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CONSIDERATIONS ON THE CRIME OF FAILURE TO REPORT OR CONCEAL IT

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Abstract: The article provides a scientific analysis of the offense of non-reporting or concealment of a crime and its composition. The attempts not to report the crime and hide it are explained. Having studied the opinions of a number of authors on this issue, proposals are made on the conditions for exemption from liability for concealment that was not promised in advance.

Keywords: crime, content, concealment, non-information, formal content, qualification, participation, involvement, property, promise.

According to the provisions of Article 241 of the Criminal Code of the Republic of Uzbekistan, which establishes responsibility for the crime of failure to report or concealment of the crime, this crime has a formal content and is considered complete from the moment the relevant actions are committed by the concealer. Concealment may in some cases be expressed in one specific act, but sometimes it represents a continuous crime (for example, the accused hides the criminal for a long time or keeps the stolen goods in his house). In this regard, it is of the first importance to determine the beginning and end of non-promised concealment, because in some cases these circumstances affect the calculation of the passage of criminal liability. Active actions aimed at concealing the criminal or the traces of the crime should be considered as the beginning of the crime in question, regardless of the goals achieved. As long as the perpetrator continues to conceal the criminal, the weapons and instruments of the crime committed, the objects with traces of the crime or the objects obtained through criminal means, the unpromised concealment will continue.

According to the general rule, the moment of completion of concealment as a formal crime depends on a number of circumstances, which can be conditionally divided into three groups: the concealer stops his actions at his own discretion; the action of the actor stops under the influence of events and events of real reality that prevent the continuation of the crime; the occurrence of circumstances that exclude the criminality of the act.

The question of the possibility of a voluntary return from a previously unpromised concealment also requires its own solution. M.Kh. Khabibullin, explaining this issue, notes that the fact of committing an act in formal crimes includes the completed crime, regardless of whether or not any consequences have arisen from it. Since concealment without a prior promise is a crime of formal content, it is not possible to talk about voluntary return from it in all cases. Voluntary withdrawal from pre-promised concealment may exist in cases where there is a lapse of time between the promise to conceal the criminal or the traces of the crime and the fact of concealment after the commission of the main crime. As the author continues,

since actions aimed directly at concealing the criminal or the traces of the crime are considered completed, any further action by the subject is not a voluntary return from the crime, but an active manifestation of remorse for his actions, for example, by confessing his guilt. coming, solving the crime and helping to catch the culprit, represents sincere remorse. According to the general rule, the specified circumstances must be taken into account by the court during sentencing, and in some cases, taking into account the specific circumstances of the committed crime and the identity of the concealer, it may serve as a basis for the release of the guilty person from criminal responsibility. In the note to the article on responsibility for concealment of a crime, it is proposed to include the concealer's remorse for his act as a basis for exemption from criminal responsibility, and to limit its validity by time: it must exist until the decision on the case is made by the preliminary investigation authorities. This rule allows to increase the rate of detection of crimes and the level of efficiency of detection of culprits. At the same time, it serves to further expand the idea of fighting against manifestations of involvement in crime. In this case, the motivational role of the criminal law is certainly not manifested in encouraging sincere repentance. It may not be possible to achieve this by means of criminal law [1, 44]. In this case, the outward expression of sincere remorse is encouraged, and it becomes important to solve the tasks of justice. "Active manifestation of sincere regret for one's deed, writes S. Nikulin, as socially useful actions of the person who committed the crime, reduces the harmful consequences of the deed, reduces the level of social danger of both the guilty person and the crime, and is a condition for its faster and more complete disclosure. creates conditions" [2, 14].

It would be appropriate to include a provision on the conditions for exemption from liability for non-promised concealment in the article under consideration. This expands the scope of using the idea of compromise with the guilty, and also helps to reduce the level of latency of serious and extremely serious crimes. In this regard, we propose to supplement Article 241 with the following third part:

"A person who voluntarily informs about the criminal he is hiding, who has committed a criminal act, as well as about hiding weapons and means of committing a crime, traces of a crime or objects obtained through criminal means, shall be exempted from criminal responsibility, if there are no other signs of criminality in his actions. ".

The qualification of crimes is to determine the compatibility (similarity) between the signs of a specific socially dangerous act and the signs of the criminal law norm [3, 126]. According to the well-established rule of the criminal-legal literature, the qualification of the crime is to determine and legally strengthen the correspondence between the signs of the committed act and the signs of the crime structure provided for in the criminal-legal norm [4, 8].

