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Discussion about criminal liability for negligent harm to health or death to a person

Formulation of the problem.

The tasks of the criminal law are described in Part 1 of Art. 2 of the Criminal Code of the Russian Federation. These include the protection of human and civil rights and freedoms, in particular, such important rights as the right to life and health. According to Part 2 of Art. 2 of the Criminal Code of the Russian Federation for the implementation of these tasks, the Criminal Code defines what dangerous acts for an individual, society or state are recognized as crimes. Thus, as in foreign criminal law, the Criminal Code of the Russian Federation emphasizes that not all, but only certain acts that objectively represent a danger, can be recognized as criminal[1].

Their establishment is a very difficult task. So, there have been active discussions for a long time about which actions should be criminalized or decriminalized in the economic[2] and other spheres[3]. It is also important to determine the nature and degree of public danger of certain acts and punishments for their commission. It is important to establish the correlation between the social danger of various acts in their systemic relationship and the sanctions of the relevant articles of the Special Part of the Criminal Code of the Russian Federation.

Imperfection of legislative formulations and doctrinal disagreements about the interpretation of certain criminal law bans and their delineation lead to the fact that the function of establishing limits of criminal responsibility is compulsorily taken by courts and investigative bodies. At the same time, law enforcement practice is not always uniform and can change without any valid reasons either to mitigate or to tighten criminal liability.

In the field of careless acts, this problem becomes more important due to the peculiarities of careless fault as such.As well as the growing danger of careless crime in the modern world, where mechanisms and technologies dominate, the interrelations among actors become more complicated, which can lead to significant harm if certain safety rules are disregarded. The question of criminal liability for careless behavior is very acute even in such a traditional sphere of criminal law as causing harm to health or death.

There are two groups of problems. The first is related to the lack of agreement among scientists and practitioners on the main provisions of the General Part of the Criminal Code of the Russian Federation, which regulate questions of carelessly guilt. The second is about

[1]On the difference between the concepts of "dangerous act" and "socially dangerous act", see: Zhalinsky A.E. The criminal law in expectation of changes: the theoretically-tool analysis. M., 2009. P. 352, 358.
[2]The concept of modernization of criminal legislation in the economic sphere. M., 2010.
[3]Gilinsky Ya.I. Criminal law: who needs it? // International Association for the Advancement of Justice. URL: http://www.iuaj.net/node/414 (date of access - December 26, 2016).

concrete criminal interdictions providing responsibility for causing harm to health or death on carelessness. It is primarily about the norms of Chapter 16 of the Criminal Code of the Russian Federation, as well as other prohibitions, which contain an indication of the relevant consequences. In the view of the huge number of similar crimes, it is not possible to cover them all within the framework of this article.Therefore, the most common prohibitions from other heads of the Criminal Code of the Russian Federation, in particular Art. 238 of the Criminal Code of the Russian Federation, as well as other norms,are the problems of interpretation of which are indicative for the disclosure of the indicated topic.

The article will show that the current situation can not be considered satisfactory, since it does not allow to determine with accuracy the limits of criminal responsibility for careless damage to life and health. In fact, this issue is transferred from the field of criminal policy to the field of legal technology, which is hardly acceptable. Also, specific recommendations will be formulated aimed at clarifying certain articles of the Criminal Code of the Russian Federation.

Problems of the General Part of the Criminal Code. Discussion on the interpretation of Part 2 of Art. 24 of the Criminal Code.

The Criminal Law establishes that "an act committed only by negligence is recognized as a crime only if it is specifically provided by a relevant article of the Special Part." This formulation is ambiguous and does not allow us to determine with precision which careless encroachments entail criminal liability, and which do not. Thus, the list of reckless crimes is blurred.

In the literature, opposing opinions are expressed about the interpretation of Part 2 of Art. 24 of the Criminal Code. A.E. Zhalinsky marked out two main positions among them:

1. If a specific criminal law prohibition does not contain an indication that a crime is committed only by negligence, then a person may be prosecuted for both intentional and reckless act.

2. If in the article of the Special Part there is no indication of carelessness, the subject is liable only in the event of intent[4].

The author himself adhered to the second point of view, believing that, otherwise, Part 2 of Art. 24 of the Criminal Code of the Russian Federation loses allits meaning[5].

