, citing relevant regulations from both domestic and foreign jurisdictions, along with referencing numerous scholarly perspectives and scientific doctrines.

Consequently, this article will address the following questions: whether the onset of dangerous consequences can be regarded as the moment of committing the crime or if the actual act (action or inaction) should be deemed as such, irrespective of when the dangerous consequences materialized? Does the time of the commission of the crime coincide with the time of its completion, and how do these two moments

¹ *Якубов А. Е.*, Обратная сила уголовного закона, некоторые проблемы совершенствования Уголовного кодекса Российской Федерации, Издательство «Юридический центр Пресс, Санкт-Петербург, 2003, с. 34.

correlate? Finally, when should the statute of limitations begin to run? Based on the study and analysis, this article will also present proposals for relevant legislative changes.

2) Domestic and foreign positive law regarding the time of committing the crime.

According to the first and second parts of Article 8 of the Criminal Code of the Republic of Armenia;

"The criminality, punishability, and other criminal consequences of the act shall be determined by the criminal statute in force at the time of commission thereof

The time of committing a criminal offense shall be deemed to be the time of committing an action or inaction, irrespective of the moment the consequences ensue."

According to the first and second parts of Article 9 of the Criminal Code of the Republic of Armenia;

"The statute defining criminality of an act, aggravating the punishment or otherwise deteriorating the condition of a person having committed a criminal offense has no retroactive effect.

Legislation that fully or partially decriminalizes an act or mitigates the penalty has retroactive effect:

(...):"

The Parliament connects the time of committing the crime solely with the moment of committing the criminal act (action or omission), and therefore, the criminal law that was in force at the time of committing the criminal act is subject to application, irrespective of the laws in effect at the occurrence of dangerous consequences.

According to the first and second sections of the criminal code of the Federal Republic of Germany;

"An act can only incur a penalty if criminal liability was established by law before the act was committed."

*"The penalty and any incidental legal consequences are determined **by the law which is in force at the time of the act.**"*

According to 18 United States Code § 13 (2021).

*"Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7 of this title, or on, above, or below any portion of the territorial sea of the United States not within the jurisdiction of any State, Commonwealth, territory, possession, or district is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, **by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.**"*

According to Article 112-1 of the Penal Code of the Republic of France.

"Conduct is punishable only where it constituted a criminal offense at the time when it took place.

Only those penalties legally applicable on the same date may be imposed.

However, new provisions are applicable to offences committed before their coming into force and which have not led to a res judicata conviction, when they are less severe than the previous provisions.

(...)"

According to the first and second parts of Article 9 of the Criminal Code of the Russian Federation on the "Operation of Criminal Law in Time."

"The criminality and punishability of a deed shall be determined by the criminal law that was operative upon the commission of this deed.

*The time of a socially dangerous action (inaction) is committed **shall be deemed to be the time of committing a crime**, regardless of the time of the onset of consequences."*

From the above-cited, it can be derived that the listed countries with well-developed legal systems and advanced criminal law regulations have adopted the approach of aligning the time of the crime with the moment of the commission of the criminal act. Subsequently, irrespective of whether there is a lengthy interval between the criminal act and the dangerous consequence, the time of committing the crime is considered to be the time of the commission of the actual criminal act (action or inaction). In such cases, the criminality, punishability, and other criminal consequences of the act are determined by the law in force at the time of the act, irrespective of the subsequent enactment of new laws.

3) Scientific doctrines regarding the time of committing the crime.

In the case of crimes, where the occurrence of dangerous consequences is not a mandatory component of the crime, or in the case of crimes, where although the occurrence of dangerous consequences is a mandatory component of the crime, yet there is a tiny or no temporal gap between the act and the occurrence of a dangerous consequence (for instance, when the perpetrator shoots the victim with a firearm, resulting in immediate death), no problem with the moment of the commission of the crime occurs.

However, under certain conditions where an extended period of time elapses between the act and the occurrence of a dangerous consequence (for instance, when the perpetrator shoots the victim with a firearm, but instead of immediate death, the victim passes away a few days later in the hospital), scholars hold varying perspectives with regard to the moment of the crime.

