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Criminal Liability For Abuse Of Office Under The Legislation Of The Russian Federation And The Republic Of Angola

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Abstract: The main purpose of the work is to analyze and compare article 285 of the Criminal Code of the Russian Federation of 1996 and article 365 of the Criminal Code of the Republic of Angola of 2019 regarding the establishment of liability for abuse of power, taking into account the modernization of the criminal law system of Angola. To achieve this goal, a comparative analysis of the composition of abuse of official authority and related criminal offences in the Criminal Code of the Russian Federation and Angola was carried out, the features of objective and subjective elements of the crime were identified, and similarities and differences were determined. On the basis of a comparative analysis of the criminal legislation of the Russian Federation and Angola, the conclusion is justified that the system of official crimes should be improved and the composition of abuse of power in the Criminal Code of Angola should be modernized accordingly.

Keywords: Criminal liability, corpus delicti, malfeasance, system of malfeasances, abuse of office, abuse of power, qualification of crimes.

1. INTRODUCTION

In connection with a retrospective analysis of criminal liability for abuse of office, it is necessary to consider the genesis of the criminal legislation of the Republic of Angola, including in the field of combating this crime. Speaking about the history of the criminalization of abuse of official position in Angola, it should be emphasized that the criminal law of this state is more defined and gravitates to the criminal law of Portugal. Having gained independence, Angola began to actively form its legal system, including in the

field of the fight against crime. However, until the end of the XIX century. responsibility for official and other crimes in Angola was regulated by the criminal law inherited from Portugal, in particular, the Portuguese Criminal Code of 1886, which was the basis for the subsequent reform of the criminal law of Angola. These reforms, however, were not sufficient to close the gap between the General and Special parts of the 1886 Criminal Code in the current social, economic and a political context that clearly demonstrates to society how complex modern crime and measures to combat it have become.

After independence, about two dozen legal acts were published in Angola, most of which concerned the Special Part of the Criminal Code. However, the Criminal Code, acting in the territory of Angola, remained basically the same, both in terms of its dogmatic characterization and formal structure, and philosophy. Therefore, the rights of citizens and the social interests of society, for a long time protected by the Code of 1886, do not fully coincide with the interests that today should be protected from criminals, especially in the fight against official crime. The radical review of the previous criminal law and the development on this basis of a new, in fact, the national Criminal Code of Angola, was justified, first of all, by the archaic and outdated dogma of this legal act.

For this reason, a new, truly Angolan Penal Code was adopted in Angola in 2019, which is called upon to play an important role in advancing to a democratic rule of law after 133 years of operation of the Code, inherited from Porgugal criminal law in force in colonial times. This modern regulatory act, which includes 475 articles, protects the guarantees and fundamental rights of Angolans in the most important aspects of society. In Angolan legal doctrine, the adoption of the new Criminal Code is perceived as a historic event of great political significance for the legal system of Angola[3] A feature of the new Criminal Code of Angola is that it is based on new principles and social values, which have led to a more progressive system of norms and institutions, as close as possible to the classical principles of criminal law. This makes it possible to determine the main directions and prospects for further improving the system of the General and Special Parts of the Criminal Code of Angola, based on the advanced experience in the development of the classical school of criminal law, and in particular, criminal law of Russia.The Criminal Code of Angola of January 23, 2019, according to its system, is divided into General and Special Parts, containing 475 articles (Book I and II). Unlike the Criminal Code of the Russian Federation, when constructing the General and Special parts of this code, a four-level structuring was adopted.