The first point of view considers correct, in particular, A.I. Rarog, which, however, indicates that some crimes can only be committed intentionally, which results from the indication in the criminal law prohibition of a special purpose or motive of an act, knowledge, a certain way of committing a crime, for example, fraud[6]. Other authors also note that in some formulations guilty can only be intentional, while in others it is intentional and careless. This is established by interpreting the relevant article of the Criminal Code of the Russian Federa-

[4]Commentary to the Criminal Code of the Russian Federation / Resp. Ed. A.E. Zhalinsky. M., 2010. P. 86 (the author of the commentary to article 24 is A.E. Zhalinsky).
[5]Ibid. P. 87.
[6]Rarog A.I. Problems of qualification of crimes on subjective grounds. M., 2015. P. 89-90.

tion, taking into account the characteristics of the objective side, the motive and purpose of the act and other circumstances[7].

However, there is no doubt that some articles of the Special Part do not allow you to establish the form of guilt by interpreting the text of the criminal law. As an example, we cite Art. 110 of the Criminal Code[8]. Obviously, bringing to suicide in practice can take place as a result of deliberate or careless behavior of the subject.

Thus, S.V. Borodin writes that this crime is committed with any kind of intent (direct or indirect), while stipulating that careless bringing to suicide is possible, but criminal responsibility for it is excluded due to the prescription of Part 2 of Art. 24 of the Criminal Code[9]. This is the viewpoint held by G.N. Borzenkov[10]. Other authors, in particular N.K. Semerneva and T.A. Plaksina believe that, in the presence of direct intent, the subject must be held accountable for the murder[11], but this does not take into account the fact that the victim deprives himself of life on his own[12]. Other researchers believe that bringing to suicide is possible with any form of guilt[13], which follows from the corresponding position on the interpretation of Part 2 of Art. 24 of the Criminal Code.

The question of the form of guilt in the case of bringing to suicide illustrates the problem of the limits of criminal responsibility for reckless crimesquite clearly. There is no secret that in many professional collectives, for example, in the army, as well as in some families, a crude style of communication predominates, which can be considered as cruel treatment or systematic humiliation of human dignity, which are indicated as ways to bring to suicide in art. 110 of the Criminal Code[14].

Such an appeal does bring individuals to suicide or attempt on it. Should we be held criminally responsible if such consequences were not covered by the intent of the subject who behaves this way with everyone? Criminal law, and law in general can hardly give an answer to such a question. The solution to this problem lies in the sphere of criminal policy and should reflect the public consensus on this issue.

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[7]Commentary to the Criminal Code of the Russian Federation / Resp. Ed. V.M. Lebedev. M., 2013. P. 80 (the author of the commentary to Article 22 – A.A.Tolkachenko).
[8]Tsyrkalyuk A.A. The criminal responsibility for bringing to suicide: Dis. cand. Jurid. Sciences. Tambov, 2011. P. 131.
[9]Borodin S.V. Crimes against life. St. Petersburg, 2003. P. 306.
[10]Borzenkov G.N. Qualification of crimes against life and health. M., 2005. P. 101.
[11]Ibid.
[12]Korobeev A.I. Criminal attacks on human life and health. M., 2012. P. 165; Borzenkov GN Decree. Op. P. 101.
[13]Commentary on the Criminal Code of the Russian Federation / Resp. Ed. G.A. Esakov. M., 2017. P. 188 (the author of the commentary to item 110 - Yu.V. Grachev).
[14]Suicide was discounted. Courts ceased to punish the treasury for the death of soldiers // Rossiyskaya Gazeta. 2007. October 23.

It should be noted that at the moment the ambiguity of the interpretation of the subjective side of Art. 110 of the Criminal Code is amended by a number of court decisions that recognize the mandatory determination of intent to bring to suicide[15].

Nevertheless, it seems more correct to indicate the form of guilt in the article itself (this applies to other criminal law prohibitions, the interpretation of which does not allow to establish the form of guilt) or clarification of the wording of Part 2 of Art. 24 of the Criminal Code.

Disputes about crimes committed with two forms of guilt.

A number of criminal law prohibitions require a separate analysis of the subject's mental attitude towards the committed act and the consequences of such an act.

Article 27 of the Criminal Code ("Responsibility for a crime committed with two forms of guilt") refers to the commission of an intentional act, as a result of which consequences are caused through negligence. In general, such a crime is recognized as committed intentionally.

