

Types of objects of crimes and their legislative regulation

Abstract: It is considered the types of objects of crimes allocated in the theory of criminal law on "horizontal" and "vertical", at the same time the author pays the main attention to classification and a legislative regulation of objects of the crimes classified by "vertical". Separate offers is made on entering of amendments into the existing criminal legislation, specification of legislative formulations and improvement of the legislative equipment at a legislative regulation of separate types of objects.

Keywords: crime object; classification; types of objects; general object, patrimonial object; specific object.

From our point of view, main objective of classification of objects of crimes, is first of all, need of the correct description of signs of a subject to encroachment for criminal precepts of law, and then on the basis of its legislative characteristic the correct qualification of the committed crime in the course of application of the criminal precept of law.

Objects of a crime are classified depending on their social value, the importance, vulnerability and the need for criminal legal protection and protection. Classification of objects as elements of an actus reus is performed in the ratio with an actus reus and has generally law-technical characteristic, direct object.

Object as an element of an actus reus corresponds to a crime object as an actus reus with a crime. Proceeding from it is necessary to understand set of the signs used by the legislator for the description of the public relations broken as a result of crime execution as an object as an element of an actus reus. By the

* **Gulaliyeva Romella Ali qyzy** – PhD in Law, Associate Professor, a leading researcher of Institute of the Rights and Human Rights (Azerbaijan). E-mail: romella.gul@mail.ru

analysis of the legislation, the science of the criminal law developed methodological bases of classification of objects of crimes. At the same time, such group is performed on "vertical" and on "horizontal".

Classification by "vertical" traditionally allocates general, patrimonial (it sometimes call group or special) and direct crime objects. The ratio between them is similar to a ratio of philosophical categories of "general", "special" and "single" ("separate"). For the first time such classification of an object of a crime was offered by V. D. Menshagin in 1938 [5]. In view of the fact that in one cases it is possible to allocate two, and in others - four subjects to encroachment, some researchers don't consider such classification universal [14, p.199]. Proceeding from it classification of an object of a crime was offered on: 1 – general, as set of the public relations protected by the criminal law; 2 – patrimonial, as separate group of the uniform public relations constituting a certain area of public life – property, the personality, etc.; 3 – specific, as the public relations of one type – life, property and 4 - direct, as specific manifestation of the public relations of this type [1, p.74].

Recently other classification of objects of crimes also occurs in the criminal and legal theory. So, for example, L. D. Gaukhman allocates the general, standard (the subgeneral, nadrodovy), patrimonial (special, group) and direct objects. The general and direct objects at the same time are treated in earlier stated sense. According to L. D. Gaukhman, standard (the sub-general, nadrodovy) an object forms the basis for allocation of sections in the Special part of UK, and is one of criteria of creation of her system. As for a patrimonial object, it represents "group of the uniform public relations on which the crimes provided by articles included in the same chapter of the Special part of UK encroach. A patrimonial object is criterion of division of the Special part of this UK into chapters and one of criteria of creation of system of the Special part of UK" [6, p.145-147].

Therefore, in this design is absent and what is designated by most of researchers as a specific object that can The theory of the criminal law uses a concept of a general object for disclosure of the nature and socio-political essence

of a crime as not all complex existing in the society of the public relations, and only the most important and significant public relations from the point of view of society is subject to criminal legal protection from criminal encroachments. It is known that public danger of a crime its capability is recognized to do harm to those public relations which are delivered under protection of the penal statute therefore a general object allows to give material definition of a crime gives a complete idea of those spheres of the public relations which the modern state and society recognize so important and socially important that they establish criminal liability in case of causing or danger of causing harm by it. As general acts as a natural form of interrelation as a part of whole, available to direct perception, allocation of a general object is proved methodologically. Therefore a general object considerably facilitates knowledge of essence of patrimonial, specific and direct objects be hardly recognized by the successful decision is called a patrimonial object.