In particular, Professor N. Durmanov stated that in the case of crimes, where dangerous consequences are mandatory components of the objective aspect of the given crime, the moment of occurrence of those dangerous consequences should be considered as the moment of the commission of the crime.¹

Professor N. Tagantsev, also shared the belief that the time of occurrence of a dangerous consequence should be considered at the time of the act. This point of view was derived from the author's general approach that the provision of the most recent legal developments should be applied in all instances, even if it would be stricter.²

A. Boytsov objected to recognizing the moment of occurrence of dangerous consequences during the commission of the crime by noting that such an approach ignores the subjective basis of responsibility and that it sacrifices the subjective culpability to the objective culpability.³

In the case of material corpus delicti, the performance of a dangerous act that did not cause consequences is considered an attempted crime. This claim derives from the idea that the time of committing a criminal offence should be considered the moment when all the components of the criminal offense provided for by the Criminal Code are already present.

¹ *Дурманов. Н. Д.*, Советский уголовный закон. издательство московского университета, Москва 1967, с. 261.

² *Таганцев, Н. С.*, Русское уголовное право. Часть общая, Санкт-Петербург, 1902, с. 277.

³ *Бойцов А. И.*, Действие уголовного закона во времени и в пространстве., СПб, 1995, с. 65.

That is to say, concerning crimes where occurring of dangerous consequences are a mandatory component of the crime, A. Ignatov notes that only at the moment of the occurrence of the dangerous consequences all the mandatory components of the crime are present; therefore, that moment should be considered as the time of the commission of the crime.¹ It turns out that criminal responsibility for a completed crime can be imposed even when there are no grounds for it as provided for by the Criminal Code.

According to Doctor of Legal Sciences, Professor Gagik Ghazinyan, *“It would be more accurate to assert that a person can be held criminally liable for a completed crime when there are no grounds for it as provided by the Criminal Code, but rather that the criminal responsibility for a completed crime, may, in fact, be established by a law at the time when the crime was not yet consummated.”*²

With this regard, N. Durmanov stated that if the factual circumstances of the act described in the criminal offense include the occurrence of a dangerous consequence as a mandatory characteristic of the objective side, then the crime should be considered committed when those consequences occur. At the same time, he adds that in cases where the person who has committed an act constituting the objective aspect of a crime does not foresee the occurrence of dangerous consequences, that is why he is deprived of foreseeing them even after the entry into force of the new law, as well as in cases where preventing a dangerous consequence is objectively impossible, then it is necessary to determine the responsibility according to the milder law in force at the time of the act.³

Ya. Braynin also expressed a similar point of view, noting that the time of the commission of the crime is the moment of the commission of the criminal act or omission, except for the cases when the criminal retains control over the development of events and can prevent the occurrence of dangerous consequences.⁴

Thus, reputable scholars in the field of criminal law hold varying and sometimes conflicting views on the issue. As mentioned earlier, one group of scholars believes that the time of committing a crime is exclusively tied to the moment of the criminal act or omission, emphasizing subjective culpability.

In contrast, another group contends that the commission of the crime is considered to end when all the mandatory elements of the crime are present. For material corpus delicti, they argue that the time of the crime should be deemed as the moment when the dangerous consequence occurs, thereby prioritizing objective culpability.

4) The approach of the RA legislation regarding the moment of committing a criminal offense.

It is necessary to examine this matter further to determine whether it is legitimate in all cases to associate the moment of the commission of the crime solely with the moment of the committing of criminal act (action or inaction).

According to first part of the Article 6 of the criminal code of Armenia;

“The person who committed the act provided by this Code without guilt is not subject to criminal liability. (...).”

¹ Якубов А. Е., IBID, с. 35.

² Պաղինյան Պ., Քրեական օրենքի գործողությունը ժամանակի ընթացքում (Առաքելյան, Գաբրիելյան և այլք), ՀՀ քրեական իրավունք, ընդհանուր մաս, 6-րդ հրատ., Երևան, 2012 թ, էջ 49:

³ Дурманов Н. Д., IBID.

