

Danger to the Society of Crimes Related to the Transfer of Smuggling Goods Across the Customs Border of the Republic of Uzbekistan

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Abstract: The article describes the legal struggle and organizational mechanisms against the transfer of contraband goods across the customs border of the Republic of Uzbekistan. Based on the conducted research, general conclusions were given, and practical recommendations were given to combat the illegal trade of contraband.

Keywords: customs authorities, smuggling crime, law enforcement agencies, illegal circulation, crime, investigative actions, pre-trial investigation, responsibility, punishment.

INTRODUCTION

"No state's economy can withstand the illegal flow of goods through the contraband channel without supervision."

I.A.Karimov

Modern international relations are distinguished by their richness in scope, nature and content. Their basis is safe cooperation. At the beginning of the 21st century, the international community is going through a difficult period of its development. This period is characterized by an increase in fundamental problems and real threats to international security.

In today's era, in order to strengthen the responsibility and accountability of state administration bodies in solving territorial issues based on the principle of "The state is for the people" and to create a new system aimed at planning their strategic directions, the adopted laws are applied to the process of socio-political, socio-economic and legal reforms. special attention is being paid to the issues of fundamentally improving the quality of law-making activity, aiming to strengthen its influence, as a research direction of significant scientific and practical importance.

Of the President of the Republic of Uzbekistan on January 28, 2022 In accordance with the 16th objective of the Decree No. PF-60 "On the Development Strategy of Uzbekistan for the years 2022-2026", the need to ensure public safety and create an effective system of timely identification and elimination of the conditions that led to the commission of offenses is specifically determined.

The main part. Today, the crime of smuggling, which is becoming a problem all over the world, poses a great threat to the security and stability of the earth, as well as to the economic, political, cultural and spiritual spheres of every society.

In such a situation, the fight against smuggling crime is in the center of attention not only of the Republic of Uzbekistan, but also of the countries of the world. Smuggling is one of the central links of crimes against public safety and public order.

In the conditions of the Republic of Uzbekistan, preventing, identifying and putting an end to smuggling crimes is one of the most urgent tasks of the State Customs Service [1].

Contraband (Italian "*contr*" - "*against*" and "*bando*" - "*government decree*", English "*contraband*" - "*smuggling*") - means "*Against the government decree*". Illegal and clandestine transfer of goods, valuables, foreign exchange wealth, etc., prohibited for import and export to the country, as well as making illegal actions to transport prohibited goods. Goods that are transferred secretly, through means that are difficult to identify, or that are not specified in the documents (declaration) are considered to be illegally transported outside of customs control. Such illegally transferred property itself is called contraband. Responsibility for smuggling is established in Article 246 of the Criminal Code of the Republic of Uzbekistan. According to international law, contraband goods are subject to confiscation. Offenders will be fined or prosecuted [2].

The legislator defined the following socially dangerous act as a smuggling crime in Article 246 of the Criminal Code of the Republic of Uzbekistan, according to which:

Contraband, i.e. avoiding customs control or hiding from customs control or fraudulently using documents made to resemble customs documents or tools, without declaration or using a declaration written in a different name, strongly acting, poisonous, poisonous, explosive substances, radioactive materials, explosive devices, weapons, firearms, ammunition or main parts of firearms, as well as narcotic drugs, their analogues or psychotropic substances or materials promoting religious extremism, separatism and fanaticism Transfer through the customs border of the Republic of Uzbekistan

➤ shall be punished by deprivation of liberty from five to ten years.

Smuggling large amounts of nuclear, chemical, biological and other types of weapons of mass destruction, materials and devices that can be used in the creation of such weapons, radioactive materials, as well as narcotic drugs, their analogues or psychotropic substances

➤ with deprivation of liberty from ten to twenty years is punished [3].

When defining any crime, it is necessary to first have an understanding of its composition. In criminal law, the **composition of a crime** is a minimal and sufficient set of objective and subjective elements, signs in them that describe a certain socially dangerous act as a crime in the criminal law. A person may be held criminally liable only if his actions contain the elements of a certain crime and only for the act in which the elements of a crime have been determined.