Since the Soviet period, general determination of objects of criminal legal protection and objects of crimes was given already in the legislation, first of all, in a concept of a crime. The leading beginnings determined a crime as "violation of an order of the public relations protected by the criminal law" by the criminal legislation of 1919. The order of the public relations, "corresponding to interests of workers of masses" [7, p.105], also appeared, thus, general object of criminal legal protection. The first Criminal Codes of federal republics determined a crime as the action or failure to act dangerous to Workers' and Peasants' law and order [7, p.35].

The main beginnings of the penal legislation of USSR and federal republics of 1924 announced a crime "socially dangerous acts undermining the power of workers or breaking the law and order established by it" [8, p.7]. Criminal Code of the Azerbaijani SSR of 1960 in initial edition determined a crime as "socially dangerous act encroaching on the Soviet social or political system, socialist system of economy, socialist property, the personality, political, labor, property and other rights of citizens, and equally other, encroaching on socialist law and order socially dangerous act provided by the Special part of this Code" (Art. 7) [9]. In the last

edition, Criminal Code of the Azerbaijan Republic 1960 recognized as crime objects a social order of the republic, political and economic systems, the personality, political, labor, property and other rights and freedoms of citizens, all patterns of ownership, socialist law and order (Art. 7) [10].

In the Bases of the penal legislation of USSR and the republics of 1991 which didn't take effect because of the collapse of the USSR in addition to the crime listed to objects also the environment, the world and safety of mankind belonged.

The existing Criminal Code of Azerbaijan accepted in 1999 recognizes as objects of criminal legal protection: world and safety of mankind, right and freedom of the person and citizen, property, economic activity, public order and public safety, environment, constitutional system of the Azerbaijan Republic (Art. 2) [11, p.6].

This generalized list is concretized in the Special part of the penal statute, first of all - in names of sections and heads of Criminal Code as the Special part is constructed on the basis of patrimonial object of a crime. Here the specific rights and freedoms of the person and citizen protected by the penal statute (life, health, freedom, honor and advantage of the personality, sexual integrity and sexual freedom, constitutional rights and freedoms of citizens, etc.), and also the major public and state interests to which it is caused are specified or essential harm as a result of criminal encroachments can be done (property, economic interests of society and state, health of the population and public morality, the government and interests of public service, interests of justice, an order of management, an order of execution of military service, etc.).

Thus, it is rather obvious that eventually and change of historical conditions (social, political, moral, etc.) not only the system of the social values protected by the criminal law but also their structure, ratio or hierarchy of these values change. During existence of totalitarian regime interests of protection of the political system, the state in general was above all put. Now the system of the interests and values protected by the criminal law is based on the constitutional priorities

reflecting the democratic ideas "mankind - the personality - society - the state". According to this principle also the Special part of the Criminal Code AR is under construction. In our opinion, the most successfully general object of crimes is formulated in one of N. S. Tagantsev's works as follows: "in wide collective value – all this what causes life and a prosperity of the individual, society, state and all mankind in their physical, intellectual and At the same time, the list of objects of criminal legal protection, stipulated in Clause 2 UK Azerbaijan, it is impossible to recognize perfect. First of all, in it the principle of a ratio of different types of objects isn't sustained – along with patrimonial also specific subjects to encroachment are listed. So, speaking about economic activity, Criminal Code at the same time specifies also the property acting as a basis of economic activity, and noting the rights and interests of the person and citizen, doesn't specify the personality. Such transfer of objects of criminal legal protection is represented to us incomplete and inexact, requiring entering into the current legislation of corresponding changes and additions. Considering the above, this regulation can be stated at least in the following edition: "Tasks of the criminal code are: providing the world and safety of mankind, protection of the personality, the rights and freedoms of the person and citizen, property and economic activity, public order and public safety, the environment, the government and constitutional system of the Azerbaijan Republic from criminal encroachments "moral spheres" [6, p.32-33].

