

Some Problems of Crimes Classification in the Sphere of Economic Activity in the Republic of Tajikistan

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ABSTRACT

The article analyzes issues related to the classification of crimes in the field of economic activity. The purpose of the article is to determine the classification criteria for crimes provided for in chapter 27 of the Criminal Code of the Republic of Tajikistan. The objectives of the study are to analyze the criminal law aimed at protecting economic activity in the Republic of Tajikistan, as well as to present the scientific positions of the luminaries of criminal law in this area. The scientific novelty of the study lies in the fact that based on an analysis of the legislation of the Republic of Tajikistan and the opinions of scientists, it is concluded that the classification of crimes in the field of economic activity should be carried out according to the nature of their legal assessment, the economic sector where they are committed, and the targeted focus of criminal actions. It should be noted that the scientific classification of crimes in the field of economic activity allows us to deeply and comprehensively clarify the legal nature of this phenomenon, and also makes possible to continue improving the classification of the crime system in this area and creates a theoretical basis for the further development of other types of classifications within the studied system.

Keywords: *classification of crimes, economic activity, public relations, economic field, generic object, subsumee, legal analysis*

1. INTRODUCTION

The word “classification” has a Latin origin, means “classis” - a category and “facere” - to do and represents a special system (mereological or taxonomic) division, characterized by certain properties.

According to A.P. Kuznetsova, I.N. Bokova and N.N. Marshakova, one of the conditions for the systematization of illegal acts encroaching on the sphere of the economy, is their classification, which many scientists attribute to the methods of legislative technology. Classification as one of the methodological problems has a special place in modern science. It allows one to theoretically comprehend certain phenomena and establish their correspondence with empirical material. Classification is a natural tool of cognition of actual reality, a kind of source of knowledge about it and a technique by which many observed phenomena is divided into main groups, classes, types that are part of a common system and constitute a single whole. In the classification process, each studied object receives a certain assessment (rating). That’s why sooner or later before researchers raise the question of the need to classify certain phenomena of social relations. [14, page 29].

Classification is the streamlining of knowledge about the subject by dividing on essential grounds into separate types and groups.

2. METHODS

The following scientific methods are used in the article: 1) synthesis; 2) analysis; 3) induction; 4) deduction; and 5) method of comparison.

3. DISCUSSION

According to the typology of crimes, accordingly, the following logical rules must be observed: 1) in the same classification must be applied the same basis; 2) the volume of subjects of classification should be equal to the volume of the classified phenomenon; 3) subjects of classification should be mutually exclusive; 4) classification should be continuous; 5) division basis must be clear and concise [3, page 19]; 6) the sequence of division, based on the characteristics essential for solving a theoretical or practical problem; 7) focus on the distribution of objects into groups, that it would be possible to judge their properties according to their place in the classification; 8) convenience for further formalization processes [9, page 171].

The basis for the classification of crimes is the division operation, but the classification and division operations themselves are by no means identical: division is an operation that reveals the scope of a concept, and classification is an ordered sequence of division

operations that form a certain hierarchy of fixed subordination relations between types, subspecies and classification elements. According to M.I. Verevicheva, the classification is often “coarsening of the actual state of affairs”, that is, it may not take into account the transitional forms of phenomena: “... social phenomena (and not only them) develop, change. Over time, classification may no longer fully correspond to them” [2, page 107].

Classification is not only a systematization of knowledge about classified objects or a systematization of the objects themselves, but also a stage in understanding the essence of the latter. The theoretical and practical significance of classification is that it allows you to group the studied objects on the basis of the needs of theory and practice, thereby providing a solution to a variety of theoretical and applied problems [2, page 12]. It allows to clarify the level and amount of knowledge about the subject of research and determine the most effective ways to use this knowledge in practice.

The purpose of the scientific classification is to separate the objects of research on the basis of their uniformity, homogeneity into groups, types in accordance with a significant number of possibly similar criteria, especially those that are more significant than the criteria characterizing other groups into which the same objects can be included. In each specific case a researcher must remember that those selected as the most important criteria at a certain time or at one stage of development may be among the least important, and sometimes generally unsuitable, at another stage [14, page 30].

The classification task is to, considering all possible options of a theoretically correct and practically acceptable division of crimes into groups, prepare a solution to the further objective - the systematization of crimes, which is already in the most optimal arrangement of objects obtained as a result of division (classification). There are authors who believe that “systematization is only the external side of classification, and therefore classification cannot be reduced to simple systematization” [13, pages 11-12]. We also believe that these scientists define the concept of classification of crimes correctly and according to the essence. It should be borne in mind that systematization should not always be regarded as an external, only in a different sense, “continuing” classification procedure, since systematization pursues slightly different goals: the logical justification of the integrity of the studied class of homogeneous objects, phenomena or processes, identifying the specificity of their interconnections and ordering.

