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Research Article

PECULIARITIES OF LEGAL ERROR IN THE CRIMINAL LAW OF UZBEKISTAN

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ABSTRACT

This scientific article is devoted to the importance of making a mistake in the theory and practice of criminal law. In it, the concept of error in criminal law and its signs, as well as types of error, specific aspects of legal and factual error, problems related to the qualification of an act when a mistake is made in relation to the signs of a crime provided for in the Special Part of the Criminal Code, and the criminal law of foreign countries the issue of responsibility for mistakes is clarified.

KEYWORDS

Imagination, legal error, criminal penalty, factual error, liability.

INTRODUCTION

The concept of legal error is given different definitions by legal scholars. A legal error is a wrong perception of the subject about whether his act is a crime or not a crime, its consequences, the criminal-legal qualification of the act, as well as the type and amount of punishment that can be imposed for the committed crime [1]. According to M. H. Rustamboev's definition: "Legal error is a wrong assessment and conception of the legal essence and consequences of the committed

act" [2]. M. Usmonaliev gave the same definition of legal error [3].

E. Turgunboev, who conducted a special study, defines the legal error as follows: "In the case of a mistake regarding the legal consequences of his crime, a person makes a mistake regarding the qualification of the crime, the type and amount of the punishment" [4]. Through this definition, the author tried to

emphasize the types of legal error, but did not explain its signs.

M.B. Fatkullina emphasizes that it is necessary to understand the wrong knowledge obtained due to misunderstanding in relation to the legal circumstances of the act being committed [5].

In our opinion M.B. Fatkullina's definition of legal error does not fully reveal the concept of legal error. Because a person's legal mistake can be caused not only by the wrong knowledge obtained due to a mistake regarding the legal circumstances of the act he is committing, but also by the fact that the person has no idea about the social danger and illegality of the act. If a person makes a negative or positive legal mistake, he has no idea about the norms of the criminal law at all, and he makes a mistake about the criminal-legal qualification and punishability of the act due to his mistaken knowledge about the legal characteristics of the act he is committing. cause.

V.A. Yakushin uses the concept of "error regarding illegality" which is not found in other legal literature to express legal error, and shows the error regarding the essence of illegality as one of this type of error. In the case of a mistake regarding the nature of the violation of the law, firstly, a mistake regarding the legality of the deed, which is factually illegal; secondly, when a person thinks that he is committing an illegal act, but commits an act that is not illegal; thirdly, due to a mistake, a norm other than the person's intention may be violated [6]. Although he used the concept of error in relation to illegality in the given definition, he expressed an opinion about the types of legal error. Because the mistake in relation to the violation of the law itself represents a negative and positive mistake, and the mistake in relation to the legal consequences of the act is understood as a mistake in relation to the qualification or sanction.

It is more correct to define a legal error as a person's misunderstanding of the legal essence and legal consequences of an act. Based on this definition, we can divide a legal error into two: an error regarding the legal essence of an act and an error regarding the legal consequences of an act.

A mistake in relation to the legal nature of the committed act means a mistake in relation to whether the act is socially dangerous or not, whether it is illegal or not, and if it is illegal, in which field of law (civil, administrative or criminal law) the issue of responsibility is resolved. .

In modern criminal law, the importance of this type of error in relation to the legal nature of the act is assessed differently. In some sources, a mistake regarding the legal nature of the act is considered to have no criminal-legal significance. It is said that the responsibility of the person who made a mistake in relation to the legal nature and legal consequences of the committed act is determined not according to his subjective opinion, but according to the legal assessment of the legislator expressed in a specific norm of the Special Part of the Criminal Code [8].

In others, special attention is paid to its importance, and they divide legal mistakes into mistakes that affect criminal liability and those that do not [9].

Articles 21 and 22 of the current Criminal Code of the Republic of Uzbekistan state that in solving the issue of guilt, it is not the knowledge of the illegality of the act, but the awareness of its social danger that is important. This rule is found in the ancient Roman law "Ignorance of the law does not exempt from responsibility - lat. It comes from the axiom "ignorantia juris semper hocet" [10] (rule that does not require proof). True, in the early stages of the development of criminal law, only violent and immoral acts were

recognized as crimes, and such legal prohibitions were well known. If a person does not know the criminality of acts such as intentional murder, intentional bodily injury or defamation, theft, he is not exempted from criminal responsibility and will not be exempted. But now there are such norms in the criminal legislation, including economic crimes, crimes in the field of ecology, in which a person is required to refer to other legal norms in order to determine whether there are signs of a crime in the act he committed.

