

# Analysis of the Concept and Signs of Crime Assistance and the Improvement of Its Norms

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**Annotation:** *The article deals with issues related to the development of proposals and recommendations to improve the analyses of the concept crime assistance and to analyze the current definition of Promising beforehand to conceal weapons, traces and means of crime and analyzing the use of term methods and means of assistance to crime in legislation.*

**Key words:** crime assistance, promising beforehand, criminal liability, physical assistance, advice, instruction, assistance with the elimination of barriers, weapons of crime, traces of crime, hiding.

The social danger of crime assistance is characterized by simplification of crimes committed by participation, creating advantageous conditions for its commission, hiding weapons or means of crime, and the person who committed crime or means of the offense, traces of criminal actions. At the same time, participating in committing crimes is largely dependent on the activities of the helper.

Researches confirm that, in practice, the most part of participation in the judicial practice (except of doer) corresponds to assisting part. Therefore, the effectiveness of fighting crime in participation is largely dependent on the fight against the helper's activities<sup>1</sup>.

According to the fifth part of Article 28 of the Criminal Code, "the person who helped with advices, instructions, and gave means or helped to overcome barriers during the commission of a crime, as well as the concealment of the crime, traces and means of criminal proceedings, and promised to take such things beforehand would be called a helper."

If this norm of the law is analyzed, it is possible to differentiate *intellectual* and physical types of crime.

Indeed, intellectual assistant uses in the form of information in psychological impact on the consciousness and will of the performer and other participants. In this regard, the intellectual assistant provides information that is needed to commit crimes committed by those who wish to commit a crime. However, in order to evaluate person's actions as intellectual assistant it does not matter to use his/her help in practice by other.

The fifth part of Article 28 of the Criminal Code provides that the intellectual assistant has special characteristics as "helping with the advice and guidance for the offender, and the promise of concealing the offender, the

<sup>1</sup> S. Ershov. Aiding in the General and Especial parts of the Criminal Code of the Russian Federation.

Author. dis. ... Cand. legal sciences. - Saratov. - 2014. - 12 p.

weapons, traces and means of the crime, or the things which have been obtained by the criminal. So, when taken to mean these methods of the intellectual assistant, we can realize the following five aspects:

1) *Assisting in the commission of crime with advice and instructions.* The word assistance is explained in the explanatory dictionary of the Uzbek language as an *advise* «thought about guiding how to do some kind of work or what to do in general"<sup>2</sup>, *the instruction* "guidance that shows how to act"<sup>3</sup>. However, in the literature the concept of giving advice and giving instruction is explained in the same way, and there is not any difference in the meaning.<sup>4</sup> But in our opinion these are different concepts that are different from each other. The reason is that these concepts differ from one another in terms of their impact on human consciousness.

So, *the provision of assistance in the commission of a crime* shall be understood as giving explanations or advice or giving an opinion to a person who commits a crime to

achieve a criminal offense or to commit the offense.

Assisting on the commission of a crime by giving instruction shall be understood as giving instruction on committing offense or hiding it and preparing to do crime without leading the actions of the doer or other participants.

However, it is important to note that, according to the results of research, there was not similarity in the practice of judicial assessment of the legal assessment of the circumstances expressed in the form of assisting crime. In particular, it is similar to the fact that A.'s instruction to the X. that it is necessary to use a gun for intentional killing of B. had been legally evaluated as assisting, that is, with the instructions of S', to G. the use of firearms in order to killing T. is qualified as organizer.

It is possible to conclude that in order to achieve the similar application of the law in the qualification of these cases, it is desirable to include the phrase "with instructions" from notion of the assisting crimes.

2) *Promising to hide the criminals beforehand.* It should be noted that, it is not logical for us to use the term "criminal" directly by the legislator.

Because according to the Constitution of the Republic of Uzbekistan, the person can be found guilty only under the verdict of the court. Therefore, *instead of the term "criminal" used*

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<sup>2</sup> Explanatory dictionary of the Uzbek language: More than 8000 words and phrases. J. II. E-M / Review Board: T. Mirzayev and others.; The Institute of Language and Literature of the Academy of Sciences of the Republic of Uzbekistan. - Tashkent. State scientific publishing house "National Encyclopedia of Uzbekistan", 2006. – p. 551

<sup>3</sup> Ibid: p. 471

<sup>4</sup> Criminal Law. General section: Textbook (Second Edition, completed and reprinted) / R. Kabulov, A. A. Otajonov and others. - T., 2012. –p.274

around the concept of helping the offender, we consider it appropriate to use the term "participants of the offense and others who committed a crime." Any promiscuity of all offenders may be expressed in consent of any person who performs any act by way of concealment until the commencement of the proceedings so that the law enforcement or other bodies or others are not aware of it.

3) *Promising beforehand to conceal weapons, traces and means of crime.* Concealing weapons and means, taking them, their saving or destruction or other type of hiding weapons shall be referred to actions of promising beforehand. The promise of hiding the traces of the crime beforehand, as a rule, is preceded by the promise of the destruction of these traces or evidence of criminal offenses. It should be noted that the legislator used a combination of "and" to record alternative cases of assistance in crime prevention. In our view, the law producer's such approach is not legally valid. Because the word combination "and" suggests that alternative events should only be accomplished together. For example, promising concealment of traces and means of offending reveals that concealing these two events simultaneously. However, they also provide assistance to crime as they committed separately. That's why it is desirable to use the

word "or" while recording them in the legal norm.