In this, first of all, it is necessary to take into account the specific features of the crime of smuggling.

According to the provisions of Article 246 of the Criminal Code of the Criminal Code, the **objects** of smuggling are:

- strongly influencing, poisonous, poisonous;
- explosives;
- radioactive materials;
- explosive devices;
- weapons, firearms, ammunition or main parts of firearms;
- narcotic drugs, their analogues or psychotropic substances;
- materials promoting religious extremism, separatism and fanaticism;
- chemical, biological and other types of weapons of mass destruction, materials and devices that can be used in the creation of such weapons.

The composition of the crime consists of the object and the objective side, the subject and the subjective side of the crime.

- **object** - public safety, public order and public health;
- **from the objective side** - contraband items of the Criminal Code The crime referred to in part 1 is carried out across the customs border of the Republic of Uzbekistan in various forms:
 - evasion of customs control;
 - hiding from customs control;
 - fraudulent use of customs documents or documents made similar to customs identification means;
 - using a declaration without a declaration or under a different name;
 - is expressed when crossing the border.
- **subject** - any individual over the age of sixteen (any participant of a criminal chain: organizer - producer - carrier, distributor - user (consumer) or owner;)
- **from the subjective side** - that is, the mental attitude of the offender to his actions, and this crime is committed intentionally. Motive and purpose are not important for qualifying the crime with this article [4].

In general, there are the following main directions of transportation of contraband items across the customs border:

- in vehicles: in cabins, salons, in places convenient for concealment of trucks and light vehicles, buses, in service and passenger rooms of railway wagons, airplanes and other similar vehicles, construction of aviation, marine and railway containers in the elements;
- in containers, cargo platforms;
- in international mails;
- in the hand luggage and luggage of the passengers;
- on clothes, body and internal organs of individuals.

It is worth noting that under the leadership of the honorable President Shavkat Mirziyoyev, special attention is being paid to improving the foreign relations of Uzbekistan with neighboring countries, restoring friendly and close neighborly ties.

In order to achieve their criminal goals, the persons who commit the crime of smuggling, in the form of organized groups, carefully disguise their actions, perfect the methods of committing them, and use modern technologies.

In the implementation of this activity, the Constitution of the Republic of Uzbekistan (Article 146), "On the State Customs Service" (Article 7), "On the Fight against Terrorism" (Article 8), "Quick search activities to on" (Article 10), "On narcotic drugs and psychotropic substances" (Article 42), "On the fight against money laundering" (2004-y), "On Combating Extremism" (2018-y), "On Forensic Expertise" (2010-y), "On Freedom of Conscience and Religious Organizations" (2021-y) Fight against this crime by identifying, preventing and exposing crimes based on laws, CPC and other legal documents.

At this point, we can see the results of the work of the State Customs Service in the field of combating smuggling in the following figures.

In particular, during 2023, customs authorities detected 234 violations of the law related to the illegal handling of contraband goods (*in 2022, this figure was 245*), as a result of which 379,698 pills were confiscated. Explosive substances, 38 pieces of explosives and radioactive materials, 21 pieces of weapons and firearms, 2279 pieces of ammunition (*cartridges*), as well as 9 tons of 205 kg. narcotic drugs and their analogues, 17,026 pieces of psychotropic substances, 1,308 cannabis plants, 35 pieces of materials promoting religious extremism, separatism and fanaticism

were taken as evidence. It should be noted that 83 of the persons who committed the above crimes are foreign citizens [5].

As a result of the policy aimed at preventing external and internal threats to peace, stability and security in the region, mutually beneficial practical cooperation with neighboring countries has been strengthened.

As a result of this cooperation, about 10 border crossing points with neighboring countries, which have been closed for several years, have resumed their activities. As a result, the number of citizens moving through border customs posts increased by 2.5 times and the number of motor vehicles by almost 4 times. This, in turn, requires the development of infrastructure facilities in the border customs posts and adjacent areas, equipping them with modern information and communication technologies and technical means of control, and increasing their throughput in order to prevent the occurrence of traffic jams.

