

Problems of Qualifying Theft Committed With Illegal Entering a Dwelling, Depository or Other Premise

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Annotation: *this article analyzes the problematic aspects of qualifying theft with illegal entering a dwelling, depository or other premise and has developed proposals on making amendments to the relevant articles of the Criminal Code of the Republic of Uzbekistan.*

Key words: *theft, illegal, dwelling, depository, premise, property, larceny, possession.*

In the actions of the person who committed theft, the question of whether there is a sign of illicit access to the dwelling, depository or other premise can be determined by what purpose and how the guilty person has arisen in the room (house, warehouse) and when his intention to spoil his property should determine. The person there does not have the legitimate grounds for the crime to appear, but if he was subsequently theft, there would be no indication in his actions. These qualifications, character house, warehouse or any other room of the victim or the consent of protecting persons or property due to the family connection, or citizens' access to commercial shops, offices and other public facilities in connection with the case.

For example, if a guilty person

is temporarily living in a rented home or as a member of a family, or if he or she is present or hired to do certain work, there is no basis for the illegitimate access to theft committed by him. In practice, there are cases when a person is found guilty of a theft in the home of a victim, who is guilty of theft by illegally entering the home, and the intent of the theft arises after his / her entry into the house. In particular, it can not be considered as theft of objects, stealing of objects without access to the outdoor window sill, without entering into the house and using special objects, and theft of illegally entered into the premises.

Moreover, if a person is found guilty of illegal possession of his / her property in a home, there is no need to supplement the Article 142 of the Criminal Code of the Republic of Uzbekistan (Violation of Security of Residence) as this illegal act is a qualitative indicator of theft .

The offense is found to be illegal entry into the room or in the warehouse, although it has been used by the animal, insane persons, and the child to take away the property. In the latter case, a person is charged with a set of offenses established by article 127 of the Criminal Code (Inducing of Juvenile in Antisocial Conduct)

Instances of the seizure of property may also be attributed to an individual's entry into a dwelling, warehouse or other premises. For example, using a specially crafted hooks thief cracks in the walls of a warehouse, for instance, the owners of food, clothing, materials and other items. These actions were given different legal opinions. For example, the Plenum of the Supreme Court of the Republic of Uzbekistan provided the following explanation to ensure a unified approach to qualifying for such cases. Ownership of their possessions using special devices (hooks, hooks, magnets, absorbing colon, clamps, etc.) does not constitute a descriptive mark of luggage in a dwelling, warehouse or other room. Our point of view is that the qualification of the crime committed as illegally entered into the room before entering into the room illegally is incompatible with the logic, and also does not correspond to the principle of the right of criminal law.

According to the research materials, there are different ways of getting into the dwelling, warehouse or other room: fraudulent use of fraudulent permits and other documents, such as law enforcement officers, sanitary technicians, guards, firefighters, and so on. Unlawful activity does not have a specific purpose, but it is the method chosen to access the property of another person, and then steal it. As noted above, if a guilty person enters the household for other purposes and the intent of the

theft appears after that, the illegal entry will not be available.

As a result of the investigation, we have come to the conclusion that the aggravating factor in the case of a living, warehouse or other unlawful entry into the premises should be transferred to Part 3, Part 2, due to high social security. Бу таклифни асослаш мақсадида қуйидаги фикрларни келтиришни лозим топдик: In order to substantiate this proposal, we have to find the following points:

Firstly, theft, robbery, intimidation, social security, neglect of the society, and the neglect of the law are strongly developed spiritually and physically, because they suddenly come to an end, the householder, the owner of the warehouse, will be able to take firm measures, including force, violence, and even kill a person, especially a witness. Injury to the home by illegally entering the home is much more serious than entering public warehouse or other room.

Secondly, the thieves who have been illegally entered into a dwelling, warehouse, or other room often are well prepared and executed in a pre-planned, internal or external oversight, with involvement of several participants, in turn, as a criminal offense plenty of property will be spoiled. Unfortunately, in some cases, it is a very aggravating circumstance, i.e., by virtue of a large number of qualifications, to ignore the sign of entry into a dwelling, warehouse or other room. In our opinion, the level of social security of this sign is not less

than quantitative indicators. Indeed, in such cases, in many instances, additional object - the safety of the home, the health of the person or the life of the victim.

Third, comparative-legal analysis of criminal legislation of the CIS states that, in many countries, this characteristic is particularly severe under Part 3 (Criminal Code Russian Federation Article 158, part 2 and 3, Criminal Code Ukraine Article 185, part 3, Criminal Code Kyrgyzstan Article 164, part 3, Criminal Code Georgia Article 177, part 3), while each of these states has a high level of scientific and practical capacity in criminal law. Learning from them, adopting acceptable norms for us will undoubtedly contribute to the further improvement of the legislation.

We propose to insert a new paragraph: as “theft of relative's property” in the Article 169 Part 2. The reasons for entering this paragraph are as follows:

1) the degree of social danger is very high because it is common in practice

2) it is difficult to disclose the crime, since the perpetrator can not do without rushing, hurrying, forgetting that there is a homeowner. Naturally, the property acquired as a result of the crime is often quite significant.

3) Sometimes, the offender is aware that his cousin's home, warehouse or other room is legally aware of his / her accessibility, which is virtually eliminated by Article 169, paragraph “g”.

4) It also increases the individuality of punishment for perpetrators of crimes, although some of the other items are mentioned in the person who has committed a crime against a close relative. If theft is committed by a group of individuals, this new paragraph should only be applied to a relative who is close to the victim.