⁴ Брайнин Я. М., Уголовный закон и его применение. Москва, 1967. С. 136.

According to first part of the Article 21 of the criminal code of Armenia;

“Sanity is the ability of a person to realize the illegality of his/her act at the time of committing the crime and to control it.”

According to the Article 23 of the criminal code of Armenia,

“1. The person who committed the act provided by this Code, prohibited by the threat of punishment, is subject to criminal liability.

2. An act prohibited under the threat of punishment under this Code is considered to have been committed with guilty mind, if the person who committed it was aware of the illegality of his act or even though he was not aware of it, he could have been aware of it.”

Thus, the code is based on the principles of responsibility according to guilt and subjective culpability.

The principle of subjective culpability is a fundamental principle that consolidates the main philosophical, moral, ethical, and socio-legal provisions, according to which the legal doctrine and legislation are formed and constructed in such a way that the legal evaluation of the actions of a person and the application of legal measures against him/her are allowed only in case the circumstances of the act which are of legal significance were included in the consciousness of the person who committed it and are provided by law.

In the meaning of criminal law, the notion of guilt is the awareness of the illegality of the act. If a person does not realize and at the same time cannot realize that his/her act is illegal, then s/he acts without guilt and, therefore, cannot be held criminally responsible because, in that case, the act is not committed with guilty mind. This assertion implies that individuals engage in criminal activities not merely by committing acts prohibited under the threat of punishment as outlined in the RA Criminal Code, but fundamentally because s/he commits such an act with the awareness of the characteristic of illegality.

The reference to guilt and especially the institutions of subjective culpability is not coincidental. because when applying the whole principle of the operation of the law over time, and in particular when determining the moment of the commission of a criminal act, it is of utmost importance to be guided by the approach that the applicable law should align with the understanding present in an individual's consciousness at the time of their action or omission and at the moment of the occurrence of dangerous consequences.

As mentioned above, in the case of formal corpus delicti, no problem in determining the moment of the commission of the crime occurs, as the crime is considered completed at the time of the commission of the act (action or inaction). Contrary to this, in the case of material corpus delicti, there can be situations when there is a relatively long gap in time between the commission of the criminal act (action or inaction) and the occurrence of a dangerous consequence (for instance, if the perpetrator stabs the victim with the intent to kill, but the latter dies a month later in the hospital). In such a situation, when the criminal does not have any control over the occurrence of a dangerous consequence after the commission of the criminal act (action or inaction), it may seem legitimate and reasonable to take the approach that the time of the commission of the crime should be considered the moment of the commission of the criminal act (action or inaction), regardless of the fact when the dangerous consequence occurs, because the person who committed the criminal act is no longer able to change the course of events, that is, the course of events is already out of the control of the criminal, even if the latter repents of his act. In such instances, the perpetrator's attitude towards the act they committed can be considered as active remorse and taken into account when imposing punishment.

However, as mentioned above, another group of scholars presents a different approach in cases where the person who has committed the criminal act retains full control over the occurrence of the dangerous consequence of their act.

First example:

On May 30, 2022, «A» administers a slow-acting poison in «B's» food with the intent to terminate the latter's life. Only «A» possesses the antidote and at any time can save «B's» life by administering it. Nevertheless, «A» refrains from doing so, and subsequently, «B» passes away on August 15, 2022. It is worth mentioning that «A» being a doctor-pharmacist, deliberately chooses a poison with delayed effects, ensuring its impact months later.

Second example:

«A» wants to take revenge on «B», who was responsible for the death of «A's» 18-year-old son. In order to fulfill this intention, in December 2020, «A» planted a bomb in the apartment where «B» lives together with his family. Deliberately aware that each year «B's» family celebrates their son's anniversary at their residence, «A» programs the bomb to explode only three years later on «B's» 18th birthday, on December 1, 2023. Thus, by doing so, «A» aims to fulfill his revenge for the loss of his 18-year-old son.

