



PROBLEMS OF THE INSTITUTE OF PARTICIPATION AND ISSUES OF ITS FURTHER IMPROVEMENT

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Annotation

It's given views and suggestions on the problems of the institution of participation in practice, the improvement of the institution of participation moreover the use of foreign experience in this article.

Keywords: Participation, organized crime, executor, organizer, witness, helper, excess, excess crime, excess executor, exces participant.

Introduction

The essential goal of our state is to form a democratic state that is governed by the law and a free civil society. There is being carried out a great number of superb work in our country which is provided with peace, all necessary conditions for the prosperous life of citizens, and the rule of law is the main guarantee of their rights and freedoms. Conforming to rules of international law, other states formally establish legal relations with such a state. It is being proved that the strategy of development of Uzbekistan is effective and well-planned while there are rapidly changing processes around different countries of the world. All are the result of reforms in various spheres of society, especially in the judiciary.

The interest in the scientific and theoretical study of the fight against participatory crime dates back to the seventies and eighties of the twentieth century. The reason is that the first symptoms of organized crime and primary scientific and legal assessments in terms of criminal law are can be seen in this period. The fact that organized crime is being considered and evaluated not only in our country, but also around the world from a socio-legal and political point of view and is being studied in various social and natural sciences shows the actuality of this problem. Another aspect of preventing and combating organized crime is the effective implementation of measures to prevent them in practice. Life experience indicates this evil poses a great threat to human civilization due to the global arranged nature of organized crime. That is, organized crime reflects on each areas of social, economic, political and cultural relations, as well as the interdependence of crimes committed in those areas.





A lot lower scientists studied the theme of struggle against crimes committed in complicity and criminal liability such as by our republic's scholars M.H. Rustambayev, F. Tahirov, M. Usmonaliyev, K. Abdurasulova, Yu.S. Pulatov, R. Kabulov, U. Abduganiyev, A.Ya. Yakubov, A. Rustambayev, S. Niyazova, by russian scientists S.S. Avetisyan, A.A. Arutyunov, S.A. Baleyev, R.X. Shaipov, F.G. Burchak, V.D. Ivanov, S.X. Mazukov, M.I. Kovalev, Yu.A. Krasikov, A.V. Ildjeyev.

The types of participants in the crime are specified in article 28 of the Criminal Codex, according to it the organizers, witnesses and accomplices are also participants in the crime as well as the executor.

According to S.V. Afinogenev, "The fact that the law defines participation as a crime committed intentionally, makes it unnecessary to say that crimes committed with participation are also intentional.

Analyzing the criminal law, R. Kabulov points out that only natural persons (physical person) can be the subject of a crime.

In order to be a subject of a participatory crime, a person must have reached the legal age for a specific crime, be sane, that is, be aware of his or her actions and their social consequences.

The distinctive features of the crime of participation are as follows:

- The number of offenders, ie two or more;
- Conspiracy to commit a crime;
- Coverage of a crime with a single purpose, that is, unique aim;
- The existence of a causal link between the perpetrators, etc.

In addition, the subjects of participation have the following conditions:

1. To be sane;
 2. To be reached to the age of the subject established by law for the committed crime.
- We can see that some juvenile offenders, in some cases carry out their nefarious intentions at the hands of minors or use it for various purposes in order to achieve their goals, to escape criminal punishment.

I would like to emphasize that a person who has not reached the age specified in the criminal law cannot be a subject of a crime, even if he is a participant. That is way, participation doesn't be. However, in order to prevent such cases and to prevent juveniles from becoming victims of such a situation, a person who involved a juvenile in a crime is liable under article 127 (3) of the Criminal Codex of the Republic of Uzbekistan.

For the same purpose, a mentally sick person can be involved in antisocial behavior. But we can see that there is no responsibility for this action. But I also think that taking responsibility for this situation will help prevent this kind of behavior. I therefore



propose the prosecution of a sane, adult who engages a mentally ill person in criminal activity. That is, we need to understand "the involvement of a person with a mental illness in a non-socially dangerous act (action or inaction) when his mental illness is obvious to the perpetrator" and put it into practice. I also propose to include this norm in Article 127¹ of the Criminal Codex of the Republic of Uzbekistan.

Participation is to be done when it is intentional. This means that all actions or inactions are agreed upon in advance by the participants. In this case, each participant is aware of each other's actions in advance and can become a participant in this informed action.

Article 28 of the Criminal Codex of the Republic of Uzbekistan contains the following types of participants:

- 1) The executor;
- 2) The organizer;
- 3) the adviser;
- 4) The assistant

It is given description to them in this article as well.

The first part of this article states that in addition to the perpetrator, the organizer, witness and accomplice are also participants in the crime. This means that for an offense committed by an executor on a single offense, if the organizer, witness and accomplice are aware of the perpetrator's antisocial act (action or omission), which is covered by general intent, the executor shall be prosecuted under the Special Part of the Criminal Codex.

In qualifying crimes committed within a group, if the act committed was not pre-arranged by the participants, as well as if the other participants were not aware of the act, the act is considered to be the perpetrator's own act and there is no complicity for the group members. Only the person who committed this act shall be liable for such an act or omission.

The word *eksses* is derived from the Latin word "excessus", which means "retreat", "deviation". Excess executor—we understand a person who has committed an act that is not covered by the crime of other participants. Only a person who has committed a socially dangerous act is responsible for this. For example, 3 people conspire planning a robbery. Everyone is assigned a task: A person brings in his car, waiting to pick up his partners. A man named B stands as a guard at the door. A person named V goes in and takes out the abundance. While V is taking out the riches as the executor, the owner of the house comes or wakes up suddenly and resists to him and V kills him. However, no agreement was reached between the participants beforehand. In qualifying case which was given, the deprivation of life of the landlord was not agreed



in advance by the participants and the other participants were not aware of the act, so the deprivation of life of the landlord should be considered an excess, and person V is the excess doer or executor.

The concept of excess has been introduced as a separate article in the criminal law of some countries and enshrined in the Codex. For example, in Article 36 of the Criminal Codex of the Russian Federation. Article 32 of the Criminal Codex of the Kyrgyz Republic. Article 26 of the Canadian Criminal Codex⁶ and in the laws of other states. In conclusion, after studying the cases and drawing on international experience, I make an offer to include an article entitled "excess-participant" as a separate article 30 in the Criminal Codex of the Republic of Uzbekistan.

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