

General characteristic of crimes against justice in administration of justice

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Abstract. In this article we research some problems of perfection of the criminal legislation on crimes against justice, a concept of “crimes against justice”. The problems concerning the theory and practice of definition of signs of the official as a subject of such crimes are allocated in the article. The author of the article studies each constituent element of the crime relating to crimes against the judiciary, committed against persons involved in the trial cites the statistics on these crimes.

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Introduction

In Russian criminal law a crime against justice is defined as socially dangerous acts against state authority and encroaching on statutory activity of a court and agencies supporting this activity that promote fulfillment of the task and achievement of the aims of justice.

Obstruction of Justice is criminal offence also in legislation of foreign countries [1]. Analysis of advanced foreign experience, conditions and statutory practice allows developing norms relevant to modern legal requirements and Russian realm for Russian legislation [2].

Criminal legislation of foreign countries has a number of valuable norms that foresee responsibility for encroaching on relations concerned with jurisdiction. In USA one may be imposed \$5000 penalty or imprisonment for the term up to one year even for vigil of the house of court to influence a judge, juror [3].

Picking out obstruction of Justice in a separate group of crimes is typical for legislations of many foreign countries. In Criminal code of the USA there are 18 different corpus delicti against justice as a separate chapter (chapter 73 of US Code) [4]. Relatively tough attitude of foreign legislations to encroaching of justice is also worth noting [5].

Penal characteristic of each criminal act is always correlated with characteristics of its constituent elements. According to the theory of criminal legislation constituent element of offence is the total of objective and subjective elements that characterizes the act as an offence [6]. These elements are characterized by norms of the General and Special Parts of the Criminal Code of Russian Federation (further – CC of RF).

Corpus delicti is being constituted by objective (object and objective part) and subjective

elements (subjective part and subject). Corpus delicti does not exist without any of these elements, so consequently act is not considered as an offence and there is no ground for criminal liability.

Criminal object may be defined as protected by criminal legislation social relations and interests infringed as a result of committal offence [7].

Main body

Legal relationships in legislation are sophisticated interrelated system. Constituents of this system are mutually interlaced, they add each other on the base of unified principles and conceptual targets vested in the Constitution of Russian Federation [8]. Mentioned system characteristics of subsumer of crimes against justice are added also by such a special area of social relations as the area of trying and adjudging administrative, civil and criminal cases [9]. Objective dimension of cases under trial is characteristic made by criminal legislation for external features of criminal act [10]. It is characterized by diversity of actions of culprit as well as inactivity, including threats for victims or their relatives. Besides, main corpus delicti excluding actions provided by chapter 295 (further referred as Ch.) and Ch. 312 of CC of RF does not require any consequences, i.e. have formal type [11].

In this way actions provided by part (further referred as p.) and p. 3 of Ch. 294, Ch. 295, p.1, p.3 and p.4 of Ch. 296, p.1 and p.3 of Ch. 298, Chs. 305, 307, 309, 311, 312 of CC of RF may be committed only by means of action. Actions provided by Ch. 308 of CC of RF to the contrary are committed only by means of inaction [12].

Subjective dimension of crimes against justice is characterized only intentional fault that means that culprit understand socially dangerous character of committed actions or inaction, foresee

the possibility or inevitability of coming of death (Ch. 295 of CC of RF) or other serious consequences (p.3 of Ch. 301, p.2 of Ch. 305 and p.3 of Ch. 311 of CC) and wants the coming of those.

As the law does not require the necessity of coming of strictly defined consequences, in other cases subjective dimension of characterized by the fact a person understand social danger of his(her) actions or inaction and wants to commit them or to the contrary omittance of them. These are actions provided by p.1 and p.3 of Ch. 294, p.1, p.3 and p.4 of Ch. 297, p.1 and p.3 of Ch. 298, Ch. 299, .1 and p.2 of Ch. 301, p.1 of Ch. 305, p.1 and p.2 of Ch. 307, Ch. 308, p.1 of Ch. 311 of CC.

Special legislative construction of these corpus delicti presume that it is impossible to commit them with indirect intention, but in a number of corpus delicti regarding consequences have carelessness is possible, for example, like in p.3 of Ch. 301 and p.2 of Ch. 311 of CC of RF.

In accordance with criminal legislation in force only compos mentis natural persons in the age of criminal discretion may be considered as subjects of crime against justice that follows from the content of Ch. 19 and Ch. 20 of CC of RF [13].

Both all the persons in the age of 16 and older and persons that have characteristics of a special subject are subject criminal liability for these crimes [14].

The problem of subjects of crimes against justice makes it necessary to divide them into the following groups:

1) general subjects, i.e. all persons that do not participate in jurisdiction or in hearing (for example, p.1 of Ch. 294, Ch. 295, p.1, 3 and p.4 of Ch. 296, 297, p.1 and p.3 of Ch. 298, Ch. 309 of CC of RF). In some cases they must have some additional features in accordance with the legislation, for example, malversation (p.3 of Ch. 294, Ch. 311, p.1 of Ch. 312 of CC);

2) only persons that participate in jurisdiction or in hearing (for example, p.2 and 3 of Ch. 301, Ch. 305, Ch. 307, Ch. 308 of CC of RF) i.e. they are special subjects.

To improve liability and punishments for commitment of some crimes against justice in the area of administration of justice legislation set qualifying characteristics as follows:

obstruction of justice by a person by the way of malversation, for example the heat of state authority of a federal subject, chief justice, a head of inquiry agency, a head of local self-government body, etc. (p.3 of Ch. 294 of CC of RF);

illegal custody or imprisonment that caused severe consequences (p.2 of Ch. 301 of CC of RF);

compulsion to giving evidence with application of force, harassment and torture (p.2 of Ch. 302 of CC of RF);

evidence falsification in civil case that cause severe consequences, for example, suicide of victim, bankruptcy of a company, etc. (p.3 of Ch. 303 of CC of RF);

passing illegal sentence to imprisonment or that caused other severe consequences (p.2 of Ch. 305 of CC of RF);

misrepresentation, deliberately false expert or specialist view, wrong translation combined with accusation for commitment of grave crime or felony (p.2 of Ch. 307 of CC of RF);

bribery or compulsion of evidence or evasion of giving evidence or to wrong translation committed by organized group of persons either with application of force dangerous for life or health of victims (p.4 of Ch. 309 of CC of RF);

disclosure of information about safety measures for judge, juror or other person participating in jurisdiction that causes severe consequences as well as regarding their relatives that causes severe consequences, for example, murder, causation of heavy injury, etc. (p.2 of Ch. 311 of CC of RF).

Conclusion

At the same time legislation foresee special foundations for exemption from criminal liability even in case of commitment of completed crimes that should be considered as we believe as real demonstration of humanism of Russian criminal legislation [15, 10]. For example, according to the comment to Ch. 307 of CC of RF witness, victim, expert, specialist or translator are exempt from liability in case they have declared their evidences, views false or their translation deliberately wrong during trial before pronouncement of sentence or court decision.

In administration of justice needs state protection from illegal interference in fulfillment of its functions but on the other hand it must be guided only by law. Thereupon criminal law plays important role in protection of legitimate activities of judicial authority. It is aimed on protection of normal functioning and authority of judicial authority from criminal offences.

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