

# Punishment for the Crimes against Person According the Criminal Code of Poland

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**Abstract:** This study examines the types of sanctions for crimes against the person provided for by Special part of the Criminal code of Poland (hereinafter referred to as the Criminal code). The system is analyzed and in more detail-certain types of criminal attacks on the person in comparison with the analogous norms of the criminal code of the Russian Federation and the criminal legislation of some other States. The introduction substantiates the relevance of the research, defines the object and purpose of the research. Based on the research, a number of conclusions and recommendations for changing section VII of the Special part of the criminal code of the Russian Federation are formulated. Asked to borrow a positive experience of the Polish legislator to change the order of sections in a Special part of the Criminal code of the Russian Federation, justifies measures to prevent attacks on the person in connection with the pandemic coronavirus in addition the criminal code of Poland and the criminal code – establish liability for evading treatment of a difficult-to-treat infectious disease that is dangerous to others, as well as adopt a Law on the prevention of infection with a difficult-to-treat infectious disease, in which it would be possible to establish compulsory hospitalization, based on a court decision, to appropriate medical institutions for patients with these diseases who evade examination or treatment.

**Keywords:** Poland, responsibility, punishment, sanction, crime, personality, coronavirus.

## INTRODUCTION

The study of the criminal legislation of Poland and the Russian Federation shows that it contains a large number of legal norms that establish penalties for attacks on the person. There is no single interpretation of the qualifying features of these crimes, and all similar socially dangerous criminal acts prohibited by the criminal codes of Poland and the Russian Federation are contained within the same composition. This situation is explained largely not only by the difference in legal systems, but also by the national-state and territorial specifics of both countries.

The criminal legislation of the Polish and Russian States contains a number of similar elements of criminal attacks on the person, since this value is recognized as the highest good, which is protected by international law and criminal laws not only of Poland and Russia, but also of a number of individual States. It has a universal character.

So, the location in the Special part of the criminal code of the Russian Federation in the first place of the section on criminal attacks on the person is not any "only domestic" feature. The protected priorities (person – society – state) are also set in the same way

in the criminal codes of other States. Special parts of the criminal code are opened from the articles that establish the punishment for attacks on a person: Austria, Argentina, Spain, Kazakhstan, Switzerland, Sweden, and most of the US States.

On this issue in the criminal law science, there are various imaginative judgments.

In the works of many domestic and foreign scientists (Glenn and Mower (1999), Finkelhor *et al.*, (2009), Joseph *et al.*, (2014), Muljukov and Gaifutdinov, (2017) Muljukov and Gaifutdinov, (2018), we study the specific components of the above-mentioned criminal attacks and the problems of responsibility for them.

One group of researchers (Wolak *et al.*, 2004) usually con-siders the placement of objects in the criminal code of the Russian Federation in this order to be fair and supports putting human protection in the first place (Naumov 2004; Course of criminal law, 2002), since it corresponds to the above hierarchy of values, which is recognized in Russia.

At the same time, another group of scientists doubts the validity of the decision taken by the Russian legislator to place criminal attacks against the peace and security of mankind at the very end of the criminal code of the Russian Federation (Universal Declaration of Human Rights, 2018). In the criminal legislation of

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Poland, as well as a number of other States (in particular, Belarus, Latvia, Lithuania, Moldova, France, Germany, Estonia, Japan, etc.), the section on these attacks is in the first place, which is motivated by the exceptional gravity of these acts and their very high danger to humanity as a whole (Criminal law of Russia. 2020).

The chapters on criminal attacks against the world (XVI) and the state (XVII) in the Polish criminal code are located in the first place (and on attacks on the person are located in chapters: XIX, XXIII–XXVIII). The protection of human rights and freedoms cannot be conceived without the primary protection of humanity, society and the state. They hold the view that a weak state is unable to fully protect the rights, freedoms and legitimate interests of the individual. Any diminution of the role of the state, in this regard, is considered unacceptable.

The above has determined the relevance and purpose of the study. The latter consists in establishing – through a comparative study of the criminal legislation of Poland and Russia-effective measures to counter criminal attacks on the person and in formulating proposals to supplement the Special parts of the Criminal code of Poland and the Criminal code of the Russian Federation with norms on responsibility for acts against the person.

The object of the research is social relations, which are characterized by the punishment for attacks on the person under the Criminal code of Poland.