However, Art. 27 of the Criminal Code does not exhaust all possible combinations of forms of guilt in relation to the act and consequences in the articles of the Special Part. In some cases, this does not cause any difficulties. For example, item "b" part 3 of Art. 205 of the Criminal Code of the Russian Federation provides for responsibility for a terrorist act, which can only be an intentional act, which resulted in the intentional infliction of death on a person.

In this case problems are arisen when the relevant article does not indicate intent or negligence in relation to the act or its consequences. In fact, the emerging difficulties are also connected with the discussion about the meaning of Part 2 of Art. 24 of the Criminal Code.

Let us give an example related to the guilt in relation to the consequences. Article 131 of the Criminal Code of the Russian Federation provides for responsibility for an intentional act of rape.However, an item "c" of Part 2 of Art. 131 of the Criminal Code refers to the infection of a victim of a sexually transmitted disease as a consequence of it without indicating the form of guilt. In the Decree of the Plenum of the Supreme Court of the Russian Federation of December 4, 2014 No. 16 "On Judicial Practice in Cases of Crimes Against Sexual Inviolability and Sexual Freedom of the Individual"[16] it is explained that intentions or frivolity should be established in relation to infection (paragraph 12).

An example related to guilt in relation to an act is a criminal law prohibition established by Art. 124 of the Criminal Code ("Denial of care for the patient"). A.I. Korobeev with links to P.S. Daghel and F.Yu. Berdichevsky writes that it is possible to refuse assistance through

[15]Ex: Bulletin of the Supreme Court of the Russian Federation. 2003. № 4. Pp. 17-18; Bulletin of the Court Practice in Criminal Matters of the Sverdlovsk Regional Court (for the 4th quarter of 2008) // URL: http://sysertsky.svd.sudrf.ru/modules.php?name=docum_sud&id=80 (date of access - Jan 10, 2017 .).
[16]Bulletin of the Supreme Court of the Russian Federation. 2015. № 2.

negligence, which, however, can only take place if the subject has forgotten about a call to a patient[17].

In this case it is appropriate to cite the position of A.E. Zhalinsky, who believed that certain security rules (duty of observance of them) could be violated by carelessness. This can lead to careless causing of certain consequences. However, he stressed that the criminal law is not a manual on psychology and it does not include its description of the form of guilt with which the act can be committed in principle. The Criminal Code of the Russian Federation is designed to limit "the area of criminally punishable conduct, describing not only the objective, but also the subjective elements of the act."[18]

From the legal and technical points of view, it should be noted that Part 1 of Art. 124 of the Criminal Code provides liability for a crime of minor gravity, and part 2 - for a crime of moderate severity. This fits into the requirements of Art. 15 of the Criminal Code, which providing for the division of crimes into categories, includes all careless acts for crimes of small or medium gravity.

At the same time, the Special Part of the Criminal Code of the Russian Federation contains such criminal law prohibitions, which point two forms of guilt and generally provide for criminal liability for a serious or especially serious crime.

The most striking example is part 3 of Art. 293 of the Criminal Code. As consequences, it provides for the onset of negligent death of two or more persons. At the same time, negligence is considered by many authors as a careless crime, which is explained by an indication of an unfair or careless attitude of the subject to the service. In addition, the literature indicates that the recognition of negligence as an intentional crime would not have allowed to distinguish it from related offenses - abuse and abuse of authority (Article 285 and 286 of the Criminal Code of the Russian Federation)[19]. Thus, we can assume that part 3 of Art. 293 refers to a careless act that caused consequences through carelessness. At the same time, the sanction of the article provides for maximum punishment in the form of deprivation of liberty for a term of up to seven years.

We believe that the legislator should more consistently resolve the issue of possible combinations of forms of guilt in the separate analysis of the act and the consequences of its commission and clearly define the categories of such crimes.

Problems of the Special Part of the Criminal Code of the Russian Federation. Incomplete decriminalization of causing light and moderate harm to health through negligence.

In Chapter 16 of the Criminal Code of the Russian Federation, a separate liability is foreseen only for careless causing of serious harm to health through negligence (Article 118).

[17]Korobeev A.I. Decree. Op. Pp. 284-285.
[18]Commentary to the Criminal Code of the Russian Federation / Resp. Ed. A.E. Zhalinsky. S. 97. (the author of the commentary to article 27 is AE Zhalinsky).
[19]Tynyanaya M.A. Problems of criminally law estimation of subjective signs as a part of negligence // the Vestnik of the Tomsk state university. 2011. No. 349. P. 138, 140.

