

**SD/0209/01/19**

**REPUBLIC OF ARMENIA**  
**COMMON JURISDICTION COURT OF SYUNIK REGION**

**VERDICT**

In the name of the Republic of Armenia

Kapan community

The common jurisdiction court of Syunik region:

Presided by: Judge N. Ohanyan

Assisted by: Secretary A. Grigoryan

Participated by: Prosecutor H. Baghdasaryan

Counsel A. Grigoryan

On 2 March 2020 examined the criminal case at an open court session, on charges against Sergey Armen Askaryan, born on 23 January 1988 in Kapan community of Syunik region, Armenian, national of the Republic of Armenia, with secondary education, married, has two minor children, serves in the military unit 50869 of the Republic of Armenia Ministry of Defense, has the rank of soldier, is registered and lives at 8 Shinararner street, apartment 35, Kapan community, Syunik region, not convicted;

**1. Judicial background of the case**

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On 2 December 2019, the preliminary investigation body charged Sergey Armen Askaryan with Part 1 of Article 181 and Part 1 of Article 190 of the Republic of Armenia Criminal Code, insofar as “on 10 March 2018 he used the duplicate webpage created with the personal data of Arsen Baghryan on the website “ok.ru” to have correspondence with his friend Erik Khachatryan and fraudulently, under the pretext of transferring money, abused Erik Khachatryan's trust to find out the data of the latter's bank card 9051350200004495 issued by “Artsakhbank” CJSC, after which he used computer equipment to steal from the mentioned card a total of AMD 127,000, of which AMD 120,500 was transferred to his account number 500826866 with “Idram” payment system, and AMD 6,500 was transferred to his account number 683396019 with the same payment system, and then to Boris Beglaryan's bank card 5449060020083764 issued by “Artsakhbank” CJSC.

Thereafter, with the purpose to conceal the origin and movement of the stolen money, he transferred AMD 120,000 from the stolen AMD 127,000 to the account 683396019 with “Idram” payment system and AMD 5,900 to the account 162367776 with the same payment system, after which he transferred AMD 120,000 from the account 683396019 with the

“Idram” system to the bank card 9051350200271813, and AMD 5,900 from the account 162367776 to the bank card 4083100100453174”.

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## **2. Expedited trial**

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Ascertaining that the conditions provided for in Articles 375.1 and 375.2 of the Republic of Armenia Criminal Procedure Code are met, the court has decided to hold an expedited trial. Based on the evidence underlying the indictment, the court finds that defendant Sergey Askaryan has committed the acts he is accused of.

## **3. Legal analysis of the court**

Based on the evidence obtained in the preliminary investigation of the case, the court finds it confirmed that the defendant Sergey Armen Askaryan has committed criminal acts stipulated by Part 1 of Article 181 and Part 1 of Article 190 of the Republic of Armenia Criminal Code qualified as large-scale theft of others’ property using computer equipment and transfer of the proceeds of crime (where it is known that the property was obtained as a result of criminal activity) for the purpose of concealing the criminal origin and movement of the property.

Hence, the crimes committed by the defendant under Part 1 of Article 181 and Part 1 of Article 190 of the Republic of Armenia Criminal Code are proven, the qualifications of the acts incriminated under criminal law are correct, by virtue of which he is subject to liability and punishment.

The type and measure of punishment are determined by the nature of the crime and the degree of danger posed to the public through the crime, the data characterizing the personality of the perpetrator, including the circumstances mitigating or aggravating the liability and the punishment, as well as all other circumstances of the case.

The purpose of punishment is to restore social justice, to correct the person being punished, as well as to prevent crimes.

Restoration of social justice is possible if the offender is assigned a punishment that is necessary and sufficient to correct him/ her and to prevent new crimes.

When imposing a sanction on the accused, the court shall take into account the nature of his/her crime, the degree of the danger posed to the public through the crime, his/ her personality and the totality of the circumstances of the case, in accordance with the above-mentioned articles of the Republic of Armenia Criminal Code.

According to Parts 2 and 3 of Article 19 of the Republic of Armenia Criminal Code, the crimes committed by the defendant Sergey Askaryan under Part 1 of Article 181 and Part 1 of

Article 190 of the Republic of Armenia Criminal Code are classified as non-major and medium-gravity crimes set out in the chapters on crimes against property and economic activity.