For this purpose, border customs posts have large-scale inspection and inspection complexes for scanning automobiles and railway vehicles, "Body Scan" devices for scanning human body parts, modern X-ray equipment, various devices and detectors for detecting contraband and counterfeit foreign currency, radiation portal monitors. and pagers, special attention is paid to the provision of special technical equipment for rapid search activities.

Technical means of customs control currently used by customs authorities can be conditionally divided into the following types:

1. Technical means used in the implementation of radiation control.
2. Technical means of checking the authenticity of currency and valuable securities and documents.
3. X-ray equipment for hand luggage and luggage.
4. Technical means used in customs inspection.
5. Identification express analysis of materials, substances and items considered to be contraband.
6. Inspection complexes.
7. Visual monitoring of the customs control zone (video surveillance system).
8. Control of audio, video and various data carriers (computer, laptop, flash drive, disk).

Our republic cooperates on a large scale with all countries in the international arena in the fight against drug business and arms smuggling, extremism and terrorism.

The Customs Committee, in cooperation with other law enforcement agencies, is actively working to identify criminal groups aimed at undermining the economic security of the state and to prevent their criminal activities. A large amount of narcotic substances, highly toxic substances, pills and ampoules of psychotropic substances, firearms and ammunition, materials of extremist content are seized by customs officers, and possible dangers are prevented.

Tasks to be determined for crimes of contraband and violation of customs legislation, consists of a set of investigative actions and other measures that should be carried out during the initial and subsequent stages of investigation and inquiry before the investigation. they are performed on a case-by-case basis.

Each situation (mainly in the early stages of investigation and investigation before investigation) has its own characteristics based on the information available.

In such a situation, the primary tasks of the investigation and inquiry prior to the investigation are:

- study, analyze and record all traces;

- determining the motive and purpose of the crime;
- to prove the guilt of suspected persons;
- determination of a procedural coercive measure.

Personal assumptions (versions) are related to the motives, goals, participants, etc. of smuggling based on the specified tasks.

The appointment and conduct of forensic expertise, as well as the procedures and procedural grounds for taking samples for expert examination are defined in Articles 172-187 of the Criminal Code [6].

Appointment and conduct of judicial expertise - on the appointment of expertise of a person with special knowledge in the field of science, technology, art and profession, an official conducting an inquiry and preliminary investigation in connection with an administrative and criminal case. It is an investigative action that consists of answering questions after conducting a special investigation. A participant in the criminal proceedings who has special knowledge and gives such a conclusion in accordance with the decision of the investigator, investigator, prosecutor is considered an **expert**.

Expertises are divided into groups depending on their purpose, content and objects, as well as the type of special knowledge needed to solve questions (criminological, trasological, dactyloscopic, ballistic, correspondence, authorship, document examination, phonoscopic, portrait, commodity science, metallurgy, narcotics, forensic, forensic-psychiatric, biological, forensic-economic, etc.) are distinguished.

In all cases related to the illegal transportation of contraband items across the customs border, appropriate expertise is appointed and conducted.

By carrying out an expert examination, exactly what kind of contraband was attempted to be illegally transported, as well as their quantitative and qualitative characteristics, will be determined. Criminalistic, dactyloscopic, ballistic, trasological, signature studies, materials, substances and other expertises are conducted in cases related to the crime of smuggling.

- **forensic examination:** - identification of a person according to handprints on contraband items (dactyloscopy); technical and forensic examination of documents examining forged seals, stamps, identification marks, etc.; concerning writing verifying handwritten texts in forged documents (handwriting); (trasological) examination of hidden places and their equipment;
- **examination of materials and substances:** - examination of the composition of narcotic drugs, psychotropic, strong-acting, toxic and other substances, the fact of the interaction of objects, the common source of origin;

In addition, in the case of illegal transportation of weapons, a **religious examination** will be conducted in order to determine the content of materials related to weapons (ballistic), promoting religious extremism and separatism.

