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Introduction

The importance and basic objectives of the study. Studying legal issues of inchoate crimes is one of the most principle constitute elements of the modern policy of criminal law. Inconsistent and contradictory verdicts and various old or new scientific studies clearly demonstrate contemporary relevance and significance of the issue. In order to make provisions of the general part of the criminal code more sophisticated, a number of countries (e.g. Georgia, England etc.) founded commissions with the prime objective to define and modify inchoate crimes. However, despite this, the issue has so far remained unsolved and vague. With accordance to the new challenges there exist many legislative initiatives towards the issue which emphasize the importance of the research.

The aim of the research is to reveal and analyze the problems related to the qualification of the inchoate crimes. The study of the issue by applying the comparative method and the verdicts delivered by the court is paramount to introduce legislative amendments and make the provisions more complete and all-embracing.

With accordance to the aim and actuality of the study in the instant paper there is analyzed and discussed the types of inchoate crimes, such as: criminal attempt and preparation, their actus reus and mens rea (in the context of the problems in theory as well as in practice). With regard to this, subjective and objective theories of punishability of incomplete crimes are considered in this paper. We focus our attention on the countries which have more objective approach in this regard, such as Georgia, the Czech Republic, the Republic of Hungary etc., as well as countries which have more subjective attitude to the issue, such as the United States of America, England, Germany, France and others. Instant research supports more objective approach, which is based on comparision of practice and doctrins of the aforementioned countries, since it is supposed to give more guarantee for exact qualification for crime, individual freedom and the principle of legality.

This research addresses the concept of preparation of crime, its place in the contemporary criminal law and the perspective of maintenance of its punishability as it represents one of the stages of (committing) a crime. In order to realize the objective of this research and illustrate that preparation of crime needs to be criminalized, preparation of crime will be set against the disclosure of intent on the one hand, and the criminal attempt on the other (with examples from Georgia, as well as foreign countries). In terms of the prime aim of the chapter, we discuss two mechanisms of punishablility of criminal preparation, general and special, and in connection with this, in this thesis, we demonstrate the technical nature of moving the general preparation of crime from the law and its formulation as a special corpus delicti, which is not related to the legal regulation of the issue. With reference to the main subject of this thesis, different types of incomplete crimes, such as conspiracy, solicitation and broad definition of an attempt, which are criminalized by legislations of foreign countries, will be analyzed and criticized. At the same time, we will demonstrate the vice sides of special punishability of criminal preparation in comparison with general preparation. In order to gain insights into the concept of preparation of crime, it is of crucial importance to remove some irrelevant actions from the Criminal Code of Georgia declared by the law as a preparation of crime, thereby suggesting unclear concept of preparation which can be confusing and make it difficult to properly understand the norm. Despite legislation defining, preparation as creation of ''conditions'', according to other article of the Criminal Code of Georgia (article 25, section 7) incitement is also considered to be preparation of crime. Incitement which means an unsuccessful attempt to persuade a person to commit a wrongdoing, is one and, moreover, unfinished condition to commit an offence, thus very remote from its completion. From the comparative perspective there is analyzed countries with different approaches towards the issue (the United States of America, England, Germany, France and others.), as well as countries which consider general punishability of preparation (the Czech Republic, the Republic of Hungary etc).

With regard to the aim of the research in thesis there is discussed not only the classical types of unfinished crimes (criminal attempt and preparation) but also other ones, such as: conspiracy, solicitation, delictum sui generis. Special preparation is punishable in countries from both continental European as well as Common Law systems.

However, as demonstrated by the analysis of criminal laws of some of these states, refusal to criminalize preparation of crime broadly is of only formal nature. These states, in most of the cases, try to fill the gap caused by the impunity of preparatory conduct with different legal mechanisms. The study shows more drastic nature of special punishability in comparison with general preparation. As the study supports punishability of general preparation it is crucial importance to reveal the up mentioned special mechanism's less liberal nature. According to the research there are endangerment actions which deserve to be punished on an early stage (preparation), But in order the sentence be justified we must refuse to impose criminal responsibility in consideration of the category of crime (through random selection). Legislative organ should define specific crimes (irrespective of the degree of seriousness of crimes, are to be punished at the preparation stage) punishable in view of their criminal and political objectives, which means that there will not be as broad possibility for punishing preparation as it is now.

For the aim of the study through the comparative method there is discussed the nature of criminal attempt and the approaches/theories developed and analyzed for years, which shows the legal problems and difficulties with regards to the qualification of criminal attempt. With regard to the qualification of criminal attempt there is critically discussed Georgian as well as foreign countries' criminal law dogmatic and law practice. The study of the issue by applying the comparative method and the decisions delivered by the court is paramount to introduce legislative amendments and make the provisions more complete and all-embracing. With accordance to the aim the instant paper there is analyzed the notion of criminal attempt, its actus reus and mens rea (in the context of the problems in theory as well as in practice). Subjective and objective theories of punishability of criminal attempt are considered in this paper. We focus our attention on the countries which have more objective approach in this regard, such as the Czech Republic, the Republic of Hungary etc., as well as countries which have more subjective approach to the issue, such as the United States of America, England, Germany, France and others. Instant research supports more objective approach, which is based on comparision of practice and doctrins of the aforementioned countries, since it is supposed to give more guarantee for exact qualification for crime, individual freedom and the principle of legality.

As one of the study's aim is to draw the line between preparation and attempt there is discussed a lot of methods towards the issue. We will focus on the legal nature of the stages of crime, which will be discussed through the method of comparative analysis that on its part will help to draw a line. Differentiating between preparation and attempt is crucial for imposition of criminal liability (e.g. in the U.S., England, Germany etc.), as well as determining the measure of punishment. According to the research Georgian criminal law is based on objective theory and qualification of unfinished crimes are being measured by possibilities and danger. In defining line between attempt and preparation it is crucial to clarify (objectively) at which point starts the execution of actus reus of the crime (and not according to the offender's perspective as it is widely used in, e.g., German criminal law). For determining concrete possibility and direct danger there should be taken into consideration some objective and individual criteria such as closeness of action to completion of the crime in space and time; putting victim in danger; adroitness of perpetrator of crime; vulnerability of the victim and other individual characteristics of circumstances, which precisely through their peculiarity impact realization of direct danger fit into particular qualification.

The special sub-chapter of the thesis is dedicated to the legal problems of mens rea of unfinished crimes. There is discussed the group of scholars who agree to punish criminal attempt with dolus eventualis and the opinion of those scientists who under mens rea of criminal attempt consider only direct intention. The instant research supports the latter opinion because as an action criminalized at an early stage its subjective tendency should be higher so as criminal law does not lose its liberal nature and real function. Furthermore, according to the study, it is crucial importance for harmonic coexistence of different norms in criminal law system. In this respect, criminal law of Georgia is analyzed though systematic method. Inconsistent and contradictory law practice and various old or new scientific studies clearly demonstrate advantages of the model which is supported by the research.

As the study supports objective ground of punishability for inchoate crimes it is logical that the research recommends lenient sentence for them. In this respect new suggestions are imposed in the paper which renews the attitude towards punishment of unfinished crimes.

Thus, the main aims of the study are:

Identifying the main point of punishability of unfinished crimes. substantiating the advantages of objective theory for punishing incomplete crimes;

Drawing the line between criminal attempt and preparation through the objective criterion;

Substantiation of advantages of general preparation in comparison with special preparation and the former's relevance to legality principal;

Analyzing the approaches towards mens rea of unfinished crimes and backing the idea that dolus eventualis is not the relevant mens rea for criminal attempt and preparation;

Justifying the need for compulsory reduction of penalty for unfinished crime and presenting and analyzing problems in this regard;

The thesis will mainly use comparative methods giving us the opportunity to fully comprehend and meticulously analyze the subject of the research. In the addition we will employ different empirical methods to examine statistics in terms of general preparation. The research will also center on the analysis and generalization of criminal law practice, in particular, on the analysis of the criminal law practice of the countries which will be discussed from a comparative point of view.

The work includes: Introduction,4 chapters, 8 sub-chapters, conclusion and bibliography.

I. chapter. brief historical analysis with regard to punishability of unfinished crimes in Georgian criminal law.

(Since the 20s of the 20th century to present)

In the first chapter of the instant study there has been analyzed the history and social-political contexts of more subjective and objective approaches of punishability of unfinished crimes in Georgia and its interconnection. The issue of different countries' inclination to objective and subjective approaches can become clear if we take account of the context of historic and political ideology, modern challenges, as well as other aspects. In this regard, Georgian example is a good illustration how historic or political ideology affects punishability scale for inchoate crimes. According to the instant research criminal legislation in the Soviet Republic of Georgia, especially in the first half of 20th century, was characterized with extreme subjectivism, and the visible testimony of this is the fact that even bare intention was punishable. The second reform towards criminal law policy underwent in the 60s as a result there were enacted new criminal law legislation. The new 1960 criminal code of Soviet Republic of Georgia was estimated as a more liberal one than previous criminal codes. This can be explained with the social-political atmosphere and context which was existed in that period. It was preceded by the so-called De-Stalinization period that led to the revision of criminal law and liberalization before legislative amendments. The next huge reform happened after declaring independence in Georgia, punishability of criminal attempt, in accordance with the new Criminal Code of Georgia (enacted in 1999), was completely founded on the objective theory; for qualifying as an attempt it became of crucial importance to determine how close an action was to the

completion of a crime. Punishment for unfinished crimes was more lenient, with this being another sign that it became more objective. however, in 2006, with the influence of "zero tolerance" policy, criminal justice became stricter with this affecting punishability of inchoate crimes; in addition to this, some elements of subjective theory also emerged, e.g. punishment received for preparation and attempt proved to be the same, and the decision of mitigation of punishments is now to be made according to the discretion of the court. Herein, as study shows, Georgian criminal court is predisposed to harsh sentence. Envisaging harsh sentences for unfinished crimes in itself means that the elements of subjective approach have surfaced in the legislation, but this does not mean its full subjectivisation.

Georgian Criminal Code of 1999, which came into force in 2000, initially envisaged responsibility for especially grave crimes only; however, in 2006, with the influence of "zero tolerance" policy of criminal justice, punishability of grave crimes was also added to the list. With the changes of 2008 and 2011, the scope of crime preparation was even more widened and the third category – preparation of misdemeanor- was added to the existing two categories of crime. However, unlike grave and especially grave crimes, only 10 types of corpus delicti of misdemeanors are punishable at the stage of preparation, majority of which are crimes of malfeasance, criminalization of which, at a very early stage, was justified by the law as the purpose of criminal justice policy. It is noteworthy that with the growth of the scope of liability for crime preparation, amendments were made to the Private Part of the criminal code of Georgia as well. Specifically, legislative constructions of these actions were changed, prevention of which at the early stage and their severe punishment were influenced by the criminal laws of Europe. According to the instant study, the fight against corruption, the criminal underworld, and other similar very serious crimes, criminal law policy was automatically severed to other less serious crimes. Though, according to the findings, based on the analysis of criminal law practice, punishability of unfinished crimes mainly based more objective interpretations.

According to the paper, the subjective orientation of the law was increased step by step with accordance to the main tasks and the aim of ideology under which influence even bare intention was criminalized. In this situation there were no place of objective tendencies, such as real danger and harm principle.

From this short historic analysis can be concluded that the subjective or objective nature of formulation of inchoate crimes can serve as the measurement of states policy and its repression. Inchoate crime is an essential tool enabling a state to prevent crimes and defend legally protected interests. The question to what extent criminalization of inchoate crimes envisages human rights is linked to the nature (subjective or objective) of the basis of its punishability, as well as the aim of its criminalization.

II. chapter. Punishability of general preparation.

In the second chapter, which by itself contains 4 sub-chapters, has analyzed the second stage of a crime, more particular, criminal preparation, its legal nature and different approaches and problematic issues towards it. According to the study, justification of punishability of criminal preparation, this is explained by crime prevention and the necessity of protection of legal interests at an early stage. For this reason, Georgian legislation provides protection for legal interests from an early stage. Protection legal interests from an early stage it is not unfamiliar to foreign countries as well (e.g. United states of America, England, Germany, France etc.), for its justification they use the same standard, such as: protection of legal interests, high interest of public and so forth. It is noteworthy that not even a single abovementioned state – Georgia, United States of America (hereinafter referred to as "US"), Great Britain, and Germany – do not see a problem with regard to the criminalization of incomplete crimes in general. Some consider incomplete crime to mean conspiracy, solicitation, attempt or preparation; however, the aim of criminalization (protection of the legal good at the earliest stage and crime

prevention) is the one thing that unifies them all. Thus, difference is situated only with regard to the forms of prevention.

There are two ways to punish preparation of crime, namely, general and special. The former envisages criminalization of preparation of crime, at the stage of crime development. If the action is prevented at the stage of preparation, two articles of private and general parts of the Criminal Code (hereinafter referred to as ''CC'') will be applicable. The Article of the General Part of the CC criminalizes the preparation of crime, while the Article of the Private Part of the CC provides for the Corpus Delicti of the crime, commission of which was intended by the preparatory action. As for the latter, it provides separate corpus delicti for a preparatory conduct, delictum sui generis, which, unlike the general definition, is incorporated into the private part of the CC. The latter also envisages the creation of certain types of inchoate offences (conspiracy and solicitation) that are related to the actions provided by the private part of the CC, also the practice on broadening the definition of the attempt of a crime, which is also discussed in the paper.