Normative material (sections, chapters, sections, articles). The general part consists of seven sections, including 17 chapters and 16 general sections: 1) criminal law; 2) a punishable fact (act); 3) legal consequences of the fact (act); 4)

private complaint and accusation; 5) termination of criminal liability; 6) compensation for damage: 7) misconduct. The special part consists of 9 sections, containing 30 chapters and 23 general sections. At the beginning, it contains norms on crimes that infringe on public interests: against people; families; public trust; collective security; states; peace and the international community (sections I - VI); then on crimes against private - public and private interests: inheritance and property rights; computer crimes; consumers and the market

(sections VII -IX). Accordingly, malfeasance in the Criminal Code of Angola in 2019 are combined under Ch. IV "Crimes related to the performance of public functions and to the detriment of public functions." The central place in the system of malfeasance in the Angolan Criminal Code is the abuse of official powers (Art.365), and along with the general composition of abuse of power (Art.376), the Angolan Criminal Code of 2018 contains a wide range of special rules (Art.359, 364-375), providing for liability for special types of malfeasance. In connection with the updating of the criminal legislation of Angola, it seems necessary to conduct a comparative analysis of the signs of abuse of office in the Criminal Code of Angola and the Criminal Code of other countries of the continental system of law, in particular, the Russian Federation, in order to use the positive experience of countering these crimes. For Russia, this comparison is very useful in the aspect of a prospective update of the RF Criminal Code, adopted in 1996, including in terms of improving the institution of responsibility for official abuse.

2. LITERATURE REVIEW (RESEARCH BACKGROUND)

The problem of criminal liability for malfeasance, including abuse of office, has attracted and continues to attract the attention of many researchers, including leading representatives of modern criminal law science (V.N.Borkov, B.V. Volzhenkin, N.A. Egorova, N.A. Lopashenko, A.G. Bezverkhov, A.V. Naumov, P.S. Yani, etc. In recent years, the development of criminal-legal aspects of abuse of office has been carried out in dissertation research by such authors as: A.M. Minkova (Criminal liability for abuse of power in commercial and other organizations. Rostov-on-Don, 2001); A.S.Strenin (Qualification of abuse of office. M., 2003); O.O. Kravchenko (Abuse official powers: criminal law characteristics and prevention. Vladivostok, 2004); M.I.
Revyakin (Criminal-legal and criminological measures to counteract crimes committed by officials. Rostov-on-Don, 2004); S.P. Slav (Responsibility for abuse of office (based on materials from Transnistria). M. 2004); S.V. Izosimov (Theoretical and applied analysis of service crimes committed in commercial and other organizations: Criminal law and criminological aspects); AND I. Asnis (Criminal liability for official crimes in Russia: problems of legislative consolidation and enforcement. M., 2005); T.B. Basova (Criminal liability for malfeasance: problems of lawmaking and law enforcement in the context of the administrative reform of the Russian Federation. Vladivostok, 2005); E.A. Nesterov (Abuse of official powers under the criminal legislation of Russia. M., 2005); HELL. Suleimanova (Abuse of powers in Russian criminal law: problems of qualification and legislative regulation. Kazan, 2005); S.V. Avdeev (Abuse of official powers: criminal - legal and criminological aspects. M., 2006); O. A. Plekhova (Criminal liability for abuse and abuse of office. Rostov-on-Don, 2006); V.A. Goncharov (Abuse of official powers: legislative and law enforcement aspects. Rostov-on-Don, 2007); Yu.N. Rumyantseva (Abuse of office in Russia and France (comparative legal study), Irkutsk, 2018). At the same time, the latest changes in the criminal legislation of both the Russian Federation and the Republic of Angola require new efforts in the direction of analyzing the legal signs of the abuse of office. In modern

criminal law science, unresolved issues remain concerning the consolidation of the definition of an official in the law, as well as the signs of the objective and subjective side of the composition of abuse of official powers, as well as the differentiation of responsibility for this crime. Based on the peculiarities of the criminal legislation of the Russian Federation and Angola, and taking into account the adoption of the new Criminal Code of Angola in 2019, we aim to conduct a comparative analysis of Art. 285 of the Criminal Code of the Russian Federation 1996 and Art. 365 of the Criminal Code of Angola in 2019 regarding the establishment of liability for abuse of office.