## METHODS

The methodological basis of the research is the dialectical method of scientific knowledge, as well as general (analysis, synthesis, logical, system-structural, concrete-sociological, generalizations, comparisons, analogies) and special (for-mal-legal, comparative-legal) methods.

## RESULTS AND DISCUSSION

The types of sanctions the articles of chapters XIX–XX, XXIII–XXVIII of Special part of the Criminal code of the Republic of Poland, providing for the punishment of crimes against the person, contain: simple, alternate, relatively determined – in the amount of 21 (6 of them in Chapter XIX (parts 1–2, article 148, parts 2–3 of article 157, article 157a, part 1, part 2 of article 161); no – in Chapter XX; 2 – in Chapter XXIII (part 1 of article 190, article 193); 3 – in Chapter XXIV (article 194, part

1 of article 195, article 196); 2–, CH. XXV (p. 1–2 table 202); 3 – in Chapter XXVI (article 206, 208, part 1 of article 209); 5 – in CH. XXVII (part 1–2 article 212, part 1–2, article 216, part 1 of article 217), simple, single, relatively determined – in the amount of 50 (of which 24 in Chapter XIX (part 4, article 148, article 149, part 1 of article 150, article 151, parts 1, 3 of article 152, parts 1–2 of article 153, parts 1–2 of article 154, article 155, parts 1–3 of article 156, part 1 of article 157, parts 1–3 of article 158, article 159, parts 1–3 of article 160, part 1 of article 161, part 1 of article 162); 5 in Chapter XX (parts 1–4 of article 163, part 1 of article 164); 4 CH. XXIII (part 1–2 of article 189, part 2–3 of article 191); no – in CH. XXIV and XXVII; 11 – in Chapter XXV (part 1–3 of article 197, article 198–199, part 1 of article 200, article 201, part 3 of article 202, article 203, part 1 of article 204, part 3 of article 204); 6 – in CH. XXVI (parts 1–2 of article 207, part 3 of article 207, parts 1–2 of article 210, article 211); no-cumulative, alternative, relative-defined and cumulative, sin-gular, relatively-defined. Criminal code of the Republic of Poland 2001; Course of criminal law, 1999; Lukashov and Sarkisova 2001)

According to the types of sanctions, the articles in chapters XIX, XXIII–XXVIII of the Special part of Criminal code of the Republic of Poland, which provide for punishment for crimes against the person, do not contain absolutely-defined sanctions, but contain: relatively-defined-in the number of 52, of which:

- a) only with respect to-certain penalties with the maximum penalty – 14 (including: 7 – in Chapter XIX (§§1-2 of article 152, §2 of article 156 §1 of article 158, §1 of article 160, §1 of article 161, §1 of article 162), 1 – in Chapter XXIII (§1 of article 191), 3 – in Chapter XXV (article 199, §§1-2 of article 204), 2 – in Chapter XXVI (§1 of article 210, article 211), 1 – in §1 of article 220 of Chapter XXVIII, no– in CH. XXIV, XXVII);
- b) only with respect to certain sanctions, specifying a minimum strength and maximum limits of punishment – 38 (including 20 in Chapter XIX (§§1-4 of article 148 and article 149, §1 of article 150, article 151, §3 of article 152, §§1-2 of article 153, §§1-2 of article 154, article 155, §§1, 3 of article 156; §1 of article 157, §§2-3 of article 158, article 159, §2 of article 160); 3 – in Chapter XXIII (§§1-2 of article 189, §2, article 191); 11 – in Chapter XXV (§§1-3 of article 197, article 198, §§1-2 of article 200, article 201, §3 of article 202, article 203, §§3-4 of article 204); 4 – in Chapter

XXVI (§§1-3 of article 207, §2 of article 210); no – in CH. XXIV, XXVII and XXVIII).

Alternative – in number 27 (5 – in Chapter XIX (§§2-3 of article 157, §1 of article 157, §3 of article 160, §2 of article 161); 3 – in Chapter XXIII (§1 of article 190, §1 of article 192, article 193); 4 – in CH. XXIV (article 194, §§1-2 of article 195, article 196); 2 – in Chapter XXV (§§1-2 of article 202); 3 – in Chapter XXVI (article 206, 208, §1 of article 209); 5 – Chapter XXVII (§§1-2 of article 212, §§1-2 of article 216, §1 of article 217); 5 – in Chapter XXVIII (§§1-2 of article 218, article 219, §2 of article 220, article 221).

