

SOME CONSIDERATIONS ON CRIMES COMMITTED BY FOREIGN CITIZENS AND AGAINST THEM IN UZBEKISTAN

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Abstract

the article comprehensively analyzes the concept of foreign citizens in the Republic of Uzbekistan and their legal status based on international legal and national legislation. The relevance of clearly defining the legal status of foreign citizens is substantiated. Also, the doctrinal views of legal scholars were studied, and the author's definition and practical proposals aimed at improving national legislation were put forward.

Key words

foreign citizens, criminal investigation, criminal procedure law, legal status, diplomatic immunity, interpreter, investigative tactics, international law, procedural actions.

O'ZBEKISTONDA CHET EL FUQAROLARI TOMONIDAN VA ULARGA NISBATAN SODIR ETILADIGAN JINOYATLAR HAQIDA AYRIM MULOHAZALAR

Annotation

Maqolada O'zbekiston Respublikasi hududida chet el fuqarolari tomonidan hamda ularga nisbatan sodir etiladigan jinoyatlarni tergov qilishning o'ziga xos xususiyatlari tahlil qilingan. Xususan, chet el fuqarolarining huquqiy va protsessual maqomi, til to'siqlari, diplomatik immunitet, O'zbekistonda bo'lish qoidalari hamda tergov harakaatlarini tashkil etish va taktikasining o'ziga xos jihatlari yoritilgan. Shuningdek, xorijiy va mahalliy olimlarning ilmiy qarashlari tahlil qilinib, chet el fuqarolari ishtirokidagi jinoyat ishlarini samarali tergov qilishga ta'sir etuvchi huquqiy, psixologik, ijtimoiy va etnik omillar asoslab berilgan. Mazkur toifadagi jinoyat ishlarini tergov qilishda kompleks yondashuv zarurligi ilmiy-nazariy jihatdan asoslangan.

Kalit so'zlar

chet el fuqarolari, jinoyat tergovi, jinoyat-protsessual huquqi, huquqiy maqom, diplomatik immunitet, tarjimon, tergov taktikasi, xalqaro huquq, protsessual harakatlar.

НЕКОТОРЫЕ ЗАМЕЧАНИЯ О ПРЕСТУПЛЕНИЯХ, СОВЕРШАЕМЫХ ИНОСТРАННЫМИ ГРАЖДАНАМИ И ПРОТИВ НИХ В УЗБЕКИСТАНЕ

Аннотация

В данной статье анализируются особенности расследования преступлений, совершаемых иностранными гражданами и в отношении них на территории Республики Узбекистан. В частности, освещены правовой и процессуальный статус иностранных граждан, языковые барьеры, дипломатический иммунитет, правила пребывания в Узбекистане, а также особенности организации и тактики следственных действий. Также проанализированы научные взгляды зарубежных и отечественных ученых, обоснованы правовые, психологические, социальные и этнические факторы, влияющие на эффективное расследование уголовных дел с участием иностранных граждан. В статье научно-теоретически обоснована необходимость комплексного подхода к расследованию данной категории уголовных дел.

Ключевые слова

иностранные граждане, уголовное расследование, уголовно-процессуальное право, правовой статус, дипломатический иммунитет, переводчик, следственная тактика, международное право, процессуальные действия.

It is important that each state has its own clear and perfect laws in the field of combating crime and providing legal punishment for persons who have committed crimes. The Republic of Uzbekistan also pays great attention to combating crime and ensuring legal order. In this case, the investigation of crimes committed by foreign citizens or against them is of particular importance. The participation of foreign citizens in the legal system of the country of their stay can create specific problems.

According to the legislation of our country: Responsibility of foreign citizens and stateless persons "Foreign citizens and stateless persons who have committed crimes, as well as administrative offenses on the territory of the Republic of Uzbekistan, are held liable on the same grounds as citizens of the Republic of Uzbekistan, except for cases established by international treaties of the Republic of Uzbekistan"[1].

Criminal Procedure Code of the Republic of Uzbekistan According to Article 4: "Proceedings in cases of crimes committed by foreign citizens and stateless persons are conducted on the territory of the Republic of Uzbekistan in accordance with this Code.

This Code applies to persons enjoying immunity in cases that do not contradict international treaties and agreements to which the Republic of Uzbekistan is a party"[2].

Foreign citizens — these individuals are fully bound to the legal system of their homeland, and their legal status is largely based on mutual legal agreements and international treaties with their homeland. In Uzbekistan, when a foreign citizen commits a crime, criminal proceedings and liability are carried out on the basis of international law, diplomatic relations, and a number of treaties.

Crimes committed by foreign citizens often lead to the emergence of complex legal situations. When investigating criminal cases initiated in Uzbekistan by foreign citizens and against them, it is necessary to take into account the specifics of conducting generally recognized investigative actions. In our opinion, these are:

- **Legal status of a foreign citizen in a criminal case in which a preliminary investigation is being conducted.** This feature lies in the fact that foreign citizens entering into criminal procedural relations can participate as suspects, accused (defendants), as well as victims or witnesses. According to criminal procedure legislation, the participation of foreign citizens as interpreters in preliminary investigative actions is not prohibited [3]. Accordingly, foreign citizens entering into criminal procedural relations have the rights and obligations inherent in various subjects of criminal proceedings and can also use the assistance of a foreign citizen as an interpreter;

- **Language barriers in communication processes arising during preliminary investigative actions.** When conducting investigative actions, the investigator must take measures to ensure the correct translation. In the process of criminal proceedings related to foreign citizens, the investigator is required to organize, plan, and effectively carry out procedural and tactical actions, which requires attention to the organization of the correct translation of the content of procedural documents and, at the same time, the management of the interpreter, who is entrusted with the task of translating the testimony of the participants in the investigative process. In turn, this action may cause distrust among the participants in the criminal proceedings.

