



The objective aspect of illegally exiting or entering the republic of Uzbekistan

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Abstract: This article provides a comprehensive analysis of the objective aspect of illegally exiting or entering the Republic of Uzbekistan. It examines the legal requirements for leaving or entering the country and the consequences of non-compliance. The conditions under which such acts are considered criminally complete are also discussed.

Keywords: Exiting the country, entering the Republic of Uzbekistan, border crossing, violation of established procedures, state border, illegal crossing, objective aspect of a crime, place of commission.

Introduction: Nowadays, the large-scale tasks of modernizing the entire system of political, economic, and legal relations, developing civil society, and protecting human rights and freedoms are directly linked to the democratization of the judicial and legal system.

Over the past years, a fundamentally new concept for developing the judicial and legal system—a key component in building a democratic rule-of-law state—has been implemented in our country.

As President Shavkat Mirziyoyev noted, “It should be particularly emphasized that improving criminal policy by further liberalizing criminal and criminal procedural legislation and aligning it with the principles of humanism has become a top priority.” In this context, scientifically analyzing existing norms of criminal law and proposing solutions to problems associated with their application in practice is of great importance in liberalizing criminal law and ensuring fair punishment for offenders.

According to Article 223 of the Criminal Code of the Republic of Uzbekistan, the objective aspect of this crime consists of actions such as exiting the country or entering the Republic of Uzbekistan in violation of the established procedure or illegally crossing the border.

From an objective standpoint, this crime is manifested through any of the following actions: entering the Republic of Uzbekistan in violation of the established procedure; exiting the Republic of Uzbekistan in violation of the established procedure; or crossing the border of the Republic of Uzbekistan in violation of the established procedure [1]. Other sources also state that "the objective aspect of the crime is expressed in exiting the country or entering the Republic of Uzbekistan in violation of the legally established procedure" [2]. According to R.A. Zufarov, the objective aspect of this crime involves illegally crossing the state border—entering Uzbekistan without proper authorization, with fake documents, or through unauthorized locations [3].

G.A. Abdumajidov also emphasizes that "if someone leaves the country, enters the national territory, or crosses the border without a valid passport or without the permission of the relevant authorities, or in violation of the prescribed procedure (e.g., entering from an unauthorized point), such acts are considered illegal. This crime can also be committed using forged documents belonging to another person or through other forms of deception (e.g., hiding in a vehicle's luggage compartment while crossing the border). In some cases, force may be used against border guards" [4].

M.M. Kadirov notes that the objective aspect of this crime consists of violating the established procedure for exiting, entering, or crossing the border of the Republic of Uzbekistan [5]. Other academic sources express opinions similar to those mentioned above.

In Other Words: The Objective Aspect of the Crime of Illegally Exiting or Entering the Republic of Uzbekistan

That is, from an objective point of view, this crime is expressed by violating the legally established procedures for exiting the country or entering the Republic of Uzbekistan [6]. Based on the above, it can be concluded that the objective aspect of the crime of illegal exit from or entry into the Republic of Uzbekistan is reflected in crossing the border in violation of established rules—that is, entering or exiting the country not through official border checkpoints or doing so through checkpoints but without valid documents (such as passports or visas), using any method (on foot, by vehicle), or otherwise illegally crossing the border.

Crossing into or out of the Republic of Uzbekistan refers to crossing the state border using various means of transport (automobile, ship, airplane, bicycle, horse, or other mechanical or non-mechanical types) [7]. Crossing the state border is only permitted through locations designated by the Government of the

Republic of Uzbekistan, with the appropriate documents being processed and presented. If a person crosses at a location not established by law, without the necessary permits or documents, and without presenting them, this is considered an illegal border crossing [8].

According to the Plenum of the Supreme Court of the Republic of Uzbekistan in its Resolution dated November 25, 2011, "On Judicial Practice in Cases Related to Violations of the Procedure for Crossing the State Border of the Republic of Uzbekistan": "Illegal exit from or illegal entry into the Republic of Uzbekistan includes cases where a person crosses the State border of the Republic of Uzbekistan through official checkpoints but without the required documents or without appropriate permission issued by authorized government bodies. Illegal border crossing also includes any crossing of the State border outside of the designated checkpoints, regardless of whether the person possesses valid documents or permission" [9].

It is thus evident that the objective aspect of the crime of illegally exiting or entering the Republic of Uzbekistan is expressed through the term "border crossing." Illegal border crossing refers to crossing the state border by any means from places other than officially designated checkpoints, or even through such checkpoints but in violation of the established border crossing procedures.

