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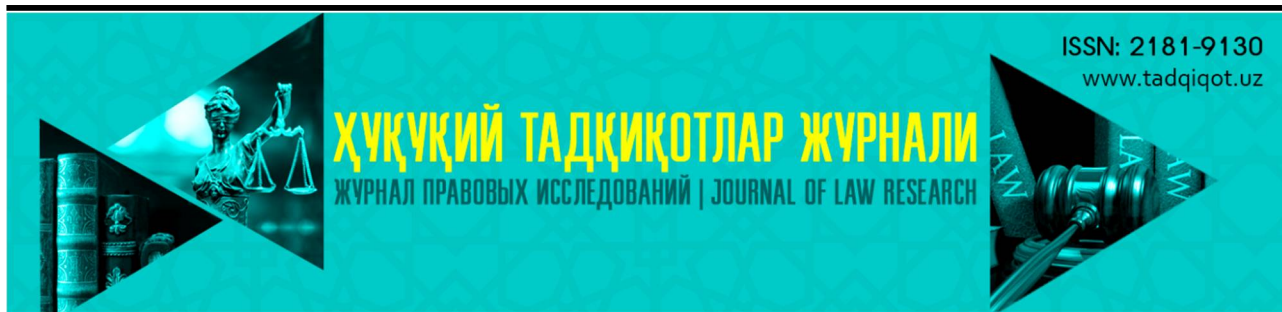
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**12.00.08-УГОЛОВНОЕ ПРАВО. КРИМИНОЛОГИЯ.  
УГОЛОВНО-ИСПОЛНИТЕЛЬНОЕ ПРАВО**

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**TIME OF COMMITTING A CRIME AND THE RETROACTIVE EFFECT OF THE LAW  
IN THE CRIMINAL LEGISLATION OF THE REPUBLIC OF UZBEKISTAN**

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**ANNOTATION**

The article is dedicated to the analysis of the application of criminal law over time and its retroactive effect in the criminal legislation of the Republic of Uzbekistan. It examines issues related to determining the time of committing a crime, the application of retroactivity norms, and the legal conflicts that arise in this context. Special attention is given to the distinction between material, formal, continuing, continued crimes in the context of the retroactive effect of the law. The author analyzes existing problems and offers recommendations for improving legislation, including clarifying the concepts of "improvement" and "deterioration" of a person's legal status, as well as the need for explanations from the Supreme Court on controversial issues.

**Keywords:** criminal legislation, legal force, criminal law, retroactive effect, time of committing a crime, completion of a crime, time of executing a criminal act, time of occurrence of criminal consequences.

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**ВРЕМЯ СОВЕРШЕНИЯ ПРЕСТУПЛЕНИЯ И ОБРАТНАЯ СИЛА ЗАКОНА В  
УГОЛОВНОМ ЗАКОНОДАТЕЛЬСТВЕ РЕСПУБЛИКИ УЗБЕКИСТАН**

## АННОТАЦИЯ

Статья посвящена анализу действия уголовного закона во времени и обратной силы в уголовном законодательстве Республики Узбекистан. Рассматриваются вопросы определения времени совершения преступления, применения ретроактивности норм, а также юридические коллизии, возникающие при этом. Особое внимание уделено различию материальных, формальных, длящихся, продолжаемых преступлений в контексте обратной силы закона. Автор анализирует существующие проблемы и предлагает рекомендации по совершенствованию законодательства, включая уточнение понятий «улучшение» и «ухудшение» положения лица, а также необходимость разъяснений Верховного суда по спорным вопросам.

**Ключевые слова:** уголовное законодательство, юридическая сила, уголовный закон, обратная сила, время совершения преступления, окончание преступления, время исполнения преступного деяния, время наступления преступных последствий.

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## ЎЗБЕКИСТОН РЕСПУБЛИКАСИ ЖИНОЯТ ҚОНУНЧИЛИГИДА ЖИНОЯТ СОДИР ЭТИШ ВАҚТИ ВА ҚОНУННИНГ ОРҚАГА ҚАЙТИШ КУЧИ

### АННОТАЦИЯ

Мақола Ўзбекистон Республикаси жиноят қонунининг вақт бўйича амал қилиши ва унинг орқага қайтар кучга эга бўлиши масалалари таҳлилига бағишланган. Унда жиноят содир этилган вақтини аниқлаш, нормаларнинг ретроактив қўлланилиши ҳамда бу жараёнда юзага келадиган ҳуқуқий коллизиялар масалалари кўриб чиқилади. Шунингдек, қонуннинг орқага қайтар кучга эга бўлиши контекстида моддий, формал, узоққа чўзилган, давомли жиноятлар ўртасидаги фарқларга алоҳида эътибор қаратилган. Муаллиф мавжуд муаммоларни таҳлил қилиб, қонунчиликни такомиллаштириш бўйича таклифлар беради, жумладан, шахс ҳолатининг «яхшиланиши» ва «ёмонлашиши» тушунчаларини аниқлаштириш, шунингдек, баҳсли масалалар бўйича Олий суд томонидан изоҳлар берилиши зарурлигини таъкидлайди.