In the instant chapter, there has been analyzed the opponents' arguments in detail against punishability of so called general preparation as well the opinions which supports the mentioned institution. we can see that not even a single country is against criminalization at an early stage; there is only formal distinction between their approach, and the research has showed some advantages of general criminalization, one of which states that legislator does not need to add multiple special delicts to the special part of criminal code in order to fill vacuum resulting from impunity of general preparation which causes unjustified thickening of a criminal code. Herewith, as it has been proved, criminalization of specific delicts instead of general criminalization is not a panacea for solving the aforementioned issues; on the contrary, this is the source of extra and unnecessary problems. The research has revealed that qualification of ''unfinished'' step of delictum sui generis is a very common practice in various countries. In this regard we can mention several issues, such as the fact that criminalization of preparative actions as delictum sui generis creates legal possibility it to be punished on its yet undeveloped stage finally leaving us with the possibility to define ''preparation of preparation'' and ''attempt of attempt'' as punishable acts. This approach thickens criminal law and finally we get overcriminalization; violation of Ne bis in idem principle. Allow us to bring an example of a person who purchases a gun with intent to rob and then commits robbery; the aforementioned countries have ground on the basis of which both crimes, possession of a gun with intent to rob and robbery itself are deemed to be punishable acts; however, in the countries which punishes preparation generally, first step would be defined as a preparation for robbery and after committing the crime of robbery, the crime of preparation would be overlapped by the preceding stage of crime and the person would be convicted for the completed crime only.

For the purposes of the study, there has been discussed other inchoate crimes in detail which are punishable in those countries where preparation is not punishable. In the USA, England, Spain and in Germany there is punishable even agreement with the parties to commit a crime without any additional steps towards it. In mentioned countries there is punishable also solicitation/incitement. According to the Anglo-American criminal law punishable is even so called chain incitement. Unlike general preparation conspiracy to commit a crime and solicitation are directed to all categories of crimes, it turns into not special, but rather the general rule, which unduly limits the autonomy of the person. In the study, there has been pointed out Pinkerton doctrine, according to which criminal offense by a co-conspirator likewise shall be attributed to the other co-conspirator if the action was reasonably foreseeable which is estimated as the strictest rule.

Thus it can be stated that those countries which obstinately refuse to criminalize general preparation, administer punishment for actions which fall within much broader definitions of crime and criminalize these acts despite them being too "far away" from the completion of the crime.

As for general preparation which is punishable by Georgian criminal code, according to the research its punishability based on objective criteria. Correspondingly, there has been discussed the main objective categories such as: real possibility and danger. According to the thesis, unlike to abstract endangerment delicts, towards

which court is free from obligation to identify whether act has created danger in the concrete situation, with regard to general preparation it is utmost necessity to estimate danger. Only those acts which creates real danger towards protected interests deserves to be qualified as a preparation, as for pre-preparation acts they have been estimated as disclosure of intent which should not be regarded as a crime.

Preparation of crime, according to the CCoG, means the intentional creation of conditions for the perpetration of crime. The issue of what is meant by creation of conditions for the perpetration of crime is settled and is no longer a subject of controversy among legal experts. In Georgian as well as in foreign criminal legislations there is a widespread opinion that preparatory actions contribute and facilitate to the corpus delicti and are distinct from the perpetration of crime. According to these opinions, preparatory actions are diverse and their assessment is dependent upon the corpus delicti of a crime, commitment of which is intended by these actions. An example of the corpus delicti of a murder can be repair and bringing into working order of firearms, going to the crime scene, gathering of relevant information for committing a crime, unsuccessful incitement, supplying a poison with the intent to murder and so on. The objective side of the preparatory conduct (actus reus) is manifested through the creation of conditions for the perpetration of crime. What can be meant by the "creation of conditions" is a controversial issue. Many legal theorists believe that general definitions are unsafe since within the framework of such definitions determination of whether or not an action is a crime would be the prerogative of the prosecutor, hence the principle of "nullum crimen sine lege" would be violated. According to the paper the notion of preparation should be understood in the context of restrictive principles of criminal law that are applied by the legislators while criminalizing an action such as the principle of legality; principle of legality of an action; principle of fault liability and many more. The instant research has shared the opinion expressed in the Georgian legal literature that the preparation of crime should be defined in conjunction with attempted corpus delicti -,, its nearness with the attempt". Correspondingly, the abovementioned examples are useless in order to illustrate the preparation of corpus delicti of a crime. Mere purchase of a firearm with the intent to kill someone would not meet the criteria of "nearness" and, accordingly, would not create the threat that is typical to the preparation of crime. It would be a different story if an armed individual were waiting for the appearance of the potential victim in order to shoot and kill him/her. In the latter case, preparation meets the criteria that are set by the law, i.e., it is an action that has the potential to entail a certain result and is close to the attempt of a crime, which correspondingly poses a threat to a protected concern. In the definition of preparation, legislators may not have accidentally demanded that in order for an action to qualify as preparation, certain "conditions" should exist, which once again emphasizes the necessity to take into account the real criteria while determining the preparation.

For the purposes of the paper, in the mentioned chapter there has been analyzed Georgian criminal law practice with regard to general preparation. The main aim of this analysis was to understand what criteria is used by Georgian court in qualification process, mere acts or objectively relevant acts that create a real danger to protected interest. Analyzing the criminal law practice is utmost importance so as to fully release whether it is necessary to modify the notion of general preparation, how it is important to mention in the notion that such ''conditions'' must be real. With this regard, there has been examined a lot of instances from the court. actions were qualified as preparation: a perpetrator's action on their way to a facility having subjected to attack with intent to commit robbery; a persons' action, who entered the supermarket with the intention of robbing it when they were checking the lock in order to bring necessary tools placed in the car parked nearby; providing an accomplice to a crime with boxes full of illegally purchased guns and in this way helping him bring it to an offender who lives in another country; in relation to drug related crimes, such as its illegal sale, the stage of delivery of narcotics to the recipient; unsuccessful incitement with regard to corpus delicti of a murder; also spying and gathering information about victim; Going to the airport of Tbilisi to fly to foreign country with intention to murder X who is in mentioned country; Group of persons' actions when they were going to commit a robbery after 5 days and so forth.

It is noteworthy that according to the research, there is much more such kind of cases, where early stage of a crime is estimated as a preparation, in Czech Republic. But unlike to Georgian criminal law, in Czechia it has its normative ground. According to the article 20 of criminal code of Czechia, purchasing a gun or conspiracy with intention to commit a crime is a preparation.

According to the study, in the most of the cases, court reveals its inclination towards restrictive interpretation of preparation but there has been found cases where the slightest actions which did not create any real possibility and danger to protected interests they have been qualified as preparation as well. The principle of ultimo ratio that is determinative for the nature of criminal law, its aim is not only to protects criminal code from over criminalization with new offences but also to reduce possibility to broaden existed ones.

Thus, it can be said that the court does not take into consideration in the process of qualification objective criteria such as: nearness, real possibility and danger but in the most of the cases we can see some tendencies of it. It can be said that the notion of preparation should be renewed which compels the court to give attention to the elements of preparation since without them there will be no crime. This kind of attitude provides more consistent and homogeneous practice which is the guarantee for human rights.

For proper understanding of preparation (deliberate creation of circumstances) and its proper practical usage, it is important to have its systemic comprehension. It is also very important to decriminalize irrelevant actions in the Criminal Code of Georgia. They are determined as preparations by the law, namely, unsuccessful incitement as envisaged in Article 25(7) of the Criminal Code Georgia. unsuccessful Incitement which means futile attempt to persuade a person to commit a wrongdoing, is one and, moreover, unfinished condition to commit an offence, thus very remote from its completion. unsuccessful Incitement, in itself, creates the dual nature of preparation, causes confusion and, hence, is incompatible with the principle of legality and should be decriminalized. The necessity of punishability of unsuccessful Incitement has been found towards corpus delicti of murder which is based on the analysis of law practice of Georgian criminal law court. Thus, the recommendation of punishability of unsuccessful Incitement of murder as an independent inchoate crime has been suggested. Diminished punishability would make more reasonable state's intervention into the personal autonomy which, in itself, make sentence more justified.

To such an extent, in the study, the restrictive approach is recommended with regard to the preparation. Which is absolutely necessary for its distinction from disclosure of intention, on the one hand and on the other, for its relevance to the fundamental principle of criminal law, such as: rule of law, principle of action and locus poenitentiae. With accordance to the supported idea there is suggested the new version of the notion of preparation: ,,Preparation is intentional creation of objectively relevant conditions for perpetration of crime".

On the basis of comparative legal research there is expressed new view about boundaries of punishability for criminal preparation. According to the mentioned idea, there should not be imposed criminal responsibility with regard to criminal preparation in consideration of the category of crime (through random selection) as it is a common practice in Georgia; There should be defined specific crimes (irrespective of the degree of seriousness of crimes, are to be punished at the preparation stage) punishable in view of their criminal and political objectives. to define this more precisely, criminal responsibility should be established in accordance with different elements of a crime (as it is in Hungary), such as: the object of a crime (e.g. offences against social interests such as: trafficking, terrorism, crimes against the vulnerable etc.); a perpetrator of the crime (e.g. corruption, where the actor of crime is a public officer), etc. This types of approach would expose the clear aim of criminalization and would minimize boundaries of responsibility.

In the instant chapter, there has been shown the other advantages of punishability of general preparation which is very important to be considered as it provides harmonic co-existence between different criminal law institutions. Precisely for this reason there has been discussed the problematic issues of indirect perpetration

with regard to criminal preparation and attempt as well as the problems towards actio and omissio libera in causa institution.

According to the study, when general preparation is criminalized there is no need to estimate indirect principal's action as an attempt when only few steps were realized by so-called ''live instruments''. The interpretations according to which abstract dangers are estimated as a very concrete and direct danger it is because in those countries there is no punishable general preparation. For example, A's action who used B and G. as ''live instruments'' so as to commit murder, despite the fact that ''innocent agents'' actions were suppressed on the stage of preparation (they were on the way of the victim's house) thus, this action did not create concrete and direct danger to the victim, the action of indirect principle is qualified as an attempt of murder according to the criminal law dogmatic of Germany. According to the correct idea towards the issue, which is supported by the instant study, punishability for indirect perpetration should be based on accessorial principle like it is towards complicity i.e. the qualification of indirect principle's action should be based on the action of ''innocent agent''. As for, the advantages of general preparation towards actio and omissio libera in causa institution, it can be said that according to various academic researches, in those counties where preparation is not criminalized, they also use broad interpretation of criminal attempt, in order to be overcome resistance towards the principle of fault and rule of law. For instance, drinking an alcohol with the intent to not fulfil some special duty, this stage is considered as criminal attempt for murder. In order to legally explain the conviction of the action of the person who is not "chargeable" at the time of committing the act. This action is qualified as criminal attempt by minority Georgian scholars as well despite the fact that we do not have the same legal problems in the legislation. The instant study has supported the position of majority group of scholars with this regard, according to which the stage- drinking alcohol so as to become intoxicated-should be qualified as preparation since this step is far away from the completion of murder and thus cannot create direct and concrete danger.

Thus, with accordance to the aforementioned, the instant research supports the punishability of general preparation.

III. Chapter. The institution of criminal attempt in Georgian and foreign countries' criminal law

In the instant chapter which contains 4 sub-chapters, there is discussed the second type of unfinished crimes. The second stage of crime is criminal attempt. Notion of criminal attempt and its practical usage is different according to approaches (objective or subjective theory) which are chosen by the countries. The ground of punishability of criminal attempt is also discussed in the instant chapter. There is compared and juxtaposed the group of countries (USA, England, Germany etc.) that use more subjective theory for the punishment of inchoate crimes with those group of countries (Georgia, Hungary, Czechia etc.) which use more objective criteria for punishing unfinished crimes. For this reason, in the study there has been analyzed in details the different approaches of foreign countries. There has been discussed each country's chosen model and its advantages and disadvantages. The instant paper has supported those countries' approach which prefer more objective ground for punishment of unfinished crimes. According to the research, Georgian criminal law has objective orientation with regard to the subject but sometimes, if it is necessary, courts use subjective interpretations towards unfinished crimes. So as to show the meaning of this finding in the instant chapter there has been illustrated instances from law practice.

According to criminal laws of Georgia and those of other countries which have more objective approach, criminal attempt is characterized in such a manner that it has more potential to realize criminal result and thus, it poses a specific risk for inflicting harm. According to the study, in Georgian criminal tenet the punishment of criminal

attempt is based on two main categories, namely, possibility and danger, which is also accepted by the Georgian court. In general, Georgian criminal law is based on objective theory and qualification of criminal attempt is being measured by possibilities and danger. In defining action as an attempt it is crucial to clarify (objectively) at which point starts the execution of actus reus of the crime (and not according to the offender's perspective as it is widely used in, e.g., German criminal law). For determining concrete possibility and direct danger they take into consideration some objective criteria such as closeness of action to completion of the crime in space and time; putting victim in danger; adroitness of perpetrator of crime; vulnerability of the victim and other individual characteristics of circumstances, which precisely through their peculiarity impact realization of direct danger fit into particular qualification.