It is necessary to pay special attention to the issues of attempt to commit this crime and participation in it within the framework of issues of qualification of non-reporting of the crime or its concealment. Of course, attempts or preparations to commit certain types of concealment may exist in practice, such as: the accused

attempted to conceal the perpetrator but failed; prepared to hide the traces of a criminal act, but was caught, etc.[5, 159].

From the point of view of the general rules of criminal law, concealment of a crime without prior promise may be a criminal activity of the preliminary type[1, 84]. If we assume that the qualification of the crime refers only to concealment, which has an additional criminal legal significance, then a situation arises in which the perpetrator of the main crime is responsible for involvement in the crime. In this case, the situation can arise only if the participant of the main crime is the organizer of concealment of another person without prior promise, or is a witness to it. In our view, it is not correct to include the concealment of a continuing crime without prior promise as participation in the crime without considering the subjective aspect of the concealer's act. An accomplice who joins the criminal activity of another person and acts with the joint intention of achieving a criminal result (continuing the commission of a crime) must be recognized as a participant in the main crime without a doubt. A concealer who aims to create conditions for a criminal to avoid criminal liability and punishment or to facilitate it, if there is no sign of joint action, according to Article 241 of the Criminal Code of the Republic of Uzbekistan, and if there are additional criminal-legal signs in his act, another article of the criminal law should be responsible for This applies only to concealment of a person who commits a crime without having the last chance to continue the crime [6, 77-78].

According to a common opinion, possession and transfer of property obtained by criminal means is considered as a special type of concealment[7, 171]. For example, one of the comments on the criminal law states: "Concealment includes possession and transfer of such objects and wealth" [8, 450]. Or, in another comment given to the Criminal Code, the criminal law provides for another form of involvement in the crime - possession or transfer of property that is clearly obtained through criminal means. This is a special form of crime compared to concealment[9, 640]. "Possessing or transferring property that is clearly the proceeds of crime has certain characteristics that characterize it as involvement in a crime. The similarity with involvement in a crime is that possession of property that is clearly obtained by criminal means, like involvement in a crime, exists in connection with the actual committed crime or the actions of individuals, whose object is the property, aimed at achieving a certain result in the implementation of any crime of intent. "[10, 14]. G.I.Baymurzin also approached possession of property, which was clearly obtained by criminal means, as an independent type of involvement in crime [11, 146].

There are significant differences between the two specified elements of the crime - receiving or transferring property obtained by criminal means (Article 171 of the Criminal Code) and concealing the crime without prior promise. According to G.B. Wittenberg and P.N. Panchenko, the main of them is manifested in different ways of the relationship of the guilty person to the objects of the crime: if these objects are hidden in concealment (hidden, destroyed, changed, etc.), criminally they are realized (consumed, exchanged, sold, etc.) during the possession or transfer of property that is clearly acquired [12, 16]. It is known that the fact that the perpetrator received a financial incentive for concealing the crime does not change the

qualification of not reporting the crime or concealing it. However, as noted by M.Usmonaliev, if a person is motivated by things obtained by criminal means, such an act is qualified as a crime with both involvement (Article 241 of the Criminal Code) and receiving or transferring property obtained by criminal means (Article 171 of the Criminal Code). is done [13, 300].

Differences between unpromised concealment in the form of concealment of criminally obtained items, as well as possession or transfer of property clearly obtained by criminal means, are also manifested according to subjective signs. The activity of the subject, which is objectively directed to solving the crime and hindering the exposure of the criminals, but not determined by the corresponding subjective desire of the person, does not constitute concealment[11, 106]. When a person commits the concealment of a crime without prior promise, he may not want the consequences of the crime not to be discovered or the person guilty of the main crime not to be exposed [14, 65]. Because of this, the fact that the existence of a goal, which involves imagining the future result that a person is trying to achieve, should be recognized as an inevitable sign of the subjective side of concealment does not contradict the existing formal construction of concealment [15, 103].

Thus, concealment of a continuing crime should be qualified according to the provisions of the criminal law on participation, if the person helps the criminal to conceal the crime being prepared or committed and understands the continuing nature of the (main) crime being concealed. If a person, while committing a continuing crime, uses the services of a concealer, and the concealer does not realize that he is assisting the criminal in the commission of one of the criminal acts, then there is non-promissory concealment. Such a concealer cannot be an accomplice to the crime in progress, since one of the indispensable elements of complicity in this situation is the lack of joint intent to commit the crime. One of the reasons for misclassification of a crime is a misunderstanding of the difference between non-reporting and concealment of a crime from similar crimes.

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