Patrimonial object is an object of group of kindred offenses, a part of a general object. A patrimonial object can be determined how set same (uniform or close on content) the public relations protected by set of the interconnected criminal precepts of law. Value of a patrimonial object, first of all, is that it allows to carry out classification of all criminal precepts of law, and respectively, and the crimes breaking them. This property is the basis for creation of the Special part of the Criminal Code. On a patrimonial object in it the sections located on the social importance of the protected public relations are selected: world and safety of mankind, personality, economy, public safety and public order, government,

military service. Fixing at the legislative level of similar hierarchy of objects generally is recognized reasonable. As well as in the penal legislation of Azerbaijan, in the legislation of some states (Germany, France, etc.) the section on infringement of the world and safety of mankind is on the first place that is explained by their danger to mankind in general.

As a rule, specifies the name of the section of the Special part a patrimonial object. In some cases it is formulated in the separate criminal precept of law. So, in Art. 327 of Criminal Code of Azerbaijan it is told about crimes against military service as about infringement of an established procedure of its passing. In most cases a patrimonial object is determined by the analysis of the regulations included in this or that section of the Special part of CC. For example, the analysis of the section IX Criminal Code of AR "Crimes in the sphere of economy" allowed to reveal theoretically patrimonial subject to the acts as the public relations providing normal functioning of economy as a single economic complex covered by it.

Exact establishment of a patrimonial object has basic value in law-enforcement practice. Characterizing an orientation of criminal acts, it allows to qualify correctly a crime, to differentiate encroachments, similar on other signs, among themselves. For example, sections IX and X CC AR contain regulations about responsibility for plunder and a racketing (the Art. of Art. 177-189-1, 227, 232, 235). Distinction between them can be carried out on a patrimonial object: in the first case (if a subject of a crime is the property) normal functioning of national economy, in the second (if drugs or weapon act as a subject, for example) - public safety will be it. Deprivation of life of other person as a crime also contains in different sections of CC. So, responsibility for murder is provided article 120-125 of the section VIII of CC, the Art. of Art. 277, 287 of the section XI of CC. It is possible to differentiate them among themselves on patrimonial objects which respectively are the personality and the relations providing stability and normal functioning of the government in general and also its separate institutes and bodies.

Specific object set of the public relations broken or able is recognized to be broken by making of small group of uniform criminal encroachments. Depending

on a specific object the system of heads of the Special part of CC is under construction. The operating UK of Azerbaijan allocates 20 specific objects according to names of heads of the Special part of CC. Sometimes a direct object of a crime call specific [3, p.50]. However because structurization of regulations of the Special part, more extensive and detailed in comparison with former CC is entered into the new Criminal Code (sections - chapters), other line item according to which a specific object is intermediate between patrimonial and direct and is, thus, a part, a subsystem of a patrimonial object is represented to more logical, being with it in the ratio "a sort – a type" [14, p.203-204; 4, p.95-96]. Therefore a specific object can be designated as the subgroup of the close, similar social benefits entering into wider group of uniform, one-serial values. So, if a patrimonial object of big group of crimes is safety of the personal benefits (the section VIII of the Special part of CC), then specific objects can be considered safety of life and health (chapter 18), safety of freedom, honor and advantage of the personality (chapter 19), sexual integrity and sexual freedom (chapter 20), etc. Thus, a specific object is an additional link in structure of objects of a crime down. According to some authors, in some cases it can be absent, matching with patrimonial (in particular when the section of the Special part consists of only one chapter, for example, of section XI and hl. 33 - crimes against military service) [2, p.132]. It is difficult to agree with such line item, at least on the ground that whole can never match a part. Sections XII "Crimes against military service" and VII "A crime against the world and safety of humanity" don't contain heads, however it doesn't mean at all that the crimes included in them have no specific objects. So, in crimes against the world and safety of humanity (chapter 16 of CC) it is possible to allocate at least two specific objects: safety of the world and peaceful co-existence of the states and safety of representatives of the foreign states or the international organizations using international protection. Thus, a specific object gives the chance to allocate within set of the public relations rather small, specific groups of the relations, general for a number of similar crimes.