By carrying out an expert examination, it is determined exactly what kind of contraband items were tried to be illegally transported, their quantitative and qualitative characteristics.

Naturally, such acts are prohibited by a number of norms of the Criminal Code of the Republic of Uzbekistan, and individuals who commit them are subject to criminal liability. In order to assess the actions of religious extremist, fundamentalist, separatists as a crime, scientists and practitioners (emergency personnel, investigators, investigators, prosecutors, judges, lawyers) should know the issues of Muslim statehood.

However, "... Islam encourages only a bright life, knowledge and good. He never calls for bloodshed, murder, or violence. Without recognizing this fact, being deceived by false ideas, joining harmful currents, becoming a terrorist - this is absolutely not true for the people of Uzbekistan" [7].

In cases of smuggling, it is necessary to verify the authenticity of the passport and other types of identity documents of the person who committed the smuggling in some cases. If there are sufficient grounds to consider the document as a forgery, a **forensic examination** will be appointed and the experts will be asked questions such as how the passport was prepared - typographically or in another way, whether the document has undergone any changes, the photo has been changed.

Therefore, taking into account the rich practical experience of the customs services of foreign countries, it is necessary to install special audio-video devices in specially equipped rooms for personal inspection at customs posts and to use photography methods effectively and ethically, smuggling. It is important to record and strengthen the process of taking items as material evidence, the feelings of the offender.

In order to stop a person or a group of persons suspected of smuggling contraband from engaging in criminal activities, to prevent them from escaping, hiding or destroying evidence, deprivation of liberty - detention may be used for a short period of time.

In such cases, the arresting officer must introduce himself and show his identification document to the arrested person and read his rights and obligations, that is:

"... You have been arrested on suspicion of committing a crime. I inform you that you will not testify against yourself, and at the same time, everything you say can be used as evidence against you in the preliminary investigation and in court. You can tell a close relative or your guardian about your arrest and where you are being held by phone. You have the right to know what crime you are suspected of committing..." [8].

CONCLUSIONS AND RECOMMENDATIONS: In conclusion, it should be noted that combating smuggling crime remains one of the most urgent tasks of customs authorities.

Our republic has been cooperating with all countries in the international arena in the fight against the smuggling of drugs, extremism, separatism and fanaticism, and the fight against international terrorism.

The state customs service authorities, in cooperation with other law enforcement agencies, are effectively working to expose criminal groups that threaten public safety and order, as well as public health, and put an end to their activities.

As a result of research, a number of problems arise in practice in identifying and qualifying crimes related to smuggling.

In particular, problems in the legal field:

- Diversity of subjects of Article 246 of the Criminal Code of the Republic of Uzbekistan, part 1 does not specify the amount of narcotic drugs, their analogues or psychotropic substances;
- The Criminal Code of the Republic of Uzbekistan does not specify responsibility for transporting precursors used in the preparation of narcotic drugs or psychotropic substances across the customs border;
- The relevant articles of the Law of the Republic of Uzbekistan dated December 24, 2012 "**On Rapid Search Activities**" have not been improved.

Organizational problems:

- lack of digitization and information exchange system through new electronic programs in matters of cooperation with law enforcement bodies, in particular, prosecution bodies;
- there are gaps in incentives in case of detection of contraband items of no material value by the employees of the customs authorities, in particular, the operatives;
- we are limited only by our internal capabilities in the process of training employees.

At this point, we would like to express a number of proposals and comments aimed at improving the legislation and liberalizing punishments in order to eliminate existing problems related to drug-related crimes. In particular:

Proposal 1: Taking into account that Article 246 of the Criminal Code of the Republic of Uzbekistan has a large number of contraband subjects and the same punishment is prescribed for all of them, it is appropriate to divide this article into separate articles according to the subjects of this article.