4) *Promising to conceal the property acquired through the commission of offense.* As the property acquired through the commission of offenses shall be understood the any property which is acquired as the result of committing crime as to the envisaged in the criminal law. Therefore, analyzing method of the assisting to the crime is considered as that person's reworking, saving or concealing that property in any way or promising beforehand to the other participants. It should be noted that consenting to conceal the property acquired as a result of the committed crime creates an independent liability according to the second part of the Article 241 of the Criminal Code.

5) *Promising to transfer of acquire the things which are acquired through the commission of offense.* Promising to commit any acts committed to the possession or disposal of any act or thing which may be found in the possession of the offender or other persons (or according to their task from others) shall constitute the subject matter of the offense. Promising beforehand to transfer the things which are acquired through the commission of offense is considered committing crime in any other way.

Taking or transferring the property without promising beforehand as knowing it

was acquired through the commission of offense shall not constitute a criminal offense. However, Article 171 of the Criminal Code provides criminal liability for such a crime.

This means that the legislatures connect abovementioned methods of intellectual assistant with *promising beforehand*. However, linking the methods of intellectual assistant with the "promising beforehand" by the legislator can lead to some difficulties in determining the limitations of the ending of crime.

Here question arises, what does "promising beforehand" mean? At the same time, the term "beforehand" is explained as in the explanatory dictionary of the Uzbek language as "actions before anything happens, before any incident."<sup>5</sup> Hence, by the term promising beforehand can be understood being agreed until beginning the proceeding by the objective side.

Although another question arises: *Is the promise given in such a commitment to the crime scene after the beginning of the objective sides actions but before the completion of the crime can be called as a helper?* In paragraph 5

of the Article 28 of the Criminal Code, explaining the meaning of intellectual assistant by the term "*promising beforehand*" does not cover the legally to explain the promise as the actions to assist the offenders before the crime is over offending while actions began by the objective side.

This implies a need to clarify the situation in the legal norm. In our opinion, instead of the term *promising beforehand* it would be better to use the term "*before the commission of crime*" by legislator, would be solution to this issue. Therefore, we confirm not to use the term "promise" in the present state.

The next type of crime aid is a physical assistant. At the same time, the physical assistant and other participants are required to provide material or physical support to the preparation or commitment of a crime.

Therefore, they provide physical, practical assistance to their physical or emotional needs, without affecting the consciousness or will of the practitioner or other participants. At the same time, the norm of the law includes assistance in the provision of crime or the elimination of barriers in committing crime to physical assistance.

By the term *assisting crime by giving means to commit a crime* shall be understood providing doer or other participators with the

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<sup>5</sup> Explanatory dictionary of the English language: more than 8000 words and phrases. J. III. N-Order / Review Board: T. Mirzayev (Leader) and others .; The Institute of Language and Literature of the Academy of Sciences of the Republic of Uzbekistan. - Tashkent. State scientific publishing house "National Encyclopedia of Uzbekistan", 2006. – p.110.

different kind of tools for the preparation or commission of a crime.

However, the existing criminal law does not mean that, among other methods of assistance in the offense, the providing offenders with weapons and other participators. However, the term "weapon" varies considerably from one another to that of the "tools". The weapon of a crime unlike the tool is aimed to use in order to facilitate for the actions of the offender or the other participators in doer to commit a crime. That's why it is necessary to include helping with providing weapon for committing crime as assisting to commit a crime.

In fact, according to the law (article 203<sup>1</sup> of the CPC), as a weapon of offense shall be understood the property, which is specially designed, prepared or personalized for the preparation or commission of a crime as well as the property used directly in the course of a crime for the achievement of criminal objectives.

By the term *assistance with the elimination of barriers* is understood removing as any obstacles that hinder participants to fulfill their criminal intent. For instance, it can be seen in dismissing technical facilities in order to enter to modern house which is equipped with modern technical means, , covering the crime

scene, and misleading others for committing a crime.

As a conclusion we can say that it is desirable to express the term assisting to commit a crime in the following wording in the Article 5 of Article 28 of the Criminal Code: the person who promised to take and transfer the things and hiding the offenders or participators, tools and weapons of crime and traces and means obtained through the commission of crime or assisted with advices, information, arms, weapons, or by eliminating barriers till the commission of crime shall be called as assistant of a crime.

**References:**

- [1]. S. Ershov. Aiding in the General and Especial parts of the Criminal Code of the Russian Federation. Author. dis. ... Cand. legal sciences. - Saratov. - 2014. - 12 p.
- [2]. Explanatory dictionary of the Uzbek language: More than 8000 words and phrases. J. II. E-M / Review Board: T. Mirzayev and others .; The Institute of Language and Literature of the Academy of Sciences of the Republic of Uzbekistan. - Tashkent. State scientific publishing house "National Encyclopedia of Uzbekistan", 2006. – p. 551
- [3]. Criminal Law. General section: Textbook (Second Edition, completed and reprinted) / R. Kabulov, A. A. Otajonov and others. - T., 2012. –p.274