However, some crimes continue to indicate consequences in the form of harm to health of a different severity, due to negligence. This circumstance receives an ambiguous evaluation in the literature. Some authors believe that in this case there is inaccuracy, but this can also be seen as the establishment of more strict liability for acts that in themselves represent a greater public danger.

Thus, Part 1 of Art. 124 of the Criminal Code refers to the failure to provide assistance to the patient, which caused the average severity of damage to health. A.I. Korobeev notes that this can only be explained by a lawmaker's mistake[20].

At the same time, it should be noted that the legislator presumes a greater public danger of refusing to help the patient than causing harm to health or death through negligence, even if there is a qualifying circumstance - improper performance by a person of their professional duties. This is evidenced by a comparison of the sanctions of the relevant articles.

Part 2 of Art. 124 of the Criminal Code for failure to provide assistance to the patient, which caused by negligence the infliction of serious harm to the health of the patient or his death, provides for punishment of up to four years of imprisonment. Part 2 of Art. 118 of the Criminal Code of the Russian Federation for causing serious harm to health through negligence due to inadequate performance by a person of their professional duties, establishes the maximum punishment in the form of one year of imprisonment. According to Part 2 of Art. 109 of the Criminal Code for causing death by negligence due to inadequate performance by a person of their professional duties, the punishment in the form of deprivation of liberty reaches three years.

Thus, the statement about the error of the legislator can be questioned.

In the literature and jurisprudence, there are no clear criteria for delineating the non-provision of assistance to the patient and causing harm to health or death through negligence. The reasons for this are that: 1) the objective side of causing harm to health or death can be expressed both in action and in inaction; 2) in the doctrine disputes are held about the possibility of committing an act in the form of refusal to render assistance to a patient only because of inaction or through both action and inaction[21].

Based on the verdicts we studied, we can conclude that many acts are classified under part 2 of Art. 109 (or part 2, article 118) of the Criminal Code of the Russian Federation, while others, similar in fact, are regarded as a failure to provide assistance to the patient[22]. Thus, the criminally-legal estimation of identical behavior of medical workers becomes arbitrary. There is a situation of uncertainty, the principle of justice is violated.

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[20]Korobeev A.I. Decree. Op. 284.

[21]Commentary to the Criminal Code of the Russian Federation / Resp. Ed. A.E. Zhalinsky. Pp. 364-365; Commentary to the Criminal Code of the Russian Federation / Resp. Ed. IN AND. Radchenko; Sci. Ed. A.S. Michlin. M., 2004. S. 267; Commentary to the Criminal Code of the Russian Federation / Resp. Ed. A.V. Naumov. M., 2004. P. 311.

[22]Ex: sentence of the Petrogradsky District Court of St. Petersburg on June 14, 2006 // Journal of the court; Sentence of the Dunimich District Court of the Kaluga Region on February 4, 2009 // Journal of the court;Sentence of the Zlatoust city court of the Chelyabinsk region on December 30, 2010. // The archive of the court.

We believe that, in the presence of appropriate consequences, the objective side of not providing assistance to the patient should be limited to inaction, such as refusal to hospitalization, the appointment of necessary treatment or diagnostic procedures. The rest of the acts should be qualified as causing harm to health or death through negligence.

Part 1 of Art. 235 of the Criminal Code of the Russian Federation provides for the responsibility for the implementation of medical or pharmaceutical activities by a person who does not have a license, if this has led to the negligence of causing harm to a person's health of any severity. Some authors point out that in this case it is permissible to punish for causing mild and moderate harm to health, based on the increased social danger of such encroachment (compared to crimes against the person), while others believe that a systematic interpretation of the norms of the criminal law allows punishment only when Presence of serious harm to health[23].

The increased social danger of the act provided for in Art. 235 of the Criminal Code of the Russian Federation, at first glance, does not raise objections: it is not just a matter of a single act, but of an activity, medical or pharmaceutical, that is, associated with an increased danger to human life and health. At the same time, in practice there are sentences imposed on the fact of one act (at least, the court does not establish that there was a systematic activity)[24]. In any case, the harm caused is most often associated not with activity as such, but with one act or omission of the subject.