In this chapter, the Georgian cases of criminal attempt has been reviewed for a full understanding of the Georgian model of attempted crime. According to the research, on the stage of gripping a victim with the intention to deprive his/her liberty, action is qualified as criminal attempt towards unlawful imprisonment (article 143); Action is qualified as criminal attempt towards murder when aiming a gun to the victim or shooting as well as wounding a victim by a knife with intent to kill. The qualification with regard to the mentioned cases have positively estimated in the paper since they met the requirement of real possibility and concrete danger. But there has been critically discussed other cases, among them is the case towards fraud. The action of the group of individuals were qualified as a criminal attempt of fraud when they did not start to take property of another person; There has been criticized other case with regard to theft. The actions of individuals were assessed as an attempt to undertake the construction of a large volume of metal. According to the research, in relation to this case, reaching into someone's store so as to take another person's movable property is not enough, which is due to the large volume of the item that needed to be sawn and piece by piece be taken out. It also has been revealed that expansive approach to attempt and accordingly subjective theory is used by Georgian criminal court only when it is impossible to punish a wrongdoing as it is a minor crime which is not criminalized on the stage of preparation. In this case, the approach of the court is very similar to the approach of those countries which refuse to punish preparation generally. Such a case is: The escape case. Despite the fact that actor's action with intent to escape from the prison was too far from the completion of a crime, it was assessed as an attempt. The story-line of the mentioned case is: the actor, who was incarcerated in the strict regime of the jail, tried to escape from the prison. For this reason, he gathered tools, such as: little iron scoop, rope etc. After collecting tools, he started digging the tunnel under his bed. He dug 1,5 m. height and 4 m. length tunnel during 3 months. There was remained 8 m. length, also overcome of industrial zone and after that 200 m. length distance. Despite the fact that actor's conduct was far from completion of crime he was convicted by The Supreme Court of Georgia. Though, first and second instances of Georgian courts it qualified as preparation and did not impose responsibility. Despite the fact that in the instant case the Supreme court of Georgia, in order to qulifiy action as a criminal preparation, used objective criteria such as: nearness in time and space with regard to completion of the crime, these criteria were estimated from the perspective of objective observer i.e. from subjective perspective, which has been criticized in the paper. Though, this decision has been criticized in the research, according to the paper it has its importance with regard to identification the founding criteria of criminal attempt. There has been shown some other case that was qualified as a criminal attempt because of its general category and not because it rechead on this stage. The case concerned with the illegal purchase of radioactive substance (Article 230 of the Criminal Code of Georgia) which was prevented at the negotiation stage of the parties (vendor and mediator). Such a case is: K.O. illigaly purchased radioactive substances which then transported in Batumi and kept one of the hotel. He intented to sale it and for this reason, in 17 july of 2006, he contacted with A.V. and asked for help in realization of it. On the same day, A.V. filed an application to the Ministry of Internal Affairs after that K. O. was arrested. K. O's action with regard to the artice 230 was qulifiad as criminal attempt. The assumption expressed in respect to the discussed decision intensifies the fact that in another case, similar action but towards illicit drugs (action was suppressed before drugs were reached to addressee) was estimated as a preparation (article 260 of Georgian criminal code). Thus, in the latter case, the court's way of bringing drugs to the buyer was considered as a preparation, in the above-mentioned case, where the sale was more distant from the addressee,

should be evaluated in the same way. At that time, the article 230 was considered as serious category which was not punishable on the preparative stage so maybe this was the only reason of its incorrect estimation so as to not be left actor unpunished.

The instant chapter revealed that mostly objective categories are used by the Georgian courts with regard to drawing the line between preparation and criminal attempt. The qualification of an action as a criminal attempt is based on real possibility and concrete danger. The low quality of its existence is the basis of denial of a criminal attempt. The actions nearness in time and space with respet to completion of crime is the measurement which is used by Georgian courts so as to drow the line between preparation and attempt. The analysis of the practice demonstrated that deviation from the objective criteria and practice of broade interpretation of criminal attempt is used by the court when concrete corpus delicti is not criminalized on the stage of preparation and its conviction is very important from the point of criminal-policy. Analysis of the practice also revealed that the Court uses more objective criteria in the form of clichés as they do not adapt to individual circumstances which would lead to proper qualifications in each particular case.

Notion of criminal attempt and its practical usage is different according to approaches (objective or subjective theory) which are chosen by the countries. For example, according to the Criminal Code of Georgia, the definition of criminal attempt is an 'intentional act, which was openly directed against commission of a crime with the crime not being completed' . In accordance to the penal code of Czech Republic, the definition of criminal attempt is as follows: criminal attempt is a [...]conduct that leads [...] to the completion of a criminal offence and which the offender committed with the intention of the commission of a criminal offence, … is defined as an attempt to commit a criminal offence.'' . Pursuant to the Criminal Code of Hungary criminal attempts implies that a person who commences the perpetration of an intentional criminal offence shall be punishable for attempt'' . According to the Danish criminal code the definition of attempt is: ''acts which aim at the promotion or accomplishment of an offence shall be punished as an attempt when the offence is not completed''; As the Criminal Code of Germany says, 'a person attempts to commit an offence if he takes steps immediately leading to the completion of the offence as planned by him'. Pursuant to the model penal code of the United State of America 'a person is guilty for an attempt to commit a crime if … purposely does or omits to do anything which, under the circumstances as he believes them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in his commission of the crime' . According to criminal code of the state of Alabama '' A person is guilty of an attempt to commit a crime if, with the intent to commit a specific offense, he does any overt act towards the commission of such offense.''; Pursuant to the criminal code of the state of Massachusetts ,, Whoever attempts to commit a crime by doing any act toward its commission, but fails in its perpetration, or is intercepted or prevented in its perpetration, shall, except as otherwise provided, be punished''; As stated in the Criminal Code of France 'an attempt is constituted when the defendant has started to execute the full offence, which was only suspended or failed to achieve its result because of circumstances independent of the will of the defendant' . According to the criminal attempts act of England, ' … A person does an act which is more than merely a preparatory act for commission of the offence, he is guilty of attempting to commit the offence' and many other definitions of attempt from different criminal codes can be bought and some countries demonstrate their more objective or subjective attitude to criminal attempt in their legislations but there are some examples when objectively structured criminal attempts are executed in practice with subjective manner and on the contrary. For example: Criminal code of France. Although, actus reus of criminal attempt means beginning execution of the definition of crime (objectively structured definition), criminal court shows tendencies of trying to broaden on the basics of subjective theory. In France, only possession of a gun with the intention to commit burglary is qualified as attempted burglary by the court, also examining someone's windows in order to commit theft was qualified as attempted theft . Analyzing French practice, scholars concluded that broad definition of attempt is often dictated by criminal policy, particularly, court uses stricter methods in relation to crimes against juveniles, as well as sexual offenders . In this regard, Anglo-American practice in which objective and subjective theories superseded each other over the years is also extremely fascinating. Owing to this, the definition of

attempt has been changed. In theory, as well as in practice various opinions have been expressed in order to characterize criminal attempt and preparation as well as to differentiate them. ''The line between preparation and attempt is closest to preparation where the harm and the opprobrium associated with the predicate offence are greatest'' ; According to Holmes, it is essential to draw the line between preparation and attempt in accordance with the following criteria: ''the nearness of the danger, the seriousness of the harm, and the degree of apprehension felt'' ; ''It must come dangerously near to success'' ,, … starting line must be crossed and the finish line must not reached'' . Many of the formulas can be listed from the dogmatics but all of them have same issues, they are unable to identify precisely when danger is posed or where and when starts the ''starting line''. It is difficult to precisely identify when preparation ends and attempt begins. Correspondingly, a number of tests have been created to detect the difference between preparation and attempt, some of them derived from more objective theory and some of them from subjective approach , such as: unequivocally test, proximity tests, probable resistance tests, first act test, last act test and so on.

For the main purpose of the study, in the instant chapter, there has been analyzed the aforementioned approaches which were widely used in Anglo-American criminal law dogmatics.

First act test - According to this test, in order for a conduct to be qualified as an attempt, a mere action is enough, i.e., first action (for instance, purchase of a firearm with the intent to kill) directed towards the committing of a crime, already constitutes an attempt.

Last act - According to this test, in order for a conduct to be qualified as an attempt, it is necessary for the perpetrator to commit the final act for the execution of a crime. Unlike the first act test, the final act test greatly narrows the scope of the applicability of an attempt, and we may as well say that it only recognizes the completed attempt. However, it is possible to have a more broader interpretation of the last act test, as it actually implies the last action dependent on the actor's action and not to the act depending on the victim or the third person.

Unequivocal test- According to the unequivocally test, action should be qualified as an attempt if a random pedestrian, who saw the action of the perpetrator, believes that he/she is going to commit a particular crime. The foregoing test is criticized because of its broad scope, ambiguity and is no longer used nowadays.

Proximity Acts- According to the test of proximity, action should be qualified as an attempt if it is close to the perpetration of a crime. The element of "proximity" caused some problems in practice. According to the opinion expressed in the literature, "proximity" should be understood according to a specific circumstance, while taking into consideration the subject of an action, expected threat and other factors. Asking how far the action shoul be gone so as it to be considered as ''close'' enough to be qualified as criminal attempt, in Anglo-American criminal law doctrine as well as in practice were answered inhomogeneity. For this reason, the mentioned criteria – closness in time and space lost its previouse face and step by step interpreted in more subjective way. The most popular cases where a court used ''proximity test'' and criticized by opponents are - Commonwealth v. Peaslee and People v. Rizzo. In Rizzo, a group of individulas in the streets of New York was looking for a clerk who would have to pay a salary for employees. However, before the clerk was detained and attacked, their actions were suppressed by the local police. The appelate court of New York estimated this action as mere preparation and for this reason freed the individuals from the conviction. According to the court, the action (chasing the clerk) could not be regarded as criminal attempt of robbery since it did not go close inough to completion of a crime to be considered as attempt. This decision was criticized by subjectivists scholars. From their point of view, the action created danger and it did not seem fair to free actors' from responsibility. Finally, the test was abolished.

Dangerous Proximity – according to the test, for qualifying a crime it is not important how close potential perpetrator's conduct is to the commission of a crime (in space and time) the only thing what matters is how the action is 'dangerous in victim's foresight'. This test was used in the case of Mcquirter v. State. An Afro-American man stalked a white woman with intent to rape her, however, the man gave up with his intention before he managed to come close to the victim. The distance between man and woman was ten yards. The potential offender

confessed his intention and that appeared to be crucial against his conviction. Despite the court being guided with proximate test, Mcquirter's action was qualified as attempt to rape. This assumption was based on the argument that (including evidence which demonstrated the potential offender's purpose) his chase was 'dangerous in victim's foresight'. Thus, Alabama court acted not with the objective scale of nearness in time and space but with stereotypes and fears towards Afro-American people which was established in 50th Alabama society. It should be noted that in Miller's case, actor's action, which was suppressed until he could aim the gun to the victim, qualified as preparation of murder. Thus, court used criminal attempts' restrictive interpretation unlike to general attitude. It should be noted that in the mentioned case the actor was white man and the victim black coloured man. This case reinforces suspects about discriminative attitude towards racial sign moreover this case took place in 1930s US. This kind of subjective theories which are very distance from scientific substantiation and moreover it stimulates discrimination is absolutely unacceptable in the modern world.

Stephen's criterion – series of acts test – according to this test 'a criminal attempt requires an 'act done with intent to commit [a] crime, and forming part of a series of acts which would constitute its actual commission if it were not interrupted'. In the instant chapter, the broad and narrow interpretations of this approach has been analyzed also opinions with regard to it, suporters as well as opponents. The observation of the practice showed the extreme subjectivism of this criteria. There is not leff any space for drawing the line between criminal attempt and mere preparation. From what moment will the action be a part of the series of actions that would be sufficient to assess the attempt that was the important question which created problems in the practice and ambiguity as a result. Stephan's commentary towards this issue that this question should be resolved in every individual case individually was not enough standard.

Substantial Step - According to Model Penal Code (modern criminal law of the USA), conduct shall be considered to constitute a substantial step if it is strongly corroborative of the actor's criminal purpose . Apparently, it is obvious that for qualifying a crime it is not important how close potential perpetrator's conduct is to the commission of a crime (in space and time; the only thing what matters is a formal side i.e. whether the potential perpetrator's intention can be proved and, accordingly, how dangerous he/she is for society . According to this approach, when "A" with intent to kill "B" buys a gun and records that he intends to murder "B" in a notebook, the action of "A" is qualified as the crime of attempted murder. This kind of interpretation poses danger to individual liberty and contradicts with the criminal principle called law of action, which means that criminal law is the law of actions and not thoughts. According to the explanation by Model Penal Code, serious action and hence criminal attempt is the act of lying in wait, searching for or following the contemplated victim of the crime, reconnoitering the place contemplated for the commission of the crime and other similar actions, if they are proved by evidence. Thus, vagueness and subjective orientation of substantive step is obvious and it can be said that attempt which is anticipated by MPC is more expansive and comprehensive than 'principled' denied general preparation.

More than mere preparation – Criminal attempt act, which came into force in 1981, it gave the new definition to criminal attempt. Because of the new legislation the old common tests were abolished. The Commission which warked on the Draft Law was given a number of proposals for the establishment of a criminal attempt, including the proximity and the substantial step though the notion of criminal attempt has been formulated such as: 'If, with intent to commit an offence […] a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence'. There is a lot of interpretation towards this notion nut according to dominant perception, it mostly derives from objective theory, which somewhat is based on the judge made law. Criminal attempt is perceived as 'someone has embarked on' commission of crime, as it was interpreted in Gullefer's case and following to A.R. Duff's explanation it represents kind of middle way between strict test (Eagelton case – last act test) and the broad test (Stephen's criterion – series of acts test). However, the Criminal Court of England is familiar with imprecisely broad definition of more than mere preparation, which also includes mere preparation. In relation to this, we can bring the interesting case of R. v. Toothill, in which preparative stage was qualified as an attempt, to define this more precisely,

knocking on the door with the intention to rape; hence as it has repeatedly turned out, it is not crucial how close an action is to its completion, but evidence demonstrating a potential offender's purpose is what is of critical importance. The very same decision was made in the case of R v. Tosti, where actors' conduct were qualified as attempt of thief whereas their conduct was suppressed at the moment when they tried to open the locked door with some tools ; As was in the case of Boyle and Boyle , where actor's action was qualified as attempted burglary whereas his conduct was evaded while he was damaging locked door with the intention to open it. Accordingly, it can be said that the criminal law of England determines criminal attempt more broadly than it seems which became absolutely obvious in different cases, such as: Tosti and Toothill.

Some other approaches have been review in the instant work such as: probable resistance tests, the wrongful act theory, the appropriate stage theory, the indispensable element test, abnoram act test and so forth which more or less repeated disedvantages of previouse tests and other approaches thus, had the same problems with new chalanges and individual facts in which occurred the action. Eventually, the court went to compromise on the expansion of the attempt.

In the study it is critically analyzed every up mentioned tests' starting point and approaches with regard to attempt. It has been analyzed very similar criminal law cases that have been discussed in a different way under the same jurisdiction. Different assessments of identical cases have not based on any scientifically proven argument, but only stereotypes and irrational fears exested in society at that time. According to the paper, incoherent and discriminative practice was provoked by subjective approaches towards estimation of dangers and possibilities. These kind of attitude exests even today in aforementioned countries and has been become the onject of the criticism. It should be noted that subjective orientation is also very familiar to the criminal law dogmatics of German and france.

Such subjective orientation has criminal law of Germany as well as France. For example, accordint to article 22 of the criminal code of Germany – 'A person attempts to commit an offence if he takes steps which will immediately lead to the completion of the offence as envisaged by him'.

