

**PUNISHMENT FOR THE CRIME OF SMUGGLING IN THE REPUBLIC OF  
UZBEKISTAN AND FOREIGN COUNTRIES:  
A COMPARATIVE LEGAL ANALYSIS**

**Akhadova Madinabonu**

Student, 4th year, Faculty of Private Law, Tashkent State University of Law,  
Tashkent, Uzbekistan.

**Settiyeva Sevara**

Student, 4th year, faculty of private law, Tashkent State University of Law,  
Tashkent, Uzbekistan.

**Rozmetova Asal**

Student, 4th year, faculty of private law, Tashkent State University of Law,  
Tashkent, Uzbekistan.

**Abstract.** The article presents the basis of punishment for smuggling in near and far foreign countries. Factors to consider in sentencing include smuggling. The views of some scientists about the crime of smuggling and the punishment of this crime. This article shows the differences between the crime of smuggling provided for in the criminal legislation of the Republic of Uzbekistan and the crime of smuggling in other countries.

**Key words:** smuggling, punishment, confiscation of property, object of crime, large size.

**Izoh.** Maqolada yaqin va uzoq xorij mamlakatlarida kontrabanda uchun jazo tayinlash asoslari keltirilgan. Qanday ashyolar kontrabanda qilingan, hukm chiqarishda e'tiborga olinishi kerak bo'lgan jihatlar. Ayrim olimlarning kontrabanda jinoyati va bu jinoyat uchun jazo tayinlash haqidagi qarashlari. Ushbu maqolada O'zbekiston Respublikasi jinoyat qonunchiligida nazarda tutilgan kontrabanda

jinoyati bilan boshqa davlatlardagi kontrabanda jinoyati o'rtasidagi farqlar ko'rsatilgan.

**Kalit so'zlar:** kontrabanda, jazo, mulkni musodara qilish, jinoyat ob'ekti, katta hajm.

“Something was on him and he couldn't shake it. He couldn't even see it. It was a new weapon of some sort and his last regret on this earth was he wouldn't live long enough to sell it to any of his customers.”

— **Brett Arquette, Operation Hail Storm**

The modern stage of our national development related to the establishment of a new Uzbekistan is closely related to the active deepening of international relations in all spheres of society. Undoubtedly, the process of integration with the modern international community will give a serious impetus to the expansion of the country's foreign economic activity. In this way, strong economic relations with foreign countries are formed, the volume of product exchange is expanding, customs procedures are being simplified, and in general, the process of wide liberalization of this sector is being observed. In this situation, the problems related to the control of the passage of products through the customs borders of the country will increase. In most countries of the world, smuggling is recognized as one of the most dangerous forms of criminal activity that harms the country's economic interests<sup>20</sup>. The social danger of smuggling firearms, explosives and drugs, works of art, and rare and declining wild animals is especially high. Therefore, criminal law and legislation are important in combating crimes in this area. Each country has developed its own experience in combating these crimes based on the level of economic development, historical traditions, culture of foreign trade relations<sup>21</sup>. Therefore, the approaches to

<sup>20</sup> Lyutov V.A. Comparative analysis of criminal responsibility for contraband and criminal law in the Russian Federation and the Chinese National Republic // International criminal law and international justice. – 2013. – No. 3. – S. 16.

<sup>21</sup> Prokhorov L.A., Skachko A.V. Pravovye modeli protivodeystviya kontrabande: opyt zarubezhnogo zakonotvorchestva // Obshchestvo i pravo. - 2013. - No. 2 (44). -S. 69.

determining responsibility for the crime of smuggling in different countries are different and different from each other. Currently, the effectiveness and efficiency of combating smuggling crime depends on a number of factors, one of which is related to the type and amount of punishment. In particular, Article 246 of the Criminal Code of the Republic of Uzbekistan, which stipulates responsibility for smuggling, provides for imprisonment from five to ten years for these actions. At the moment, the aggravating circumstance of this crime is nuclear, chemical, biological and other types of weapons of mass destruction, materials and devices that can be used in the creation of such weapons.