The illegality of the act is reflected only as a sign of crime in Article 14 of the Criminal Code of the Republic of Uzbekistan. According to it, a culpable socially dangerous act (act or inaction) prohibited by the Criminal Code is a crime. From the definition given to the crime, we can see that one of the signs of the crime is its illegality, that is, it is prohibited by the Criminal Code. Illegality means that a specific act or omission is prohibited by law under the threat of punishment, and a person who commits such an act always violates the Criminal Code [11]. Illegality is one of the signs of finding an act a crime. In order to solve the issue of guilt, it is not necessary to know that the act is illegal, but to know that it is socially dangerous. However, Article 11 of the Code of Administrative Responsibility of the Republic of Uzbekistan stipulates that if a person who has committed an administrative offense knows that his action or inaction is illegal, has seen its harmful consequences, faces it is indicated that such an administrative offense is considered to have been committed intentionally if he wanted to give or knowingly allowed these consequences to arise. In order to find administrative offenses committed intentionally, a person's knowledge that his act is "illegal" is a necessary sign.

In the second type of legal error, in the error regarding the legal consequences of the act, a person makes a

mistake regarding the qualification of the crime committed and the type or amount of the punishment assigned to him. This type of legal error can also be divided into two: the error regarding the qualification of the act and the possible punishment.

Qualification (gualis"-quality, "facere"-to do) is a multi-meaning concept. It means the following: a) level of professional training for any work; b) specific profession, specialization; c) the characteristic of the event or subject, its belonging to a category or group. In criminal law, qualification is defined as the identification and legal confirmation of the compatibility of the committed act with the elements of the crime set by the norm of the criminal law [12].

Usually, the qualification of the committed act is carried out by law enforcement agencies. Depending on the signs of the criminal structure, it is determined whether the act has the symptoms of a crime provided for by one or another norm of the Criminal Code, and on this basis, the issue of criminal responsibility arises, that is, a person is punished by a court sentence. The classification of a crime is based on the law, and it is this qualification that is legally and formally significant.

However, a person who has committed a crime can also qualify his act and make a subjective legal assessment of the issue of which norm he is held responsible for. In this case, a person informally qualifies his act, this qualification may be the same or different from the official qualification carried out by persons with special authority by the state. That is, the qualification can be true or false. V.A. Yakushin divides the error in relation to the qualification as a type of error in relation to the nature of the violation of law. In the case of a mistake regarding the qualification, not the norm of the criminal law aimed at the person's intention, but another norm of the criminal law is violated. The essence of this type of legal error is that

the person who committed the act is aware of its illegality and social danger, but is mistaken in relation to the norm of criminal law. As a result, there is a discrepancy between the norm of the criminal law aimed at intent and the norm of the offense in practice, which leads to a change in the form of guilt [13]. However, it is difficult to agree with this opinion. Because the legal error regarding the qualification of the act committed by the person does not affect the form of criminal responsibility and guilt. The fact that a person knows by which norm his action is qualified does not constitute the content of guilt. A legal error in relation to the qualification of the offense has no criminal-legal significance, the offense is qualified based on the current Code of Criminal Procedure.

T.A. Kastareva singles out the mistake in relation to the qualification and offers the following rule: "If he knows that there is a qualifying sign in his actions, but acted thinking that their presence does not change the qualification (on the contrary, it does), the circumstances in which the act is indicated must be qualified in consideration. If a person is mistaken about the legal significance of the situation, the act is qualified according to the main content" [7]. It is possible to agree with this opinion, because a person correctly assesses the existing fact, his crime is qualified depending on the deed actually committed [14-16]. It does not matter how the person qualifies the crime.

The next type of error, that is, the error regarding the amount or type of punishment assigned to the committed act, has no legal significance [17, 18]. Because knowing the type and duration of the punishment for the committed crime is not part of intent and carelessness.

This type of error can be conditionally divided into the following:

1) a person makes a mistake regarding the amount of punishment to be imposed for his act. For example, a person who intentionally inflicts grievous bodily harm thinks that a penalty of imprisonment of up to 5 years will be imposed for his crime, but the sanction of Article 104, Part 1 of the Criminal Code provides for a penalty of deprivation of liberty from 5 to 8 years, based on the sanction. will be appointed.

2) a person is mistaken about the type of punishment that can be imposed on him. For example, a person who commits the crime of illegal transfer of foreign currency values in large amounts thinks that a fine will be imposed for the crime, but the same punishment is imposed on him, because the punishment of deprivation of liberty is provided for in part 2 of Article 177 of the Criminal Code. type is assigned.

3) error regarding the types of main and additional punishments that can be imposed. For example, when a traffic violation results in a person's death, the person thinks that they will be sentenced to prison for their actions. However, since Article 266, part 2 of the Criminal Code, the punishment of deprivation of certain rights is specified as an additional punishment, it is imposed in addition to the punishment of deprivation of liberty.

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