There are no circumstances aggravating the defendant's liability and punishment.

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The court finds that the data characterizing the personality of the defendant, as well as the absence of circumstances aggravating his liability and punishment cumulatively will suffice to conclude that it is expedient to apply the least severe sanction provided under Part 1 of Article 181 of the Republic of Armenia Criminal Code, that is fine.

Considering that the defendant has committed several crimes, which cumulatively include non-major and medium-gravity crimes, according to Part 3 of Article 66 of the Republic of Armenia Criminal Code the final punishment should be determined through cumulation of crimes, by summing the sanctions in full or in part.

According to the indictment against Sergey Askaryan, the latter committed the incriminated crimes before 21 October 2018.

On 1 November 2018, the Republic of Armenia National Assembly adopted the Law on Declaring Amnesty in Criminal Cases on the Occasion of the 2800<sup>th</sup> Anniversary of the Establishment of Erebuni-Yerevan and of the 100<sup>th</sup> Anniversary of the Declaration of Independence of the First Republic of Armenia, which entered into force on 6 November 2018.

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The court finds that the materials of the criminal case do not contain information on the restrictions provided by the Amnesty Law, which could hinder application of the Amnesty Law so as to release Sergey Askaryan from the anticipated punishment in the form of a fine and imprisonment.

Based on the above, the court concludes that Clauses 1 and 3 of Part 1 of Article 2 of the Amnesty Law are applicable to Sergey Askaryan and, on that basis, he should be released from the anticipated punishment in the form of a fine and imprisonment.

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#### **4. Final part**

Pursuant to Articles 357-360, 365, 369-373, 3751-3753 of the Republic of Armenia Criminal Procedure Code, and to the Law on Declaring Amnesty in Criminal Cases on the Occasion of the 2800<sup>th</sup> Anniversary of the Establishment of Erebuni-Yerevan and of the 100<sup>th</sup> Anniversary of the Declaration of Independence of the First Republic of Armenia, the court:

## **DECIDED**

To find Sergey Armen Askaryan guilty of committing crimes under Part 1 of Article 181 and Part 1 of Article 190 of the Republic of Armenia Criminal Code.

To impose a punishment under Part 1 of Article 181 of the Republic of Armenia Criminal Code in the form of a fine in the amount of two hundred times of the minimum wage established in the Republic of Armenia, totaling AMD 200,000 (two hundred thousand).

To impose a punishment under Part 1 of Article 190 of the Republic of Armenia Criminal Code in the form of imprisonment for 2 (two) years.

According to the rules of Article 66 of the Republic of Armenia Criminal Code, by summing the sanctions in full through cumulation of crimes, to add to the 2 (two) years of imprisonment imposed under Part 1 of Article 190 of the Republic of Armenia Criminal Code the fine in the amount of AMD 200,000 (two hundred thousand) imposed under Part 1 of Article 181 of the Republic of Armenia Criminal Code, thus determining the final punishment of imprisonment for 2 (two) years and a fine in the amount of two hundred times of the minimum wage established in the Republic of Armenia, totaling AMD 200,000 (two hundred thousand).

To apply Clauses 1 and 3 of Part 1 of Article 2 of the Law on Declaring Amnesty in Criminal Cases on the Occasion of the 2800<sup>th</sup> Anniversary of the Establishment of Erebuni-Yerevan and of the 100<sup>th</sup> Anniversary of the Declaration of Independence of the First Republic of Armenia and to release Sergey Askaryan from the anticipated punishment in the form of a fine and imprisonment.

To repel the recognizance not to leave applied as a preventive measure against Sergey Askaryan.

After the verdict comes into legal force, to keep in the criminal case the bank card 5449060020083764 issued by "Artsakhbank" CJSC, seized from Boris Beglaryan and recognized as material evidence.

To keep in the criminal case the documents recognized as other documentary evidence and contained in the materials of the criminal case.

To consider the issue of court costs resolved.

The verdict can be appealed to the Republic of Armenia Criminal Court of Appeal within one month; it cannot be appealed on the grounds provided for in Clause 1 of Article 395 of the Republic of Armenia Criminal Procedure Code.