In Germany, for punishment ground of inchoate crimes' subjective and objective theories replaced each other for centuries because of changing social-political situations and finally so called 'mixed' and 'modern' theories were drawn up. The goal of their formation was to formulate definition of attempt fitting into modern challenges . According to the modern approach, the notion of attempt is based on the definitions such as criminal attempt means closeness of conduct to commission of crime in time and space which impacts victim's private sphere, as well as other definitions which are as follows: 'set about the execution of criminal definition', 'disturbing of the public's trust in the validity of the legal peace' etc. Although above mentioned criterions mostly are objective, their interpretation is subjective, which does not depend on real possibility and danger but on the way an actor envisages it (action). For this reason it is not accidental that actions mentioned below were qualified as the attempts. For example, an actor who checked the car's front wheel whether it was locked or not in order to immediately grab it; likewise, luring the owner's dog out of the yard in order to enter the house immediately to steal some goods is qualified as an attempted robbery. Taking out the crow-bars from the hideout placed near the victim's house in order to set about moving the bars of window; searching a victim in the house with the intention to commit murder was qualified as an attempted murder.

In the research there has been analyzed French model of criminal attempt, which is foreseen in the 121 article of criminal code of France (1994). The definition of the criminal attempt is the same as it was in previous 1810-year criminal code of France, which had great influence for all over the world at that time. But court's interpretation towards the mentioned norm is much more subjective in present time than it was under 1810-year code. Accodring to the 121 article, an attempt is constituted when the defendant has started to execute the full offence. For the understanding the meaning of 'start to execute the full offence' in the court system of France has been created a lot of interpretative formulas of this definition, such as: 'acts directly aimed at the commission of the offence', 'acts having for direct and immediate consequence the completion of the offence', 'any act directly aimed

at the commission of the offence when it has been carried out with the intention of committing it' and so forth. Afirmentioned formulas are ambiguous and cannot solve the problebs connected to the subject. It should be noted that such vogue interpretations provoke subjective interpretations of criminal attempt and can be illustrated with a lot of inctansec. The examples from French criminal law practice when action qualified as criminal attempt are: 1914-year - 'waiting' case. Where A. has decided to rob the clerk and for this purpose, along with other members of the group, he ambushed under a staircase where the clerk had to go out; 1970-year case where the armed group of persons, in masks and gloves, were waiting for the cargo transport to rob as soon as they appeared; Also possession of a gun with the intention to commit burglary is qualified as attempted burglary by the court, as well as examining someone's windows in order to commit theft was qualified as attempted theft; The action was qualified as criminal attempt on the stage when person only started to sawing the bars.

If all the aforementioned cases were presented for discussion in the criminal court of Georgia they would be qualified as preparations of crime (of course, taking into consideration the structure of those crimes actions were directed towards), since in all mentioned cases the potential offender's conduct was far from execution of definition of the crimes, which is not typical for attempt; for example, taking out the crow-bars from the hideout with the intention to steal cannot be qualified as an attempted theft under any circumstances, since it is not close enough to commission of the crime and hence cannot establish concrete danger for realization. The same applies to instances such as "searching a victim" and "checking a car's front wheel" as they do not meet the criterion of closeness in time and place'. Broad definition of attempt in German criminal law was introduced because of so the called subjective and objective (mixed theory) ground of punishment on which is founded its legal definition, which preferentially derives from subjective thesis, according to which, qualification is based not on objective scales of circumstances but on actor's imagination about danger and its closeness to the result. Because of this distinction between the stages they use very speculative and artificial tests. When we point out that all the aforementioned cases in Georgian criminal law are qualified as preparation of a specific crime and not as an attempt, we do this so because of the fact that criminal attempt is structured more unambiguously than aforementioned countries, but because of the chosen objective orientation for the ground of punishment. The ground of responsibility should be the point of distinction between mere preparation and attempt, as in the definition of crime can always be found sort of elements which are more or less vogue which will be wide discretion in the hands of the court.

After analyzing the aforementioned examples it can be said that in the countries in which general preparation is not criminalized, criminal attempt loses its true essence leading to the perversion of the attempt to commit a crime. Therefore, in the countries in which criminal preparation is not formally punished it is in fact punished at the expense of criminal attempt. Thus, the subjective interpretations of criminal attempt which is based on not real possibility and danger but how the action is envisaged by the actor it is not shared by the instant study. This kind of attitude is very speculative and will always crate possibility for extencive interpretations with regard to danger. Therefore, for the purposes of drawing the line between the preparation of a crime and the attempt to commit it, it is more reasonable to apply objective criteria, since this would provide more guarantee to protect human rights.

In the instant chapter it is discussed the approaches of those countries where the ground for punishment of unfinished crimes is based on more objective criteria. Unlike to Czechia, Netherlands and Hungary where general preparation is punishable and because of it they use more objective criteria towards criminal attempt in Spain and Italy general preparation is not criminalized but according to their dogmatics punishability of criminal attempt is based on objective theory. In up mentioned countries so as the action to be qualified as criminal attempt they use 'nearness in time and space' criteria towards completion of a crime. In addition to this they take into consideration danger what was created towards the protected interest. The objective ground for punishing unfinished crimes in Italy might be understood by historic analysis. General preparation was punishable by the previous criminal code of Italy and maybe because of it they have some more objective criteria. As for Spain, it

might be because that there are punishable other inchoate crimes and they do not need extentive approaches towards criminal attempt.

Instant research supports more objective approach, which is based on comparision of practice and doctrins of the aforementioned countries, since it is supposed to give more guarantee for exact qualification for crime, individual freedom and the principle of legality. Also it does not give a chance for discriminative justice which is familiar practice in those countries which have more subjective orientation.

According to the study, as the present notion of criminal attempt foreseen in Georgian criminal code, cannot make clear distinction between preparation and attempt, it recommends new definition that can be formulated such as:

'criminal attempt is an intentional act that represents **a substantial step** for the crime, which has brought about a specific danger that the offence will be completed'.

In the instant study there is discussed also some very specific issues towards criminal attempt such as: criminal attempt by omission and types of criminal attempt (completed and incompleted). It should be briefly noted that the problems withregard to criminal attempt by omission is also reffered to objective and subjective theories. As the objective approach is supported in the instant study the question to the subject (qualification of attempt by omission) is solved with regard to more objective criteria. Omission with intent to commit a crime (e.g. murder) should be considerd as attempt murder only when it continues so long that vulnerable person who needs help is in real and concrete danger by your inaction and not before this stage. With this regard there has been used legal-comparative method. There has been discussed some of continental European countries criminal law as well as Anglo-American criminal law dogmatics. The research revealed that with regard to attempt by omission American criminal law has more objective approach than German criminal law. The objective orientation of American criminal law is caused by problems towards evidential satndards.

One sub-chapter is dedicated to the problematic issue with regard to mens rea of criminal attempt. The subject of the research of the mentioned sub-chapter is whether mens rea of criminal attempt includes two types of intention which byithself is the subject of endless discussion between scholars. The mentioned issue with its complex problems appeared in criminal law practice as well and as it is revealed from the survey of different countries, the practice is very ambigouse and incoherent. The instant paper is to reveal this inconsistency and then to recommend its regulation in a better way. The study has supported the idea according to which in the criminal code of Georgia there is no punishment ground for criminal attempt with indirect intention. There are two main opposing opinions about the issue. With the orthodox approach, mens rea of criminal attempted can only be direct intention. As for the opinion of the second group of scholars, which represent a minority in Georgia, an attempt is possible with eventual intention as well. The systemic and historical interpretations with regard to Georgian criminal code are widely used by the former scholars so as to support their position. With the purpose to support their opinion they demonstrate some specific endengarment offences placed in the specific part of the criminal code of Georgia (among them are articles 127-130 and others) as mens rea of this delict is indirect intention and are punishable on the stage of attempt as finished crimes (delictum sui generis). For this reason, the former scholars use semantic interpretation of the notion of criminal attempt. The same arguments are used by latter scholars but from the different perspective.

The study could not find reasonable ground for punishing attempt with eventual intention. Moreover, as the analysis of the criminal law practice has shown, court did not identify indirect intention (when its existence is very clear) not only towards unfinished crimes but also with regard to completed crimes. For this reason, numerous cases have been critically analyzed in the survey.

According to the research, if we support punishability of criminal attempt with indirect intention it would creat more trouble than it appears now. In this regard, observation of judicial practice of Georgia and foreign countries,

the research reveals significant findings. Some considerable criminal law cases have been analyzed in the research with regard to murder commited with indirect intention. The cases mentioned in the paper, despite the fact that actions with indirect intention resulted consequence – death of the victim – court qualified the action as intentional serious damage to health that caused death by neglegence.

According to the study the indirect intent is incompatible with the nature of the intent, which is characterized by decision making, which is unfamiliar to the indirect intent. According to the paper, because of the incompatibility of indirect intent to the nature of the intention court is reluctant to see it where it is obvious even towards finished crimes. The work has supported the idea that indirect intent should be removed from the list of intention and should create new form of subjective tendency between intention and negligence, as it is in Anglo-American criminal law- recklessness. According to Georgian criminal code it (Recklessness) can be formulated as:

article 9^1: ,, An act shall be considered to have been committed with recklessness if the person was aware of the unlawfulness of his/her action, was able to foresee the occurrence of the unlawful consequences and did not desire those consequences, but consciously permitted them or was irrelevant about the occurrence of those consequences or if the person was aware that the act was prohibited under the standard of care, foresaw the possibility of the occurrence of the unlawful consequences, but groundlessly counted on their being prevented''.

IV. Chapter. Punishment for unfinished crimes

Unlike previous legislation according to which punishment for inchoate crimes was more lenient, after 2006 amendment, with the influence of "zero tolerance" policy, criminal punishment became stricter with regard to inchoate crimes. Present criminal code does not forsee distinct sentence for unfinished crime. Punishment received for preparation and attempt proved to be the same, and the decision of mitigation of punishments is now to be made according to the discretion of the court. Herein, as study shows, Georgian criminal court is predisposed to harsh sentence. The only privilege for the unfinished crimes is the categorical prohibition of using life imprisonment towards them. As the instant research supports more objective approaches for the ground of punishability of inchoate crimes it recommends lenient punishments which helps criminal code to be logicaly and systematically coherent.

The instant study supports the approach which was foreseen by previous legislation before it was amended in 2006. Consequently, according to the reseach, In the case of preparation, the punishment shall not be more than half of the maximum sentence imposed for the offense, as for in the case of attempting, the punishment shall not be more than three-fourths. Restoration of the lenient sentence for the inchoate crimes will make the issue of drawing the line between the stages more principal and actual that promote the development of law in this regard.

According to the paper, after the reduction of the mandatory sentence, the category of crime should also be changed. There should be distinction between unfinished and finished crimes' category. The lenient punishment of unfinished crime is important for the imposition of a fair sentence and for the logical and systemic integrity of the criminal law.

Conclusion

The problems with regard to the qualification of unfinished crimes have been revealed by the study. In addition, the new vision and the ways of solving have been determined with respect to the existing findings.

The importance of drawing the line between preparation and disclosure of intent has been shown. In the criminal law doctrine there are widely spread opinions about nature of preparation and its illustrative instances which have been critically estimated in the instant work. This illustrative examples represents pre-preparative stage which should not be punished since it is in contradiction to the real nature of preparation, legality and locus poenitentiae. So as to clarify the issue where the line is drawn between bare intention and preparation the practice of the constitutional courts of the Czech Republic and Italy has been cited. As it was estimated by The Constitutional Court of the Czech Republic, bare intention accompanied by inconsequential actions cannot be deemed to be enough for imposing punishment for preparation, even if it is proved with abundant evidence. The Italian Constitutional Court set forth the meaning of general preparation defined in 1975 years penal code and concluded that general preparation is an ''objectively relevant'' action with real potential to complete a crime, and by doing so it draws the line between disclosure of intent and preparation. Thus, the aforementioned countries are also absolutely familiar with the difference between relevant preparative actions and irrelevant/imaginary preparative conducts with real possibility to create danger.

two mechanisms of punishablility of criminal preparation, general and special, has been discussed in the thesis in order to fully understand the real nature of preparation. The Georgian criminal law dogmatic has been analyzed in detail and for its support other group of countries' models as well, such as: Czechia, Hungary, Netherlands, which have similar approach towards the issue. The research shows some advantages of general criminalization, one of which states that legislator does not need to add multiple special delicts to the special part of criminal code in order to fill vacuum resulting from impunity of general preparation which causes unjustified thickening of a criminal code. Herewith, as it has been proved, criminalization of specific delicts instead of general criminalization is not a panacea for solving the aforementioned issues; on the contrary, this is the source of extra and unnecessary problems. Special punishability of preparation has multiple resistances towards various criminal law principle, such as: ne bis in idem, locus poenitentiae, etc., It also has been revealed that the preparatory actions were more severely punished; Some tendencies of extensive interpretation of criminal attempt has been shown and punishability of pre-preparation stages such as: conspiracy, solicitation and multiple articles of delictum sui generis which does not give more unambiguity bound by a promise.

As the work supports the general punishability of preparation and its nature based on real possibility and danger. correspondingly, according to the research preparation of crime should be explained by this category. Furthermore, after criticizing the notion of preparation the recommendations have been suggested for it which would compel court to use more restrictive interpretations towards the definition of preparation. With accordance to the supported idea there is suggested the new version of the notion of preparation: ,,Preparation is intentional creation of objectively relevant conditions for perpetration of crime''.

For proper understanding of preparation (deliberate creation of circumstances) and its proper practical usage, it is important to have its systemic comprehension. It is also very important to decriminalize irrelevant actions in the Criminal Code of Georgia. They are determined as preparations by the law, namely, unsuccessful incitement as envisaged in Article 25(7) of the Criminal Code Georgia. unsuccessful Incitement which means futile attempt to persuade a person to commit a wrongdoing, is one and, moreover, unfinished condition to commit an offence, thus very remote from its completion. unsuccessful Incitement, in itself, creates the dual nature of preparation, causes confusion and, hence, is incompatible with the principle of legality and should be decriminalized. The necessity of punishability of unsuccessful Incitement has been found towards corpus delicti of murder which is based on the analysis of law practice of Georgian criminal law court. Thus, the recommendation of punishability

of unsuccessful Incitement of murder as an independent inchoate crime has been suggested. Diminished punishability would make more reasonable state's intervention into the personal autonomy which, in itself, make sentence more justified.

