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SOME ISSUES OF IMPROVING THE LEGISLATION ON SMUGGLING

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Annotation:

This article discusses the occurrence of the crime of smuggling, the social need for liability for smuggling based on domestic and foreign experience. It also emphasizes the differences and similarities between smuggling and violation of customs legislation, some theoretical and practical issues related to the qualification of the crime of smuggling, developed recommendations and a proposal to improve the criminal law of the Republic of Uzbekistan.

Keywords: smuggling, violation of customs law, customs border, falsification of documents, special subject, religious extremism, separatism, nuclear weapons and weapons of mass destruction.

The Republic of Uzbekistan aims to achieve its development through the practical application of the most positive policies and principles that serve the interests of citizens in the development of world statehood. Ensuring the supremacy of the interests of the state, society and the individual, civil peace and national harmony is one of the main goals of our country's Constitution. [1].

In particular, the life and health of citizens, the social condition of society, and the provision of state security are the priority goals of developed countries. In order to prevent the entry into the country of goods that pose a threat to human life, are of poor quality and do not adequately meet the established standards, border control is established by the coercive power of the state, and their circulation is not allowed.

There are also cases of import of prohibited goods and products from the state border by some individuals in order to earn illegal money using various ways and methods contrary to the established procedures. Based on its economic interests, the state determines a special procedure for transporting goods to and from the territory of the state. In particular, the export and import of some goods is prohibited, while the import and export of other goods is restricted. The import or export of objects that are not in civil circulation across the state border is considered contraband.



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V.P. Verin [2], D.V. Kozemaslov and A.P. Kuznetsov conducted research on the crime of smuggling in foreign countries. Scientists such as M. Kh. Rustamboev [3], B. B. Hidoyatov and N. O. Hamidov [4] have highlighted in their scientific works the improvement of legal norms related to the crime of smuggling in our country.

In particular, Kozemaslov D.V. According to his opinion, the crime of smuggling was initially introduced in the Russian Federation for the purpose of forming a single market and supporting domestic producers, but now its social danger has increased and it is considered a serious crime due to the serious danger to the life and health of the population, the normal life of society, the constitutional system of the state, and public safety. admitted to direct aggression [5].

Kuznetsov A.P. and pointed out that smuggling is a policy implemented by special authorized bodies of the state and is committed by individuals with the purpose of gaining wealth, and recognized it as a punishable act due to the serious damage it can cause to the state economy [6].

At this point, it is appropriate to dwell on the emergence of smuggling crime, its social danger and necessity. In particular, the crime of smuggling arose as a result of the capitalist development of countries in the XIV-XVI centuries, the rapid development of commodity-money relations, and the need to protect the economy of countries from aggression in a certain sense as a result of the unlimited export or import of goods from the borders of the countries.

As a result of the wars that continued in the 16th and 17th centuries in European countries, the smuggling crime escalated, and a new type of "military smuggling" crime was created [7]. This type of smuggling includes the transfer of prohibited weapons, ammunition or military equipment from non-belligerent countries to belligerent countries.

Nowadays, the concept of smuggling has changed and is expressed in its own way in each foreign country. In each country, the subject of smuggling is different. After all, every country prohibits the import or export of goods that are dangerous for the society or necessary for the state's needs from the state border and takes necessary measures due to the social harm. In particular, in the Russian Federation, highly effective poisonous, poisonous, explosive substances, radioactive materials, weapons of mass destruction, and their components are considered the subject of the crime of smuggling, and their import into the territory of Russia is prohibited by law [8].



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In the Republic of Uzbekistan, using highly effective toxic, poisonous, explosive substances, radioactive materials, explosive devices, weapons, without a declaration or using a declaration written in a different name, avoiding customs control or hiding from customs control or using documents made to look like customs documents or tools by deception, firearms or ammunition as well as narcotic drugs or psychotropic substances or promoting religious extremism, separatism and fanaticism

materials, nuclear, chemical, biological and other types of weapons of mass destruction, materials and devices that can be used in the creation of such weapons, and radioactive materials through the customs border of the Republic of Uzbekistan constitute smuggling [9].

The peculiarity and perfection of the criminal legislation of the Republic of Uzbekistan is that it is recognized as a separate crime the importation of objects whose circulation is prohibited and restricted by law. After all, if Article 182 of the Criminal Code regulates social relations related to the violation of customs legislation, Article 246 determines the inevitability of punishment for smuggling, i.e. importation of objects prohibited or restricted in civil circulation.