Of these, there are no alternative, relatively-defined sanctions with the maximum limit of punishment and cumulative (summing, increased).

For criminal attacks on the person in the criminal code of Poland, the following types of penalties are established: a) fine; b) restriction of liberty; c) deprivation of liberty; d) imprisonment for a period of 25 years; e) life imprisonment.

The penalty is fixed in the daily earnings rates by determining the number of bets and the amount (volume) of one bet; if the law does not provide for another, the lowest number of bets is 10, and the maximum is 360. "When determining the size of the daily rate, the court proceeds from the income of the guilty person, his personal and family conditions, material status and the possibility of earning money" [12]. Fine with-held in 27 sanctions (§§2-3 of article 157, and §1 of article 157a; §3 of article 160; §2 of article 161; §1 of article 190; §1 of article 192, article 193–194; §§1-2, article 195, article 196; §§1-2 of article 202; article 206, 208; §1 of article 209; §§1-2 of article 212; §§1-2 of article 216; §1 of article 217; §§1-2 of article 218; article 219; §2 of article 220; article 221) seven chapters (XIX, XXIII–XXVIII), establishing the punishment for attacks on the person.

For attacks on the person, the punishment in the form of restriction of freedom lasts for at least 1 and no more than 12 months.

For attacks on the identity of such punishment as deprivation of freedom is contained in 27 sanctions (§§2-3 of article 157, and §1 of article 157a; §3 of article 160; §2 of article 161; §1 of article 190; §1 of article 192, article 193–194; §§1-2 of article 195, article 196; §§1-2 of article 202; article 206, 208; §1 of article 209; §§1-2 of article 212; §§1-2 of article 216; §1 of article 217; §§1-2 of article 218; article 219; §2 of

article 220, article 221) seven chapters (XIX, XXIII–XXVIII).

The imprisonment lasts not less than 1 month and not more than 15 years; calculus is in months and years and contains 77 penalties for offences against the person (§§1-4 of article 148; article 149; §1 of article 150, article 151; §§1-3 of article 152; §§1-2 of article 153; §§1-2 of article 154, article 155; §§1-3 of article 156; §§1-3 of article 157; §1 of article 157a; §§1-3 of article 158; 159; §§1-3 of article 160; §§1-2 of article 161; §1 of article 162; §§1-2 of article 189; §1 of article 190; §§1-2 of article 191; §1 of article 192, article 193, article 194; §§1-2 of article 195, article 196; §§1-3 of article 197, article 198–199; §§1-2 of article 200, article 201; §§1-3 of article 202, article 203; §§1-4 of article 204; article 206; §§1-3 of article 207, article 208; §1 of article 209; §§1-2 of article 210 article 211; §§1-2 of article 212; §2 of article 216; §1 of article 217; §§1-2 of article 218; article 219; §§1-2 of article 220) seven chapters (XIX, XXIII–XXVIII).

Life imprisonment is fixed for the murder of a person in 3 sanctions (§§1-3 of article 148) of Chapter XIX (on attacks on life and health) of the Special part.

In addition to the composition of murder without extenuating and aggravating circumstances (§1 of article 148), the Criminal code of Poland establishes the composition of murder with aggravating circumstances (§2 and 3 of article 148) and with extenuating circumstances (§4 of article 148, article 149 and 150). Murder without mitigating or aggravating circumstances and under aggravating circumstances is punishable by at least 8 years imprisonment (at least 12 years for qualified murder), 25 years imprisonment or life imprisonment.

In the Criminal code of Poland, the composition of killing a person at his request and under the influence of regret for him (§1 of article 150), which existed in a similar version in article 150 of the Criminal code of 1969, remained. In addition, article 150 was supplemented by section 2, on the basis of which the court in exceptional circumstances of the execution of this murder has the right to apply an extraordinary mitigation of the penalty, or even not apply it at all. In fact, in 1997, with the introduction of this norm, Poland moved towards legalizing euthanasia. The penalty is imprisonment for a period of 3 months to 5 years.