In both of these scenarios, «A» commits an act constituting the objective aspect of murder. In one case, by poisoning «B» but knowing that the poison would take effect only months later; in the other case, by planting a bomb that would explode only three years later. Moreover, in both cases, «A» maintains complete control over the occurrence of a dangerous consequence because he could easily administrate the antidote and spare «B's» life. In the other instance, «A» could terminate the operation of the bomb that he planted.

According to the current criminal code of the Republic of Armenia, the time of committing the crime in both of the above-described cases is the moment of committing the criminal act, in the first example, the moment when «A» poured the poison into «B's» food, and in the second case, the moment when «A» put the bomb in the «B's» residence.

However, is such an approach legitimate in light of the scientific and doctrinal interpretations cited in this article?

In the first scenario;

a. «A» was well aware that the poison he administered would take effect only months later,

b. «A» wanted the dangerous consequence in the face of life's termination to occur months later,

c. «A» maintained effective control over the emergence of dangerous consequences so that he could prevent them at any moment.

In the second scenario;

a. «A» was aware that the bomb he planted would explode only years later,

b. «A» wanted the dangerous consequence in the face of life's termination to occur three years later,

c. «A» maintained effective control over the emergence of dangerous consequences so that he could prevent them at any moment.

In both cases, the perpetrator was well aware and fully acknowledged that the dangerous consequence would occur, not at the time of committing the dangerous act, but rather after a long period of time, and the criminal himself orchestrated that the consequences do not occur at the time of committing the act, but unfolds only months or even years later. In addition, the criminal had control over the entire period between the execution of the act and the occurrence of the consequences. In the sense of subjective culpability, the legally significant circumstances of the act, such as the time

of occurrence of the consequence, were included in the conscious awareness of the person who committed it.

In other words, the perpetrator was fully aware, intentionally orchestrated, and undertook all necessary measures so that death occurs at a specific moment in time. Thus, the perpetrator remained equally dangerous both at the moment of committing the criminal act and at the time when the consequences materialized. In this sense, it is vital to recall that the imposition of punishment on the perpetrator serves, *inter alia*, the purpose of correcting and resocializing. Regardless of when "A" administered the poison or planted the bomb, he had a persistent desire to inflict harm and dangerous consequences, as despite having an effective chance to prevent the occurrence of the latter, "A" refrained from doing so.

Certainly, in the cited examples, the criminal may intend for the dangerous consequences of their act to occur days, months, or even years after the act is committed. However, the individual knows at the time of committing the act that they have already done everything in their power to ensure the crime is fully realized. At the moment of committing the criminal act, all the elements of the *corpus delicti*; object, objective side, subject, and subjective side are already present.

In such circumstances, linking the moment of committing the crime with the occurrence of a dangerous consequence does not align with the previously cited principle of subjective guilt. Furthermore, if we accept for a moment that the occurrence of a dangerous consequence should be considered the time of the commission of the crime, in cases where there is a time gap between the act and the consequence and the criminal has control over preventing the consequence, this approach raises many questions regarding its application in real life.

- What constitutes a relatively long-term rupture?

For instance, if a criminal beats a person knowing that the victim will die within a few hours or days if no help is provided, and the victim dies the next day, should the time of the crime be considered the moment of the act itself, such as the beating, or the moment of the dangerous consequence, such as the death? Alternatively, should the occurrence of a dangerous consequence during the commission of a crime be considered only when it happens months or years later? In practice, this question does not have a clear-cut answer and may present more challenges than solutions.

- Is it possible to clearly assert in all cases that the criminal maintains control over the occurrence of a dangerous consequence?

For instance, in the second example cited, if the criminal intends to deactivate a bomb at the last minute and takes action on November 30, 2023, but due to technical or programing reasons, the bomb explodes anyway, killing the victim, can it be claimed that the time of the crime is the moment of the dangerous consequence rather than the moment the criminal failed to prevent it? On the other hand, the criminal had already taken all possible measures to prevent the crime. This illustrates that maintaining control over the emergence of a dangerous consequence is not a clear criterion and raises more questions than gives answers.

