

Impact Factor:

ISRA (India) = 6.317
ISI (Dubai, UAE) = 1.582
GIF (Australia) = 0.564
JIF = 1.500

SIS (USA) = 0.912
ПИИИ (Russia) = 3.939
ESJI (KZ) = 8.771
SJIF (Morocco) = 7.184

ICV (Poland) = 6.630
PIF (India) = 1.940
IBI (India) = 4.260
OAJI (USA) = 0.350

SOI: [1.1/TAS](#) DOI: [10.15863/TAS](#)

International Scientific Journal Theoretical & Applied Science

p-ISSN: 2308-4944 (print) e-ISSN: 2409-0085 (online)

Year: 2023 Issue: 10 Volume: 126

Published: 30.10.2023 <http://T-Science.org>

Issue

Article



Hamdam Ismailovich Ismailov

Customs institute of the state customs committee of the Republic of Uzbekistan
head teacher at of «General Legal Sciences» department
Tashkent

PRINCIPLES OF CRIMINAL RESPONSIBILITY IN LEGAL RELATIONS

Abstract: The article analyzes issues such as the factual basis of criminal responsibility, the act committed by a person, the recognition of an act as a crime, the legal (normative) basis of criminal responsibility, the criminal consequence, and the signs of criminal responsibility.

Key words: Factual basis of criminal liability, Legal (normative) basis of criminal liability, Criminal consequence, Signs of criminal liability.

Language: English

Citation: Ismailov, H. I. (2023). Principles of criminal responsibility in legal relations. *ISJ Theoretical & Applied Science*, 10 (126), 412-416.

Soi: <http://s-o-i.org/1.1/TAS-10-126-37> **Doi:**  <https://dx.doi.org/10.15863/TAS.2023.10.126.37>

Scopus ASCC: 3300.

Introduction

Criminal responsibility is understood as the legal consequence of committing a crime, which is represented by a sentence, punishment or other measure of legal effect by the court against the person who is guilty of committing the crime.

Committing an act that has all the symptoms of a crime is the basis for prosecution [1. B-37].

Criminal responsibility is a form of legal responsibility, which is defined in the criminal law and consists in applying responsibility to a person who is guilty of committing a crime by the court. Accordingly, criminal responsibility differs from other types of responsibility (moral, civil, administrative, etc.) primarily in terms of its content [2. B-105].

The concept of criminal responsibility is generally understood as a criminal legal relationship between the state and the person who committed the crime. In this case, the state has the right to apply criminal legal measures against the person who committed the crime. A person who commits a crime shall be obliged to apply the punishment specified in the sanction only for this offense, and the same measure of impact shall be applied to him.

Three theories are important in interpreting the concept of criminal responsibility:

The first theory states that criminal liability is a personal or property measure against a person who commits a crime.

The second theory understands criminal liability as a state coercive measure specified in the criminal law, that is, a coercive measure is applied to the guilty party that results in a conviction.

The third theory, criminal liability, refers to all criminal legal relations, as well as relations between the individual and the state (in the form of law enforcement agencies).

The issue of criminal responsibility of a person is considered from the moment of criminal liability. The issue of criminal responsibility is carried out in the form of involving a person in the inquiry and preliminary investigation (application of coercion and preventive measures), hearing the case in court, issuing a guilty verdict (indictment), conditional sentence and conviction. Criminal responsibility ends when the conviction ends or is removed. Criminal responsibility begins or ends with the entry into force of the court verdict. As soon as the guilty verdict of the court enters into legal force, the coercive measure of the state specified in the sentence will affect the person who committed the crime. Or from this time the criminal responsibility ends. As a result, criminal

Impact Factor:

ISRA (India) = 6.317
ISI (Dubai, UAE) = 1.582
GIF (Australia) = 0.564
JIF = 1.500

SIS (USA) = 0.912
ПИИИ (Russia) = 3.939
ESJI (KZ) = 8.771
SJIF (Morocco) = 7.184

ICV (Poland) = 6.630
PIF (India) = 1.940
IBI (India) = 4.260
OAJI (USA) = 0.350

responsibility is not established and conviction does not occur.