3. METHODOLOGY (METHODS)

The methodological basis of this research is the general philosophical (dialectical) method of cognition, which allows to reveal the studied phenomena in their interrelation, mutual influence and development. Also, general scientific and private scientific methods of cognition were used, such as: analysis and synthesis, induction and deduction, analogy, generalization, abstraction, systemic - structural, legal modeling; historical-legal, formal-logical (legal), criminal-statistical, comparative-legal (comparative), sociological. Analysis and synthesis made it possible to identify the prerequisites and a typical model for the criminalization of abuse of office; induction and deduction made it possible to substantiate the proposals put forward in the course of the study to improve the criminal law of Angola on responsibility for this crime; methods of analogy, generalization and abstraction were used to determine the content of the studied category of crime, taking into account the characteristics of the objective and subjective elements of its composition; the system-structural method, which is an integral part of the systematic approach, provided a comprehensive study of the object in the system of malfeasance as an institution of the Special Part of the Criminal Code of the Russian Federation and Angola in interconnection with public relations subject to criminal law protection through the effective implementation of the Criminal Code norms that form it; the method of legal modeling made it possible to design and substantiate the most effective model for the criminalization of abuse of office in the Criminal Code of Angola.

The main private scientific method of achieving this goal is a comparative analysis of the composition of the abuse of official powers and related concepts (abuse of power, etc.) in the Criminal Code of the Russian Federation and Angola, which makes it possible to reveal the content of the criminal phenomenon in question through the prism of national peculiarities of legal regulation and the differences between the respective legal systems. ... The historical and legal method was used to analyze the evolution of the criminal law on liability for abuse of office and identify its main stages (periodization). The formal-logical (legal) method contributed to the identification and solution of problems related to legal thinking and the effective application of the criminal law on responsibility for the crime in question. The criminally - statistical method made it possible to reveal the statistical characteristics of abuse of office, which largely determines the social conditionality of the criminal - legal prohibition of this crime. The sociological method (survey, content analysis,

study of documents) made it possible to identify the presence of problem situations in the sphere of the criminal law prohibition of official abuse and to determine ways to further improve the criminal legislation of Angola on liability for malfeasance.

Thus, all of the above methods allow: a) to study the historical genesis of the formation of the institution of criminal liability for abuse of office in Angola; b) investigate the social conditioning of the criminalization of abuse of office in the Russian Federation and Angola; c) identify some problematic situations in the interpretation and application of the criminal law of the Russian Federation and Angola on responsibility for this crime, directly affecting its effectiveness, and argue the ways and ways of eliminating them; d) form and substantiate the optimal model for the criminalization of abuse of office in the Criminal Code of Angola.

4. RESULTS

A comparative analysis of the signs of abuse of office in the Criminal Code of the Russian Federation and the Criminal Code of Angola gives grounds for the following conclusions:

- the criminal laws of these states provide for liability for abuse of office in independent norms (Art. 265 of the Criminal Code of Angola and Art. 285 of the Criminal Code of the Russian Federation);
- the system of compulsory (criminally-forming) signs of the indicated offenses is significantly different: in the Criminal Code of Angola, the category “high value” of misused money or other movable property, as well as public funds, is decisive; in the Criminal Code of the Russian Federation - “a significant violation of the rights and legitimate interests of citizens or organizations or the interests of society or the state protected by law” or “grave consequences”, as well as a special motive - “selfish or other personal interest”;
- if the differentiation of criminal liability in Art. 285 of the Criminal Code of the Russian Federation is of a traditional nature and is expressed in the allocation of the main (part 1), qualified (part 2) and especially qualified (part 3) corpus delicti, then in Art. 365 of the Criminal Code of Angola, differentiation of responsibility for the crime in question is carried out by distinguishing two separate elements of the crime (“misuse of money or other property that does not belong to a civil servant, which is at his disposal or available for the performance of his official duties” (part 1) and “inappropriate the use of public funds in the public sector without sufficient justification ”(part 2);
- a disadvantage should be recognized as the union within the framework of one norm of the Criminal Code of Angola of different offenses, and in Part 1 of Art. 365 contains a composition with a greater public danger than in part 2 of the same norm;
- in contrast to the Criminal Code of the Russian Federation, the criminal law of Angola identifies a special composition of abuse - “official theft” (Article 364 of the Criminal Code of Angola).

