



# PROBLEMS OF QUALIFICATION OF CRIMES AGAINST CERTAIN TYPES OF JUSTICE

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Article history:	Abstract:
<b>Received:</b> June 6 <sup>th</sup> 2023 <b>Accepted:</b> July 4 <sup>th</sup> 2023 <b>Published:</b> August 4 <sup>th</sup> 2023	This article covers some of the problems in the qualification of crimes against Justice by the author, these problems were systematically analyzed and concluded on the basis of the norms of Criminal Law of foreign countries, and proposals and recommendations were developed within the framework of the topic.
<b>Keywords:</b> Criminal qualification, determination, legal consolidation, committed Act, criminal law theory, the concept of qualifying crimes, the qualification of crimes , a certain act, the composition of the crime.	

## I. INTRODUCTION.

Criminal qualification is the definition and legal consolidation of the signs of the corpus delicti provided for by the special part of the Criminal Code, with the signs of the committed act.

In addition, in the theory of criminal law, the concept of qualification of crimes is defined by scientists in different ways. Firstly, "the qualification of crimes consists in determining and legally fixing the exact correspondence between the signs of the committed act and the signs of criminal content", and thirdly, "the qualification of crimes is a criminal legal assessment of the committed act, the choice and application of the criminal law norm that most fully defines its signs", and, in-fourth, "qualification of crimes – it consists in determining whether the signs of a socially dangerous act in the committed act correspond to the signs of the corpus delicti provided for by the norms of the general and special parts of the Criminal Code, and to conclude about the application of one or another article of the Code, the "fifth", "the qualification of crimes will always be associated with selection As a result of the qualification, the correspondence between the signs is determined acts and signs of the content of a specific crime", and, sixth, "I do not agree with the definition of the qualification of crimes as a comparison of signs of a crime and signs of a norm. There are such definitions as "this is an abstract law and a social phenomenon – crime presumably belongs to different categories." [1]

## II. METHODOLOGY

As components of the methodology, the author used general scientific methods, which involve the study of all phenomena and processes in their development, interconnection and interdependence, as well as special methods. In particular, the methods of dialectical materialism, system analysis, analysis and synthesis, logical, historical, comparative-legal, formal-legal used

## III. DISCUSSION

We focus on two different meanings of the term "qualification of a crime": (a) the main task of law enforcement officials (investigator, investigator, prosecutor, judge) is to compare the signs of committed offenses with the signs of the corpus delicti specified in the articles of the special part of the Criminal Code of the Russian Federation. The Criminal Code; (B) the criminal law assessment given by the State and

Focusing on the goals and objectives of the qualification of crimes, first of all, the purpose of qualification is to determine whether there are legal grounds for bringing to criminal responsibility a person who has committed a socially dangerous act.

Ensuring the proper qualification of the committed crime one of the main tasks of law enforcement agencies.

The act committed during the qualification of a crime is legally analyzed: the object of aggression is determined, its specific signs are described, objective and subjective sides are determined, signs characterizing its subject. Such an analysis helps to agree on what kind of crime is contained in the committed act and under which article of the Criminal Code the person who committed this act can be brought to justice.

This refers to the different use of the term "qualification of a crime" in the Republic of Uzbekistan. Today, the concept of criminal qualification is referred to under various names, in particular terms such as qualifying, clarifying, describing, qualifying. Critically assessing this situation, we note the following: [2]

first of all, if a crime is considered dangerous for the state, society, or a person, as we noted above, then the person who applies the law, that is, the person who qualifies the crime, does not qualify it or, rather, determines that the socially dangerous act committed is a crime. There will be no qualification of the crime, and



it will also not be qualified by the person applying the law;

Secondly, we also object to the so-called description of the crime. The description is usually given to positive things and situations, and negative things and situations are qualitative. Since crime is a socio-cultural, but negative phenomenon, it is not characterized.

As long as any law is clear, uniform in practice, imperfect in terms of language and style, along with its fair application, it makes it difficult to achieve the goals and objectives set by it. When applying the law, one word also means one thing, it will also be easy, understandable and fluent to apply it.

