

THE OBJECTIVE ASPECT OF THE CRIME OF TERRORIST FINANCING

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Annotation: *In this article, the author presents a criminal-legal analysis of the objective side of the financing of terrorism. The article examines the methods of committing the crime and discusses their legal and practical significance in detail. The actions used in the financing of terrorism are identified, including the methods of collecting, distributing or giving a legal appearance to funds. Also, each element of the objective side of this crime is clearly defined and commented on.*

Keywords: *terrorism, financing, method of committing a crime, object, objective side.*

The objective aspect of a crime is an objective, socially and legally significant set of signs that characterize the external state of an act of aggression directed against an object protected by criminal law, expressing the degree of social danger of the committed act. is a collection[1].

The objective side of any crime consists of necessary and optional signs. The necessary signs of the objective side include the act, the consequence, the causal connection between the act and the consequence. The optional signs of the objective side include (a) the place of commission of the crime, (b) the method of commission of the crime, (d) the time of commission of the crime, (e) the instrument and means of commission of the crime, (f) the circumstances of commission of the crime.

In formal crimes, only the act itself is manifested as a necessary sign of the objective side of the crime. Therefore, we will conduct a legal analysis of the act itself as a necessary sign of the objective side of the crime of terrorist financing.

Clause 3 of the Plenum Resolution No. 32 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated November 27, 2021 "On Certain Issues of Judicial Practice in Criminal Cases Concerning the Financing of Terrorism and Extremism" explains that the following acts, as provided for in Article 155 3 of the Criminal Code, entail criminal liability:

1) "materially or financially supporting the existence and operation of a terrorist organization, the movement of individuals abroad or through the territory of the Republic of Uzbekistan to participate in terrorist activities, the preparation and commission of terrorist acts (hereinafter referred to as material and financial support of terrorism);

2) providing or collecting, directly or indirectly, any means, resources, or other services to terrorist organizations or individuals who support or participate in terrorist activities."

Let's analyze each of the actions listed in this explanation one by one.

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a) The existence of a terrorist organization can be understood as the members and necessary infrastructure necessary for the existence of a terrorist organization as an organization. This can include recruiting new terrorists to the organization and instilling in them extremist ideas, organizing classes and training to teach them combat tactics and skills, producing and distributing propaganda materials for this purpose, providing socio-economic support to the families of deceased members of the organization, and building infrastructure facilities to support organizational activities, including training camps, education centers, media studios, etc.

b) the operation of a terrorist organization is different from its existence. Simply put, the existence of a terrorist organization means gathering and holding people around terrorist goals and ideas, and its operation means implementing these goals and ideas, that is, carrying out terrorist acts. We can include the activities of a terrorist organization, such as paying terrorists to commit terrorist acts, purchasing firearms, explosives, ammunition and other military equipment, planning and carrying out attacks. According to the 2008 FATF report on the financing of terrorism, a large part of the funds allocated are not spent on terrorist acts, but on organizational issues: recruiting terrorists, training them, meeting their material needs, moving them from one territory to another, and carrying out other legal actions[2].

The Plenum resolution cited the material and financial support of a terrorist organization as (a) providing or participating in any movable or immovable assets or legal documents confirming the right to such assets (for example, bank checks, money orders, bank loans, securities, bonds, bills of exchange, shares, letters of credit, etc.); (b) providing other property intended for the commission of terrorist acts or providing services[3].

The knowledge that they will be used to carry out these acts, or may provide or collect funds without knowing the specific acts for which they will be used. In the latter case, even if the person did not intend for the funds to be spent by a terrorist organization, providing or collecting funds with the knowledge that there is such a risk may also give rise to criminal liability[5].

Activities aimed at ensuring the movement of persons abroad or through the territory of the Republic of Uzbekistan to participate in terrorist activities include providing financial support to terrorists, providing them with the necessary documents to travel abroad, purchasing tickets, providing assistance by providing any type of transport, and transporting necessary persons. This also includes providing food, clothing, and medical supplies during movement. Recommendation 5 issued by the FATF also emphasizes that financing the movement of persons within their own countries or their travel to foreign countries for the purpose of participating in, preparing, planning, and committing terrorist acts or undergoing terrorist training or providing such training should be criminalized as a crime[8].

When analyzing the preparation and commission of a terrorist act, it is first necessary to determine the scope and boundaries of terrorist acts. Article 2 of the Law "On Combating Terrorism" lists the acts that constitute a terrorist act, and we have analyzed

them . They are mainly violent acts aimed at killing civilians, causing bodily harm to them, instilling fear and panic among the public, and causing damage or destruction to property for political purposes. Planning these acts, distributing tasks among terrorists, choosing the object and place of attack, and collecting surveillance and intelligence information on them, including identifying entry and exit points, escape routes and security checkpoints, are considered to be the preparation of terrorist acts. The commission of these acts (explosions, arson, taking hostages, mass killings of civilians, etc.) is considered to be the commission of a terrorist act.

When analyzing the provision or collection of any funds, resources, or other resources to terrorist organizations or individuals who support or participate in terrorist activities, we must first identify the collection and collection activities.

"transfer of funds" should be understood as the transfer of previously acquired terrorist financing, whether legally or illegally, before or during the commission of a terrorist crime[6].