On the basis of the above conclusions, we can formulate proposals aimed at optimizing both the criminal legislation of the Russian Federation and Angola. First of all, it is necessary to differentiate criminal liability in the Criminal Code of Angola, depending on the severity of the consequences resulting from the abuse of office. In addition, it is also advisable to carry

out the construction of Art. 365 of the Criminal Code of Angola on the principle of from a less socially dangerous act to a more socially dangerous one.

Meanwhile, the experience of criminalizing official abuse in Angola can be useful for improving the provisions of the Russian criminal law. In particular, it is noteworthy that such a variety of official abuse as unlawful gaining of advantage (Article 359) and official theft (Article 364), as well as the establishment of a minimum cost boundary for the public danger of this crime, which makes it possible to clearly distinguish it from an official misconduct (part 3 of article 365 of the Criminal Code of Angola).

5. DISCUSSION

In 2019, according to the Corruption Perceptions Index, Angola ranks 146 out of 180 and scored 26 points (Russia, according to the same rating, took 137 place - 28 points)[1]. In terms of common crime, Angola ranks 168th out of 207 countries[2]. According to unofficial data, the volume of illegal payments to government officials in Angola from commercial organizations is 51.53% (of the total number of companies)[3]. The prevalence of manifestations of corruption, their detrimental impact on both the domestic and foreign policy environment, the economic situation in Angola, necessitate the criminalization of various manifestations of corruption, including abuse of office as its main form. In Angola, there is a very negative trend towards the spread of abuse of office. So, in 2015, 212 crimes of this category were registered on the territory of the country (out of 41,020 detected crimes in total); in 2016 - 775 (an increase of 265.5%); in 2017 - 992 (+ 28 %%); in 2018 - 1541 (+ 55.3 %%); in 2019 - 1900 (+ 23.29%). An analysis of data on convictions for abuse of office shows that in 2015 they amounted to (according to Article 313 of the Criminal Code of Angola as amended by 1886) - 200 people, in 2016 - 234 people, in 2017 - 246 people, in 2018 - 259 people, in 2019 the number of convicts increased significantly - 419 people. (+ 61.7%). At the same time, there is a rapid increase in convictions to real imprisonment: if in 2015 only 7 people were sentenced to this type of punishment. (3.5% of allconvicted under this article), then in 2018 - 25 people.

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[1]Corruption PerceptionsIndex 2019. [Электронныйресурс] Режимдоступаhttps:// transparency. org.ru/research/indeks-vospriyatiya-korruptsii/rossiya-v-indekse-vospriyatiya-korruptsii-2019-28-ballov-i-137-mesto.html(датаобращения: 24.04.2020)

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[3]https:// ru.countries. world/ BC-662_86.html (датаобращения: 24.04.2020)

(9.6%), in 2019 - 80 people. (19.0%)[1]. It is indicative that the number of persons convicted of abuse of office in Angola is significantly less than the number of registered crimes in this

category: in 2018 it was 16.8% in 2019 - 22.0%. This question is not included in the range of tasks set in this study, but, of course, needs to be developed independently. Thus, the situation in the sphere of malfeasance in Angola, as well as in the Russian Federation, remains unfavorable, which necessitates the criminalization of malfeasance, including abuse of office.Counteraction to malfeasance, including abuse of office, in the Russian Federation and Angola is currently carried out systematically. First of all, this is evidenced by the anti-corruption legislation of these states. As in the Constitution of the Russian Federation, provisions on the priority of international law are also placed in the main source of Angolan law. However, unlike Russia, Angola operates on the principle of automatic integration of the regulatory requirements of international law. In this regard, following the ratification by Angola in 2006 of the United Nations (UN) Convention against Corruption on December 10, 2003, the following laws were adopted: Law on Good Governance (Law No. 3/10); Public Service Integrity Law (Law 3/15); Law 34/11 on the fight against money-laundering (Law No. 34/11). This approach brings the legal systems of Angola and the Russian Federation closer together. The Russian Federation also ratified the aforementioned UN convention and includes in the system of national legislation, in addition to the Criminal Code, specialized sources of law directly aimed at combating corruption, in particular, the Federal Laws[2] "On Combating Corruption in the Russian Federation", "On Anti-Corruption Expertise of Normative Acts and Drafts normative acts [3]", etc

[1]Ministério do Interior, Relatório Resumido de Segurança Pública, 2019. Fontes -© INE. Luanda, Angola – 2019.