In violation of customs laws, aggression is aimed at social relations in the sphere of economy, and the object of the crime can be any goods or wealth freely circulating in society.

Violation of customs laws also includes the transfer of any goods of a very large volume without proper clearance, and currently the President of the Republic of Uzbekistan "On additional measures to ensure the competitiveness of local products in foreign markets and encourage export" PF dated December 15, 2017 According to the Annex of Decree No. 5286, it is carried out on the basis of the list of prohibited items and products [10].

The transfer of goods, in particular, weapons, ammunition, drugs, from one place to another through the customs border of the Republic of Uzbekistan, for which a special order of handling has been established, which has been removed from the exchange of citizens, constitutes the crime provided for in Article 246 of the Criminal Code (hereinafter - Criminal Code), that is, smuggling.

Smuggling is defined as passing through the customs border of the Republic of Uzbekistan without a declaration or using a declaration written in a different name, bypassing customs control or hiding from customs control, or fraudulently using documents made similar to customs documents or tools.



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The subjective side of smuggling is characterized by the type of crime committed knowingly. Because the culprit realizes that he is taking prohibited items across the border and wants to do so.

Citizens of the Republic of Uzbekistan, foreign citizens and stateless persons who have reached the age of sixteen can be the subjects of smuggling.

An important point is the Plenum of the Supreme Court of the Republic of Uzbekistan In accordance with the Decision "On judicial practice in cases of violation of customs legislation and cases related to smuggling", the actions of a person who, knowing that the document is a fake, presented it to the customs authorities as a genuine document, should be qualified by Article 182 of the Criminal Code and additionally required to be qualified by Article 228 not to do.

However, there is no provision for the additional qualification of article 228 of the Criminal Code of the Republic of Uzbekistan by the smuggler on the basis of a forged document.

Violation of customs laws and smuggling crimes are almost similar crimes. After all, in both crimes, a person is represented by importing or exiting goods or products to the customs territory of the Republic of Uzbekistan, that is, to the land territory, territorial and internal waters of the Republic of Uzbekistan, and the airspace above them, for the purpose of material gain or other purposes. These crimes differ from the point of view of the subject of the committed crime and the danger of this subject for the state and society.

According to the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On judicial practice in cases of violation of customs legislation and cases related to smuggling", the actions of a person who, knowing that the document is a fake, presented it to the customs authorities as a genuine document, are qualified by Article 182 of the Civil Code and additionally by Article 228 it is determined that it does not require qualification. However, the application of this norm to Article 246 of the Criminal Code is not specified.

Therefore, by the courts, the smuggling of goods or objects prohibited by the law on the basis of a forged document is qualified as a set of crimes based on Articles 228 and 246 of the Criminal Code of the Republic of Uzbekistan.

The peculiarity of the crime of smuggling can be explained by the fact that it is committed based on the participation of a special entity - the employees of the authorized state body. After all, an employee of an authorized state body, for a



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promised certain amount of money, creates conditions for the implementation of this transnational crime through the Republic of Uzbekistan, by his action or inaction.

A person interested in the commission of a crime based on the general part of the Criminal Code according to the manner in which the smuggling crime is committed by an employee of an authorized state body - a witness, who assisted in the commission of a crime with his advice and instructions, by providing tools or removing obstacles, as well as the criminal, the weapon of the crime, traces of the crime and the person who promised in advance to receive and transfer the means - will be held responsible according to the article on holding the executor liable as an assistant .

However, if a person entrusted with special authority by the state, contrary to his duty, helps to transfer objects intended to harm a person, his life and health, the interests of society and the state across the state border - it is considered a gross abuse of the given authority, and this action or inaction is separately qualified and more severe sentencing will cause a certain reduction in the crime of smuggling.

Based on the above considerations and the theory of the concept of crime, the following proposals and recommendations were developed:

First of all, it is appropriate to supplement the second part of Article 246 of the Civil Code with the norm regarding the declaration of the acts mentioned in the first part of this article as a result of the action or inaction of the employee of the authorized state body.

Secondly, in the decision of the Plenum of the Supreme Court "On judicial practice in cases of violation of customs legislation and cases of smuggling", it is necessary to include the norm that when smuggling is committed with the forgery of documents, it should not be qualified as a set of crimes.

In conclusion, the correct application of the current criminal laws of the Republic of Uzbekistan based on the general theory of crime, the correct understanding of the content and essence of the norms set by the legislator, the introduction of a uniform judicial practice in the Republic of Uzbekistan, and the role of punishment for the crimes committed by each person based on humanitarian principles. it should be noted separately that.



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