



## PROBLEMS OF DISTINGUISHING THEFT FROM VEHICLE HIJACKING

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**Abstract:** The article examines the problems of distinguishing vehicle theft from illegal possession of vehicles without the intent to steal (hijack) a car or other vehicle.

**Keywords:** hijacking, vehicle theft, illegal seizure of a vehicle, car theft.

Today, the protection of property rights is one of the priorities of state policy. The effort to form and develop market relations significantly increases the importance of protecting property owners' interests from criminal encroachments.

At the same time, in judicial and investigative practice, there are difficulties in the criminal-legal qualification of these elements of the crime. Unfortunately, the current Resolution No. 37 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated December 20, 1996 "On Judicial Practice in Cases of Vehicle Hijacking" does not fully resolve issues of law enforcement practice.

For example, according to V. N. Kudryavtsev, for the correct qualification of a crime, it is necessary to clearly visualize the distinguishing features between related crimes, since when distinguishing a crime, "it is also necessary to see the back of the qualification"[1].

Until recently, most elements of the corpus delicti under consideration, as well as the amounts of sanctions provided for by them, had very significant differences. This situation, on the one hand, reduced the social danger of theft compared to theft of vehicles, and on the other hand, allowed criminals to evade responsibility. The current legislation, by its nature, has brought these compositions and the penalties for their violation closer together. At the same time, practice shows that it is not easy to distinguish theft from theft of motor vehicles. The subtleties in the interpretation of these two terms are one of the main pillars of the criminal auto business[2].

The difficulties in limiting these compositions are due to a number of reasons. And, first of all, by the fact that their objective features largely coincide. Their object and subject are the same, and the acquisition mechanisms can be the same in both components. When stolen, the car owner steals it from where they left it. The actions stipulated in Article 367 of the current Criminal Code are, in essence, part of the actions defined in Article 169 of the Criminal Code and are fully covered by the latter crime.

The objective signs of both theft of a vehicle without signs of theft and theft of a vehicle are essentially identical. The use of specially adapted means for entering the car compartment (garage), opening the car or starting the engine, towing the vehicle to a safe place, etc. are not distinguishing features of vehicle theft and are most often encountered in theft without the purpose of theft. The beginning of both crimes is the illegal seizure of property from lawful possession. Both acts cause material damage to the owner of the vehicle. The distinction

between them is made depending on the gratuitousness of the seizure and the presence of signs of malicious intent.

Robbery is always the free seizure of property. This feature is characterized by two criteria. Firstly, the seizure of property is carried out without the transfer of the property belonging to it, and secondly, the seizure is carried out not temporarily, but completely, without the intention of returning the property to the owner. A mandatory condition for the qualification of theft is the absence of a motive for theft and the absence of the intention to completely transfer the vehicle for one's own benefit or for the benefit of other persons.

Thus, theft is fundamentally different from robbery, since the perpetrator does not strive to permanently transfer the vehicle to their own benefit.

When distinguishing the elements of the crime under consideration, it is necessary to carefully study the goals and motives of the vehicle theft and, accordingly, to qualify the committed crime.

Since the intent of the perpetrators cannot always be determined by objective signs, the subject of the crime, caught red-handed, knowing that the responsibility for seizing a vehicle without the intent to commit theft is lighter than for theft, consciously tries to mislead the investigative and judicial authorities by explaining that his intent is not aimed at theft, but at the temporary seizure of the vehicle without the intent to commit theft. In this case, it is important to determine what aspirations the individual was based on at the time of committing the crime.

It is difficult to determine the subjective side of the crime of theft; it is emphasized that the person who committed the crime of theft, having seized the car or other vehicle for the first time, committed it without the purpose of committing the crime of theft. There is a fine line between theft and theft, which, in particular, creates problems related to proof.

The absence of intent to steal is mandatory for qualifying the act under Article 267 of the Criminal Code. It is this subjective feature that allows us to distinguish between theft of a vehicle and its theft. The elements of this crime are distinguished precisely by intent aimed at the unlawful temporary use of another's vehicle not for the benefit of the guilty party or other persons, but for mercenary or other purposes without the consent of the owner or other possessor.

According to V.I. Zhulev, in relation to theft and seizure of a vehicle without the intent to commit theft, "the signs and elements relating to the object and objective side of these crimes are practically identical. In both cases, the illegal seizure (confiscation) of another's vehicle occurs. The author also emphasizes that the distinction between theft and illegal seizure of a vehicle without the purpose of theft is conditional, and "the only circumstance that distinguishes these crimes is hidden in the criminal's mind, with the purpose of seizing the vehicle"[3].

If there is a desire to gain material benefit from the illegal seizure of a vehicle, it is embezzled. In such and similar cases, additional qualification under Part 1 of Article 267 of the Criminal Code is not required, since the illegal seizure of a vehicle is a method of robbery.

In the case of illegal seizure of a vehicle, the person should not have the goal of transferring the stolen vehicle for their own benefit or for the benefit of other persons.

It is by this characteristic that the illegal seizure of a vehicle differs from any form of theft of a car or other vehicle for the purpose of transferring it for one's own benefit or for the benefit of other persons.

Thus, the objective signs, object, and subject of both theft and theft of a vehicle without signs of theft are essentially indistinguishable. The use of theft is distinguished by its temporary nature and the absence of the goal of making it one's property. In the illegal seizure of a vehicle without the intent to commit theft, the transfer of another's property to the guilty party or other persons, as well as causing damage to the owner or other owner of the property, is not permitted.

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