There are also inevitable questions when establishing the cause-effect relationship between the committed act and the harm that has come. It is difficult to determine not that the result of any procedure caused harm to health, but that it was the absence of a license that affected the quality of the service. In practice, this issue is not considered at all, as the courts probably proceed from the presumption laid down by the legislator about the dangers of medical or pharmaceutical activity without a license. However, in practice, the presence of a license, firstly, does not mean compliance with licensing requirements; And secondly, does not guarantee that the subject will perform his duties without defects.

All this casts doubt on the effectiveness and fairness of the application of the criminal-legal prohibition provided for in Art. 235 of the Criminal Code of the Russian Federation, for imposing responsibility for the harm caused to health.

The experience of a number of foreign countries (for example, the US and France) suggests that this act encroaches on the management order (licensing procedure), the corresponding composition should be formulated as formal. This is said, in particular, § 73-25-33 of Chapter 25 of Section 73 (Professions and Activities) of the State Code of Mississippi[25], paragraph 22 § 32-1401, art. Chapter 13, Section 32 (Professions and Occupations),

[23]The criminal law in the practice of the district court / Ed. A.V. Halakhov. M., 2007. P. 617.

[24]Ex: sentence of the district court of the Rostov region of May 10, 2011 // URL: http://docs.pravo.ru/document/view/53497078/60810977/ (date of access — 9 Jan 2017).

[25]§ 73-25-33 «Practice of Medicine Defined» Chapt. 25 «Physicians. General Provisions» Title 73 «Professions and Vocations» of Mississippi Code of 1972 // URL: http://www.lexisnexis.com/hottopics/mscode/ (date of access — 13 Jan 2017).

Arizona Code of Law[26], § RCW 18.71.011, Section 18.71, Section 18.71 (Business and Professions), of the Washington Code[27], art. L4161-1 and L4161-5 of chapter I of section VI of book I of the fourth part (Health Professions) of the French Health Code[28].

It seems that in Russia illegal medical and pharmaceutical activities as such should be transferred to the category of administrative offenses, and the harm caused must receive a separate criminal-legal assessment.

Article 238 of the Criminal Code sharply increases the amount of punishment for causing harm to health or death through negligence. In this case, the act itself is the sale or sale, production or storage of goods and products, as well as the performance of works and services that do not meet the safety and health requirements of consumers.

Such a decision of the legislator is due to the fact that Art. 238 is aimed at protecting public health and is therefore placed in Chapter 25 of the Criminal Code. The acts committed affect or potentially affect the security of an undetermined number of persons. So, this article is applied in cases of selling alcoholic beverages that pose a threat to life or health, violation of safety rules in the provision of tourist services, organization of boat trips and leisure in clubs. These are all the well-known resonant cases of poisoning by means of the "Howthorn"[29], the death of children in Karelia ("Syamozero")[30], the crash of the ship "Bulgaria"[31], the fire in the club "Lame Horse"[32].

The increased social danger of these acts is hardly in doubt. Nevertheless, one can not fail to note the existing competition between the norms of Art. 109 and 118 - mainly parts 2 of these articles, which establish increased liability in the event that death or serious harm to health through negligence was caused due to improper performance of a person's professional duties - and art. 238 of the Criminal Code. No reasonable criteria for delineating these articles have yet been worked out. Under Article 238 of the Criminal Code of the Russian Federation, only the civil-legal form in which any activity (the purchase, sale, performance of work, provision of services) is put is important, which can lead to arbitrary strengthening of criminal responsibility.

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[26]§ 32-1401 «Definitions» Art. 1 «Arizona Medical Board» Chapt. 13 «Medicine and Surgery» Title 32 «Professions and Occupations» of Arizona Revised Statutes // URL: http://www.azleg.gov/viewdocument/?docName=http://www.azleg.gov/ars/32/01401.htm (date of access — 11 Jan 2017).

[27]§ RCW 18.71.011 «Definition of Practice of Medicine – Engaging in Practice of Chiropractic Prohibited, When»Chapt. 18.71 «Physicians» Title 18 «Businesses and Professiones» of Revised Code of Washington // URL: http://app.leg.wa.gov/RCW/default.aspx?cite=18.71.011 (date of access — 13 Jan 2017).