In most CIS countries, including the Russian Federation, criminal sanctions for smuggling allow differentiation and individualization of responsibility. In particular, based on the nature of the crime of smuggling and its level of social danger, punishments such as fines, restriction of freedom, compulsory community service, deprivation of liberty, as well as up to life imprisonment for smuggling related to narcotic drugs, psychotropic substances, their analogues and precursors punishments are provided.<sup>22</sup> In the CIS countries, deprivation of liberty and a fine are provided as the main punishments for the crime of smuggling. In some CIS countries, for example, Turkmenistan and Armenia, in addition to these penalties, the penalty of confiscation of property is provided. At the same time, for smuggling in other countries punishments such as correctional work and restriction of freedom (Kazakhstan, Republic of Belarus), deprivation of the right to hold a certain position or engage in activities (Republic of Tajikistan) are also provided. The existence of other alternative punishment measures related to the upbringing of the criminal without separating him from society can be evaluated as a positive experience that allows to impose a punishment based on the level and nature of the social danger of the committed act. At the same time, a comparative analysis of the criminal laws of the CIS countries shows that different periods of imprisonment are set for smuggling (in these countries economic

---

<sup>22</sup> Penal Code of the Republic of San Marino. URL: <http://www.twirpx.com/file/1795288/grant/>.

smuggling is meant). In particular, with the Kyrgyz Republic, the minimum term of imprisonment for smuggling is two years, and in Kazakhstan and Turkmenistan, imprisonment for this crime can be three years. For countries such as Russia, Belarus, Armenia, Azerbaijan, deprivation of liberty is provided for up to five years. The maximum term of imprisonment for smuggling is 7 to 12 years. It should be noted that each country has its own system of calculating fines, and in most of them, the calculation of fines is based on the minimum amount of wages. Responsibility for smuggling is also defined differently in European countries. Although the European Union has existed for a long time under the concept of a common market, which implies the implementation of goods, services and works within a common border, it is important to note that the responsibility for smuggling has not been unified. In addition to criminal laws, other regulatory legal documents, customs statutes, regulations on taxes, etc. regulated by In some countries of the European Union (Belgium, Norway, Austria, etc.), national criminal legislation does not provide for criminal responsibility for illegal import and export of goods. We can distinguish two approaches to this issue. The first is related to the criminalization of the broad range of acts, which can be included in economic smuggling, in this approach, a ban is imposed on the import and export of certain types of products into the territory of the EU country. An example of this is the Criminal Code of the Republic of San Marino, according to which it is prohibited to import drugs and nutrients used for medical purposes, alcoholic beverages, products with false markings and works of authorship, counterfeit goods, securities, credit documents with forged signatures. Depending on the object of the criminal offense, a prison sentence of I, II, III, IV degree from three to nine years can be imposed for committing these actions<sup>23</sup>. In the Dutch Criminal Code, counterfeit products, products with the wrong place of manufacture or fake company name are brought into the territory of the Kingdom. importation shall be punishable by imprisonment for a term not exceeding one year and a fine of the fifth degree.

---

<sup>23</sup> Penal Code of the Republic of San Marino. URL: <http://www.twirpx.com/file/1795288/grant/>.

Importing fake, forged, illegally designed units of measurement, or objects with which they are illegally placed, is punishable by imprisonment from two to six years or a fine of the fifth degree (100,000 guilders). The second approach envisages the criminalization of only those acts that pose the highest social risk. This group includes objects (weapons, explosives, narcotics, radioactive materials, etc.) that are excluded from free circulation as a rule. In particular, the French Penal Code defines criminal responsibility for importing or exporting narcotics. For committing this crime (Article 222-36), 10 years of imprisonment and a fine of 50 million francs are provided. Basarti, if the drug traffic is committed by an organized criminal group, the penalty is up to 30 years in prison and a fine of 50 million francs (Article 222-34). Life imprisonment and a fine of 50 million francs are provided for leading a group involved in the import and export of narcotics<sup>24</sup>. In German law, relatively few actions related to the illegal movement of products are recognized as crimes. The general norms providing for sanctions for smuggling were reflected in the "Taxes" regulation adopted on March 16, 1976. According to it, simple smuggling, regardless of the type and quantity of goods, is punishable by imprisonment for up to five years. In aggravating circumstances, smuggling, that is, for committing it continuously as a profession, using force or using firearms as part of an organized group, is provided for deprivation of liberty from three months to five years. A peculiarity of German legislation is that the smuggling of narcotic drugs and other restricted objects is not specifically identified.<sup>25</sup>

According to the German Criminal Code, smuggling includes the import and export of materials used for the preparation of service certificates (paper, plastic, forms, clichés, blanks, etc.). The sanction of this article provides imprisonment for two years or a fine (§ 275). In case of aggravating factors, that is, when the crime is committed as a profession or by a member of an organized group, the sentence

---

<sup>24</sup> Savchishkin O.G., Stepanov G.I. Zarubezhnoe ugovolnoe zakonodatelstvo ob otvetstvennosti za contrabandu narcoticheskikh sredstv, psichotropnykh veshchestv ili ix analogov // Vestnik Chelyabinskogo gosudarstvennogo universiteta. - 2013. - No. 17. - S. 76.