[2]Опротиводействиикоррупции:Федеральныйзаконот 25.12.2008 № 273-ФЗ (ред. от 26.07.2019) [Электронныйресурс] Режимдоступа//http://www.consultant.ru /document/cons_doc_LAW_82959/bbbd4641125b222beaf7483e16c594116ed2d9a1/ (датаобращения: 28.10.2019)

[3]Об антикоррупционной экспертизе нормативных правовых актов и проектов нормативных правовых актов: Федеральный закон от 17.07.2009 № 172-ФЗ (ред. от 11.10.2018) [Электронный ресурс] Режим доступа //http://www.consultant.ru /document/cons_doc_LAW_89553/3d0cac60971a511280cbba229d9b6329c07731f7/ (дата обращения: 28.10.2019)

At the same time, in contrast to Russian legislation, which enshrines the principle of criminalization of acts exclusively in the criminal law, the legislation of Angola implements it both in the criminal code and in other sources of law. Thus, criminal liability for activeand passive abuse of influence for personal gain is established in Art. 25 and 26 of the Law on Good Governance No. 3/10. Responsibility for theft, abuse of office and illegal enrichment is established in Art. 17, 19, 20 and 22 of the said Law of Angola. In addition, theft committed by an official was criminalized in Art. 313 of the Criminal Code of Angola in 1886. In particular, it provides for the responsibility of any public official who, by virtue of his official position, is entrusted with funds or property belonging to the state or private persons and who arbitrarily disposes of them, carries out their theft or aids another person in their theft , or converts them for their own purposes or the purposes of another person, using these funds or

property or disposing of them in an illegal manner. In addition, liability for theft is also established in Art. 23, 24, 25, 26 and 39 of Law No. 3/10 (Law on Good Governance) and Law No. 13/10 (Statute of the Court of Accounts).

Misappropriation or waste by an official is criminalized in Art. 364 of the Criminal Code of Angola. It is noteworthy that this corpus delicti, being in essence a special type of abuse of office (official theft), is not included in the system of official misconduct in Ch. 30 of the Criminal Code of the Russian Federation. In this source, misappropriation and embezzlement are considered as a form of general criminal theft (Article 160 of the Criminal Code of the Russian Federation) and are not associated with the status of a special subject - an official. Moreover, the judicial practice follows the path of a clear division of the indicated acts. So, in paragraph 17 of the Resolution of the Plenum of the Supreme Court of the Russian Federation of October 16, 2009 No. 19 "On judicial practice in cases of abuse of office and abuse of office" states: "In contrast to the theft of someone else's property with the use of official position, abuse official powers out of selfish interest form such actions of an official that are either not associated with the seizure of someone else's property (for example, obtaining property benefits from the use of property for other purposes), or associated with temporary and (or) paid seizure of property.[1] "

In general, one should pay attention to the fact that both the Criminal Code of Angola and the Criminal Code of the Russian Federation have a separate chapter that combines the crimes of officials. In the Criminal Code of Angola, this is Chapter IV "Crimes related to the performance of public functions and to the detriment of public functions"; inOf the Criminal Code of the Russian Federation - Chapter 30 "Crimes against state power, interests of civil service and service in local government". The title of these chapters clearly indicates that in the first case, the object of criminal law protection is public relations that ensure public interests (the Criminal Code of Angola), in the second case (the Criminal Code of the Russian Federation), these are public relations that ensure the interests of state power and service in the bodies state power and local government bodies. Abuse of official position is defined as a criminal act in accordance with Art. 12 of the Law on Criminal Acts Committed by Public Officials (Law No. 21/90) and Art. 39 of the Law on Good Governance.