For an act to qualify under Part 1 of Article 223 of the Criminal Code of the Republic of Uzbekistan, it is sufficient for just one of the above-described conditions to be met.

Crossing the state border of the Republic of Uzbekistan without possessing the required documents and/or permission is considered illegal in the context of criminal law. Required documents refer to valid documents that grant individuals the right to enter or exit the Republic of Uzbekistan. Documents considered invalid include forged (fully or partially), expired, or damaged documents, documents registered under another person's name, those containing outdated stamps and seals, lacking the official signs of the border service, improperly issued foreign passports and visas, as well as other documents not processed in accordance with the special rules for crossing the State border.

Foreign nationals and stateless persons must have specific documents: a transit visa through the territory of Uzbekistan, a visa for entry into the neighboring country, or a visa for their final destination, along with valid travel documents for exiting Uzbekistan. When entering Uzbekistan, foreign citizens and stateless persons must present valid identification documents recognized in Uzbekistan and a visa issued by a relevant diplomatic or consular institution of the Republic of

Uzbekistan abroad.

According to Article 32 of the Constitution of the Republic of Uzbekistan, everyone has the right to freely exit Uzbekistan, except in cases defined by law. Citizens of Uzbekistan have the right to return to the country without hindrance.

Under the established procedures, Uzbek citizens are not required to obtain a visa sticker to travel to CIS countries that maintain a visa-free regime. However, notwithstanding the presence of a visa-free regime with certain countries in legal regulations, some categories of citizens (e.g., military personnel, individuals with access to state secrets, etc.) may be subject to special rules when exiting the country. Accordingly, if individuals in these categories travel to CIS countries—where entry visas are not required—without special permission, they may be held criminally liable under Article 223 of the Criminal Code.

According to the law, citizens of the Republic of Uzbekistan who have temporarily left for countries that do not require an entry visa (for purposes such as business trips, study, work under a contract, etc.) must apply to the diplomatic missions of Uzbekistan abroad to obtain an entry visa sticker if they need to travel to a third country where an entry visa is required under Uzbek law. Failure to follow this procedure is regarded as illegal departure abroad and may lead to criminal liability.

Some criminal law textbooks state that if a person illegally departs from or enters the Republic of Uzbekistan due to extreme necessity, they are not criminally liable [10]. However, we believe this view is debatable. This is because the concept of “extreme necessity” is itself vague. It is a relative concept—the degree of necessity of an act for a person varies over time and under different circumstances, and assessing it is very complex. Therefore, we believe this approach is incorrect.

Only in cases provided by law—such as when a foreign national or stateless person crosses the State Border of Uzbekistan without the necessary documentation in order to seek political asylum, and if their actions do not involve other elements of a crime—does this not constitute a criminal offense. In all other cases, the act must be deemed criminal and punishable.

Qualification of the crime of illegal departure from or entry into the Republic of Uzbekistan requires accurate determination of the moment the crime is considered completed. Scholarly sources express different views on when this crime is completed. According to V.M. Lebedev, the crime is considered completed from the moment the State Border is actually crossed (on foot, by any means of transport, secretly or openly) [11]. A

similar view is shared by A.P. Kuznetsov [12], who believes the crime is complete when the border is physically crossed, regardless of the method (secretly or openly, legally or illegally, at designated checkpoints or elsewhere). A.S. Gorelik also states that the crime is considered complete once the border or checkpoint has been crossed [13]. N.G. Kadnikov believes the crime is completed from the moment the border is physically crossed. Crossing the control line that does not coincide with the official border line, without proper documents or permits, may be considered an attempt [14].

M.P. Zhuravlev and S.I. Nikulin believe the crime is completed from the moment the border is physically crossed—by land, water, or air. If the border crossing fails due to circumstances beyond the person’s control (e.g., apprehension during the attempt), the actions are considered an attempt. According to I.Ya. Kozachenko, Z.A. Neznamonova, and G.P. Novoselov, the crime is formal in nature: it is completed once the border is crossed without proper documentation or permission [16]. We support this view.

To describe the objective elements of the crime of illegal departure or entry, the optional element of location is of primary importance. The crime is considered to have taken place at the State Border. The term “State Border” reflects a complex socio-political phenomenon composed of the concepts “state” and “border,” and can be interpreted from various perspectives. Generally, a “border” implies a limitation, a point at which one system ends and another begins. Borders differentiate systems and define their interaction.