**Калит сўзлар:** жиноят қонунчилиги, юридик кучи, жиноят қонуни, орқага қайтиш кучи, жиноят содир этиш вақти, жиноятнинг тугалланиши, жиноий ҳаракатни ижро этиш вақти, жиноят оқибатларининг юзага келиш вақти.

The issue of determining the time of committing a crime and the application of the retroactive effect of criminal law is one of the key aspects of criminal law, affecting the principles of legality and justice. The criminal legislation of the Republic of Uzbekistan clearly establishes norms regulating the temporal application of criminal law, which is crucial both for law enforcement practice and for protecting the rights of the accused and convicted persons.

The principle of non-application of a criminal law that worsens a person's legal position to acts committed before its entry into force is an important guarantee of citizens' rights and one of the fundamental principles of criminal law. At the same time, the retroactive effect of the law is permitted in cases where the new law mitigates or abolishes criminal liability.

This article examines the legal aspects of determining the time of committing a crime and issues related to the retroactivity of criminal law. The analysis of existing legislation and legal positions will help identify the specifics of national regulation and potential problems that may arise when applying the norms on the temporal effect of criminal law.

A general basis for regulating the retroactive effect of the law, including criminal law, is established by Article 41 of the Law of the Republic of Uzbekistan "On Normative Legal Acts"[1]. This law establishes two important rules:

General rule: Normative legal acts apply to social relations that arise after their entry into force.

Special rule: An exception to the general rule is allowed when explicitly provided for by law. However, the application of the retroactive effect of the law is prohibited if it establishes or increases liability for legal and natural persons, as well as in cases where it may cause material harm.

These rules are also reflected in the Criminal Code of the Republic of Uzbekistan. It is worth noting that the principle of the retroactive effect of the law was introduced into the Criminal Code back in 1994, whereas in the Law "On Normative Legal Acts," this provision was only introduced in 2000 (all three versions of the Law contain the same rules).

The retroactive effect of the law is enshrined as a norm of criminal legislation in Article 13 of the Criminal Code of the Republic of Uzbekistan[2]. The retroactive effect of criminal law is expressed in the following aspects:

1. Application of the Law in Relation to the Time of the Crime. The law directly links the determination of issues related to recognizing a socially dangerous act as a crime, as well as assigning punishment for it, to the norms of the Criminal Code of the Republic of Uzbekistan that were in force at the time of the commission of the criminal act. This refers to the period of actual execution of the objective elements of the crime and its completion. For example, a citizen cannot be held liable and punished under Article 2444 of the Criminal Code of the Republic of Uzbekistan if they unlawfully sold unmanned aerial vehicles in Uzbekistan before November 4, 2019, as criminal liability for illegal sales was introduced by the Law of the Republic of Uzbekistan No. ZRU-534 of May 2, 2019, which came into force on November 4, 2019.

2. Determining the Time of the Crime for Retroactive Application. The retroactive effect of the law depends on the exact determination of the time of the crime. The Criminal Code of the Republic of Uzbekistan distinguishes between the time of the crime for material, formal, and truncated (attempted) offenses, linking it to the moment of crime completion.

The time of committing the criminal act (the moment of executing the objective elements of the crime) applies to formal and truncated offenses (e.g., deliberate humiliation of a person's honor and dignity in an obscene manner in an insult case, or the beginning of an attack with the intent to steal someone else's property in a robbery).

The time of occurrence of criminal consequences (when the result follows from the execution of the criminal act) applies to material offenses (e.g., the occurrence of death in a murder case).

3. Legal Grounds for the Retroactive Effect of the Criminal Law. The Criminal Code of the Republic of Uzbekistan defines the conditions under which the retroactive effect of the law applies:

(a) If a new law excludes a crime (decriminalization, meaning the act ceases to be a crime). Example: The decriminalization of violations of residency rules in Uzbekistan from November 5, 2019.

(b) If a new law reduces the punishment (e.g., removing imprisonment as a penalty from Part 3 of Article 140 of the Criminal Code).

(c) If a new law improves the legal status of the offender (e.g., amendments to Part 7 of Article 72 of the Criminal Code, allowing for conditional sentencing for minors, persons with disabilities (groups I and II), women, and individuals over 60, regardless of the severity of the crime). However, the moment of improvement in legal status is not clearly defined, which may create difficulties in interpreting Article 13 of the Criminal Code.

4. Subjects Affected by the Retroactive Effect of the Law The retroactive effect of the law extends to individuals who committed a criminal act before the new law came into force. This also applies to individuals: currently serving a sentence based on a court verdict, and those who have served their sentence but still have an active criminal record.