In order to justify the punishability for preparation the study recommends different approach for its punishability. According to the thesis punishability for preparation should be determined not in accordance with general categories of crime, which can indiscriminately include some crimes, but with criminal-politically determined crimes (despite their category). This approach will be more reasonable to justificate criminalization of such early stages, as well as with reference to the principle of legality.

For the punishment ground of criminal attempt the objective theory has been supported, which means that starting point where actus reus of crime begins or preparative stage ends is based on real actions, their nearness to completion of crime and not on the bare intention since it is similar on every stage (from the beginning to the end) or actor's perception about danger, which is unattainable for the outside world and it causes overcriminalization. According to criminal laws of Georgia and those of other countries which have more objective approach, criminal attempt is characterized in such a manner that it has more potential to realize criminal result and thus, it poses a specific risk for inflicting harm. In Georgian criminal tenet the punishment of criminal attempt is based on two main categories, namely, possibility and danger, which is also accepted by the Georgian court according to the research. The objective orientation of criminal law makes the process of qualification an in general practice more consistent and which is in a logical chain towards criminal law dogmatic. The usage of more subjective interpretation in some Georgian criminal literature is explained by the influence of those countries' dogmatics where more subjective orientation is supported by legislation and by not being criminalized pre-attempt stage i.e. preparation. This broad interpretations of criminal attempt are not relevant in Georgian normative reality. In addition, subjective interpretations stimulate discriminative justice which cannot be tolerated in modern society. Furthermore, the lenient punishment has been recommended for criminal attempt as well, which, as it was said, is logical consequence of chosen objective orientation.

Old and modern Georgian criminal law doctrine as well as criminal law practice was examined so as to fully understand the essence of criminal attempt and its distinction from preparation. According to the research the issue of different countries' inclination to objective and subjective approaches can become clear if we take account of the context of historic and political ideology, modern challenges, as well as other aspects. In this regard, Georgian example has been appeared to be a good illustration how historic or political ideology affects punishability scale for inchoate crimes. According to various researches criminal legislation in the Soviet Union, especially in the first half of 20th century, was characterized with extreme subjectivism, and the visible testimony of this is the fact that even bare intention was punishable. On the ground of historic-political analysis it can be said that the punishment ground of inchoate crimes are more objective or more subjective it is kind of measurement of the repression of the country. For crime prevention and protection of legal interests inchoate crimes are very important tool. The question, whether criminalization of early stages of crimes violate or not human rights it, on the one hand, depends on the punishment ground of unfinished crimes and country's chosen orientation and on the other hand, on the aim of criminalization. For all mentioned reasons the research has supported the objective ground of punishability (possibility and danger). Which gives stabile ground for its (inchoate crime) consistent understanding and full harmonization with other criminal law institutions. Giving significance to the real danger and possibility in the process of qualification it is claimed by the Georgian criminal law, which is the finding of the study.

The approaches towards punishability of criminal attempt has been analyzed in detail. Those countries that punish criminal preparation in general way (among them is Georgia) they use restrictive interpretation towards criminal attempt. From the point of mentioned attitude, the distinction between preparation and attempt is based not on the actor's perception of nearness and danger but on objective criteria and its potential, how far action has gone etc. Perhaps, the countries which do not punish general preparation they use more broad interpretation

towards the institution. Accordingly, there is great tendency to qualify pre-attempt actions even bare intention as a criminal attempt. Discriminative practice characterized to the subjective attitudes which has been shown by the instant research. The study also showed how selective is subjective oriented laws toward and for this reason there has been illustrated a lot of instances especially from the foreign countries. Thus, according to Georgian criminal code (article 19), in actus reus of criminal attempt - openly directed- should understand with real possibility and danger which demonstrates its inclination towards objective theory.

The study has recommended alteration of criminal attempt's definition on the basis of its deep and full critic and analysis despite the fact that according to the research the problem about the distinction between mere preparation and attempt derives mainly not from indeterminacy of definition of the attempt, but from the chosen concept which is used for its punishment. objectively structured criminal attempts are executed in practice with subjective manner and on the contrary. According to the work for the new discourse and consistence practice this is highly recommended if criminal attempt formed in this way: 'criminal attempt is an intentional act that represents **a substantial step** for the crime, which has brought about a specific danger that the offence will be completed'.

The problematic issues towards mens rea of criminal attempt has been analyzed in the research as well. The study has supported the idea according to which in the criminal code of Georgia there is no punishment ground for criminal attempt with indirect intention. The study could not find reasonable ground for punishing attempt with eventual intention. Moreover, as the analysis of the criminal law practice has shown, court did not identify indirect intention (when its existence is very clear) not only towards unfinished crimes but also with regard to completed crimes. For this reason, numerous cases have been critically analyzed in the survey.

According to the study the indirect intent is incompatible with the nature of the intent, which is characterized by decision making, which is unfamiliar to the indirect intent. According to the paper, because of the incompatibility of indirect intent to the nature of the intention court is reluctant to see it where it is obvious even towards finished crimes. The work has supported the idea that indirect intent should be removed from the list of intention and should create new form of subjective tendency between intention and negligence, as it is in Anglo-American criminal law- recklessness. According to Georgian criminal code it (Recklessness) can be formulated as:

article 9^1: ,, An act shall be considered to have been committed with recklessness if the person was aware of the unlawfulness of his/her action, was able to foresee the occurrence of the unlawful consequences and did not desire those consequences, but consciously permitted them or was irrelevant about the occurrence of those consequences or if the person was aware that the act was prohibited under the standard of care, foresaw the possibility of the occurrence of the unlawful consequences, but groundlessly counted on their being prevented".

According to the study, this kind of attitude towards the problematic issue would end the endless discussions and incoherent practice.

The research has recommended lenient sentence for unfinished crimes. In the paper, a new opinion has been suggested that after the reduction of the mandatory sentence, the category of crime should also be changed. There should be distinction between unfinished and finished crimes' category. The lenient punishment of unfinished crime is important for the imposition of a fair sentence and for the logical and systemic integrity of the criminal law.

Bibliography

1. გამყრელიძე ო. 2013. *დაუმთავრებელი დანაშაული, სისხლის სამართლის პრობლემები ტ. 3.* თბილისი, მერიდიანი.
2. გამყრელიძე ო. 2006. *დამთავრებული და დაუმთავრებელი მცდელობის საკითხისათვის.* სისხლის სამართლის თანამედროვე პრობლემები. თბილისი, მერიდიანი.
3. გამყრელიძე ო. 2010. *საქართველოს სისხლის სამართლის კოდექსის განმარტება.* თბილისი.
4. გამყრელიძე ო. 2008. *დანაშაული ადამიანის წინააღმდეგ.* თბილისი, მერიდიანი.
5. გამყრელიძე ო. 2006. *დამთავრებული და დაუმთავრებელი მცდელობის საკითხისათვის.* სისხლის სამართლის თანამედროვე პრობლემები. თბილისი, მერიდიანი.
6. გამყრელიძე ო. 1998. *ბრძოლა სამართლებრივი სახელმწიფოსთვის.* წიგნი 1–ლი. თბილისი, სოციალურ-ეკონომიკური ინსტიტუტი.
7. გამყრელიძე ო. 1974. *დანაშაულში შუალობით ამსრულებლობა და თანაამსრულებლობა.* თბილისი, მეცნიერება.
8. გვენეტაძე ნ. დატურავა მ. 2005. სისხლის სამართლის საქმეებზე გადაწყვეტილებათა მიღების მეთოდიკა. თბილისი, საქართველოს მოსამართლეთა ასოციაცია.
9. გვენეტაძე ნ. და სხვები. 2007. *სასჯელის დანიშვნა, სისხლის სამართლის ზოგადი ნაწილი.* თბილისი, მერიდიანი.
10. გვენეტაძე ნ. 1994. *დისერტაცია, დანაშაულის ორგანიზატორი.* თბილისი.
11. დვალიძე ი. და სხვები. 2004. *სისხლის სამართლის ზოგადი ნაწილი, დაუმთავრებელი დანაშაული.* თბილისი, საქართველოს უნივერსიტეტის გამომცემლობა.
12. დვალიძე ი. 2013. შენიშვნები ლევან ხარანაულის დისერტაციაზე. თბილისი.
13. დაუთაშვილი პ. 2008. *საქართველოს სისხლის სამართლის ზოგადი ნაწილი.* თბილისი, გრიგოლ რობაქიძის სახელობის უნივერსიტეტი.
14. ებრალიძე თ. 2002. *სისხლის სამართლის სასამართლო პრაქტიკის კომენტარი* (დანაშაული ადამიანის წინააღმდეგ). თბილისი, საქართველოს მეცნიერებათა აკადემია.
15. ებრალიძე თ. 2006. წამქეზებელი წაქეზებულის წინააღმდეგ, კრებულში: სისხლის სამართლის კანონმდებლობის რეფორმისა და თანამედროვე კრიმინოლოგიის პრობლემები.
16. ერქომაიშვილი ვ. 1998. *ფილოსოფია: შესაძლებლობა და სინამდვილე.* თბილისი, პირველი სტამბა.
17. ეკო უ. 2012. ვარდის სახელი. მთარგ. ხათუნა ცხადაძე. თბილისი, დიოგენე.
18. ვესელსი ი. და ბოილკე ვ. 2010. *სისხლის სამართლის ზოგადი ნაწილი, დანაშაული და მისი აგებულება.* თბილისი, თბილისის უნივერსიტეტი.

19. ვაჩეიშვილი ალ. 1957. *დანაშაულის სუბიექტური მხარე,* საბჭოთა სამართალი. თბილისი, სტალინის სახელობის თბილსის სახელმწიფო უნივერსიტეტი.

20. თოდუა ნ. 1997.*სიმთვრალეში ჩადენილი დანაშაულების წინააღმდეგ ბრძოლის სამართლებრივი საკითხები.* თბილისი.

21. კვაშილავა ალ. 2009. *სისხლის სამართლის კოდექსის ზოგადი ნაწილი კომენტარებით.* თბილისი, ლეთა.

22. კვაშილავა ალ. 2006. *სისხლის სამართლის კოდექსის ზოგადი ნაწილი.*

23. კვირკველია კ. 2004. *სისხლის სამართალი, ზოგადი ნაწილი.* თბილისი, სამართალი.

24. კუტალია ლ.-გ. 2000. *მონოგრაფია, ბრალი სისხლის სამართალში.* თბილისი, თბილისის უნივერსიტეტი.

25. კროგი ბ. *სისხლის სამართლის სისტემის რეფორმის მხარდაჭერა საქართველოში.* ფარგლებში. კაჭრეთი, 15-17 მარტი 2013.

26. ლეკვეიშვილი მ. 2008. *დანაშაული ადამიანის უფლებებისა და თავისუფლებების წინააღმდეგ, სისხლის სამართლის კერძო ნაწილი,* წიგნი 1. თბილისი, მერიდიანი.

27. ლომსაძე მ. 2013. *სისხლის სამართლის ზოგადი ნაწილი (თანდართული ტესტებით).* ახალციხე, ახალციხის უნივერსიტეტი.

28. მჟავანაძე ზ. და მინდაძე ო. 2005. *სისხლის სამართლის ზოგადი ნაწილი.*
29. მჭედლიშვილი - ჰედრიხი ქ. 2011. *დანაშაულის გამოვლენის ცალკეული ფორმები.* თბილისი, მერიდიანი.

30. მჭედლიშვილი-ჰედრიხი ქ. 2011. *დანაშაულის გამოვლენის ცალკეული ფორმები.* თბილისი, მერიდიანი.

31. მჭედლიშვილი-ჰედრიხი ქ. 2013. დანაშაულის მომზადების დასჯადობა ქართულ სისხლის სამართალში დანაშაულის მცდელობის შესახებ გერმანული მოძღვრების გათვალისწინებით, *სისხლის სამართლის მეცნიერება ერთიანი ევროპული განვითარების პროცესში, სისხლის სამართლის სამეცნიერო სიმპოზიუმის კრებული 1.* თბილისი.

32. მჭედლიშვილი-ჰედრიხი ქ. 2010. *კაზუსის ამოხსნის მეთოდიკა სისხლის სამართალში.* თბილისი, მერიდიანი.

33. მამულაშვილი გ. 2008. *სისხლის სამართლის კერძო ნაწილი, წიგნი 1.* თბილისი, მერიდიანი.

34. მახარაძე ა. 2005. დისერტაცია, სისხლისსამართლებრივი პასუხისმგებლობა დანაშაულში დახმარებისთვის. თბილისი.

35. ნაჭყებია გ. 2011. *სისხლის სამართალი - ზოგადი ნაწილი.* თბილის, ინოვაცია.

36. სურგულაძე ლ. 1979. *საბჭოთა საქართველოს სისხლის სამართლის კანონმდებლობის ისტორია 1921-1922.* თბილისი.
37. სულაქველიძე დ. 1992. ნებაყოფლობით ხელის აღება დანაშაულის ჩადენაზე, დისერტაცია. თბილისი.

38. სურგულაძე ლ. 2005. *სისხლის სამართალი - დანაშაული.* თბილისი, ბონა კაუზა.

39. ტურავა მ. 2013. *სისხლის სამართალი, ზოგადი ნაწილის მიმოხილვა.* თბილისი, მერიდიანი.

40. ტურავა მ. 2011. *სისხლის სამართლის ზოგადი ნაწილი: დანაშაულის მოძღვრება.* თბილისი, მერიდიანი.
41. ტურავა მ. 2008. *სისხლის სამართლის ზოგადი ნაწილის მიმოხილვა.* თბილისი, იურიდიული ფირმა-ბონა კაუზა.

42. უგრეხელიძე მ. 1982. *ბრალი საფრთხის დელიქტებში.* თბილისი, თბილისის სახელმწიფო უნივერსიტეტის გამომცემლობა.