In our opinion, these names are most often misinterpreted and used when translating from foreign and Russian languages. This is due to the fact that many words are first translated into Russian, and then into Uzbek. It is known that for the correct translation of foreign words from another language into Uzbek, a dictionary is usually used. In our opinion, when translating and applying each foreign word, it is advisable to use a dictionary of the same language and an explanatory dictionary of the Uzbek language, which eliminates the above imbalance. Because when we saw the word-determinant from the Explanatory Dictionary, we determined that it was not a word from the Russian language, but, on the contrary, a word that came from Latin. [3]

So, in order to bring a person to criminal responsibility and apply a punishment or other legal measure of influence to him, with the help of the "qualification of crimes", it is determined, and not "qualified", which rule of the law has been violated, which signs of the corpus delicti are contained in the act. More precisely, qualification (legal assessment) is carried out at all stages of the criminal process. Initially, it will have a basic character. An accurate legal assessment of the act is given after collecting detailed complete information about the committed act.

The object of the crime in the qualification of the act provided for in Article 236 of the Criminal Code, within the framework of which we conduct research on interference in the investigation or resolution of court cases is the independence and reputation of judicial authorities, inquiry, investigation, analysis of criminal cases of the Prosecutor's office of the Chancery and (or) the usual activities of the courts objectively, the crime is expressed in the unlawful influence on the judge in various forms in order to obtain from the inquirer, investigator, prosecutor the imposition of an unfair sentence, the issuance of a ruling, verdict or a ruling part in order to prevent a comprehensive, thorough and objective study of the case. This interaction can be carried out in various forms. For example, various crowd

exits can take the form of various threats, intimidation, standing next to an investigative body or a courthouse. This criminal norm is practically not the main criminal norm, in practice today it is supplemented as an additional norm and qualified. Since interference in the investigation or in the resolution of court cases is always carried out in various forms, it may seem that the composition presumably constitutes another crime. [4]

For example, investigator M. solved the case during the investigation of P.ga was detained while giving a bribe in the amount of \$ 1,000. M. The act of preliminary investigation was qualified as a bribe in accordance with Article 211 (1) of the Criminal Code. At first glance, bribery is indeed a crime, although in this case bribery can also be assessed as a form of illegal influence on the investigator in order to prevent a comprehensive, thorough and objective study of the case. [5]

On the subjective side, interference in the investigation or resolution of court cases is carried out only of good will, that is, a person is aware of the public danger of his actions, wants to make a decision that contradicts the law and is unfair. The motive of this crime may be personal interest, ulterior motives, etc.

A necessary sign of the subjective side is the purpose for which the intervention was committed. When qualifying in accordance with Article 236 of the Criminal Code, it is always very important to know what the action is aimed at, that is, to what extent there is interference. This should be qualified, for example, as a request or requirement for an inquirer, investigator, prosecutor to conduct an investigation in a different direction, require a judge or a public consultant to direct the case in a certain direction in exchange for promised profit or interest, intimidate with threats, demand to interfere in the investigation or court cases through a well-known inquirer, investigator, prosecutor. In addition, interference or exposure, when they relate to a specific case, constitute a crime. Interference aimed at strengthening or mitigating punishment, determining the type of crime as a whole or in any way, investigation against the heads of citizens or enterprises, institutions and organizations, or the use of other precautionary measures by judicial authorities against a member of the labor collective, the use of- a sentence on parole or, in their opinion, appeals or petitions related to, in addition, a report on an upcoming or committed crime, the presentation of new evidence relevant to the case, the appeal of officials should not be regarded as an investigation, interference in the activities of the prosecutor's office, judicial authorities. [6] One of the problems that arise in the qualification of these crimes is that the forms, types and degrees of interference are not precisely specified in the Criminal Code, or there is no decision of the Plenum of the Supreme Court, which



would explain this. We believe that it would be appropriate if the influence or interference in this investigative activity or court cases in what form was included in the structure of Article 236 of the Criminal Code in the form of a hypothesis, or if a clear explanation was given in the resolution of the Plenum of the Supreme Court in this regard.