Criminal responsibility has a number of legal characteristics, which include:

firstly, according to its legal content, criminal responsibility creates legal consequences;

secondly, criminal liability is caused only by a socially dangerous act committed by a person's fault;

thirdly, it is expressed in forms of coercion of the state, such as the application of legal action, punishment or other criminal-legal measures;

fourthly, it arises, takes place and is canceled within the framework of criminal legal relations [3. B-35].

Criminal responsibility begins with the court's decision on the conviction, that is, the conviction of a person found guilty of committing a crime. Criminal responsibility can be carried out in the following forms:

1. to try the culprit without punishment;
2. judging the culprit by imposing punishment, but exempting him from actual execution;
3. judging the guilty party by imposing a punishment and executing it;
4. Applying punitive and medical coercive measures to the culprit, as well as judging them with their real execution.

Criminal liability differs from other legal liabilities by having its own characteristics. These are:

2. According to the basis of application.

Criminal liability is applied only to persons who have committed a socially dangerous act, which includes all the elements of the criminal structure specified in the Special Part of the Criminal Code. Civil liability in the form of pecuniary damage compensation is applied not only when pecuniary damage is caused due to acts constituting a criminal offense, but also when damage is caused as a result of other offenses.

According to the content of the responsibility. Criminal responsibility has the character of state coercion and is applied on behalf of the state. The rest of the impact measures do not have this feature.

1. According to the subject applying criminal responsibility. Criminal responsibility is applied only on the basis of a conviction by a court. No other official can apply such a measure of influence. Other measures of responsibility may be applied by competent bodies and officials outside the court.

2. According to the order of application. The special procedure for criminal prosecution is defined only in the Code of Criminal Procedure. The Code of Criminal Procedure determines the procedure for criminal prosecution by the inquiry, investigative bodies and the court. Other legal measures are regulated by other legal norms.

3. According to the range of entities subject to responsibility. Criminal responsibility is specific and applies only to the individual who committed the

crime. Other liability measures can be applied to legal entities. For example, the Civil Code defines liability for legal entities.

The Criminal Code only determines the criminal liability of a natural person, that is, a person. This means that legal entities are denied criminal responsibility according to the Criminal Law of the Republic of Uzbekistan.

In accordance with international treaties, agreements or current laws, if the question of the responsibility of foreign citizens does not belong to the courts of the Republic of Uzbekistan, they will be resolved in accordance with the norms of international law if they committed a crime on the territory of the Republic of Uzbekistan.

Article 11 of the Criminal Code defines the cases of legal exclusion of the principle of territoriality from the criminal legislation of the Republic of Uzbekistan. This represents the current world concept of granting legal immunity to criminal prosecution of certain persons performing public duties.

Regardless of the type and level of the socially dangerous act committed by the person who is granted the right to use immunity, he will not be held criminally liable without the consent of the country that served the interests of that country.

In accordance with the current legislation, the following foreign citizens can use the right of immunity in the territory of Uzbekistan:

- * employees of diplomatic missions of foreign countries;
- * employees of consular offices of foreign countries;
- * employees of international intergovernmental organizations;
- * other representatives of foreign countries.

There are factual and legal (normative) bases of criminal responsibility.

The factual basis of criminal liability is an act committed by a person. In order for an act to be recognized as a crime, it must have all the elements of the crime under the law.

The legal (normative) basis of criminal responsibility is the composition of the crime provided for in the Criminal Code. Factual and normative bases form the general basis of criminal responsibility. If there is full correspondence between the committed act and the signs specified in the law, the evaluation of the act allows the competent authorities of the state to exercise their rights and obligations to bring the guilty party to criminal responsibility.

A necessary feature of the objective aspect of the crime is the criminal consequence. Every human action causes certain changes in the surrounding reality. A socially dangerous consequence of a criminal act (inaction) is that it creates a socially dangerous consequence because of itself.

