

Objective and subjective signs of continuous crimes

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ABSTRACT: In criminal law theory, a more detailed characterization of the characteristics of continuous crimes has been developed, and for the purpose of scientific analysis, they are divided into several specific objective (the presence of two or more independent actions, committed at different times) and subjective (covered by a single intent, directed towards a single goal) characteristics.

Below we will consider their objective characteristics.

1. The presence of two or more independent actions. The vast majority of continuous crimes are committed through active actions (such as continuous theft). This opinion is expressed by P.S. Konovalov as follows: "In continuous crime, the systemic nature of the criminal's actions, that is, the presence of several interconnected actions, is of great importance." According to N.F. Kuznetsova, the interdependence of actions and their orientation towards the same goal are of great importance in the detection of a prolonged crime. A.A. Herten, reacting to this sign of continuous crime, explains it as "the unity of actions performed repeatedly by the perpetrator." A.I. Trovnikov acknowledges that crimes committed as a result of pure or mixed inaction can also be considered continuous. (e.g. intentional killing of a person who is helpless due to illness or very young age by repeated actions related to depriving him of food).

2. Each of the acts constituting a continuous crime can be considered both as a separate crime and as an administrative or disciplinary offense similar to the corresponding composition of the crime (for example, several petty thefts constituting a criminal offense). Such violations together constitute a criminal act.

Legal literature contains the following views on the indicated characteristic of the crime under consideration: 1) a prolonged crime is an administrative, disciplinary or other offense that is not a crime. This point of view emphasizes that a continuous crime may include a number of actions that are not considered a crime in themselves, but are considered administrative or disciplinary offenses. For example, repeated violations of traffic rules can ultimately lead to serious consequences and lead to a crime.

2) the continuous crime includes actions that constitute an independent crime, each considered separately. This approach emphasizes that a continuous crime consists only of actions that are considered crimes in themselves. For example, if a person steals the same type of items from stores every week and commits theft multiple times in order to sell them, this gives the composition of the crime of continuous theft. Because every theft, in itself, fully corresponds to the composition of the crime. The advantage of this view is that it clearly and understandably reflects the concept of continuous crime, but sometimes it may not allow for the identification of a continuous crime. For example, if one of the actions included in the continuous crime is considered separately and is not punished as a crime, can it be considered a continuous crime?

3) a continuous crime may include actions of various characteristics - crimes, as well as other offenses (for example, disciplinary or administrative offenses). This approach implies that a continuous crime does not necessarily consist only of criminal acts, but also includes other types of offenses, such as disciplinary or administrative offenses. For example, an employee's continuous theft of small items from their workplace can be interpreted as a single continuous theft if each theft is considered separately, even if it is a small amount in terms of quantity and is not considered a crime, when the amounts are added up. In this case, the systemic nature of the actions is important, indicating that they were carried out with the intent to steal property from the workplace and that there is an interdependence between the actions.

In our opinion, this characteristic allows for a broader interpretation of the concept of continuous crime and opens the way for recognizing several types of offenses together as a crime.

In Part 3 of Article 32 of the Criminal Code of the Republic of Uzbekistan, when explaining continuous crime, the legislator notes that all acts are criminal. In this regard, Z. Shamsiddinov rejects the legislator's position and believes that continuous crimes can consist of a number of independent criminal or non-criminal acts, that is, other illegal acts that do not individually result in criminal liability. In our opinion, the legislator's interpretation is incorrect, because considering each action separately as an independent crime loses the essence of continuous crime and transforms it into a repeat offense.

Analysis of the practice of applying criminal law shows that when assessing an act as a continuous crime by court and law enforcement officials, there are instances where administrative offenses and criminal acts together constitute a single continuous crime as a whole.

In conclusion, continuous crimes, by their nature, can consist not only of criminal acts but also of non-criminal acts. However, since there is no need to evaluate them individually, we consider it expedient to remove the word "criminal" from the phrase "consisting of criminal acts..." in Part 3 of Article 32 of the Criminal Code.

3. The legal uniformity of all actions constituting a continuous crime. All actions that constitute a continuous crime are legally identical, meaning they contain elements of the same crime composition or offense composition. Uniformity is the relationship between objects that indicates their properties are fully compatible or consistent across a certain set of characteristics. However, literature sometimes emphasizes that the actions constituting a continuous crime may be identical or homogeneous. Identical actions refer to those that fully correspond in their degree of danger to society, as well as in their objective and subjective characteristics, and are provided for by the same article of the Special Part of the Criminal Code. For example, two consecutive thefts or two fraudulent crimes may have been committed. In cases of homogeneous actions, although they correspond to the same crime composition, the methods of their implementation may differ. For example, two thefts are considered homogeneous if one was committed by entering through a window, and the other by stealing a key and opening a door. As another example, consider repeated violations of traffic rules. If a person violates traffic rules multiple times by speeding, these are identical actions. However, if they speed once and run a stop sign another time, these actions are considered homogeneous. This is because they are aimed at violating traffic rules in any case, but the methods of performing the actions differ.

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