<sup>25</sup> Kuznetsova N.V. Sravnitel'naya charakteristika nakazaniy za contrabandu v Rossii i nekotorykh zarubejnykh stranax // Penitentiarnaya nauka. - 2016. - No. 36. -S. 61–63. 9.

of imprisonment is extended to three years, in the case of radioactive and other dangerous resources and substances to five years (§ 328).<sup>26</sup> In the Swiss Criminal Code, for smuggling activities in addition to imprisonment and a fine, up to five years of rigorous imprisonment is provided for. This penalty is imposed for the importation of forged banknote, counterfeit banknote, metal coin or toll service marks, illegal alteration or destruction of data (Articles 144-b, 243, 244). Imprisonment and fines are also provided for bringing into the country objects showing cruelty to humans or animals or food dangerous to animals (Articles 135, 236). The concept of smuggling in Italian law covers all customs crimes defined in the Criminal Code. For these crimes only a fine is provided as a punishment.<sup>27</sup> The analysis of the legislation of Uzbekistan, the CIS and the EU countries shows that the level of social danger of smuggling is assessed differently in them, and as a result, there are huge differences between the type and amount of punishment. At the same time, smuggling in the Republic of Uzbekistan is somewhat different from the traditional approach in the CIS countries, as it is only related to prohibited items. Although the European criminal law has criminalized a relatively wide range of smuggling activities, it takes a somewhat libertarian approach to sentencing. The maximum amount of imprisonment shall not exceed ten years. Imprisonment and fine are provided as the main type of punishment.

#### **LIST OF REFERENCES:**

1. Lyutov V.A. Comparative analysis of criminal responsibility for contraband and criminal law in the Russian Federation and the Chinese National Republic // *International criminal law and international justice*. – 2013. – No. 3. – S. 16.

<sup>26</sup> The Swiss Criminal Code. URL: <http://www.crimpravo.ru/page/zar-uk>.

<sup>27</sup> Kuznetsov A.P. Zakonodatel'naya regulatsiya gosudarstvennoy politiki protivodeystviya nalogovym prestupleniyam v stranax dalnego zarubejya // *Business v zakone*. – 2005. – No. 1. – S.

2. Prokhorov L.A., Skachko A.V. Pravovye modeli protivodeystviya contrabande: opyt zarubezhnogo zakonotvorchestva // Obshchestvo i pravo. - 2013. - No. 2 (44). -S. 69.
3. Penal Code of the Republic of San Marino. URL: <http://www.twirpx.com/file/1795288/grant/>.
4. Criminal Code of Holland / pod ed. B.V. Volzhenkina. -SPb., 2001. -S. 140. Penal Code of France. Society and innovations Special Issue – 05 (2022) / ISSN 2181-1415 205
5. Savchishkin O.G., Stepanov G.I. Zarubezhnoe ugovnoe zakonodatelstvo ob otvetstvennosti za contrabandu narcoticheskikh sredstv, psichotropnykh veshchestv ili ix analogov // Vestnik Chelyabinskogo gosudarstvennogo universiteta. - 2013. - No. 17. - S. 76.8.
6. Kuznetsova N.V. Sravnitel'naya charakteristika nakazaniy za contrabandu v Rossii i nekotorykh zarubejnykh stranax // Penitentiarnaya nauka. - 2016. - No. 36. -S. 61–63. 9.
7. Ugolovnyi kodex Germanii. URL: <http://constitutions.ru/?p=5854>. 10.
8. The Swiss Criminal Code. URL: <http://www.crimpravo.ru/page/zar-uk>.
9. Kuznetsov A.P. Zakonodatelnaya regulatsiya gosudarstvennoy politiki protivodeystviya nalogovym prestupleniyam v stranax dalnego zarubejya // Business v zakone. – 2005. – No. 1. – S.