43. უზნაძე დ. 1964. *ზოგადი ფსიქოლოგია*, შრომები, ტ. III-IV.

44. ფურცხვანიძე ბ. 1966. *საბჭოთა სისხლის სამართალი: განსაკუთრებული ნაწილი.* თბილისი, თბილისი უნივერსიტეტის გამომცემლობა.

45. ფურცხვანიძე ბ. საბჭოთა სისხლის სამართალი, ზოგადი ნაწილი თბილისი: თბილისის უნივერსიტეტი. 1971.

46. ცქიტიშვილი თ. 2014. დისერტაცია, *ადამიანის სიცოცხლისა და ჯანმრთელობისთვის საფრთხის შექმნა*, სამეცნიერო ხელმძღვანელები. თბილისი.

47. ციპელიუსი რ. 2006. *იურიდიული მეთოდების მოძღვრება, სამართლის ნორმების აგებულება და ურთიერთკავშირი*, მთარგ. ლევან თოთლაძე. მიუნხენი, ბესიკის გამომცემლობა.

48. წერეთელი თ. 1942. რეალური შესაძლებლობის კატეგორიის გამოყენება დანაშაულის მცდელობის ცნების აგებისთვის. *თსუ შრომები ტ. 14.*

49. წერეთელი თ. 2007. დანაშაულის მომზადება და მცდელობა, *სისხლის სამართლის პრობლემები, ტ.1.* თბილისი, მერიდიანი.

50. წერეთელი თ. 2007. სისხლისსამართლებრივი პრობლემები: დანაშაულში თანამონაწილეობა, ტ. 2. თბილისი, მერიდიანი.

51. წერეთელი თ. 2006. *საზოგადოებრივი საშიშროება და მართლწინააღმდეგობა სისხლის სამართალში*, რედ. ოთარ გამყრელიძე. თბილისი, კავკასიური სახლი.

52. წერეთელი თ. 1961. *დანაშაულის მომზადება და მცდელობა.* თბილისი, საქართველოს სსრ. მეცნიერებათა აკადემია.

53. წერეთელი თ. 2007. თანამონაწილეობა დანაშაულში, *სისხლის სამართლის პრობლემები, ტომი 2.* თბილისი, მერიდიანი.

54. წერეთელი თ. 1976. *დანაშაულის მომზადება, საქართველოს სსრ სისხლის სამართლის კოდექსის კომენტარი.* თბილისი. საბჭოთა საქართველო.

55. წერეთელი თ. და სხვები. 1980. *დანაშაული პიროვნების წინააღმდეგ.* თბილისი, მეცნიერება.

56. ხარაზიშვილი ბ. 1975. *სიცრუის ფსიქოლოგია.* თბილისი, საბჭოთა საქართველო.

57. ხარანაული ლ. 2013. სადისერტაციო ნაშრომი: *დაუმთავრებელი დანაშაულის დასჯადობა ქართული და გერმანული სისხლის სამართლის მიხედვით* (შედარებით-სამართლებრივი ანალიზი). თბილისი, თბილისის უნივერსიტეტის გამომცემლობა.

58. ჯიშკარიანი ბ. 2015. *კაზუსები სისხლის სამართლის ზოგად ნაწილში.* თბილისი, იურისტების სამყარო.

59. ჯიშკარიანი ბ. 2016. *სისხლის სამართლის კერძო ნაწილი, დანაშაული ადამიანის წინააღმდეგ.* თბილისი, იურიდიული სამყარო.

60. Ashworth A. 2009. *Principles of Criminal Law.* New York, Oxford University Press.

61. Ashworth A. 1987. *Belief, Intent and Criminal Liability*. Oxford Essays in Jurisprudence.

62. Amato A. 2011. Criminal Law in Italy. Kluwer Law International.

63. Alexander L. & Ferzan K. K. 2009.*Crime and Culpability: A Theory of Criminal Law*. Cambridge, Cambridge University Press.

64. Bohlander M. 2009. *Principles of German Criminal Law.* Oxford and Portland, Oregon, Hart Publishing.

65. Cross R. and Ashworth A. 1981. *The English Sentencing System*.

66. Cross N. 2010. *criminal law and justice*. London, Sage.

67. Clarkson CMV, Keating HM & Cunningham SR. 2007.*Clarkson and Keating Criminal Law: text and materials*. London, Thomson.

68. Cremona M. 1989. criminal law. London, Macmillan.

69. Duff R.A. 1996. *Criminal Attempts*. New York, Oxford University Press.

70. Duff R.A. 2007. *Answering for Crime: Responsibility and liability in the Criminal Law*. Oregon, Hart.

71. Dubber M. and Hornle T. 2014. *Criminal Law. A Comparative Approach*. Croydon, Oxford University Press.

72. Duff A.R. 2010. *The boundaries of criminal law.* Oxford, Oxford university press.

73. Dubber M. D. 2002.*Victims in the War on Crime: The Use and Abuse of Victims' Rights*. New York, New York University Press.

74. Eliott C. 2001. *French Criminal Law.* Cullompton, Willian Publishing.

75. Elliot C. and Quinn F. 2010. *criminal law.* Harlow, Pearson Education Limited.

76. Enker A. W. 1977. Mens Rea and Criminal Attempts, *Am. Bar Foundation Research J.*

77. Finch E. and Fafinski S. 2011. *Criminal law*. Harlow, Longman.

78. Fletcher G. P. 1998. *Basic Concepts of Criminal Law*. New York, Oxford University press.

79. Fletcher G. P. 2000. *Rethinking Criminal Law*. New York, Oxford University Press.

80. Fitz J. S. 1883. *A history of the criminal Law*, vol.3. London, Macmillan and co.

81. Fryšták M., Kalvodová V. and provaznik J. 2015. *Selected problems of Czech criminal law*. Brno, Muni Press.

82. Gordon G. H. 1960. *PhD thesis, Criminal responsibility in Scots law.*

83. Garza A. P. 2012. *The Magic Bullet in People v. Perez: Charging Attempts Based on Culpability and Deterrence Regardless of Apparent Ability*.

84. Gardner T. J. and Anderson T. M. 2009. *Criminal Law.* Belmont, Wadsworth.

85. Gardner T. J. and Anderson T. M. 2012. Criminal law. Belmont, Wadsworth.

86. Gómez- Jara Díez C. and Chiesa L. E. 2011. *The handbook* of comparative criminal law. California. Stanford law books.

87. Hallevy G. 2010. *A Modern Treatise on the Principle of Legality in Criminal Law*. New York, Springer.

88. Hall J. 1940. *Criminal Attempt - A Study of Foundations of Criminal Liability*. Articles by Maurer Faculty.

89. Holmes JR. W. O. 2009. *The Common Law*. Massachusetts, The Belknap press of Harvard University Press.

90. Herring J. 2011. *Criminal law.* New York, pal grave Macmillan.

91. Hart H.L.A. 1982. *The Concept of Law.* Oxford, Clarendon Press.

92. Hart H.L.A. 1998. *Punishment and Responsibility*, Essays in the Philosophy of Law.

93. Haley J. O. 2011. *The h*andbook of comparative criminal law. California. Stanford law books.

94. Robinson P.H. and Grall J. A. 1983. *Element analysis in defining criminal liability. The model penal code and beyond*.

95. Jefferson M. 2013. *Criminal law*. Harlow, Pearson.

96. Karsai K. and Szomora Z. 2015. *Criminal law in Hungary.* Walters Kluwer.

97. Kadish S. H., Schulhofer S. J. and Steiker C. S. 2007. *Criminal Law and its Process*: *Cases and Materials*. New York, AspenPublishers.

98. Kohout V. 2013. *Diplomov á Práce. Vývojov á stadia tresténo činu. Západočeska univerzita v plizni fakulta pravnick á. Plzen.*

99. Langsted L. G. P. and Greve V. 2014. *Criminal law in Denmark*. Walters Kluwer.

100. LaFave W.R. 1988. *Modern Criminal Law. cases, comments and questions*. west publishing.

101. Lippman M. 2010. *Contemporary Criminal Law: Concepts, cases, and controversies.* California, Sage.

102. Loveless J. 2010. *Complete Criminal Law: Text, Cases, and Materials.* New York, Oxford University Press.

103. Martin J. and Storey T. 2015. *Unlocking criminal law.* New York, Routledge.

104. Ormerod D. 2009. *Smith and Hogan Criminal Law: Cases and Materials*. Oxford & New York, Oxford University Press.

105. Okoth J. R.A. 2014. The Crime of Conspiracy in International Criminal Law. Kenya, T.M.C. Asser Press.

106. Padfiel N. 2012. *Criminal law.* Oxford, Oxford University Press.

107. Roe D. *Criminal Law.* 2005. London, Hodder Arnold.

108. Roe D. 2005. *Criminal Law* . London, Hodder Arnold.

109. Robbins P. & Kahan D. M. 2002. *Solicitation, Encyclopedia of crime and justice.* vol.4. Chief ed. Joshua Dressler. New York, Macmillan Reference USA.

110. Samaha J. 2011. *Criminal Law*. Belmont, Wadsworth Cengage Learning.

111. Singer R. G. & La Fonda J. Q. 2010. *Criminal law – Examples and Explanations*.

112.Stephen's Digest of criminal law. 1950. London, Sweet & Maxwell.

113.Storey T. and Lidbury A. 2009. *criminal law.* Cullompton, Devon: Willian publishing.

114.Scheb J.M., Scheb J. M. II. 2009.*Criminal Law*. Belmont, Wadsworth, Cengage Learning.

115.Schulhofer S. J. and Kahan D. M. 2000. Encyclopedia of crime and justice, v.1.

116.Tadros V. 2011. *The ends of harm: The Moral Foundations of Criminal Law.* New York, Oxford University Press.

117.Wagner R. E. 2010. *One Case Research Paper Series in Legal Studies Working Paper, A Few Good Laws: Why Federal Criminal Law Needs a General Attempt Provision and How Military Law Can Provide*.

118.Winter L. B. del Moral García A. 2013. Criminal Law in Spain. Kluwer Law International.

119.Tkáčová R. 2014. Trestní odpovědnost za přípravu k trestnému činu, Studentská vědecká a odborná činnost. Univerzita Karlova v Praze právnická fakulta.

120.Šlapák M. 2013. Thesis: *Developmental stages of offense*. Pilsen, University of West Bohemia in Pilsen Faculty of Law.

121.Burianová P. 2010. *Příprava tresněno činu a jeji rozsah, Diplomová práce, Právnická fakulta Masarykovy univerzity obor právo a právní věda*.

122.Траинин А.Н. 1951. *состав преступления по уголовному праву.* М. Госиуриздат.

123.Трайнин А.Н. 1957. *Общее учение о составе преступления*. Москва.

124.Лясс. Н.В. 1956. *Пониятие и основания наказуемостьи приготовления и покушения*, учение записки ленинградского государственого университета имени А.А. жданова, Вопроси уголовного права и процесса. Ленинград.

125.Лясс Н. В. 1952. *Стадии преступной деятельности по советскому уголовному праву*, Автореф. дисс.

126.Церетели Т. 1963. *Причинная связь в уголовном праве*. Москва, Государственное издательство юридической литературы.

127.Хорнабуджели Б.В. 1981. *Психологичесекая сторона вины*. Тбилиси.

128. ბაქრაძე კ.1976. შესაძლებლობა და სინამდვილე, *რჩეული ფილოსოფიური თხზულებანი, ტ. 5* თბილისი. 115-120.

129.გიგიტაშვილი ნ. 1997. ევენტუალური განზრახვის პრობლემა სისხლის სამართალში, *სამართალი* N11-12.

130.გეგელია თ. 2016. კანონის განუსაზღვრელობის აკრძალვა თანამედროვე სისხლის სამარათალში. *საკონსტიტუციო სამართლის მიმოხილვა.* N10. 131-146.

131.გეგელია თ. 2013. განზრახვის გამომჟღავნებისა და დანაშაულის მომზადების ურთიერთმიმართების შესახებ თანამედროვე სისხლის სამართალში არსებული მიდგომების ანალიზი, *მართლმსაჯულება და კანონი*, N4 (39)'13. 125-140.

132.თოდუა ნ. 2007. საფრთხის შემქმნელი დანაშაულები საქართველოს სისხლის სამართლის კოდექსის მიხედვით. *მართლმსაჯულება და კანონი*, N2-3. 153-156.

133. თოდუა ნ. 2014. დანაშაულის მომზადება, მცდელობა და მათი მნიშვნელობა დანაშაულის აღმსრულებლობისა და თანამონაწილეობის გამიჯვნის საკითხში. *მართლმსაჯულების ხმა,* N 3. 2-15.

134. მაყაშვილი ვ. 1965. ევენტუალური განზრახვის საკითხისთვის, *საბჭოთა სამართალი* N4. 19-27.

135. ნაჭყებია გ. 1990. პირდაპირი განზრახვისა და სასჯელის ლოგიკური კავშირის ფსიქოლოგიური დასაბუთების პრობლემა, *სახელმწიფო და სამართალი* N10. 20-29.

136. სულაქველიძეს დ. 1991. დანაშაულის მცდელობა და ნებაყოფლობით ხელის აღება დანაშაულის ჩადენაზე, *სამართალი 3-4. 9-17.*

137. ტყეშელიაძე გ. 1962. ნაშრომი დაუმთავრებელი დანაშაულის შესახებ, *ჟურნალი საბჭოთა სამართალი 4*, საქ. ცენტრალური კომიტეტის გამომცემლობა. 87-91.

138. ცქიტიშვილი თ. 2012. მცდელობა შედეგით კვალიფიცირებულ საფრთხის დელიქტებში, *სამართლის ჟურნალი.* N 1. 196-226.

139. ცქიტიშვილი თ. 2014. ევენტუალური განზრახვის საკითხისათვის. *მართლმსაჯულება და კანონი.* N4. 95-108.

140. წიქარიშვილი კ. 2010. რამდენიმე მოსაზრება დანაშაულის მომზადებისა და მცდელობის გამიჯვნის შესახებ ევროპულ და ამერიკულ სისხლის სამართალში. *მართლმსაჯულება და კანონი 1.* 14-25.

