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Research Article

DEVELOPMENT OF LEGISLATION PROVIDING FOR CRIMINAL LIABILITY FOR SMUGGLING

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ABSTRACT

This article examines the development of legislation that provides for criminal liability for smuggling. It focuses on issues such as the first stages of the fight against smuggling in the history of the world, the introduction of the customs service to fight against smuggling in the territory of our country, and the determination of liability for smuggling in the codified criminal law. In particular, "smuggling" as a crime appeared in the 14th century, when capitalism was forming, commodity-money relations were developing rapidly, and countries found it unprofitable to import and export goods without obstacles. Also, this article provides a comparative analysis of the issue of liability for smuggling in the criminal laws of 1926, 1959 and 1994. The need and importance of improving the norms of the criminal law in the relevant periods has been revealed.

KEYWORDS

Smuggling, development of criminal law, customs work, state border, goods, valuables, currency wealth, border service.

INTRODUCTION

Smuggling is a phenomenon that arose in ancient times, information about the illegal transfer of goods from one country to another can be found in the works of ancient Greek and ancient Roman historians. The term "contraband", borrowed from Italian and found in most modern languages, includes the concept of

breaking a law or government order. At the same time, the word "contraband" also refers to goods smuggled across the state border or any object that is prohibited for import and export. Today, smuggling is understood as the illegal transfer of goods, valuables, currency wealth, etc., which are prohibited to be brought into

the country and taken out of the country, illegally, in secret ways, as well as taking legal actions to transport prohibited goods [1, P.261].

"Smuggling" as a crime appeared in the 14th century, when capitalism was forming, commodity-money relations were developing rapidly, and countries found it unprofitable to import and export goods without hindrance. Later, the rules for the transfer of goods across the state border are established by law. Special state institutions - customs offices - have been established at land borders and ports to control the transfer of goods across the border, to collect duties and other fees set by the state.

Violation of the provisions of the law and other regulatory documents for the transfer of goods and wealth across the border in any way, that is, any form of crossing the border hiding goods and other objects from customs control, is called smuggling, and those who are guilty of it are subject to criminal punishment. [2, P.5].

It is known that the territory of modern Uzbekistan was dependent on the Russian Empire from the 1700s to 1917. Because of this, the legislation and state administration of Uzbekistan at that time were related to Russian politics and the customs policy, which was considered a part of it.

In 1782, Ekaterina II established customs guards on the western border as a "separate border chain and body of guards to prevent the smuggling of goods." This structure consisted of customs officers who were on guard duty in the section assigned to them. If the supervisor or the "obezdchiks" under his command could not catch the smugglers themselves, they had to chase these lawbreakers to the nearby settlements and ask for help from the local authorities [3, P.24]. According to the Quarantine Charter of 1832, the

Border Customs Guard Service is named "Border Guard Service" and is assigned the following tasks: to prevent the illegal transfer of goods and their seizure, as well as to prevent the passage of persons from areas of the border not indicated by the customs authorities; to put an end to quarrels, robberies and various disturbances near the border; implementation of quarantine control in some areas of the border; to render assistance to ships wrecked near the coast in the rescue of persons on board and in the preservation of the property of wrecked ships. Although the primary mission of the Border Patrol Service was to combat smuggling, its secondary mission was to apprehend people crossing the border illegally.

The militarization of the customs service continued until the end of the 19th century. During this period, the procedure of completing the service of border guards with recruits was introduced. Starting from September 1861, military officers were appointed as border guard service inspectors of the Ministry of Finance. The service of border guards is included in the master plan of the Armed Forces. However, in practice, the border guard service is still included in the special structures of the police. Interestingly, as a result of these reforms, the volume of bribery and smuggling among customs officials increased several times. I.M. Kulisher, a well-known researcher of anti-smuggling problems, writes about this period: "Imperfect customs management, bribery of officials, unclear tariff rates, and a large number of exceptional cases all led to the widespread emergence of smuggling" [4, P.19 .].

Chapter VIII of Section VII of the Statute of Punishments for Crimes and Misdemeanors, adopted in 1845, entitled "On Crimes and Offenses against Property and Treasury Revenue", was fully devoted to issues of liability for crimes related to customs violations [5,P.166] . Later, in 1864, with the adoption

of the Statute of Penalties for Civil Court Judges, some of the provisions on liability for smuggling were transferred to this Statute. However, the most dangerous forms of smuggling are still punishable under the Crimes and Misdemeanors Act. In particular, Article 926 of this Regulation equates crimes committed by smugglers to crimes committed by organized groups of thieves, and for the corresponding acts, punishment is defined as deprivation of all civil rights from three and a half to four years and work in detention units. [6, P.17].

In accordance with a number of regulatory documents of this period, the already extensive powers of border and customs officials were further expanded. If at the beginning of the 19th century, the border guard service guarded a part of the border equal to 8,800 kilometers, by the end of the 19th century, this indicator reached 14,000 kilometers. Because of this, effective monitoring of the legality and usefulness of this service has been a very difficult task. Nevertheless, the state tried to improve the criminal-legal measures to combat smuggling.

According to the Customs Charter of 1892, not only smuggling itself, but also cases of concealment of contraband objects by persons who did not participate in its commission were considered worthy of punishment. Persons who committed such acts were fined twice the value of the goods found. If foreign and domestically produced unbranded goods of the same type are found stored in the same place, these goods should be confiscated and a customs tax of five times the normal duty should be imposed on them.

At the same time as taking criminal-legal measures, organizational and technical measures were also improved in the fight against smuggling.