The cited reasoning demonstrates that the approach of RA legislation, which considers the time of committing the crime to be the moment of the criminal act (action or inaction), regardless of the timing of dangerous consequences, is more valid and scientifically substantiated.

5) The time (moment) when the crime is considered completed.

The issue of the time of end (completion) of the crime, unlike the time of committing the crime, was not clearly regulated by the legislator. In other words, if the time of the commission of the crime is specified by law, as the moment of the

commission of the dangerous act, then it is not clear when the time of the crime is considered completed. Is it identical with the time of the commission of the crime, or does the moment of completion of the crime require the presence of all the mandatory features of the crime?

The Code uses the term "the end of the crime" in relation to two criminal law institutions: the statute of limitations and the fine as a type of punishment.

According to Article 83 of the code.

"1. A person shall be released from criminal liability, if the following terms have elapsed since the day following the day of committing the criminal offence:

- 1) 5 years, in case of a minor criminal offence;*
- 2) 10 years, in case of a medium gravity criminal offence;*
- 3) 15 years, in case of a grave criminal offence;*
- 4) 20 years, in case of particularly grave criminal offence."*

As indicated by the wording of the norm in this article, the statute of limitations begins to run from the day after the crime is ended (completed). In other words, the legislator's intent regarding the commencement of the limitation period is tied not to the time or moment of committing the crime but to the time when the crime ends.

In addition, according to Article 3, Part 1, point 6 of the Code

"Monthly income — the 35 percent of average monthly income received by the person during the twelve months preceding the date of end of the criminal offence."

According to Part 1 of Article 128 of the Code.

"The court shall determine the possibility to impose fine and the amount of fine, taking into consideration the gravity of the crime, property or non-property benefits received from the crime, property situation of the legal entity, the ability of the legal entity to receive income or the availability of such a property owned by it which can be confiscated. The amount of the fine shall be proportionate to the gravity of the crime and cannot exceed 20 per cent of the legal entity's gross income during the year preceding the completion of the crime."

Evidently, with respect to the statute of limitations and the type of penalty, the legislator links the commencement of certain criminal relations to the moment when the crime is considered completed. This raises a legal question about whether the time of committing the crime and the time of the completion of the crime are identical.

Part 2 of Article 15 of the RA Law "On Normative Legal Acts" defines:

"When expressing the same idea in a regulatory legal act, the same words, terms or phrases are used in a certain order."

According to Part 3 of the same Article.

"If a normative legal act uses new or ambiguous concepts or terms that cannot be clearly understood without clarification, or a different definition of these concepts or terms is given by another normative act, then the given act provides their definitions arising from the essence of that act. The definitions should be such as to ensure their uniform and unambiguous understanding and application."

The comprehensive analysis of these norms demonstrates that when the legislator refers to a specific phenomenon, they use a precise term in the normative legal act to describe it. For example, Article 3, Part 1, Clause 26 of the RA Criminal Code defines "regularly" as "committing the same act twice or more." Therefore, the term "identical" in the Code, wherever it is used, will have this singular meaning. Moreover, if the legislator uses different terms, it indicates that these terms have distinct meanings. According to Part 2 of Article 15 of the RA Law "On Normative Legal Acts," if the legislator intends to describe one phenomenon, then a single term will be used for that purpose.

Thus, the above analysis demonstrates that the terms "the time of the commission of the crime" and "the end of the crime" cannot be identical. If the legislator intended them to be synonymous, they would have used the same term for both the statute of limitations and the fine as a type of punishment.

6) The start of the calculation of the limitation period.

As already mentioned above, a person is released from criminal liability if certain periods have elapsed since the day following the end (completion) of the crime.

Article 14 of the Code defines;

"The ground for criminal liability is the committal of a completed and inchoate criminal offence."

According to article 42 of the Code.

"1. The intentional crime can have three stages: preparation of crime, attempted crime and completed crime.

2. Preparation of crime and attempted crime are considered inchoate crimes.

3. An intentional crime shall be deemed to be completed, if it contains all the elements of corpus delicti involved in the intention of the criminal."