141. წიქარიშვილი კ. 2008. ევენტუალური განზრახვა თანამედროვე დასავლეთ ევროპულ და ამერიკულ სისხლის სამართალში, *მართლმსაჯულება* N3. 34-40.

142. წერეთელი თ. და მაყაშვილი ვ. 1957. სისხლის სამართლის ზოგიერთი საკითხი, *ჟურნალი-საბჭოთა სამართალი 1*. 47-53.

143. სსრ კავშირის უმაღლესი სასამართლოს პლენუმის დადგენილება N9. 1963. *საბჭოთა სამართალი* N6. 62-65.

144. Alexander L., Kessler K. D. 1997. Mens Rea and Inchoate Crimes, 87 J. Crim. L. & Criminology. 1138-1193.

145. Brady J. 1980. Punishment Attempts, *the monist 63.* 246–257.

146. Clarkson C. M.V. 2009. Attempt: The Conduct Requirement. *Oxford Journal of Legal Studies*. Volume 29, Issue 1. 25–41.

147. Cahill M. 2004. Offense Grading and Multiple Liability: New Challenges for a Model Penal Code Second, *Ohio state journal of criminal law.* vol 1. 599-610.

148. Cahill M. 2009. Attempt by Omission. *94 Iowa Law Review*. 1207-1252.

149. Cahill M. T. 2007. Attempt, Reckless Homicide, and the Design of Criminal Law, *university of colorado law Review*. Vol.78. 879-956.

150. Crocker L. 1992. Justice in criminal liability: decriminalizing harmless attempts, *53 Ohio St.L.J.* 1057-1110.

151. Davis M. 1986. Why Attempts Deserve Less Punishment than Complete Crimes, *5 Law & Phil.* 1. 1-32.

*152.*Doyle Ch. 2015. Attempt: An Overview of Federal Criminal Law, *Congressional Research Service.* 1-11.
*153.*Schmidtz D. 1987. Detterence and criminal attempts. *Canadian Journal of philosophy,* Vol.17, N 3. 615-623.

154.Jeffries. J. C. 1985. Legality, vagueness, and the construction penal statutes, *Virginia Law Review,* vol. 71. 189-246.

*155.*Ferguson P. R. 2014. Moving from preparation to perpetration? Attempted crimes and breach of the peace in Scots Law, *Ohio State Journal of Criminal Law, Vol. 11, No. 2*. 687-700.
*156.*Strahorn, Jr., J. S. 1939. Preparation for Crime as a Criminal Attempt, *1 Wash. & Lee L. Rev. 1*. 1-152.
*157.*White G. E. 1992. Justice Holmes and the Modernization of Free Speech Jurisprudence: The Human Dimension'', *California Law Review, Volume 80*. 391-467.

*158.*Filvarofft D. B. 1972. Conspiracy and the first amendment, *University of Pennsylvania Law Review* 2, vol. 121. 189-253.
159.Keedy E. R. 1954. Criminal Attempts at Common Law. *University of Pennsylvania Law Review*. 464-489.

160.Pelser C. M. 2008. Preparation to commit a crime. The Dutch approach to inchoate offences. *Utrecht law review*, vol.4. issue 3. 57-80.

161.Cahill. M.T. 2012. Defining Inchoate Crime: An Incomplete Attempt, *Ohio State Journal of Criminal Law vol.9*. 751-759.

162.Elkind J.B. 1968. Impossibility in Criminal Attempts: A Theorist's Headache, *Virginia Law Review* Vol. 54, No. 1. 20-36.

163.Fissell B.M. 2014. Abstract Risk and the Politics of The Criminal Law, *American Criminal Law Review*. 657-687.

164.Fallon, Jr., R.H. 1997. The Rule of Law, as a Concept in Constitutional Discourse, *Columbia Law Review* Vol. 97, No. 1. 1-56.

165.Funston B. 1965. *Attempted Crimes under the Doctrine of Impossibility and the Role of the Judge in Shaping Future Legislation*, *Tulsa Law Review*, v.2. 161-165.

166.Husak D. 2003. Four Points About Drug Decriminalization, *Criminal Justice Ethics,* N*22*. 21-49

167.Hasnas J. 2012. Attempt, Preparation, and Harm: The Case of the Jealous Ex-Husband, *Ohio State Journal of Criminal Law vol.9*. 761-769.

168.Hallevy G. 2012. National Security Under Liberal Substantive Criminal Law-When do National Security Issues Become Criminal, *Creighton International and Comparative Law Journal. Vol. 1*. 1-48.

169.Jareborg N. 2004. Criminalization as Last Resort (Ultima Ratio), *Ohio State Journal of Criminal Law 2*. 521-534.

170.Pizzi W. T. 2012. Rethinking Attempt under the Model Penal Code, *Ohio State Journal of Criminal Law vol.9*. 771-777.

171.Robbins P. 1986. Attempting the impossible, *The emerging Consensus. 23 Harvard J. on Legis.* 377-444.

172.Scalia A.1989. The Rule of Law as a Law of Rules, *The University of Chicago Law Review* Vol. 56, No. 4. 1175-1188.

173. Simons K. W. 1990. Mistake and Impossibility, Law and Fact, and Culpability: A Speculative Essay, *Journal of Criminal Law and Criminology*, vol. 81. 447-517.

174. Tapani J. 2009. *The Quagmire of Impossible Attempts – How to Distinguish between Punishable and Non-punishable Cases of Criminal Attempt?* Scandinavian Studies in Law (Sweden), Volume 54. 132-148.

175. Yaffe G. 2014. Criminal Attempts, *the yale law journal*, N 124. 92-156.

176. Yaffe G. 2012. Attempt, Risk-Creation, and Change of Mind: Reflections on Herzog, *Ohio State Journal of Criminal Law vol.9*. 779-787.

177. Westen P. 2008. Impossibility Attempts: A speculative Thesis, *Ohio St.L.J. vol.5.*

178. Лившиц В. К. 1947. К вопросу о понятии эвентуального умысла. *Советское государство и право.* №7. 34-45.

179. церетели Т. 1970. деликты создания опасности, *советское государство и право,* N8. 56-64.

180. церетели Т. 1954. наказуемостъ приготовления к преступлению по уголовному праву, *социалистическая законостъ,* N12. 11-14.

181. სუზს N61-აპ განჩინება. 7 მარტი 2007.
182. სუზს N 202აპ-13 განაჩენი. 26 მარტი 2014.
183. სუზს N822-აპ განჩინება. 27 დეკემბერი 2007.
184. სუზს N209 აპ განჩინება. 21 ივნისი 2006.
185. სუზს N 34-აპ განჩინება. 27 ნოემბერი 2006.
186. სუზს N 593-აპ განჩინება. 28 ნოემბერი 2006.
187. სუზს N119-კოლ განჩინება. 29 სექტემბერი 2005.
188. სუზს განჩინება N370-აპ. 15 ნოემბერი 2005.
189. სუზს N1463აპ განჩინება. 4 იანვარი 2008.
190. სუზს N1156აპ განჩინება. 3 იანვარი 2008.
191. სუზს 332აპ-09 განჩინება. 5 ოქტომბერი 2009.
192. სუზს N1106აპ-10 განაჩენი. 19 აპრილი 2011.
193. სუზს N 987 განჩინება. 26 დეკემბერი 2007.
194. სუზს N 16-კოლ განჩინება. 20 იანვარი 2004.
195. სუზს N 53-აპ განჩინება. თბილისი, 5 თებერვალი, 2004.
196. სუზს N 481აპ-08 განჩინება. 26 მარტი 2008.
197. სუზს N168-აპ განჩინება. 25 ნოემბერი 2002.
198. სუზს 1106აპ-10. განჩინება. 19 აპრილი 2011.
199. სუზს N 236 - აპ -12 განაჩენი. 22 ნოემბერი 2012. სუზ-ის საქმეე ხელმისაწვდომია: http://prg.supremecourt.ge/
200. თბილისის საქალაქო სასამართლოს განაჩენი. 23 სექტემბერი 2014.
201. თბილისის სააპელაციო სასამართლოს N 1/ბ48-09 განჩინება. 3 თებერვალი 2009.
202. თბილისის საქალაქო სასამართლოს განაჩენი. 24 აპრილი 2014.
203. თბილისის საქალაქო სასამართლოს განაჩენი. 9 ივლისი 2014.
204. თბილისის საქალაქო სასამართლოს განაჩენი. 23 სექტემბერი 2014.
205. თბილისის საქალაქო სასამართლოს განაჩენი. 26 მარტი 2014.
206. თბილისის საქალაქო სასამართლოს განაჩენი. 1 აგვისტო 2014.
207. თბილისის საქალაქო სასამართლოს N1/497-13 განაჩენი.19 მარტი 2013.
208. თბილისის საქალაქო სასამართლოს N 1/6190-09 განაჩენი. 12 დეკემბერი 2009.
209. თბილისის საქალაქო სასამართლოს განაჩენი N 1/1183-13. 28 თებერვალი 2014.

210. თბილისის საქალაქო სასამართლოს N 1/4719-11 განაჩენი. 1 ნოემბერი 2011.
211. თბილისის საქალაქო სასამართლოს N 1/5515-11 განაჩენი.17 ნოემბერი 2011.
212. თბილისის საქალაქო სასამართლოს N 1/3149-12 განაჩენი. 5 იანვარი 2012.
213. თბილისის საქალაქო სასამართლოს N 1/3399-10 განაჩენი, 24 დეკემბერი 2010.
214. თბილისის საქალაქო სასამართლოს N 1/1159. 4 აგვისტო 2011.
215. თბილისის საქალაქო სასამართლოს N 1/2045-12 განაჩენი. 7 მაისი 2012.
216. თბილისის საქალაქო სასამართლოს N 1/497-13 განაჩენი.19 მარტი 2013.
217. თბილისის საქალაქო სასამართლოს N 1/2669-14 განაჩენი. 2 დეკემბერი 2014.
218. თბილისის საქალაქო სასამართლოს N 1/5322-11 განაჩენი. 24 ნოემბერი 2011.
219. თბილისის საქალაქო სასამართლოს N1473-12. 17 აპრილი 2012.
220. რუსთავის საქალაქო სასამართლოს N 1-92-11 განაჩენი. 7 ივნისი 2011.
221. რუსთავის საქალაქო სასამართლოს N 1-90-14 განაჩენი.10 ოქტომბერი 2014.

222. Campbell, 93 Cr App R 350. 1990. http://www.e-lawresources.co.uk/R-v-Campbell.php (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
223. R. v Toothill, Crim. LR 876 (CA).1998. ხემისაწვდომია Lexis ბიბლიოთეკაში.
224. Tosti and White. EWCA Crim 222.1997. ხემისაწვდომია Lexis ბიბლიოთეკაში.
225. R v Geddes. Crim LR 894. 1996. ხელმისაწვდომია Lexis ბიბლიოთეკაში
226. People v. Griffin. 867 P.2d 27.1993. https://law.justia.com/cases/colorado/court-of-appeals/1993/91ca1763-0.html (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
227. Commonwealth v. Gilliam, 417 A.2d 1203. Pa. sup. Ct.1980. https://www.casemine.com/judgement/us/591492edadd7b049345a0d17 (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
228. United States court of appeals for the sixth circuit N 2:14-cr-00043- July 28, 2015. ხელმისაწვდომია: http://www.opn.ca6.uscourts.gov/opinions.pdf/15a0166p-06.pdf (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
229. United States v. Howard, 766 F.3d 414, 419–26.5th Cir. 2014.
230. United States v. Muratovic, 719 F.3d 809, 815. 7th Cir. 2013.
231. United States v. Goodwin, 719 F.3d 857, 860. 8th Cir. 2013.
232. United States v. Gordon, 710 F.3d 1124, 1150. 10th Cir. 2013.
233. United States v. Muratovic, 719 F.3d 809, 815. 7th Cir. 2013. 8-12 საქმეები ხელმისაწვდომია: Doyle Ch. 2015. Attempt: An Overview of Federal Criminal Law, Congressional Research Service. 4 . Note 25.
234. United States v. Monholland, 607 F.2d.10th Cir. 1979. https://openjurist.org/607/f2d/1311/united-states-v-monholland (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
235. Commonwealth v. McCloskey, 341 A.2d 500, 503. Pa. Sup. Ct. 1975. ხელმისაწვდომია: Wagner R.E. 2010. 1063. Note 87.
236. United states v. Jackson, 560 F.2D 112.1977. https://law.justia.com/cases/federal/appellate-courts/F2/560/112/156476/ (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
237. United States v Buffington, 815 F.2d 1292.1987. https://openjurist.org/815/f2d/1292/united-states-v-buffington-t (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
238. Young v. State, Ct of App of MD.1985. http://caselaw.findlaw.com/md-court-of-special-appeals/1244962.html (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
239. State v Reeves, 916 S.W.2d 909, Tenn. 119. 1996. https://www.courtlistener.com/opinion/2450126/state-v-reeves/ (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
240. Williams v. Commonwealth, Va. App. 154. 2004. http://caselaw.findlaw.com/va-court-of-appeals/1138478.html (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
241. People v. Miller, 42 P.2d 308. Cal. 1935. https://law.justia.com/cases/california/supreme-court/2d/2/527.html (უკანასკნელად იქნა გადამოწმებული -10.01.2018).