Because the operations of crossing the border and selling the contraband are carefully planned in advance. Smugglers usually study in advance not only the guarded area and the daily routine of the customs guards, but also the character defects of the customs officials, what they hate in life and what they are passionate about. Sometimes smugglers have their own confidants among customs officers [7, pp. 2-4].

For this reason, the state had to pay attention to identifying the persons participating in the border crossing of the goods in the border areas of the country and in the neighboring countries, as well as to expose the criminal accomplices among the persons in the public service.

A large amount of money has been allocated to the work of the agency to identify the smugglers' circle and their plans. Lists of smugglers were printed in large numbers and sent to all customs districts, and these lists were subsequently updated from time to time.

Information from numerous sources shows that at the end of the 19th century, the border guard service had more detailed information not only about the intended smuggling operations, but also about specific consignments of contraband goods, specific smugglers and their partners [8, P.18].

Also, at the beginning of the 20th century, criminal-legal and other measures to combat smuggling were significantly strengthened.

For example, the Criminal Code of 1903, which did not come into full force until 1917, provided for heavier penalties for certain types of contraband smuggling.

At the same time, the concept of smuggling has been expanded. For example, in accordance with the Customs Charter of 1906, the following illegal actions are included in smuggling: 1) bringing into the state

territory goods manufactured abroad, subject to customs duty or importation ban, provided that this action is carried out by bypassing customs control or secretly from customs control; 2) export or attempt to export domestically produced, export-prohibited goods from the territory of the state, provided that this action is carried out by bypassing customs control or secretly from customs control; 3) releasing goods that have arrived at the customs, but are prohibited for import, into the domestic market.

Seven years later, according to a circular issued by the Customs Department, the meaning of the concept of smuggling is further expanded. In particular, according to this circular, smuggling crimes include: 1) theft of foreign goods; 2) sale of anchors, chains, ropes, agricultural machinery released by the customs duty-free or use them to meet other needs.

In accordance with the Criminal Code of Uzbekistan adopted in 1926, according to the smuggling committed in cases of aggravated liability (Article 59-9), in special cases of aggravated liability, confiscation of property is provided for as the highest punishment.

The analysis of the sanctions of the criminal law norms on liability for smuggling committed in cases of aggravating liability during the Soviet period shows that the legislator tried to emphasize the necessity of full or partial confiscation of the property of the person guilty of smuggling in all cases (regardless of the confiscation of contraband objects by the customs authorities). shows.

In 1928, a norm was introduced into the Customs Code of the USSR, providing for special liability for preparation for smuggling.

Criminal liability for smuggling was somewhat eased in the 1959 Constitution of Uzbekistan. According to

Article 68 of this Code, contraband, i.e. by hiding goods or other valuables in special storage areas, or by fraudulently using customs documents and other documents, or by a united group or by an official using his position to engage in large amounts of smuggling, unlawfully destroy the territory of the USSR. for crossing the state border, as well as for smuggling explosives, narcotic substances, strong and toxic substances, weapons, ammunition and military equipment, with confiscation of property and exile for a period of two to five years or without exile, from three to ten years provided for punishment with deprivation of liberty for a period of time [9, P.175].

After the independence of our country, like any sovereign state, the task of defining its own independent policy in the field of customs work, creating its own customs system and regulating customs work in its territory, and strengthening the customs border was set. In order to guard the customs border of Uzbekistan and protect the country's economic interests, the Customs Committee of the Republic of Uzbekistan was established on the basis of the customs institutions operating in the territory of the Republic in accordance with the Decree of the President of the Republic of Uzbekistan dated October 25, 1991 "On the establishment of the Customs Committee of the Republic of Uzbekistan" No. PF-284 [10]. To this office, including combating violations of customs rules and tax law in the transfer of contraband, goods and other things across the customs border, issues of customs affairs of the Republic of Uzbekistan, including the control of narcotic drugs, psychotropic substances, weapons, cultural and tasked with ensuring participation in international cooperation on issues of prevention of illegal circulation of historical heritage items and objects of intellectual property.

After the establishment of the Customs Committee of the Republic of Uzbekistan, the customs legislation in the republic began to develop rapidly. On October 26, 1991, a regulation on the Customs Committee of the Republic of Uzbekistan was adopted. Adoption of the Customs Code of the Republic of Uzbekistan on December 26, 1997 made it possible to talk about the emergence of an independent branch - customs law in the legal system of the Republic of Uzbekistan. The steps taken to fulfill the requirements of the period were reflected in the Criminal Code of the Republic of Uzbekistan adopted on September 22, 1994. Article 246 of this Code includes norms providing for criminal liability for smuggling. For example, in accordance with the first part of this article, contraband, i.e., avoiding customs control or hiding from customs control or fraudulently using documents made to resemble customs documents or means, without a declaration or using a declaration written in a different name, strongly acting toxic, poisonous, radioactive, explosive substances, explosive devices, weapons, firearms or ammunition, as well as narcotic drugs or psychotropic substances or materials promoting religious extremism, separatism and fanaticism through the customs border of the Republic of Uzbekistan - with deprivation of liberty from five to ten years, according to the second part of this article According to the law, smuggling of nuclear, chemical, biological and other types of weapons of mass destruction, materials and devices that can be used in the creation of such weapons, as well as narcotic drugs or psychotropic substances in large quantities - shall be punished with imprisonment from ten to twenty years.

CONCLUSION

As a conclusion, it is necessary to emphasize that the analysis of the development of legal documents providing criminal liability for smuggling in our country

is of great importance in understanding the true essence of determining liability for smuggling, identifying positive experiences used in the history of legislation, and considering the possibilities of further improvement of criminal legislation in the future on the issue of liability for smuggling.

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