[28]Art. L4161-1, L4161-5 Chapitre I «Exercice illegal» Titre VI «Dispositions pénales» Livre I «Professions médicales» Quatrième partie «Professions de santé» du Code de la santé publique // URL: https://www.legifrance.gouv.fr/affichCode.do;jsessionid=20FDA6A5407D23E8001A91FC166D974B.tpdila22v_1?idSectionTA=LEGISCTA000006171288&cidTexte=LEGITEXT000006072665&dateTexte=20120917 (date of access — 13 Jan 2017).

[29]URL: http://sledcom.ru/news/item/1088902/ (date of access — 9 Jan 2017).

[30]URL: https://rg.ru/2016/06/24/reg-szfo/po-delu-o-gibeli-detej-v-karelii-zaderzhana-feldsher-skoroj-pomoshchi.html (date of access — 9 Jan 2017).

[31]URL: http://tass.ru/info/1296845 (date of access — 9 Jan 2017).

[32] URL: http://pravo.ru/news/view/121923/ (date of access — 9 Jan 2017).

As an example, consider the scope of medical services. The studied sentences testify that the subject is most often charged with Part 2 of Art. 109 and part 2 of Art. 118 of the Criminal Code of the Russian Federation, that is, crimes against the person, while the infliction of moderate severity and slight damage to health remains unpunishable under Chapter 16 of the Criminal Code. However, in case of imputation of the same facts, Part 2 of Art. 238 of the Criminal Code of the Russian Federation the maximum term of punishment essentially increases, and also there is an opportunity to impose criminal liability in the absence of any consequences whatsoever under Part 1 of Art. 238 of the Criminal Code. There are no legal obstacles to this, although if it is a question of a so-called medical error committed by negligence, it is usually one defect with one or two victims.

In practice, there are rare sentences against doctors under art. 238 of the Criminal Code of the Russian Federation[33], which, however, is due only to the tacit consent of the investigating authorities, which may change at any time towards a more rigorous qualification of the acts committed in the medical sphere.

It seems that it is necessary to limit the scope of Art. 238 of the Criminal Code of the Russian Federation by certain types of services or provide more adequate criteria for describing the act than the civil law form of its implementation (contract for the provision of services, purchase or sale or contract).

Conclusions

Based on the material considered, the following conclusions should be drawn.

1. The prescriptions of the General Part of the Criminal Code of the Russian Federation do not allow unequivocally to establish a list of criminal punishable reckless encroachments. The solution to this problem is seen in the clarification of the wording of Part 2 of Art. 24 of the Criminal Code of the Russian Federation or the indication of the form of guilt in criminal law prohibitions that do not allow to identify it by interpreting the text of the law. It should also be established in the law possible combinations of forms of guilt in criminal law prohibitions that require a separate analysis of the subject's mental attitude to the act and its consequences and clearly define the categories of such crimes.
2. A number of prohibitions of the Special Part of the Criminal Code of the Russian Federation in their systemic relationship give rise to a situation of uncertainty related both to the criminal-legal assessment of acts and the imposition of punishment for their commission, in particular:
   - incomplete decriminalization of infliction of light and moderate severity of health damage through negligence; The validity of this decision is questioned by many authors;
   - there are difficulties associated with the separation of Art. 124 with Part 2 of Art. 109 and part 2 of Art. 118 of the Criminal Code of the Russian Federation, while the sanctions for articles vary significantly, and Part 1 of Art. 124 provides for liability for caus-

[33]The sentence of the Sosnovy Bor Municipal Court of the Leningrad Region of December 29, 2010 // The Archive of the Court

ing moderate damage to health through negligence. It is necessary to limit the objective side of refusal to help patients with inaction situations, such as refusal to hospitalization, treatment, diagnosis;

- the punishment for causing harm to the health or death of a person through negligence under art. 238 of the Criminal Code of the Russian Federation; Part 1 of this article does not require any socially dangerous consequences. The correlation of this article with crimes against the individual can not be established. The formal criterion for strengthening criminal liability is a civil-legal form of carrying out activities, namely, work under a contract of sale, provision of services or a contract - raises serious doubts.

3. The presence of these difficulties translates the issue of criminal liability for certain acts into the field of legal technology, which seems unacceptable. The list of criminally punishable acts that caused by inadvertence the harm to health or resulted in death of a person, as well as the punishment for them, should be established by reaching a public consensus. At the same time, the same de facto acts should receive the same criminal-legal assessment.