Article 246 of the Criminal Code of the Republic of Uzbekistan defines contraband as "powerful, poisonous, poisonous, explosive substances, radioactive materials, explosive devices, weapons, firearms, ammunition or main parts of firearms, as well as narcotic drugs, their analogues." or transporting psychotropic substances or materials promoting religious extremism, separatism and fanaticism across the customs border of the Republic of Uzbekistan shall be punished by imprisonment for five to ten years. If we study the legal systems of foreign countries, especially the Russian Federation and the People's Republic of China, we can see that in the Criminal Code of these countries, contraband items are classified into separate articles. Taking into account the above, Article 246 is divided into separate articles according to the subjects of this article, taking into account the fact that there are many contraband objects and the same punishment is prescribed for all of them, i.e. Article 246 is called "Smuggling of narcotic drugs, psychotropic substances" and its subject is "*transmission of powerful, poisonous, poisonous, narcotic drugs, their analogues or psychotropic substances - through the customs border of the Republic of Uzbekistan*", articles 246¹, 246² of the Criminal Code add: including;

- Article 246¹. Naming "Smuggling of restricted and prohibited items" and referring to this article as "*transmission of explosives, radioactive materials, explosive devices, weapons, firearms, ammunition or main parts of firearms - across the customs border of the Republic of Uzbekistan*";
- Article 246². It would be appropriate to name it as "smuggling of materials of religious content" and to designate as the subject of this article "*the transfer of materials promoting religious extremism, separatism and fanaticism - through the customs border of the Republic of Uzbekistan*". As a result, according to the separate subjects of Article 246, it is possible to divide into primary substances and, in the case of committing a large amount, provided for in the second paragraph of this article, to place them into primary substances and add the term "precursors" to it.

Proposal 2: Part 1 of Article 12 of the Law of the Republic of Uzbekistan dated December 25, 2012 on "Expedited search activities" LRU-344 in accordance with paragraph 5;

"Bodies carrying out rapid search activities have the right to use video and audio recording, film and photo recording tools, as well as other technical tools that are safe for human life and health, property of legal entities and individuals, and the environment. ", is marked.

It would be appropriate to use the capabilities of unmanned aerial vehicles in the implementation of rapid search activities in the age of rapidly developing information technologies of the 21st century. That is, purchasing, taking under control, rapid surveillance, identification of a person, inspection of residences and other places, buildings, structures, plots of land, technical and vehicles for inspection using special drones, rapid entry, under control should be used to conduct rapid-research activities such as delivery, covert operation and rapid experimentation.

First of all, we are an official who has the right to keep and use unmanned aerial vehicles according to the Decree of the Cabinet of Ministers of the Republic of Uzbekistan dated November 15, 2022 "Additional measures to regulate the use of unmanned aerial vehicles in the Republic of Uzbekistan" ensures the fulfillment of the requirements specified in Decision No. 658.

Proposal 3: The new version of the Constitution of the Republic of Uzbekistan According to Article 15, the Constitution of the Republic of Uzbekistan has supreme legal force throughout

the country, **is directly applicable** and forms the basis of a single legal space. of the Constitution According to Article 31,

Conducting a house search, listening to a person's telephone conversations and other telecommunication devices, and obtaining information transmitted through them is carried out **only in accordance with the law and based on the court's decision.**

Nowadays, in the era of rapidly developing information technologies, it would be appropriate to solve this problem **electronically**. That is, it is necessary to create a mobile program (creating secret channels) with the allocation of special tablets to the operative structures of the customs authorities, and through this program, to provide information on the current situation to the criminal courts in an electronic form, to receive sanctions electronically. First of all, we will create a separate secret channel for data exchange and through it create a methodical guide (secretly) in which information is encoded in a coded state, i.e. information about a person, about a region, about an object with special codes, and on the basis of these codes, with criminal courts it is necessary to start receiving the sanction in electronic form without rapid information exchange.

As a result of this;

- firstly, it does not require special time and funds for the employee to travel to this distance to receive a sanction during the rapid activities held in a remote area;
- secondly, it prevents the flow of quick data received for conducting a quick event;
- thirdly, the employee will not be able to communicate directly, which will prevent a conflict of interest.

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