For the correct establishment of a specific object of a crime the particularly important becomes its legislative determination. At the same time, the analysis of the current legislation allows to claim that this provision isn't always maintained by the legislator. So, in particular, the name of chapters 17 of CC AR – "War crimes", 24 – "Crimes in the sphere of economic activity", 26 – "The crimes connected with illicit trafficking in drugs and psychotropic substances", 28 – "Ecological crimes", 30 – Cybercrimes don't conform to the main requirement of creation of system of the Special part of CC of AR that, in our opinion, can't be acknowledged admissible. We believe that this provision can be eliminated by change of the name of the specified heads at least as follows: chapter 17 of CC of AR – "Crimes against rules of warfare", chapter 24 – "Crimes against economic activity", chapter 26 – "Crimes against an order of trafficking in narcotics and psychotropic substances", chapter 28 – "Crimes against an ecological safety" and chapter 30 – "Crimes against information security".

The further specification of an object is reached due to allocation of a direct object which has the most essential value for law-making and law-enforcement activities. Understand those specific public relations which are delivered by the legislator under protection of a certain penal statute and to which the damage is caused by the crime falling under signs of this structure as it [13, p.86].

So, for example, in crimes can oppose as direct objects life when making murder the personality, health in case of causing to health of varying severity, personal liberty, in particular, when kidnapping, honor and advantage of the personality in case of slander or an insult, etc. A direct object of a crime has important practical value for qualification of act as its correct establishment is sometimes decisive factor in case of a difference of one crime from another.

As there can't be several objective parties in one actus reus, so there can't be also several objects. At the same time, specifics of an object of a crime such is that change in the same row of the public relations involves negative changes in others. So, in case of murder not only there is a deprivation of human life, but also the loss can be caused to other public relations: for example, developing between parents

and children, between spouses, to the property relations etc. However they don't constitute an essence of an object of murder and therefore aren't considered in case of its qualification. The legislator publishes criminal precepts of law, establishes criminal liability for the purpose of protection of the public relation constituting a direct object. Specific features of each crime are determined, first of all, by nature of a direct subject to this encroachment. So, causing on imprudence of death can be result of various crimes. However if death was a consequence of violation of safety rules or operation of a rail, air or water transport, then in this case public relation which was injured a loss from act will characterize the crime provided by Art. 263 of CC of AR, but not any other encroachment.

However the question of what public relations can be recognized as an object of a specific crime, is solved not science of the criminal law or law-enforcement practice but only the legislator by acceptance or cancellation of this or that penal statute. The task of science of the criminal law and court practice consists in establishing those public relations which are determined by the legislator as a direct object of a crime, and to open their valid content.

It is necessary to notice that the legislator only in certain cases specifies a direct object in the most penal statute. So, it is provided in Art. 274 of CC of Azerbaijan that high treason is the act causing damage to sovereignty, territorial integrity, state security or defense capability of the Azerbaijan Republic [11, p.217]. In literature there is an opinion that in most cases in the penal statute there are no instructions of rather direct object of a specific crime, and then the careful socio-political and legal analysis of structure of a certain crime is necessary for his examination [13, p.86]. In our opinion, honor the description of an object of a crime in all articles of the Special part of CC, as well as all other elements of an actus reus, it is performed in the law by means of specifying on the signs characterizing it. So, in particular, in article 273 UK it is told about abuse of regulations of operation of the computer or their network, in article 276 UK it is specified the data which are the state secret, etc.