One of the most important issues that needs to be analyzed when qualifying crimes related to interference in the investigation or resolution of court cases is the delineation of this crime from crimes of a similar composition. The list of such crimes includes the intentional murder of a person or his close relatives in connection with the performance of his official duty provided for in paragraph 2 of Article 97 of the Criminal Code "g". [7]

Article 112 (3) establishes responsibility in connection with the performance of official duties, it is possible to intimidate a person or his close relatives with the use of murder or rape, giving bribes provided for in article 211, and opposing a representative of the authorities or a person performing a civil duty, for which responsibility is provided in article 219, and to

If we analyze crimes related to the intentional murder of a person or his close relatives in connection with the performance of his official duties (paragraph 2 "g" of Article 97 of the Criminal Code), as well as interference in the investigation or resolution of court cases (Article 236 of the Criminal Code). Part 2 of Article 97 of the LC "g" means the performance of official duties provided for by the activities of any person who works in any institution, enterprise and organization and fulfills the obligations imposed on him by service or other work. That is, the inquirer, investigator, prosecutor or judge provided for in Article 236 of the Criminal Code are victims of this crime. M.M. Kadyrov noted that if the perpetrator deprives the victim of life in a position that prevented the victim from fulfilling his official duty, then his act will be referred to court. Criminal code. [8]

Section 97(2) falls under paragraph "g". It follows from this that the murder of an inquirer, investigator, prosecutor or judge who participate in the investigation or in the resolution of court cases is qualified as intentional murder of a person in connection with the performance of his official duties.

Article 97 (2) entails liability in accordance with paragraph "g".

The Supreme Court of the Republic of Uzbekistan has not issued a specific order or explanation on this situation, but some explanations on similar relations have been given. In particular, the resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 24, 2004 "On judicial practice in cases involving manslaughter

According to paragraph 9 of Resolution No. 13, premeditated murder of a person in connection with opposition to a representative of the authorities acting as a service or a person performing a civil duty is qualified under the relevant section of Article 219 of the Criminal Code and the totality of crimes provided for in paragraph "d" of the Criminal Code. part two of article 97 . [9]

Based on this analogy, we believe that if the death of an inquirer, investigator, prosecutor or judge was committed in connection with the intervention of the guilty person in the investigation or resolution of court cases, it is necessary that such an act be qualified under the relevant part of Article 236 of the Criminal Code and the second part of Article 97 on the totality. [11]

When the foreign experience was studied, it was found that there is a certain experience in this regard. In particular, in the Criminal Code of the Russian Federation, as a special corpus delicti of premeditated murder (Article 105 of the Criminal Code) and obstruction of the investigation or resolution of court cases (Article 294 of the Criminal Code), Article 295 of the Criminal Code establishes special responsibility for a crime against justice or an encroachment on the life of a person conducting a preliminary investigation. According to him, encroachment on the life of a judge, judicial adviser or other person involved in the implementation of a fair trial, prosecutor, investigator, inquirer, defender, expert, specialist, law enforcement officer of the Russian Federation, as well as their relatives is the subject of proceedings in court or familiarization with materials, conducting a preliminary investigation or, in particular, in connection with the execution of a court decision or other court actions committed with the aim of obstructing the legitimate activities of these persons or in retaliation for their actions, is punishable by imprisonment for a term of twelve to twenty years, imprisonment for a term of up to two years or life imprisonment or death penalty. [12]

Similar norms are established by Article 379 of the Criminal Code of Ukraine (encroachment on the life of a judge, a people's adviser or a judicial board in connection with his activities related to justice), the Criminal Code of Kazakhstan

Article 408 (encroachment on the life of a person conducting a fair trial or pre-trial investigation).

Based on the experience of these countries, we propose to supplement the Criminal Code of Uzbekistan with article 236<sup>2</sup> as follows:

"Paragraph 236<sup>2</sup>. Justice or encroachment on the life of a person conducting a preliminary investigation

If an attack on the life of an inquirer, investigator, prosecutor or judge was committed in order to prevent a comprehensive, complete and objective study of the



case or to interfere with the legitimate activities of these persons in order to obtain an unfair verdict, resolution, operative part or resolution of the resolution or revenge for the actions of these persons, –

imprisonment for a term of fifteen to twenty-five years

or is punishable by life imprisonment."