Impact Factor:

ISRA (India) = 6.317
ISI (Dubai, UAE) = 1.582
GIF (Australia) = 0.564
JIF = 1.500

SIS (USA) = 0.912
PIHII (Russia) = 3.939
ESJI (KZ) = 8.771
SJIF (Morocco) = 7.184

ICV (Poland) = 6.630
PIF (India) = 1.940
IBI (India) = 4.260
OAJI (USA) = 0.350

The criminal consequence is the real damage caused by the crime to social relations, it is expressed in direct, indirect, direct and indirect negative changes (damage, damage, loss, etc.) causally connected with the criminal behavior, and in the last account, social (economic, moral, legal and other) values will undergo negative changes. A criminal consequence should be understood as a change in social relations protected by criminal law as a result of the commission of an act. The consequence causes direct harm or threatens to cause direct harm. A criminal consequence is a necessary element in crimes with a material content, and a consequence is not required in crimes with a formal content.

Material or immaterial damage to social relations protected by criminal law is represented by damage or other negative change.

Criminal legal consequences can be divided into groups according to the following criteria:

- * depending on the nature of the damage;
- * depending on the degree of danger of the damage caused;
- * as defined by law;
- * depending on the importance of qualifying the crime.

Consequences resulting from a socially dangerous act can be divided into tangible and intangible types.

Material consequences are consequences in the form of property and physical damage that tend to be clearly proven. If physical damage is expressed in the death of a person or in various degrees of damage to health, property damage, for example, crimes aimed at robbing the property of others, are aimed at reducing the property of the victim. It is possible to accurately measure material and physical damage. Therefore, such damage is differentiated according to the amount of the crime. It is customary to divide into simple, aggravating and special contents. For example, in the case of looting property: the looting is large and very large. However, measuring the political, ideological, organizational, psychological, social and other aspects of material damages is more complicated.

Intangible consequences are expressed in two types:

- intangible damage in the form of real damage, for example, the damage provided for in the first part of Article 144 of the Criminal Code;

- a consequence in the form of a risk of harm;

According to the degree of danger of the damage, the consequences are divided into two groups:

- intended as a sign of the main criminal offense, for example, the first part of Article 104, intentional infliction of grievous bodily harm;

- intended as a sign of a qualified crime, for example, the third part of Article 104, intentional infliction of grievous bodily harm that caused the death of the victim.

Depending on the law:

- Consequences clearly defined in the provisions of the Special Part of the Criminal Code;

- measurable consequence, i.e. such damage is not clearly specified in the law or other normative legal documents, which are determined by the law enforcement bodies based on the factual circumstances when the act is committed, for example, "significant amount of damage" or "other we can show the phrases "serious consequences".

Pursuant to Article 182, Part 1 of the Criminal Code, a person is prosecuted for the violation of customs legislation, due to the fact that he illegally transported goods and other valuables in large quantities (amounts from 300 to 500 times the basic calculation amount) across the customs border of the Republic of Uzbekistan, administrative punishment for such action occurs if, after application, there is a very large amount (amount 500 times the base calculation amount or more) according to Part 2.

In the provision of the relevant article of the Criminal Code, the norms providing for administrative prejudice belong to the category of crimes with a low social risk. Crimes of low social risk are committed intentionally and punishable by imprisonment for a term of not more than three years, as well as crimes committed due to carelessness and punishable by imprisonment for a term of not more than five years [4. B-16].

Administrative prejudgment is an act of repeating the offense committed by a person who has been held administratively responsible for a year. Certain crimes with a low social risk may not be punishable by imprisonment. Most of the articles dealing with crimes of low social risk do not provide for imprisonment (only for some specialized or highly specialized crimes).

The existence of the committed act is the only basis for bringing criminal responsibility in the literature from the elements of the criminal law related to the criminal law. The basis for bringing to criminal responsibility arises from the time when a person commits a socially dangerous act that has criminal elements [5. B-41]. However, in order to apply it to a specific person, there must be a legal document - a legally binding conviction of the court. The judgment of the court is the basis for the application of criminal liability.