From the interpretation of the above norms, it follows that a crime can be considered completed only when the dangerous consequences, which are a mandatory features of the crime, have occurred. For instance, in the case of murder as defined by Article 155 of the RA Criminal Code, the time of the crime's completion is considered to be the moment of the victim's death. Therefore, the statute of limitations does not begin when the criminal act is committed, but rather at the time the dangerous consequences occur. This is why the legislation uses the term "end of the crime" in relation to the statute of limitations.

From this point of view, the wording of Article 78a of the Criminal Code of the Federal Republic of Germany is noteworthy, according to which:

"The limitation period begins to run as soon as the offence is completed. If a result constituting an element of the offence occurs later, the limitation period begins to run as of that time."

The first sentence of this norm closely mirrors the wording of Article 83, Part 1, Clause 1 of the RA Criminal Code. In both, Armenian and German legislation, the statute of limitations is linked to the moment of completion of the criminal act. However, the second sentence of the cited Article 78a specifies that if the dangerous consequences occur sometime after the criminal act has been committed, the statute of limitations begins to run from the moment of the occurring of consequences.

It appears that the same logic is applied in Article 83, Part 1, Clause 1 of the RA Criminal Code, which is why the Armenian legislator uses two distinct terms: "commission of the crime" and "end of the crime". This distinction clarifies that the intention of the legislation is for the limitation period to begin only from the moment of the occurrence of dangerous consequences.

7) Conclusion

Thus, the time of the commission of the crime is the moment of the execution of the criminal act (action or omission), regardless of the moment of dangerous consequences. Moreover, all criminal consequences are related to the time of committing the criminal act, except for the retroactive effect of the mitigating law.

However, in terms of the calculation of the fine and the calculation of the beginning of the statute of limitations, the RA legislator has shown a different approach, taking as the beginning of the calculation the time of completion of the crime, which, as analyzed in this article, in the case of material corpus delicti, it is

necessary to consider the moment of occurrence of the dangerous consequences of the crime.

In such circumstances, in order to avoid various conflicting interpretations and to have a more specific regulation on this matter, it seems justified the approach that Article 83, Part 1, Clause 1 of the Code can be supplemented with the following sentence: "If a result constituting an element of the offence occurs later, the limitation period begins to run as of that time."

Abstract

The first part of the article examines the correlation between the time of committing a crime and the moment of its end (completion), highlighting their implications for criminal liability and legal application. The issue remains highly pertinent due to the enactment of the new Criminal and Criminal Procedure Codes of the Republic of Armenia on July 1, 2022, which underscores the importance of determining the applicable law for acts committed before this date. The article reviews diverse scientific perspectives and legislative approaches, comparing Armenian and international legal frameworks. The author demonstrates that the approach of RA legislation, which considers the time of committing the crime to be the moment of the criminal act (action or inaction), regardless of the timing of dangerous consequences, is more valid and scientifically substantiated.

At the second part of the article the author discusses the issue of the time of end (completion) of the crime, showing that the definition of it is not clearly regulated by the legislator. In other words, if the time of the commission of the crime is specified by the law, as the moment of the commission of the dangerous act, then it is not clear when the time of the crime is considered completed.

Through comparative analysis of Armenian and foreign legislation, the article states that the end of the crime does not coincide with the committing of the criminal act, and the author shows that the calculation of the beginning of the statute of limitations, in the case of material corpus delicti, it is necessary to consider the moment of occurrence of the dangerous consequences of the crime.

Finally the author proposes legislative refinements to better align with doctrinal interpretations and to improve practical applications.