In fact, similar special rules exist in national criminal law. In particular, in connection with the state or public activities of a state or public figure or a representative of the authorities (part 2 of Article 155 of the Criminal Code), as well as the President of the Republic of Uzbekistan (Article 158 of the Criminal Code

Part 2) Encroachment on life is excluded from Article 97 of the Criminal Code as a special norm. [13]

If we analyze the crimes of intimidation with the use of murder or rape against a person or his close relatives in connection with the performance of his official duties (part 3 of Article 112 of the Criminal Code), as well as interference in the investigation or resolution of court cases (Article 236 of the Criminal Code)..

In this case, the question arises as to how an act is qualified if interference in the investigation or in the resolution of court cases is committed by intimidating an inquirer, investigator, prosecutor or judge with the use of violence. That is, in this case also criminal code. There are signs of a crime under article 112, as well as article 236. [14]

In this case, it is possible to understand the defendant's intention, which is openly expressed in terms of harming the health of the inquirer, investigator, prosecutor or judge, when it comes to depriving the inquirer, investigator, prosecutor or judge of life, intimidation with the use of violence. In turn, it is necessary to pay attention to the fact that in this case, intimidation is real, that is, the criminal has the opportunity to carry it out in a short time.

M.H.Rustambayev expressed his opinion on the situation with crimes of such composition, noting that in case of influence on the investigation or resolution of court cases in the form of intimidation by murder or the use of violence against the investigator, investigator, prosecutor, judge, the act should be qualified as a set of crimes provided for in article 112 and articles 236 of the Criminal Code. [15]

The study of the experience of foreign countries on this issue has shown that most states have other aspects on this issue than the legislation of Uzbekistan. In particular, article 389 of the Criminal Code of the Republic of Belarus establishes responsibility for threatening a judge or a people's adviser. According to him, the threat of murder, rape, destruction of property or harm to a judge, a people's advocate or their relatives, as well as slander or intimidation by publishing

other information that these persons want to keep secret, are punishable by restriction of liberty for up to three years or imprisonment for up to three years the same period . [16]

Similar norms are provided for in Article 296 of the Criminal Code of the Russian Federation (the use of intimidation or violence related to the administration of justice or the conduct of a preliminary investigation), article 409 of the Criminal Code of Kazakhstan (acts of intimidation with the use of violence or the use of violence in connection with the administration of justice or pre-trial investigative actions), article 377

Based on the experience of these countries, we propose to supplement the Criminal Code of Uzbekistan with article 236<sup>3</sup> as follows:

"Page 236<sup>3</sup>. Intimidate a person conducting a fair trial or preliminary investigation with the use of violence or with the use of rape

Intimidation of an inquirer, investigator, prosecutor or judge with the use of murder or rape in order to prevent a comprehensive, thorough and objective study of the case or to obtain an unfair verdict, operative part, verdict or verdict –

mandatory community service for a period of three hundred to three hundred and sixty hours

or correctional labor for a term of two to three years, or imprisonment for a term of one to three years, or imprisonment for a term of one to three years.

The use of force against an inquirer, investigator, prosecutor or judge in order to prevent a comprehensive, thorough and objective study of the case or to obtain an unlawful verdict, operative part, verdict or verdict conclusion –

is punishable by restriction of liberty for a term of three to five years or imprisonment for a term of three to five years.

If the actions provided for in part two of this article intentionally cause moderate or serious harm to health, they are punishable by imprisonment for a term of three to eight years."

Criminal code to interfere in the investigation or settlement of court cases

In the case related to article 211, that is, if the influence on the investigator, investigator, prosecutor, judge was exerted by a proposal to transfer material values, in the absence of aggravating circumstances, we approve the opinion that the act should be qualified under the totality of Articles 211 and 236 of the Criminal Code.

The next important issue is related to the mutual analysis of crimes related to resistance to a representative of the authorities or a person performing a civil duty, whose responsibility is established by article 219 of the Criminal Code, as well as interference in the





investigation or settlement of court cases (Article 236 of the Criminal Code). [17]

As can be seen from the title and disposition of Article 219 of the Criminal Code, the victim of this crime is a representative of the authorities. According to the eighth section of the CEC, a representative of authority is a person who acts on behalf of any public authority, performs certain tasks permanently or temporarily and has the right to perform actions or give orders within his competence, which are mandatory for most or all citizens or officials. Based on this definition, judges who are considered victims of a crime in accordance with article 236 of the Criminal Code are also representatives of the authorities.