Article 5 of the Criminal Code establishes the principle of equality of citizens before the law, according to which: "Persons who have committed crimes have the same rights and obligations, regardless of gender, race, nationality, language, religion, social origin, faith, personal and social status, equality before the law is established." This basis leads to the conclusion that no person is considered an ameliorating or mitigating circumstance.

Article 8 of the Criminal Code states: "No one can be held responsible for the same crime twice."

Impact Factor:

ISRA (India) = 6.317
ISI (Dubai, UAE) = 1.582
GIF (Australia) = 0.564
JIF = 1.500

SIS (USA) = 0.912
PIHII (Russia) = 3.939
ESJI (KZ) = 8.771
SJIF (Morocco) = 7.184

ICV (Poland) = 6.630
PIF (India) = 1.940
IBI (India) = 4.260
OAJI (USA) = 0.350

Non-criminal liability for the same offense is only a feature of criminal liability. But in addition to criminal responsibility for one crime, other measures of responsibility can be applied. For example, compensation for material damage caused by crime (civil liability), dismissal from work (disciplinary liability).

Conclusions

From the above it can be concluded as follows:

1. The only and sufficient basis for criminal liability is the presence of all the signs of the criminal element in the committed act.

Although the criminal code does not define the concept of crime, the theory of criminal law defines the crime. The term "criminal composition" means the set of objective and subjective elements that describe a certain socially dangerous act as a crime, for which responsibility is defined in the Criminal Code. The disposition of the norms of the Special part of the Criminal Code specifies which acts are crimes and defines them. Social relations protected by the Criminal Code using the objective signs of the crime (the object of the crime), the act itself and its consequences and the causal connection between them (the objective side of the crime); the subjective signs of the crime mean guilt, the motive and purpose of the crime (the subjective side) and the demands placed on the person who committed the crime.

2. Only the committed act can be a crime. In this way, it is guaranteed that a person will not be held

criminally responsible for the idea, thought, imagination of committing a crime in the Criminal Code.

3. The deed, which has the structure of a crime, must be socially dangerous, have encroached on social relations, or they must have created a real risk of causing such damage. Article 16 of the Criminal Code, which defines the basis of criminal liability, does not indicate that the act is socially dangerous. However, from the content of other articles of the Criminal Code, it is established that actions that are dangerous for a person, state or society are considered crimes.

Objective criteria of social dangerousness of an act are constructed. The task of law enforcement is to evaluate its implementation as socially dangerous and fight against it. If the act has all the signs of a criminal content, but it is not socially dangerous, it is not considered a crime.

4. In order to determine the basis for criminal prosecution, it is necessary to analyze the committed act according to the norms of the Special Part of the Criminal Code. If the constituent elements of the committed act are in accordance with the composition of the crime specified in the provisions of the article of the Special Part, the composition of the crime is present in the committed act and is the basis for bringing a person to criminal responsibility. If the committed act does not have any signs of crime or it is not socially dangerous, it is not considered a crime.

References:

1. (2021). *Criminal law (General part)*. The team of authors. Textbook for higher educational institutions. (p.276). Tashkent: "Adolat".
2. (2016). *Comments on the Criminal Code of the Republic of Uzbekistan*. (p.606). Tashkent: "Adolat".
3. Achilov, A., & Ismailov, H. (2016). *"Issues of liability for violation of customs legislation"*. Educational manual. (p.62). Tashkent: Customs institute.
4. (2011). *Criminal codes of foreign countries*. Collective authorship. Tutorial. (p.220). MSU.
5. (2014). *Catherine Elliott and Frances Quinn. Criminal law*. (p.218). England. Kingston University.

Impact Factor:	ISRA (India) = 6.317	SIS (USA) = 0.912	ICV (Poland) = 6.630
	ISI (Dubai, UAE) = 1.582	РИИЦ (Russia) = 3.939	PIF (India) = 1.940
	GIF (Australia) = 0.564	ESJI (KZ) = 8.771	IBI (India) = 4.260
	JIF = 1.500	SJIF (Morocco) = 7.184	OAJI (USA) = 0.350