Another component of murder in extenuating circumstances is the murder of a newborn baby by a

mother (article 149), which presupposes the presence of a special object of encroachment-the life of the born infant. It initially provided for a more lenient punishment if it was carried out under the influence of a strong experience caused by a kind of significant deficiencies in the physical development of the infant, or in General in connection with another difficult personal situation. By the law of July 8, 1999 the legislator Poland, probably under the influence of the practice – a criterion of truth in terms of legal description of an event, criminal acts – return the version of this article contains examples huddled in the Criminal code of Poland, 1969, reposition the mother's punishment "for the murder of her baby in childbirth under the influence of the process of child-birth" [13].

Although the Criminal code of Poland does not contain an independent composition of hooliganism, nevertheless, there is a penalty for beatings or participation in a fight, which creates a direct threat to the life of a person or the on-set of severe damage to his health (§1 of article 158). If there are aggravating circumstances – in the case of serious injury to health, causing death to the victim, the use of a firearm, knife or other such dangerous object used as a weapon, the punishment for these actions is heavier (§2 and 3 of article 158, article 159).

By virtue of section 1 of article 162, failure to provide assistance to a person who is in a state that poses a direct dangerous threat to life or serious damage to health is also punishable. However, if you require human assistance was necessary to remove the danger to health or life, due to the requirement of medical intervention or allow emergency medical organization or whether some, which must provide medical care, then such inaction will not be a crime (§2 of article 162).

The addition of article 157a to the Polish Criminal code in 1999 established penalties for causing bodily harm to a fetus or health disorders that threaten its life, which, apparently, was a reaction of the legislator to the increased public response to the problem of protecting a pregnant woman and a conceived but unborn baby. §2 of article 157a does not recognize as criminal the act of a doctor who caused bodily harm or a health disorder that threatens the life of the fetus, if they were necessary to eliminate the danger that threatens the health or life of the pregnant woman or the fetus. Similarly, it is not considered criminal by virtue of section 3 of article 157a to inflict such damage to a fetus performed by a pregnant woman.

Part 1 of article 152 contains a penalty of imprisonment for a period not exceeding 3 years for a person who, at the request of a woman, interrupts her pregnancy in violation of the provisions of the law. §1 of article 153 contains the sanction of imprisonment for a period of not less than 6 months and not more than 8 years for terminating a woman's pregnancy without her consent by violence or otherwise, by unlawful threat or by deception, leading a woman to terminate her pregnancy.

In the context of the coronavirus pandemic, taking into account the high risk of infection of people with this disease, we believe it is relevant to suggest to the Polish and Russian legislators to provide criminal liability for evading treatment of a difficult-to-treat infectious disease that poses a threat to the life and health of others. It is also possible to adopt a law on the prevention of infection with a difficult-to-treat infectious disease.

## SUMMARY

1. Criminal code of Polish state includes all kinds of sanctions (relative-defined by specifying minimum and maximum pre-fishing punishment, an altar-native, relatively determined with fixing the maximum limit of punishment) for criminal acts that infringe on the person. There are no absolutely-defined, relatively-defined maximum penalties and cumulative sanctions.

## Suggests

2. To borrow a positive experience of the Polish legislator to change the or-der of topics in the Special part of the Criminal code, placing in first place in sec-tion VII of article of the criminal attacks against the security of the world and humanity.
3. Add article 1211 of the Criminal code of the Russian Federation "Evasion of treatment of a difficult-to-treat infectious disease that is dangerous to others".
4. When determining the types, terms and sizes of punishments under article 1211 of the Criminal code of the Russian Federation, it is necessary to take into account judicial practice. This is great timing and size of punishment are not acceptable.
5. Adopt a Law on the prevention of infection with a difficult-to-treat infectious disease, which

establishes compulsory hospitalization based on a court decision in medical institutions of patients with these diseases who evade examination or treatment.

## CONCLUSIONS

Based on the analysis of the Criminal code of Poland in comparison with the criminal legislation of Russia and other States, it can be concluded that the most common types of penalties for crimes against the person under the Criminal code of Poland are a monetary fine (calculated in the rates of daily earnings), restriction of liberty and imprisonment (both for a certain period and indefinite). Imprisonment allows wide possibilities of individualization of punishment: can ranged used the term, conditions of detention and the nature of the impact on the convicted, which gives the possibility of applying a correction corresponding to the individual peculiarities of the personality of the convicted person.

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