In Art. 365 of the Criminal Code of Angola in 2019 criminalized abuse of office. At the same time, in the specified source, the following are singled out into separate norms and special compositions of abuse of office: “Unjustified gaining of advantage” (Article 359); "Economic participation in business" (Art. 366); “Illegal collection of contributions” (Art. 367); "Impact on traffic" (Art. 368); "Abuse of the place of residence by the employee" (Art. 369).In Art. 365 of the Criminal Code of Angola criminalizes two types of abuse of office:

1) misuse of money or other movable property that does not belong to him, which is at his disposal or available for the performance of his official duties (part1);

[1]Resolution of the Plenum of the Supreme Court of the Russian Federation dated October 16, 2009 No. 19, Moscow “On judicial practice in cases of abuse of office and abuse of office” // Rossiyskaya Gazeta. 2009. October 30 (No. 207 (5031).

2) improper use of public funds in the public sector without sufficient justification (part 2).
Moreover, according to Part 3 of Art. 365 is not subject to punishment for abuse of office, if the value of the illegally used property and the amount of money are insignificant, such as those indicated in subparagraph "b" of Art. 393 ("negligible cost" - which does not exceed half of the minimum monthly wage).
Thus, an important condition for criminal prosecution for these acts under the Angolan Criminal Code is the "high cost", which is 100 times higher than the minimum monthly civil service salary established at the time of the crime. Consequently, this criterion serves as the basis for the delimitation of criminal and disciplinary liability for abuse of office, according to the legislation of Angola. This approach is fundamentally different from the principles of criminal liability of officials under the criminal law of the Russian Federation. According to the disposition of Part 1 of Art. 285 of the Criminal Code of the Russian Federation included in the circle of criminals such as “a significant violation of the rights and legitimate interests of citizens or organizations, orthe interests of society or the state protected by law ”. Clause 18 of the Resolution of the Plenum of the Supreme Court of the Russian Federation of October 16, 2009 No. 19 Moscow "On judicial practice in cases of abuse of office and abuse of office" explains that "Under a significant violation of the rights of citizens or organizations as a result abuse of office or abuse of power should be understood as a violation of the rights and freedoms of individuals and legal entities guaranteed by generally recognized principles and norms of international law, the Constitution of the Russian Federation (for example, the right to respect for the honor and dignity of the individual, personal and family life of citizens, the right to inviolability of the home and the secrecy of correspondence, telephone conversations, postal, telegraph and other messages, as well as the right to judicial protection and access to justice, including the right to an effective remedy in a state body and compensation for damage caused by a crime, etc.)[1] ”.
Consequently, in the Criminal Code of the Russian Federation, the consequences of abuse of official powers are much wider and include not only property damage, but also physical and moral damage. In addition, in part 3 of Art. 285 of the Criminal Code of the Russian Federation, the differentiation of criminal liability was carried out on the basis of such a criterion as the offensive as a result of the abuse of official powers of "grave consequences". In clause 21 of the Plenum, these include: major accidents and long stops of transport or production process, other violations of the organization's activities, causing significant material damage, causing death by negligence, suicide or attempted suicide of the victim,[2] etc.
To subjects of abuse of power in accordance with Art. 378 of the Criminal Code of Angola includes: civil servants; administrative agents; persons holding political office, elected or appointed; persons permanently or temporarily, through remuneration or free of charge, voluntarily or compulsory, carrying out the activities of the public service or communal service; military personnel called to perform civil duties of a public nature; directors and employees of public companies; other persons performing functions in any organization governed by public law of Angola. As we can see, the circle of subjects of criminal liability

for abuseat the same time, from the subjective point of view, both elements of the crime under consideration are characterized by a deliberate form of guilt. In accordance with Part 1 of Art. 285 of the Criminal Code of the Russian Federation,