As we can see, in these crimes there are similarities with the victims of criminals, the subject and the subjective side of the crime. But these two recorded acts differ in the object and objective side of the crime.

The direct object of the crime in the form of resistance to a representative of the authorities or a person performing a civil duty is public relations related to ensuring the functioning of the authorities within the framework of one norm, the personal inviolability of a representative of the authorities or persons performing their civil duty. As we came to the conclusion in this study, the direct object of the crime of interference in the investigation or resolution of court cases is the independence and reputation of judicial bodies, bodies of inquiry, investigation, investigations of criminal cases of the prosecutor's office and (or) public relations that ensure the normal functioning of internal affairs bodies, courts, for example, when resolving criminal, civil, economic or administrative cases. As we can see, Criminal code.

The scope of the object of the crime provided for in article 219 is relatively broader and has a more general character, the scope of the object of the crime provided for in article 236 of the Criminal Code is relatively narrower and special. That is, according to article 219, the object of the crime is connected with the activities of general (all) authorities, while according to article 236, the object of the crime is connected with the activities of judicial authorities (judicial bodies), inquiry, investigation, prosecutor's office, which are considered a branch of the power of the force.

The analyzed crimes also differ objectively. The objective side of the crime provided for in Article 219 of the Criminal Code is expressed in actions related to active opposition to the legitimate activities of a representative of the authorities acting as a service. It is worth noting that resistance can take both active and passive forms. In the context of the law, only active resistance entails criminal prosecution. At the same time, active resistance is achieved through physical resistance.

M. H.Rustambayev, under active resistance, it is necessary to understand the actions of a representative of the authorities on the part of the perpetrator aimed at preventing him from fulfilling his duties, for example, preventing the capture of a criminal, the seizure of criminal weapons, conducting a search, restrictions on freedoms are committed, etc. Focusing on this explanation, one can see that the crimes analyzed are very similar. For example, to prevent the search as an active counteraction to the representative of the authorities Criminal code.

There are reasonable questions as to whether this should be qualified under article 219 or article 236 of the Criminal Code as interference in the preliminary investigation in order to prevent a comprehensive, thorough and objective study of the case. Because, according to jpk, the search is also calculated based on the procedural actions performed by the investigator or investigator during the preliminary investigation. According to article 236 of the CPC, in order to prevent a comprehensive, thorough and objective study of a case, interference in the activities of an inquirer, investigator or prosecutor or in various forms illegal influence on a judge in order to impose an unfair sentence, ruling, verdict or operative part is considered.

When the above-mentioned foreign experience was studied, it was found that there is a specific experience in this regard. In particular, in the Criminal Code of the Russian Federation, as a special corpus delicti of premeditated murder (Article 105 of the Criminal Code) and obstruction of the investigation or resolution of court cases (Article 294 of the Criminal Code), Article 295 of the Criminal Code establishes special responsibility for a crime against justice or an encroachment on the life of a person conducting a preliminary investigation. Similar norms are established in article 379 of the Criminal Code of Ukraine (encroachment on the life of a judge, a people's adviser or a judicial board in connection with his activities related to justice), article 408 of the Criminal Code of Kazakhstan (encroachment on the life of a person exercising justice or a preliminary judicial investigation)

#### **IV. CONCLUSION:**

Based on the experience of these countries, Uzbekistan was asked to supplement the Criminal Code with article 236<sup>2</sup>, entitled "Justice or encroachment on the life of a person conducting a preliminary investigation".

Article 389 of the Criminal Code of the Republic of Belarus establishes responsibility for threatening a judge or a people's adviser. Similar norms are provided for in Article 296 of the Criminal Code of the Russian Federation (the use of intimidation or violence related to the administration of justice or the conduct of a preliminary investigation), article 409 of the Criminal



Code of Kazakhstan (acts of intimidation with the use of violence or the use of violence in connection with the administration of justice or pre-trial investigative actions), article 377 of the Criminal Code Based on the experience of these countries, Uzbekistan was asked to supplement the CEC with article 236<sup>3</sup> "intimidation of a person conducting a fair trial or preliminary investigation with the use of violence."

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