Key words - *criminal offense; commission of the crime; completion of the crime; dangerous consequence; culpability; statute of limitations; formal corpus delicti; material corpus delicti.*

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Համառոտագիր

Հոդվածի առաջին մասում ուսումնասիրվում է հանցագործության կատարման ժամանակի և դրա ավարտման պահի հարաբերակցությունը՝ ընդգծելով դրանց նշանակությունը քրեաիրավական հետևանքների և իրավակիրառման տեսանկյունից: Այս խնդիրը շարունակում է մնալ խիստ արդիական՝ 2022 թվականի հուլիսի 1-ից Հայաստանի Հանրապետության քրեական և քրեական դատավարության նոր օրենսգրքերի ուժի մեջ մտնելու պատճառով մինչ այդ կատարված հանցավոր արարքների համար կիրառելի օրենքի որոշման առումով: Հոդվածում արծարծվում են գիտական և օրենսդրական տարբեր մոտեցումներ՝ համեմատելով ներպետական և միջազգային իրավական համակարգերը: Հեղինակը ցույց է տալիս, որ առավել համոզիչ և գիտականորեն հիմնավորված է ՀՀ օրենսդրության այն մոտեցումը, որը հանցանքի կատարման ժամանակ է համարվում հանցավոր արարքի (գործողության կամ անգործության) կատարման պահը:

Հոդվածի երկրորդ մասում հեղինակը քննարկում է հանցագործության ավարտման ժամանակի հարցը՝ ցույց տալով, որ դրա սահմանումը հստակորեն չի կարգավորվում օրենսդրի կողմից: Այսինքն, եթե հանցագործության կատարման ժամանակը օրենքով սահմանված է որպես վտանգավոր արարքի կատարման պահ, ապա պարզ չէ, թե երբ է հանցագործության ավարտման ժամանակը:

Ներպետական և միջազգային օրենսդրության համեմատական վերլուծության միջոցով հոդվածում ցույց է տրվում, որ հանցագործության ավարտը չի համընկնում հանցավոր արարքի կատարման հետ, և որ վաղեմության ժամկետի սկզբի հաշվարկը նյութական հանցակազմերի դեպքում անհրաժեշտ է դիտարկել հանցագործության վտանգավոր հետևանքների առաջացման պահը:

Վերջապես, հեղինակն այս առնչությամբ առաջարկում է օրենսդրական լրացում՝ դոկտրինայի մեկնաբանություններին ավելի լավ համապատասխանելու և իրավակիրառումը բարելավելու նպատակով:

Բանալի բառեր – *հանցանք; հանցանքի կատարում; հանցանքի ավարտ; վտանգավոր հետևանք; մեղսայնացում; վաղեմության ժամկետ; ծևական հանցակազմ; նյութական հանցակազմ*

МОМЕНТ НАСТУПЛЕНИЯ ОПАСНЫХ ПОСЛЕДСТВИЙ КАК МОМЕНТ СОВЕРШЕНИЯ ПРЕСТУПЛЕНИЯ

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Абстракт

В первой части статьи рассматривается взаимосвязь времени совершения преступления и момента его завершения, подчеркивается их значение для уголовных последствий и правоприменения. Вопрос остаётся весьма актуальным с точки зрения определения применимого права к преступным деяниям, совершенным до вступления в силу с 1 июля 2022 года новых Уголовного и Уголовно-процессуального кодексов Республики Армения. В статье рассматриваются различные научные и законодательные подходы, сравниваются отечественные и международные правовые системы. Автор показывает, что более убедительным и научно обоснованным является подход законодательства РА, который рассматривает момент совершения преступного деяния (действия или бездействия) как время совершения преступления.

Во второй части статьи автор поднимает вопрос о моменте окончания преступления, показывая, что его определение недостаточно четко регламентировано законодателем. Иными словами, если время совершения преступления определяется законом как момент совершения опасного деяния, то неясно, когда наступает время окончания преступления.

Путем сравнительного анализа отечественного и международного законодательства показано, что окончание преступления не совпадает с исполнением преступного деяния, а исчисление начала срока давности по делам с материальным составом преступления, необходимо учитывать момент возникновения опасных последствий преступления.

Наконец, автор предлагает законодательную поправку в этом отношении, чтобы лучше согласовать доктринальные интерпретации и улучшать практическое применение.

Ключевые слова: *Преступление; совершение преступления; окончание преступления; опасное последствие; виновность; срок давности; формальный состав преступления; материальный состав преступления.*