

Discussion on the Objective Aspect of Fire Accident Crime

Dian-bo YANG^{1,a,*}

¹The Chinese People' Armed Police Forces Academy, Langfang, Hebei Province, China 065000

^adianboyang@163.com

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Abstract. To crack down on serious violation of the laws and regulations on fire prevention and control, Fire Accident Crime is stipulated in Criminal Law. The paper explains the definition of Fire Accident Crime, constitution of crime and objective aspect of constitution of crime, and then sets forth the objective aspect of Fire Accident Crime. The paper puts emphasis on detailed discussion on the objective aspect of Fire Accident Crime to provide a reference in Fire Accident Crime affirmation.

Introduction

With the rapid development of social economy and widespread use of new technologies and new products, there is a huge jump in fires which threaten personal and property safety. Some social units pursue economic benefits and pay little attention to fire safety, which aggravates fires and fire losses. For the sake of safeguarding personal and property safety and to crack down on serious fire violation of the laws and regulations on fire prevention and control, Fire Accident Crime is stipulated in Criminal Law.

Definition of Fire Accident Crime

The first paragraph in Article 139 of the Criminal Law is as the following: If a person who is directly responsible violates the regulations on fire prevention and control and refuses to take measures to set it right after being told by the organs for supervision over fire prevention and control to do so, if serious consequences ensue, he shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; if the consequences are especially serious, he shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years. According to the provision of Article 139, Fire Accident Crime is defined as: An act by a person who is directly responsible for fire safety violates the fire prevention and control regulations and thus results in serious consequences because of refusal to take corrective measures after notification by the organs for supervision over fire prevention and control. [1]

The Objective Aspect of Fire Accident Crime

Objective Aspect of Constitution of Crime

The constitution of crime is the sum of the subjective factors and objective factors necessary to establish crime according to provisions of the Criminal Law. [2]The constitution of crime is the legal standards to affirm crime, which includes four elements such as subject, object, subjective aspect and objective aspect. Among the four elements, objective aspect is the necessary objective facts to establish crime

stipulated in the Criminal Law. Therefore, objective aspect is the external manifestation of criminal offence.

The Objective Aspect of Fire Accident Crime

As to Fire Accident Crime, the manifestation of its objective aspect is that an act violates the fire prevention and control regulations and thus results in serious consequences because of refusal to take corrective measures after notification by the organs for supervision over fire prevention and control.

Discussion on Detailed Objective Aspect of Fire Accident Crime

Violations of the Fire Prevention and Control Regulations

The fire prevention and control regulations include fire-related laws, administrative rules and regulations, local regulations, ministries regulations and local government rules and regulations, such as Fire Protection Law of the People's Republic of China. Violation can be either action or omission. Violation is the precondition for charge of criminal responsibility.

The Organs for Supervision Over Fire Prevention and Control Finds Violations and Notifies the Person to Take Corrective Measures

The organs for supervision over fire prevention and control mainly refers to organs responsible for fire supervision which are established in accordance with laws and regulations. According to Fire Protection Law, the public security department of the State Council shall monitor and administer the nationwide fire control work; the public security organs of local people's governments above county level shall monitor and administer the fire control work within their administrative region and the fire control institutions of public security organs of the people's government at the same level shall be responsible for the implementation; Fire control work for military facilities shall be monitored and administered by their competent units and the fire control institutions should give assistance; Underground parts of mines, nuclear power plant and offshore oil and gas facilities shall be monitored and administered by their competent units; For fire control work on forest and grassland, in cases there are separate regulations, the separate regulations shall be followed. [3] Besides, according to joint Notification on Division of Responsibilities in Forest Fire Supervision by the original National Forest Fire Prevention Headquarters, Ministry of Public Security and the original Ministry of Forestry in July, 1987 and according to Coordination Meeting Minutes on Division of Fire Supervision Responsibilities among Railway System, Transportation System and Civil Aviation System by Fire Department under Ministry of Public Security, Public Security Bureau under Ministry of Railways, Public Security Bureau under Ministry of Transportation and the original Public Security Bureau under Civil Aviation Administration in December, 1989, fire organs in Public Security Bureau under Ministry of Railways, fire organs in Public Security Bureau under Ministry of Transportation, fire organs in Public Security Bureau under Civil Aviation Administration and fire organs in Public Security Bureau under Ministry of Forestry are in charge of fire supervision in railway system, transportation system, civil aviation system and forestry system respectively with the Operational guidance from local fire organs under Public Security Bureau.

Once fire supervision organs find fire potentials during fire inspection according to fire laws and regulations, they should notify related social units or persons without delay to take corrective measures to eliminate fire potentials. It is important to note

that fire supervision organs should send written notices by issuing fire legal documents to related social units or persons. Written notices are testimonies of both fire supervision organs' exercising their responsibilities in accordance with fire laws and regulations and related social units or persons' refusing to take corrective measures as notified. If fire supervision organs do not find fire potentials during fire inspection or fire supervision organs do not notify related social units or persons to take corrective measures, related social units or persons do not constitute Fire Accident Crime.

Related Social Units or Persons Refuse to Take Corrective Measures after Notification from Fire Supervision Organs

Fire supervision organs have found violations of fire laws and regulations and send written notices to related social units or persons to take corrective measures while related social units or persons refuse to do as notified. Refusing to take corrective measures is manifested as either taking no measures or take some measures but not enough to eliminate fire potentials. Therefore, refusing to take corrective measures is one of establishment element of Fire Accident Crime.

Refusal to Take Corrective Measures Results in Serious Consequences

Serious consequences cover both cases: Refusing to take corrective measures results in fires with serious losses including casualties or heavy public or private property losses; Refusing to take corrective measures bring about further loss because of arson or fires by other people. According to accreditation and prosecution criterion of Fire Accident Crime, serious consequences referred in Fire Accident Crime include the following cases: (1) more than one death or at least 3 people seriously injured; (2) direct economic loss more than 500,000; (3) forestry fire covering more than two-hectare forestland or covering more than four-hectare open forest land, shrubland, young forestland and Nursery land; (4) other cases with serious consequences. [4] Refusing to take corrective measures without the above serious consequences, related social units or persons do not constitute Fire Accident Crime.

There is the Criminal Causation between Violation of the Fire Prevention and Control Regulations and Serious Consequences

The criminal causation is the objective basis for related social units or persons to bear criminal liability for refusing to take corrective measures. That is, violation of the fire prevention and control regulations results in serious consequences. Without the criminal causation, related social units or persons do not constitute Fire Accident Crime.

Summary

The objective aspect of the constitution of Fire Accident Crime is main characteristic that distinguishes the crime from others accident crimes. Therefore, it is of great importance for judiciary authorities to master the objective aspect in favor of affirmation of Fire Accident Crime.

References

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[3] *Fire Protection Law of the People's Republic of China*, 2008, 10, 28, Article 4, In Chinese.

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