In a scientific classification, the choice of a division sign is not a fundamental epistemological act, in reality, a scientific classification does not have such a “rigid” connection with the legislative one, since the “tasks of explaining the current systematization for interpretation, understanding the meaning of norms, identifying deficiencies, and developing an optimal model for constructing a criminal law dictate the need for grouping norms” [8, page 236].

The “natural” classification task is to conduct a more detailed study of the specifics of the internal relationships of the studied classes of phenomena, as well as their relationships with the external environment, that is, “the construction of the classification of crimes should follow from the following signs: 1) the internal connections of the crime signs, giving them a certain integrity, forming a particular type of crime; 2) external relations of certain types of crimes among themselves; 3) connections and mutual relations of crimes with other offenses” [13, page 15].

In criminal law science, special attention is paid to the classification of crimes in the economic sphere, which will allow them to be divided into sections, groups and types depending on the totality of signs, fixing objective regular connections between classes of objects in a single criminal law system. Classification is an argument of orientation in the variety of economic crimes, it allows you to determine the place of each of them in the general system, to find out the nature of mutual internal connections between the norms of the Special Part of the Criminal Code of the Republic of Tajikistan, and also allows you to correctly determine the totality of goods, interests protected by criminal law.

According to V.G. Yarygin, the classification of crimes in the field of economic activity is currently associated with some objective difficulties: the difficulty of establishing the direct object of many crimes, the difficult legislative description of the signs of the compositions in the dispositions of norms, the inconsistency of the legislative form of the description of the act with its content in new regulations, to which the dispositions of some criminal law are referred [32, page 23].

Although all crimes of chapter 27 of the Criminal Code of the Republic of Tajikistan are united by type of object, but within the system the classification of crimes into groups can be very different depending on the tasks and goals of the classification. It is believed that any classification can be correct if a stable attribute is taken as its basis, expressing the qualitative properties and originality of the classified phenomena. A.M. Ratkov believes that “... when choosing a classification criterion from the signs of a crime (public danger, wrongfulness, guilt, punishability), it is necessary to be guided by the following provisions: firstly, the role of the basis for dividing crimes into groups or classes can be performed only by a basic, essential attribute; secondly, this feature should be objective, stemming from the internal nature of the crime as a social phenomenon; thirdly, such a sign should reflect not only the general, but also the particular, that is, not only the similarity, but also the difference in individual crimes and groups of crimes; fourthly, the content of the attribute should be crisp and clear” [20, page 16].

Chapter 27 of the Criminal Code of the RT “Crimes in the field of economic activity”, one of the major chapters of the criminal law provides for 40 offenses encroaching on a particular sphere of economic activity. Based on T.D. Ustinova’s analysis, “in the classification of socially dangerous acts, arises not only the question about the definition of their immediate objects, but also about the

need to establish common signs, thank to which these crimes were placed in one chapter; about the possibility of combining them into wider groups on the basis of homogeneity of disturbed social relations in order to determine both the correctness of the construction of this chapter from the point of view of legislative technology, and forecasts of its development and improvement" [30, page 66].

In the science of criminal law and modern legal literature, there are many options for classifying economic crimes. As one of the principles of classification (systematization) in the grouping of crimes in the field of economic activity, scientists choose different criteria. Some scientists choose economic processes to produce classification, distribution, exchange and consumption [1, pages 27-28; 29, page 288; 5, page 16; 12, page 119], others as such determine the manner of committing criminal act [28, pages 143-146], direct object of crime [26, pages 247-248], principles of economic activity [16, pages 19-20], the regulatory role of the state [27, page 178], branch of law [18, page 10], special subject [10, page 316; page 536]. However, the vast majority of scholars in the field of criminal law believe that in the theory of criminal law and in the lawmaking practice, the immediate object of encroachment should still be the basis for distinguishing homogeneous commonalities from the normative array.

The systematization of crimes in the field of economic activity in the criminal law was formed as part of a generic object [25, page 187]. Having noted entrepreneurial activity as part of economic activity protected by criminal law from criminal encroachments, it is necessary to establish the generic object of these socially dangerous encroachments.