Fundraising is a crime in the form of an active action aimed at directly (directly) finding or collecting the subject of the crime of financing terrorism (funds, resources, means). Funds for financing terrorism can be collected (collected) not only by legal means (legal entrepreneurial activities, activities of charitable foundations, etc.), but also by illegal means. Illegal ways of collecting funds include all crimes directed against property and the foundations of the economy, including crimes related to the plundering of other people's property, illegal trafficking in drugs and weapons, human trafficking, smuggling, tax evasion, cybercrime.

Financial transfers made to raise and distribute funds are not always entirely for terrorist purposes, but some of them may also serve legitimate purposes.

According to M. Ustambayev, “ the collection of funds and resources is carried out under the guise of sponsorship by creating various relief funds, organizations, associations, providing loans to individuals supporting a terrorist organization, and establishing structures and banks operating for the purpose of providing interest-free, preferential loans.” While in the case of direct provision of funds and resources, the guilty person knows to whom and for what purpose he is providing them, in the case of indirect provision, the person provides the funds not to terrorists or a terrorist organization, but to intermediaries financing them, for example, foundations and sponsorship organizations, without knowing in advance who exactly will use the funds and for what purpose.

providing other services to terrorist organizations or individuals who support or participate in terrorist activities is controversial, as we have analyzed above. Because the scope of these services is not defined by the legislator. Moreover, most of the acts that fall under other services can be qualified as participation in the crime of terrorism as an accessory or involvement in the crime of terrorism.

JAibrohimov also includes the provision of financial services among other services[4]. This type of service includes banking, insurance services, services on the securities market or under a leasing agreement related to money circulation, as well as services

provided by a financial organization and related to the attraction and (or) placement of funds from legal entities and individuals.

Optional features of terrorist financing: a) Determining the place of commission of the crime is a rather complicated process in the crime of terrorist financing. Since, in addition to cash or financial resources, modern technologies (online platforms, payment systems, cryptocurrencies) are used in the provision and collection of funds, and several financial institutions, banks, credit organizations are involved in this process. Since the transfer of funds is carried out not in the real world, but on the Internet, this process has a transnational character. As a result, determining the place of commission of the crime is important in resolving the issue of which state's jurisdiction the crime falls under. A person should be held criminally liable regardless of whether he commits the financing of terrorism in the state where the terrorists/terrorist organization(s) are located or the act(s) committed or in another state. Sovereign states should also take into account that financing of terrorism is not only a national but also an international crime.

At this point, it is worth noting that, according to Article 11 of the Criminal Code, in cases where the financing of terrorism is committed outside the territory of Uzbekistan and the criminal consequences occur in the territory of Uzbekistan, or if it is committed outside the territory of Uzbekistan and the criminal consequences occur in the territory of Uzbekistan, the crime is considered to be within the jurisdiction of the Republic of Uzbekistan, regardless of the place of commission of the crime. These cases

The time of the crime plays an important role in determining the place of commission of the crime. In the case of the provision of funds and resources, the crime is considered completed from the moment of receipt of a part of the objects intended for the financing of terrorism, regardless of the real possibility of disposing of the means received, and in the case of the provision of other services, from the moment of the commencement of the provision of the service.

When providing means and resources, the crime is considered completed from the moment the object is actually provided, including when it is sent by mail or other means of communication, regardless of whether there is a real opportunity to use it[10].

If the attempt to transfer or collect the object of the crime fails due to reasons beyond the control of the perpetrator, it is qualified as an attempt to finance terrorism (Article 25+155 3 of the Criminal Code) and is subject to criminal liability.

Some scholars argue that “terrorist financing should be considered complete from the very beginning of such activities, that is, from the moment of creating accounts or fake legal entities[6].”

The method of committing the crime is not directly stated in the disposition of the crime of terrorist financing. The main identified typologies of terrorist financing include the movement of funds through intermediaries (cash couriers, hawala), money transfers through payment systems, online money transfers using bank cards (P2P), misuse of money transfer systems, and the purchase of airline tickets and other travel for foreign terrorists. Terrorist financing can also include methods of circumventing financial controls. For example, the use of informal channels such as “money couriers” or

“diasporas” for money transfers allows terrorist organizations to circumvent official financial controls. The most famous of these is “hawala”. Hawala is an informal method of transferring money from one place to another without physically or virtually moving the money. The hawala system uses a network of dealers called "hawaladars" and is particularly common in Islamic countries, as well as in Africa and India, where formal banking systems are less developed.

A weapon of a crime is any object that the perpetrator prepared or used in advance to commit a crime. An instrument of a crime is an object or object used to influence the object of a crime during the commission of a crime. The difference between a weapon and a tool is that a weapon is directed at the object of a crime, while a tool serves to facilitate the commission of a crime. The weapon and tool are inextricably linked to the method of committing a crime, and in some cases determine its composition[7]. Therefore, payment systems, cryptocurrencies, legitimate businesses and charities, as well as informal money transfer channels, mentioned in the method of committing a terrorist financing crime, are instruments of terrorist financing crime. For example, according to information provided by the Chainanalysis team on October 18, 2023, Buy Cash and 20 other service providers in Gaza used cryptocurrencies to make transactions worth \$1.1 billion to terrorist organizations[9].

The circumstances of the commission of a crime are the aggregate of circumstances that existed at the time of the commission of a particular crime and are significant in determining the responsibility of the person who committed the crime. In the case of financing terrorism, only the circumstances provided for in Articles 55-56 of the Criminal Code play a role in qualifying the crime.

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