Illegal border crossing may be done on foot or using any kind of transport, either secretly or openly, legally or illegally (i.e., not through official checkpoints), with or without the use of force. Except in cases involving violent breach (which fall under part two of Article 223 of the Criminal Code), the method of crossing does not affect the timing of the crime’s completion or its legal qualification.

Only actual unlawful crossing of the State Border qualifies as a punishable offense. Therefore, the offender’s awareness of the border being guarded is significant for criminal liability. If no signs of border control (posts, patrols, visible markings) are present, the crossing may not be considered a crime.

According to Article 223 of the Criminal Code, the crime is considered completed once the State Border is crossed. At border checkpoints, it is completed once border control procedures are passed.

It should be noted that crossing the border to seek political asylum does not lead to criminal liability. In accordance with part three of Article 223 of the Criminal Code, foreign nationals and stateless persons entering

Uzbekistan without proper documentation to exercise the right to political asylum as stipulated in the Constitution are exempt from liability.

REFERENCES

Рустамбоев М.Х. Ўзбекистон Республикасининг Жиноят кодексига шарҳлар. Махсус қисм. – Тошкент: Илм Зиё, 2006. – Б. 415.

Рустамбаев М.Х. Ўзбекистон Республикаси Жиноят ҳуқуқи курси. Т.4. Махсус қисм. Иқтисодиёт соҳасидаги жиноятлар. Экология соҳасидаги жиноятлар. Ҳокимият, бошқарув ва жамоат бирлашмалари органларининг фаолият тартибига қарши жиноятлар: Дарслик. – Тошкент: Илм Зиё, 2011. – Б. 311.

Ўзбекистон Республикасининг Жиноят кодексига шарҳлар. / З.Ғ.Ғуломов, Р.А.Зуфаров, Р.Қ.Қобулов ва бошқ. – Тошкент: Ўзбекистон Республикаси ИИВ Академияси, 1997. – Б. 286.

Ўзбекистон ССР Жиноят кодексига шарҳлар. / Ғ.А.Абдумажидов, Б.А.Аҳмедов, Ғ.А.Аҳмедов ва бошқ. / Масъул муҳаррир: ю.ф.д., проф. Ғ.А.Абдумажидов. – Тошкент: Ўзбекистон, 1988. – Б. 183.

Кадыров М.М. Уголовное право Республики Узбекистан. Особенная часть: Учебник. / Под ред. д.ю.н., проф. У.Таджиханова. – Ташкент: Адолат, 1997. – С. 286.

Жиноят ҳуқуқи: Дарслик. / М.Х.Рустамбаев, Ф.Тоҳиров, А.К.Эркаходжаев, Ҳ.Б.Бобоев. / Масъул муҳаррир: Й.М.Каракетов.

Тошкент: Иқтисодиёт ва ҳуқуқ дунёси, 2000. – Б. 337.

Ўзбекистон Республикаси Олий суди Пленумининг 2011 йил

25 ноябрдаги “Ўзбекистон Республикасининг Давлат чегарасини кесиб ўтиш тартибини бузишга оид ишлар бўйича суд амалиёти тўғрисида”ги Қарори.

// www.lex.uz

Комментарий к Уголовному кодексу Российской Федерации. / Под общ. ред. В.М.Лебедева. – М., 2005. – С. 810.

Комментарий к Уголовному кодексу Российской Федерации: постатейный. / Отв. ред. Л.Л.Кругликов. – М., 2005. – С. 997.

Уголовное право России: Часть Особенная: Учебник. / Под ред. Л.Л.Кругликова. – М., 2005. – С. 780.

Комментарий к Уголовному кодексу Российской Федерации (постатейный). / Под общ. ред.

Н.Г.Кадникова. – М., 2005. – С. 485.

Уголовное право. Общая и Особенная части: Учебник для вузов. / Под общ. ред. М.П.Журавлева и С.И.Никулина. – М.: Норма, 2004. – С. 728.

Уголовное право. Особенная часть: Учебник для вузов. / Отв. ред. И.Я.Козаченко, З.А.Незнамонова, Г.П.Новоселов. – М., 2000. – С. 686.

Ўзбекистон миллий энциклопедияси. 3-жилд. Гидрофилия – Зебралар. Таҳрир ҳайъати. М.Аминов, Б.Аҳмедов ва б. – Тошкент: Ўзбекистон миллий энциклопедияси, 2002. – Б. 148.

Волова Л.И. Принцип территориальной целостности и неприкосновенности в современном международном праве. – М., 1999. – Б. 56.

Шинкарецкая Г.Г. Принцип территориальной целостности и неприкосновенности в современном международном праве. – М., 1999. – С. 8.