Thus, N.A. Aslankhanov [1, pages 27-28], N.N. Afanasyev [29, page 288], L.D. Gaukhman [5, page 16], A.M. Ivanov [12, page 119], A.G. Korchagin and B.V. Yatsenko [28, pages 143-146] consider the generic object of a crime in the field of economic activity the economy as a set of production (economic) relations regarding the production, exchange, distribution and consumption of material goods, that is, the object of a crime in the field of economic activity. In fact, A.A. Vitvitsky and S.I. Ulezko determine the generic object of a crime in the sphere of economic activity in the same way. According to some scholars in the field of criminal law, the generic object is public relations protected by criminal law in the field of economic activity regarding the creation and distribution of a public product related to the livelihoods of society and the state within a historically defined mode of production [3, page 218].

N.A. Lopashenko has an interesting opinion on the problems of the generic object of economic crimes, she defines it as "public relations for the production and creation of a social product in all forms of ownership, based on the principles of economic activity. These principles are: freedom of economic activity, its legitimacy, fair competition, the integrity of its subjects and the prohibition of obviously criminal forms and their behavior" [16, page 16].

4. RESULTS

The generic crime object in the sphere of economics proposed by N.A. Lopashenko is original and quite logical, but, nevertheless, a number of questions follow from this definition, for which the following thoughts can be expressed. Firstly, from this definition it follows that a violation of one of these principles will be considered an economic crime. But a violation of a number of principles, for example, the principle of integrity of subjects of economic activity may be considered a crime only in the most extreme cases. Secondly, the author names from the number of protected social relations only relations regarding the production and creation of a social product in all forms of ownership. But, as we know, the criminal law norm of Ch. 27 of the Criminal Code of the Republic of Tajikistan protects the "economic sphere", which refers to all social relations regarding the production, distribution, exchange and consumption of tangible and intangible products. Therefore, the object of the crimes of this chapter is not only the indicated social relations, but also relations regarding the distribution and exchange of the product in society. Thirdly, the principles, which are fundamental ideas, can never be violated under any circumstances. If they cannot fulfill the functions of fundamental ideas, then they cannot act as principles of economic activity.

A number of scientists believe that the generic object of economic crimes are the interests of the state and other subjects of economic activity, as well as the interests of citizens associated with the economic activities of the state and other subjects of production. So, B.V. Leontyev notes that the generic object of economic crimes are the interests of the state and individual subjects in the sphere of their economic activity [15, page 246].

B.V. Volzhenkin has a similar position on this problem. He, while supporting the traditions of Russian criminal law that the place of *corpus delicti* in the corresponding chapter of the Special Part of the Criminal Code is the commonality of the generic object, notes that the generic object of crime, the composition of which is described in section VIII of the Criminal Code of the Russian Federation, is the economy, understood as a set of production (economic) relations regarding the production, exchange, distribution and consumption of material goods [4, page 52].

Confidently supporting the opinion of B.V. Volzhenkin and based on an analysis of the structure of the Special Part of the Criminal Code, i.e. section, which contains the analyzed crime, we can conclude that the generic object of the crime in the field of economic activity is the economy as a set of production relations regarding the production, exchange, distribution and consumption of material goods.

According to M.V. Talan, the lack of a unified understanding of the object of crimes in the field of economic activity in the science of criminal law has an objective explanation. This is due to the fact that the criminal law in this area has always undergone significantly greater changes than its other norms. Numerous changes

were due to the rapid response of the criminal law to changes in the economic policy of the state, which has been unstable for many years [22, page 85]. The drawback of most classifications, available in the writings of scientists is the multiplicity of criteria underlying them, most of which are characteristic only of certain crimes in the field of economic activity. The principle of scientific systematization requires that the criteria put forward

5. CONCLUSION

The above allows us to conclude that the scientific classification of crimes in the field of economics:

1. allows you to deeply and comprehensively understand the socio-economic, criminal-legal and criminological nature of crimes in the economic sphere and in every way contributes to the implementation of heuristic (cognitive) and interpretative functions;
2. within the framework of the legislatively fixed structure of the criminal law and on the basis of logical division, it makes possible to continue improving the system of crimes in the economic sphere;
3. will enable the law enforcer to choose the necessary practical measures, highlight the most optimal and effective ways to implement them, minimize the criminal law enforcement regime used in relation to entities as a result of applying methods and means of influence;
4. is one of the methodological foundations for conducting research on other criminal law institutions, system-forming and system-acquired (functional) connections;
5. recreates the theoretical basis for the further development of other types of classifications in criminal law science [30, page 23].

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could be applied to each element that makes up the system. characteristic only of certain crimes in the field of economic activity. The principle of scientific systematization requires that the criteria put forward could be applied to each element that makes up the system.

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