- **High probability of loss of evidence or assessment of evidence as inadmissible in criminal cases in which preliminary investigative actions are being carried out, the need for a long time (including information about the identity of a foreign citizen) to receive answers to the investigator's inquiries.** Due to the low possibility of a thorough, complete,

and comprehensive objective examination of material evidence in the process of investigating criminal cases related to foreign citizens, there is a high probability of the loss of properties of these items, as well as the impossibility of unilateral participation in the timely implementation of necessary investigative actions in cases related to foreign citizens with immunity (this situation negatively affects both the time of initiating a criminal case and the quality of its investigation, leads to the concealment of traces or the destruction of evidence, etc.).

- Establishment of rules for the stay of a foreign citizen in Uzbekistan (period). At first glance, this circumstance does not significantly affect the conduct of the preliminary investigation with the participation of foreign citizens. However, upon careful analysis of criminal case documents, it can be concluded that this factor directly affects the quality and timing of the preliminary investigation, since the legislation of any developed country determines the grounds, procedure, and duration of the stay of foreign citizens in its territory. Otherwise, the foreign citizen himself (victim, witness) may subsequently become an offender due to non-compliance with these conditions.

- Specifics of the organization, planning, and tactics of investigative actions in criminal cases involving foreign citizens. With foreign citizens, not only procedural actions stipulated by the Criminal Procedure Code of the Republic of Uzbekistan are carried out, but also organizational and tactical actions aimed at clarifying the circumstances that need to be proven.

When studying the opinions of foreign scholars on the specifics of crimes involving foreign citizens, **E.A. Nagaev**, analyzing the specifics of investigating criminal cases involving foreign citizens, "emphasizes the legal status of a foreign citizen as a decisive factor" [4], further supplementing this opinion, **E.K. Ostrogo** indicates "specific aspects and psychological factors of the procedural status of foreign citizens as the main conditions influencing the organization and implementation of investigative actions of this category" [5]. **P.G. Nazarenko** identifies three factors that are decisive in crimes involving foreign citizens: namely, "the legal status of a foreign citizen, the language barrier, and the period of stay of a foreign citizen in the territory of the state where the investigation is being conducted" [6]. **P.S. Belkin** also emphasizes three factors that should be taken into account as specific features when investigating and organizing this category of crimes: "the legal status of a foreign citizen, a possible language barrier, and certain psychological factors" [7].

Considering the above, fully agreeing with researcher P. S. Belkin [8], it is necessary to take into account the legal status of foreign citizens, language barriers, and psychological factors influencing the investigation of criminal cases involving foreign citizens, as well as social and ethnic-national factors.

Thus, we believe that the organization and planning of investigative actions and their direct implementation are determined by the specifics of the legal status (position) of a foreign citizen, the language barrier, the rules of stay in Uzbekistan, and other circumstances.

Identification of a foreign citizen: Identifying a foreign citizen and obtaining information about him contributes to increasing the effectiveness of the investigation. In addition, it is necessary to determine the probability that the investigator has diplomatic immunity against this person. This, in turn, helps to prevent legal restrictions and problems in the investigation process. (For example, a foreign citizen may have an official position or a diplomatic mandate, and these factors change the direction and methods of the investigation).

In order to understand the specifics of investigating crimes involving foreign citizens, it is advisable to divide them into **three categories**:

foreign citizens (students, tourists, specialists, journalists and other categories of persons) in the legal space of the Republic of Uzbekistan;

foreign citizens with full diplomatic immunity and privileges;

foreign citizens with limited diplomatic immunity.

The last two categories of foreign citizens are combined into one group, since in investigative and judicial practice, persons with limited immunity are also considered as persons with full immunity.

Immunity (from Latin "immunitas" - exemption, liberation) is considered a state of certain inviolability or exclusion. Within the framework of criminal proceedings, diplomatic and other immunities constitute a system of privileges, advantages, and legal prerogatives granted to certain individuals, which ensures their exemption from criminal procedural actions in established cases.

The legal status of foreign citizens and its influence on the entire system of the criminal investigation process and the tactics of investigative actions involving them have been studied more than other factors. It turned out that foreign citizens have the same rights and obligations as citizens of the country where the investigation is being conducted. A special case is considered to be persons who have immunity in criminal proceedings, in respect of whom a special procedure for considering a criminal case has been established. The researchers have developed recommendations for investigative bodies on cooperation with diplomatic and consular institutions. Specialists in the field of criminal law theory constantly pay attention to issues of international cooperation and legal assistance, as well as the problems of investigating crimes of an international nature. At the same time, it can be concluded that if the number of foreign citizens participating in the criminal case, possessing legal immunity, is considered small, then the legal status of the remaining foreign citizens will not be so important in the organization and formation of the tactics of individual investigative actions.

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