Direct object constitutes a part of general, patrimonial and specific objects. But at the same time it must be kept in mind that all specified objects are in one plane of the public relations: a direct object shall have the same properties that patrimonial and specific. Establishment of a direct object of a crime is important: first, allows finding out nature and degree of public danger of encroachment; secondly, is a necessary prerequisite of the correct qualification of deeds; thirdly, promotes a difference of the committed crime from adjacent acts. At last, on a direct object regulations within heads of the Special part of CC are systematized. Nevertheless and this principle is often broken by the legislator in case of an arrangement of this or that regulation in system of the Special part of UK. So, for example, it is difficult to agree with a line item of the legislator who arranged the Art. 194 about acquisition of a money or other property which is obviously received in the criminal way, ownership, use and the order by them in chapter 24 of CC of AR about crimes in the sphere of economic activity, at least on the ground that ownership, use and the order of property constitute, as we know, the property relations. It is difficult to agree also with an arrangement in the same chapter of CC of AR of Art. 200-1 providing responsibility for illicit trafficking in medicines. We believe that an object of this crime are not so much the relations in the sphere of economic activity, how many health of the population owing to what it would be more pertinent to arrange this regulation in chapter 25 of CC of AR about crimes against public safety.

References

1. Korzhansky N. I. Obyekt i predmet ugovolno-pravovoy okhrany. [Object and subject of criminal legal protection]. Moscow, 1980, 248 p.
2. Kurs ugovolnogo prava / pod red. N.F. Kuznetsovoy i I.M. Tyazhkovoy [A course of criminal law / ed. by N. F. Kuznetsova and I. M. Tyazhkova]. Vol. 1. Moscow, 1999, 624 p.
3. Praktikum po ugovolnomu pravu / pod red. L.L. Kruglikova [A workshop on criminal law / ed. by L. L. Kruglikov]. Moscow, 1997, 501 p.

4. Rossiyskoe ugovolnoe pravo. Obschaya chast'/pod red. V.N. Kudrayvtseva i A.V. Naumova [Russian criminal law. The general part / ed. by V. N. Kudryavtsev and A. V. Naumov]. Moscow, 1997, 501 p.
5. Sovetskoe ugovolnoe pravo [Soviet criminal law]. Moscow, 1938, 408 p.
6. Tagantsev N. S. Russkoe ugovolnoe pravo. Lektsii. Chast' Obschaya, v 2 t., t. 1 [Russian criminal law. Lectures. General Part in 2 vol., vol.2]. Moscow, 1994, 380 p.
7. Ugolovnoe pravo. General Part. Uchebnik pod red. L.D. Gaukhman, L.M. Kolodkina [Criminal law. General part. Textbook, ed. by L.D. Gaukhman, L.M. Kolodkin]. Moscow, 1997, 784 p.
8. Ugolovnoe pravo. Obschaya Chast'/pod red. N.F. Kuznetsovoy, Y.M. Tkachevskogo, N.G. Bozenkova [Criminal law. The general part / ed. by N. F. Kuznetsova, Yu. M. Tkachevsky, G. N. Borzenkov]. Moscow, 1993, 624 p.
9. Ugolovnoe zakonodatel'stvo SSSR i soyuznykh respublik. Sbornik (Osnovnye zakonodatel'nye akty) [Criminal legislation of the USSR and federal republics. The collection (The main acts)]. Moscow, 1957, 531 p.
10. Ugolovyi kodeks Azerbajjanskoy SSR [Criminal Code of the Azerbaijani SSR]. Baku, 1962, 221 p.
11. Ugolovyi kodeks Azerbajjanskoy Respubliki [Criminal Code of the Azerbaijani SSR]. Baku, 1996, 139 p.
12. Ugolovyi kodeks Azerbajjanskoy Respubliki [Criminal Code of the Azerbaijan Republic]. Baku, 2015, 212 p.
13. Ugolovyi kodeks Ukrainy. Obschaya Chast'/pod red. M.I. Bazhanova, V.V. Stashisa, V.Y. Tatsiya [Criminal law of Ukraine. The general part / ed. by M. I. Bazhanov, V. V. Stashis, V. Ya. Tatsiya]. Kharkov, 1999, 259 p.
14. Frolov E. A. Spornye voprosy obshchego ucheniya ob ob'ekte prestupleniya//Sbornik uchenykh trudov Sverdlovskogo yuridicheskogo instituta [Controversial issues of the general doctrine of a crime object//Collection of scientific works of the Sverdlovsk Juridical Institute]. Sverdlovsk, 1969, pp. 184-225.