



## THE OBJECTIVE SIDE OF THE CRIME OF ILLEGALLY DISPOSING OF OCCUPIED PROPERTY

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<https://doi.org/10.5281/zenodo.8162649>

Correspondence of property is considered from important legal guarantees for the implementation of court documents and documents of other bodies. Because, by timely provision of the execution of court documents and documents of other bodies as a result of correspondence, employment of property, restoration of the rights of persons with property damage due to illegal acts, the confidence of citizens in public authorities is strengthened. The seized, occupied property may be entrusted to certain persons until the appropriate decision is made, and bank options with bank accounts may be suspended. Unfortunately, illegal acts such as the appropriation of misappropriation of misappropriated, misattributed or occupied property for temporary storage, the implementation of bank operas with prohibited accounts also occur.

Article 233 of the Criminal Code of the Republic of Uzbekistan (CEC) establishes a criminal liability for the illegal disposal of property that is specifically occupied.

In order for an act to be considered a crime, it will first be necessary to determine whether there is a criminal composition in it. The objective side, which is one of the elements of the composition of the crime, shows how a criminal act was committed.

M.Rajabova, analyzing the issue of crime in Islamic law, said that "the second element of the composition of the crime – the objective side expresses a socially dangerous act, and the crimes are committed from action or inaction (non-payment of Zakat, non-fulfillment of obligations on transactions, etc.).q.) that are committed, as well as that the crimes are divided into crimes of material and formal composition"<sup>1</sup>.

Criminal law theory the theory of the division of crimes into internal and external is widespread. In Particular, M.X.Rustamboev believes that "any crime is an act of human behavior in the form of an external appearance, that is, an act or inaction committed under the control of the mind and the will"<sup>2</sup>.

Some scholars consider the causal link between a socially dangerous act, a socially dangerous consequence, this dangerous act, and the resulting consequence, the time, place, and method of committing a crime to be elements that make up the objective side of the crime<sup>3</sup>.

<sup>1</sup> Ражабова М. Ислом ҳукуки: жиноят ва жазо. Ўқув қўлланма. Тошкент "Ўзбекистон халқаро ислом академияси" нашриёт-матбаа бирлашмаси. 2021. 200-203 б.

<sup>2</sup> Рустамбаев М.Х. Ўзбекистон Республикаси жиноят ҳукуқи курси. I том. Жиноят ҳақида таълимот: Дарслик. 2-нашр, тўлдирилган ва қайта ишланган. – Тошкент: Ўзбекистон Республикаси Миллий гвардияси Ҳарбий-техник институти, 2018. – Б. 157

<sup>3</sup> Попов А.Н., Зимирева Л.А., Федышина П.В. Объективная сторона преступления. Учебное пособие. Санкт-Петербург. 2015. С. 18.

F. Khudoyqulov in contrast, " the signs of the objective side of the composition of the crime are allocated by the Legislature to the necessary signs and optional signs according to their expression in the criminal law. The objective aspect of the composition of the crime is only one necessary sign, which is considered a socially dangerous act (act or inaction)", expressed the opinion<sup>4</sup>.

Summarizing the opinions of the above scientists, we believe that the objective side of the crime is the external sign of the crime, which is a sign that indicates how the crime was committed.

In the disposition of most articles of the special part of CC, it will be directly indicated how the objective side of the crime is committed. In particular, Article 233 of the JC states how the crime is committed as follows: "unlawful disposal of occupied property, that is, unlawful appropriation, rastration, concealment, destruction or injury by a person entrusted with occupied or mortgaged property, if a considerable amount of damage is caused, as well as the implementation of bank operations with money (deposits) occupied by an employee of a bank or

Analysis of this substance shows that it occurs in the following ways:

- 1) unlawful by a person who has been entrusted with an item or pledged property:  
mastering,  
making rastrata,  
hide,  
die  
injury to him;

- 2) the implementation of bank operations with funds (deposits) occupied by an employee of a bank or other credit organization.

At the same time, actions such as appropriation, rastrata, concealment or destruction of occupied property, injury to it are considered a crime only if a considerable amount of damage is inflicted. In accordance with the eighth section of the criminal code, in which the legal meaning of the terms is established, a considerable amount of damage is understood as a loss in the amount of one hundred to three hundred times the amount of the base calculation.

The case that should be paid attention to here is that the requirement that a considerable amount of damage be done so that an act is considered a crime is applied only when the occupied or pledged property is disposed of in violation of blood by the person entrusted with it. There is no such requirement in the implementation of bank operations with funds (deposits) occupied by an employee of a Bank or other credit organization. That is, if the head of any enterprise or the financially responsible person is entrusted with the temporary storage of occupied property, for example, a car, and this property deliberately buys the entrusted property that it is illegal, and this damage amounts to a considerable amount (in the case of today, if the damage is not less than 33 million rubles), criminal liability arises. The fact that an employee of a Bank or other credit organization carries out bank options on funds occupied by an existing account in this bank or credit organization, causes criminal liability regardless of the amount of damage caused, that is, in this case there is no condition for a significant amount of damage.

<sup>4</sup> Худойқулов Ф. Жиноят таркиби объектив томони зарурий ва факультатив белгиларининг жиноят-хуқуқий аҳамияти: таҳлил ва таклиф. Хуқуқий тадқиқотлар журнали. 2021 й. № 6. 75-6.

Article 167 of the CC for embezzlement or rastrata trespass provided for by this article establishes liability in Article 173 of the CC for intentional destruction or damage to property.

It is this situation that causes a number of misunderstandings when qualifying an act in the inquiry and preliminary investigation bodies. An analysis of judicial judgments studied during the study showed that only criminal cases sent to the court, qualified by Article 233 of the CC itself, amounted to 13.5%, in 86.5% of cases, crimes were qualified as a total and increased to the court. In this case, both a single act (appropriation of entrusted property or looting by way of rastrata) and the circumstances qualified by Article 167 of the CC and Article 233 were met in 40% of the judgments we reviewed. Depending on the circumstances of the case, either Section 167 of CC or Section 233 of CC was removed from the charge and sentencing was carried out.

The origin of such misunderstandings is due to the fact that in Article 233 of the CC, the property occupied or pledged is understood. For the fact that Article 233 of the JK is placed in the chapter of crimes against Justice, Article 233 of the CC provides for the origin of self-trial or inquiry, responsibility for the unlawful disposal of property, which is correspondence by the investigating authorities. However, the fact that even for the disposal of the property entrusted to the foreclosure, the responsibility in this article was established, led to the excessive expansion of its object, in turn, its objective side. For example, a person took a loan from a bank, mortgaged a car belonging to him to the bank for the provision of a loan. He later sold his own car, which was pawned in the bank for the need for money. While there is no implication in the interests of Justice in this case, the act is assessed as the unlawful disposal of the committed property, based on the content of Article 233 of the CC.

In our opinion, in order to qualify the act by Article 233 of the CC, the property must be registered or occupied by the court or inquiry, by the preliminary investigation authorities or by the mandatory enforcement bureau to ensure the execution of court documents. In the remaining cases, that is, a loan between a client and a bank, a loan between two legal entities, an illegal disposal of property that is an object of collateral in a debt relationship, depending on the case, it would be advisable to evaluate as a civil-legal relationship, embezzlement in the presence of signs of a crime or robbery by rastrata, fraud.

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