[1]Resolution of the Plenum of the Supreme Court of the Russian Federation of October 16, 2009 No. 19 Moscow "On judicial practice in cases of abuse of office and abuse of office" // Rossiyskaya Gazeta dated October 30, 2009 - Federal issue No. 207 (5031).
[2]Ibid.

a compulsory sign of the composition of the abuse of official powers is selfish or other personal interest.At the same time, an indication of one's own or another's benefit is used by the Angolan legislator only when describing the signs of the abuse of power (Article 376 of the Criminal Code). Criminal liability for abuse of office in Art. 365 of the Criminal Code of this state is not associated with its selfish orientation (goal), which, in our opinion, does not correspond to the nature of this crime as corruption.

Thus, proceeding from the legal structure of the composition of abuse of official powers under the criminal legislation of the Russian Federation and Angola, it can be concluded that this crime is more dangerous under the Criminal Code of the Russian Federation, since its qualified form involves the onset of grave consequences of abuse. According to part 1 and part 2 of Art. 365 of the Criminal Code of Angola, abuse of office covers only the consequences in the form of property damage.

In this regard, a comparative analysis of the sanctions of the norms under consideration is indicative. So, according to the sanction of Part 1 of Art. 356 of the Criminal Code of Angola established liability in the form of imprisonment for up to 2 years or a fine in the amount of income up to 240 days. In part 2 of this provision, for the misuse of public funds in the public sector - imprisonment for up to 1 year or a fine in the amount of income up to 120 days. Consequently, the Angolan legislator combines, within the framework of one norm, two independent acts of different degrees of social danger, and in Part 1 of Art. 356 of the Criminal Code of Angola contains a more socially dangerous corpus delicti, and in part 2 - a less socially dangerous one. From the standpoint of legislative technique, such a technique cannot be recognized as justified, since it violates the strict logic of criminal law, based on the principle of increasing criminal liability as the degree of social danger of the act increases

and the systematization of regulatory prescriptions in the logic of a gradual transition from less serious to more serious.

As for the punishment for abuse of office, established in Part 1 of Art. 285 of the Criminal Code of the Russian Federation, then, as is typical for other sanctions of the norms of Russian criminal law, it is alternative and relatively specific: it is punishable by a fine in the amount of up to eighty thousand rubles or in the amount of the convict's salary or other income for a period of up to six months, or deprivation the right to hold specified positions or engage in specified activities for up to five years, or forced labor for up to four years, or arrest for four to six months, or imprisonment for up to four years. Consequently, based on the maximum amount of the most severe punishment provided for in this sanction, it follows that the Russian legislator classifies unqualified abuse of office as crimes of average gravity. Its qualified types are classified as grave crimes (parts 2 and 3 of article 285 of the Criminal Code of the Russian Federation). The maximum penalty for these acts is set at up to seven and ten years' imprisonment, respectively.

6. CONCLUSION

On the basis of the above, it is proposed to optimize the rule of the Criminal Code of Angola on liability for abuse of office (Article 365), setting it out in the following edition:

a) Article 365 "Abuse of office" (Artigo. 365. (Peculato de uso)

1. A civil servant who misuses money or other movable property that does not belong to him, which is at his disposal or available for the performance of his official duties, - shall be punishable by imprisonment for up to one year or a fine in the amount of income up to 120 days.

2. A civil servant who has committed improper use of public funds in the public sector without sufficient grounds - shall be punishable by imprisonment for a term of up to 2 years or a fine in the amount of income up to 240 days.

3. The actions specified in parts 1 and 2 of this article, committed at a significantly high cost, are punishable by imprisonment for up to 5 years or a fine of up to 500 days.

4. Abuse of office is not subject to punishment if the value of the illegally used property and the amount of money are insignificant, such as those indicated in subparagraph b) of Art. 393b.

5. Responsibility for special types of abuse of office occurs in cases established by the norms of other chapters of this Code.

The general rule on liability for abuse of power (Art. 376) (Abuso de poder) is subject to further analysis in order to optimize the legislative structure of this corpus delicti, as well as to improve the institution of responsibility for malfeasance in general.

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