242. Gregg v. United States, 113 F.2d 687. 8th Cir. 1940. https://law.justia.com/cases/federal/appellate-courts/F2/113/687/1509436/ (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
243. Boyle , 84 Cr. App. R. 270.1987. საქმე ციტირებულია: Cross N. 2010. 81.
244. R. v. Jones, 3 All ER 886. App. 1990. საქმე ციტირებულია: Clarkson CMV., Keating HM. & Cunningham SR. 2007. 492
245. R v. Eagleton, 169 E.R., 826.1855. საქმე ციტირებულია: Fletcher G. 2000. 139.
246. R. v. Barker, N. S. L. R. 865.1924. საქმე ციტირებულია: Encyclopedia of crime and justice, v.1, 88.
247. R v Button, 2 QB 597.1900. საქმე ციტირებულია: Duff R.A. 1996. 42.
248. Robinson 2 KB 342.1915; საქმე ციტირებულია: წიქარიშვილი კ. 2010. 20. მე-3 სქოლიო.
249. Commonwealth v. Peaslee, 177 Mass. 267, 59 N.E. 55.1901. საქმე ციტირებულია: წიქარიშვილი კ. 2010. 20. მე-8 სქოლიო.
250. People v. Rizzo, 246 N.Y.334, 158 N.E. 888.1927. საქმე ციტირებულია: წიქარიშვილი კ. 2010. 20. მე-10 სქოლიო.
251. Davey v Lee, 1 QB 366. 1968. საქმე ციტირებულია: წიქარიშვილი კ. 2010. 20. მე-18 სქოლიო.
252. Comer v. Bloomfield , 55 Cr App R 305.1970. საქმე ციტირებულია: წიქარიშვილი კ. 2010. 20. მე-4 სქოლიო.
253. R v. White, all er rep 340, Cr, App.1910. http://www.e-lawresources.co.uk/R-v-White.php (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
254. R v Miiskell, 37 Cr. App. Rep 214. 1954. საქმე ციტირებულია: Fletcher G. 2000. 142.
255. Yelds, N. Z. L. R. 18.1928. საქმე ციტირებულია: Gordon G. H. 1960. 206-207.
256. Moore, N. Z. L. R. 979.1936. საქმე ციტირებულია: Gordon G. H. 1960. 206-207.
257. Decker v. People. A028444. January 30, 1986. http://scocal.stanford.edu/opinion/people-v-super-ct-decker-33732 (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
258. Lewis v. State. 35 Ala.380. 1860. საქმე ციტირებული: Strahorn, Jr., J. S. 1939. Preparation for Crime as a Criminal Attempt, *1 Wash. & Lee L. Rev. 1*. 12.
259. Stokes v. State, 92 Miss. 415, 46 So. 627. 1908. საქმე ციტირებულია: Keedy E. R. 1954. 489.
260. United States v. Rodriguez, 215 F. 3d 110.116.1st Cir. 2000. http://caselaw.findlaw.com/us-2nd-circuit/1478194.html (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
261. Pinkerton v. United States, 328 U.S. 640. 1946. https://supreme.justia.com/cases/federal/us/328/640/case.html (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
262. Regina v. Khan, 1 W.L.R. 813.1990. ხელმისაწვდომია Lexis ბიბლიოთეკაში.
263. R. v. Saik, UKHL 18. 2006. საქმე ციტირებულია: Ashworth A. 2009. 456.
264. Interstate Circuit Inc. v. United States, 306 U.S. 208. 1939. საქმე ციტირებულია: 2002. Encyclopedia of crime and justice, Vol.1. 241-242
265. Race Relations Board v Applin 1 Q.B.815, 825. 1973. საქმე ციტირებულია: Ormerod D. 2009. 445.
266. State v. Davis, 319 MO. 1222.65. w.2d.609. 1928. https://www.casebriefs.com/blog/law/criminal-law/criminal-law-keyed-to-kadish/the-significance-of-resulting-harm/state-v-davis/ (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
267. Pereira v. United States, 347 U.S. 1. 1954. საქმე ციტირებულია: Okoth J. 2014. 37
268. Callanan v. United States, 364 U.S. 587. 1961. საქმე ციტირებულია: Singer R.G.& La Fond J. Q. 2010. 342.
269. Gervin v. State, 212 Tenn. 653, 371, S.W 2d, 449.1963. https://law.justia.com/cases/tennessee/supreme-court/1963/371-s-w-2d-449-1.html (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
270. Julian v. USA, 427 F. 3d 471, 482 c7th Cir. 2005. საქმე ციტირებულია: Okoth Juliet. 2014. 36
271. Ward v. State, 528 N.E. 2d. Ind. 1988. https://law.justia.com/cases/indiana/supreme-court/1988/34s00-8609-cr-830-4.html (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
272. DPP v. Stewart, 3 W.R.L. 884. 1982. საქმე ციტირებულია: Ashworth A. 2009. 450-451.
273. R v Marlow, Crim LR 897.1997. ხელმისაწვდომია Lexis ბიბლიოთეკაში.

274. State v. Cotton, 790 P.2D.1050. 1990. საქმე ციტირებულია: Samaha J. 2011. 267.
275. R v Goldman, Crim. LR 822. 2001. ხელმისაწვდომია Lexis ბიბლიოთეკაში.
276. DPP v Armdtrong, Crim. LR 379. 2000. ხელმისაწვდომია Lexis ბიბლიოთეკაში.
277. Regina v. Bryce; 2 cr App R 35. 2004. http://swarb.co.uk/regina-v-bryce-cacd-18-may-2004/ (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
278. Webster case, 2cr App R6. 2006. ხელმისაწვდომია Lexis ბიბლიოთეკაში.
279. Poulterers' case, 77 Eng. Rep. 813.1611. საქმე ციტირებულია: Singer R.G.& La Fond J. 2010. 339.
280. Shaw, ac, 220. 1962. საქმე ციტირებულია: Ashworth A. 2009. 450.
281. R v Nevard, All ER (D) 22 (Nov) 2006. ხელმისაწვდომია Lexis ბიბლიოთეკაში.
282. State v. Klafta, aff'd 831 P.2d 512. 1992. საქმე ციტირებულია: Gardner T. J. and Anderson T. M. 2012. 89.
283. State v. Cortez, 687 So. 2d 515, 516–17, 524, La. Ct. App. 1996. საქმე ციტირებულია: Cahill M. 2009. 1225
284. State v. Smith, 870 So. 2d 618, 619, 622–24 La. Ct. App. 2004. საქმე ციტირებულია: Cahill M. 2009. 1225
285. Knuller v DPP, AC 435 House of Lords. 1973. საქმე ციტირებულია: Ashworth A. 2009. 63.
286. R v Ford. 1 Cr App R (S) 36. 2006. საქმე ციტირებულია: Clarkson CMV, Keating HM & Cunningham SR. 2007. 482
287. DPP v Withers, ac 842. 1975. საქმე ციტირებულია: Clarkson CMV., Keating HM. & Cunningham S. 2007. 522.
288. Yates v. United States, 354 U.S. 298. 1957. საქმე ციტირებულია: Lippman M. 2010. 197.
289. Cline v. State, 319 S.W.2d 227. 1958. საქმე ციტირებულია: Lippman M. 2010. 197.
290. Crim.29 dec. 1970, J.C.P., 16770, note P. Bouzat.1971. საქმე ციტირებულია: Eliott C. 2001. 97; Fletcher G. 2000. 167.
291. Crim. 27 Mai 1959, B., no. 282. საქმე ციტირებულია: Eliott C. 2001. 97.
292. Trib.enf., Nanttere, 6 juillet 1971, R.S.C., 1972.100, obs. A. Ligal. Eliott C. 2001. 97; Fletcher G. 2000. 167.
293. Crim. 5 Juillet 1951, B. 198, R.S.C. 1952.439.obs.Ligan. საქმე ციტირებულია: Eliott C. 2001. 97.
294. Srov. rozhodnutí Nejvyššího soudu ČR, ze dne 12. listopadu 2008, sp.zn. 3 Tdo. 1338/2008; ჩეხეთის რესპუბლიკის უზენაესი სასამართლოს N 1338/2008 განაჩენი, ნოემბერი 12, 2008).
295. Srov. rozhodnutí Nejvyššího soudu ČR ze dne 23. září 2009, sp. zn. 3 Tdo 1035/2009. ჩეხეთის რესპუბლიკის უზენაესი სასამართლოს N sp. Ref. 3 Tdo 1035/2009. განაჩენი, სექტემბერი 23, 2009).
296. Nalez Ustavniho soudu ze dne 6. ledna 2005, sp.zn. II. US 491/04, uveřejneny pod č. 4/2005 Sb.n.a u. ხელმისაწვდომია: https://www.usoud.cz/en/decisions/
297. La Corte Constituzionale, sentenza 16 Dicembre 1980, N. 177, Deposito in cancelleria: 22 Dicembre 1980. http://www.giurcost.org/decisioni/1980/0177s-80.html (უკანასკნელად იქნა გადამოწმებული - 10.01.2018).
298. Kokkinakis v. Greece, N 14307/88. Strasburg, 25 May 1993. https://hudoc.echr.coe.int/eng#{"itemid":["001-57827"]} (უკანასკნელად იქნა გადამოწმებული - 10.01.2018).
299. Steel and others v. the United Kingdom, N 67/1997/851/1058. Strasburg, 23 September 1998. https://hudoc.echr.coe.int/eng#{"itemid":["001-58240"]} (უკანასკნელად იქნა გადამოწმებული - 10.01.2018).
300. Ashlarba v. Georgia, N 45554/08. Strasburg: 15 October 2014. https://hudoc.echr.coe.int/eng#{"itemid":["001-145572"]} (უკანასკნელად იქნა გადამოწმებული - 10.01.2018).
301. The Sunday Times v. The United Kingdom, N 6538/74. Strasburg, 26 April 1976. https://hudoc.echr.coe.int/eng#{"itemid":["001-57583"]} (უკანასკნელად იქნა გადამოწმებული - 10.01.2018).

302. S.W. v. The United Kingdom, N 20166/92. Strasburg, 22 November 1995. https://hudoc.echr.coe.int/eng#{"itemid":["001-57965"]} (უკანასკნელად იქნა გადამოწმებული - 10.01.2018).
303. Cantoni v. France, 17862/91. Strasburg, 11 November 1996. https://hudoc.echr.coe.int/eng#{"itemid":["001-58068"]} (უკანასკნელად იქნა გადამოწმებული - 10.01.2018).
304. Huhtamäki v. Finland N 54468/09. 6 March 2012. https://hudoc.echr.coe.int/eng#{"itemid":["001-109341"]} (უკანასკნელად იქნა გადამოწმებული -10.01.2018).

305. საქართველოს სსკ. 1999.
306. არასრულწლოვანთა მართლმსაჯულების კოდექსი. 2015.
307. ჩეხეთის სსკ. 2011. http://www.legislationline.org/documents/section/criminal-codes (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
308. უნგრეთის რესპუბლიკის სსკ. 2012. http://www.legislationline.org/documents/section/criminal-codes (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
309. გერმანიის სსკ.1971. http://www.legislationline.org/documents/section/criminal-codes (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
310. ფინეთის სსკ. 1889 (2015 წლის რედაქცია). http://www.legislationline.org/documents/section/criminal-codes (უკანასკნელად იქნა გადამოწმებული -10.01.2018).
311. Penal Code. Prague: Wolters Kluwer. 2011. http://www.legislationline.org/documents/section/criminal-codes (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
312. Criminal Code of the Republic of Hungary. 2012. http://www.legislationline.org/documents/section/criminal-codes (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
313. Alabama Code. 1975. http://codes.lp.findlaw.com/alcode/13A/4/13A-4-2#sthash.FkGZifFm.dpuf (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
314. Criminal Code of the Kingdom of Netherlands. 1881 (2012 რედაქციით) http://www.legislationline.org/documents/section/criminal-codes (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
315. Idaho Statutes. 1972. http://legislature.idaho.gov/idstat/Title18/T18CH3SECT18-306.htm (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
316. Mississipi code. Attempt to commit offense. 2010. http://law.justia.com/codes/mississippi/2010/title-97/1/97-1-7/ (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
317. Massachusetts general laws. https://malegislature.gov/Laws/GeneralLaws/PartIV (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
318. Pennsylvania Code. 1975. http://www.legis.state.pa.us/WU01/LI/LI/CT/htm/18/18.htm (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
319. Criminal Attempts Act 1981. http://www.legislation.gov.uk/ukpga/1981/47/section/1 (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
320. Prevention of Crime Act, 1953. http://www.legislation.gov.uk/ukpga/Eliz2/1-2/14/section/1 (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
321. Criminal Law Act, 1967. http://www.legislation.gov.uk/ukpga/1967/58/section/4 (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
322. Criminal Damage Act, 1971. http://www.legislation.gov.uk/ukpga/1971/48/section/3 (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)
323. Terrorism Act, 2006. http://www.legislation.gov.uk/ukpga/2006/11/section/5 (უკანასკნელად იქნა გადამოწმებული - 10.01.2018)

324. განმარტებითი ბარათი კანონპროექტზე - სისხლის სამართლის კოდექსში ცვლილებებისა და დამატებების შესახებ. № 403. 23 ოქტომბერი 2008.
325. საქართველოს უზენაესი სასამართლო. 2007. სახელმძღვანელო წინადადებები და რეკომენდაციები. სისხლის სამართლის სასამართლო პრაქტიკის პრობლემატურ საკითხებზე. თბილისი.
326. თბილისის საქალაქო სასამართლო N 19633 წერილი. 15 ნოემბერი 2012.
327. თბილისის საქალაქო სასამართლოს N 1- 01341/656824 წერილი. 26 ნოემბერი 2014.
328. 2016 წლის 13 ივლისის საჯარო ინფორმაციის გამოთხოვის შესახებ წერილის პასუხი N1 01222 – 14173 – 2015 წლის 13 მარტის თბილისის საქალაქო სასამართლოს განაჩენი.
329. 2016 წლის 13 ივლისის საჯარო ინფორმაციის გამოთხოვის შესახებ წერილის პასუხი N1 01222 – 14173 - თბილისის საქალაქო სასამართლოს განაჩენი (7 მარტი, 2016).
330. ჩეხეთის რესპუბლიკის იუსტიციის სამინისტროს მიერ მოწოდებული საჯარო ინფორმაცა 2010-2017 წლებში დანაშაულის მომზადების სტატისტიკაზე N MSP-865/2016-OSV-OSV.
331. საქართველოს შინაგან საქმეთა სამინისტროს 2014 წლის 17 ნოემბრის N 2319370 წერილი, რომელიც ასახავს სსკ-ის მე-18 მუხლის მითითებით დაწყებული გამოძიებისა და სისხლის სამართლის დევნის სტატისტიკას.
332. თბილისის საქალაქო სასამართლოს 2014 წლის 10 სექტემბრის N 31746-1 წერილით გადმოცემული გამამტყუნებელი განაჩენის ასლები.