5. Prohibition on the Retroactive Application of Laws that Worsen the Legal Status of Individuals. The Criminal Code of the Republic of Uzbekistan explicitly prohibits the retroactive application of laws that:

- Establish criminal liability for an act that was not previously a crime
- Increase the severity of punishment
- Worsen the legal position of the offender.

Example: The retroactive effect cannot apply to a person who violated regulations on the use of unmanned aerial vehicles before Article 2481 of the Criminal Code was introduced.

6. Interpretation of the Term "law" in Article 13 of the Criminal Code. Article 13 of the Criminal Code uses the term "law," which, given the context of the Criminal Code, should be interpreted as referring specifically to provisions within the Criminal Code of the Republic of Uzbekistan. This means that when interpreting Parts 2 and 3 of Article 13, any changes that impact the retroactive effect of the law should be understood as amendments to the Criminal Code itself. Since Article 1 of the Criminal Code states that criminal legislation consists only of the Criminal Code of the Republic of Uzbekistan, changes in subordinate acts (which may indirectly affect the Criminal Code) should not be considered as having a retroactive effect on criminal law.

As can be seen, the retroactive effect of the law is generally tied to the time of the crime. Despite Uzbekistan following a widely accepted model for applying the retroactive effect of criminal law, several practical issues remain: The Criminal Code of the Republic of Uzbekistan does not establish rules regarding the time of unfinished crimes (i.e., preparation and attempts). This creates difficulties in applying the retroactive effect of the law to cases of preparation for a crime or attempted crimes.

Time of Crime for Unfinished Crimes. Article 25 of the Criminal Code ("Preparation for a Crime and Attempted Crime") defines preparation as acts that create conditions for committing or concealing a deliberate crime, but which are interrupted before execution due to external circumstances. An attempt is the beginning of the commission of a deliberate crime, which is not completed due to circumstances beyond the control of the offender[3].

For example, a person attempted murder, but death did not occur, making it impossible to determine the exact time of the crime. Consequently, it is difficult to determine the application of the retroactive effect of the law if a new law with relevant amendments is adopted in the future. Hypothetically, there may be a certain time gap between the moment of inflicting a blow on the victim and the victim's death.

For instance, a fatal blow may be inflicted on January 1, 2021, but death may not occur immediately, meaning that at that moment, the act is qualified as an attempted intentional murder. Then, on January 2, 2021, an amendment may be introduced to increase the penalty for intentional murder. If the victim succumbs to injuries later—on January 4, 2021—theoretically, the new norm will apply to the offender, and the retroactive effect will not be applied, as the crime is considered committed on January 4, 2021.

Thus, determining the possibility of applying the retroactive effect of the law in cases of continuing or continued crimes appears to be difficult. According to Parts 3–4 of Article 32 ("Repetition of crimes"), a crime consisting of a series of identical criminal acts covered by a common intent, aimed at a single goal, and forming a single continuing crime is not considered a repeat offense. Similarly, a crime consisting of a prolonged failure to fulfill obligations, characterized by continuous commission of a single prolonged offense, is not considered a repeat offense[3].

For example, in the case of a continuing theft amounting to one million US dollars, carried out through daily misappropriations over the course of a month, it is difficult to determine the exact moment of completion. R.O. Dolotov in this regard considers it appropriate to distinguish between the legal and factual moment of completion of the act. In his opinion, if in a continuing theft the already committed act falls under the specific elements of a completed crime, then from that moment, the time of the commission of the crime begins, which is significant for the retroactive effect of the law[5]. However, this postulate applies only to those categories of continuing crimes that can be recognized as completed at an intermediate stage (for example, if a person intends to commit a

continuing theft of one million US dollars, but is apprehended after stealing 500,000 US dollars, the crime will be considered completed). In this case, the specific intent plays a crucial role.

In the relevant Plenum Decision of the Supreme Court, it is explained that repetition must be distinguished from a continued crime, which consists of a series of identical acts, even if committed at different times, but covered by a single intent, similar in method and object, and resulting in homogeneous consequences[6]. According to one of the national scholars, a continued crime is considered completed either at the moment when the offender commits their final criminal act and ceases their actions, or when it is interrupted by law enforcement authorities[7].

In the above-mentioned Plenum Decision of the Supreme Court of the Republic of Uzbekistan, it is clarified that a continued crime is considered completed from the moment of the last of several acts[8]. In addition, this is reflected in the Plenum Decisions of the Supreme Court of the Republic of Uzbekistan dated April 17, 1998, No. 11[9], May 21, 2004, No. 4[10], December 22, 2006, No. 16[11], and June 23, 2023, No. 17[12].

In our opinion, the moment of completion of a continued crime should be determined as the moment of completion of the last identical act, covered by a common intent with the previous acts and aimed at a single goal, necessary for recognizing the actually committed act as a crime.

N.F. Kuznetsova indicates that continuing crimes are characterized by two moments of completion: the first—when a person begins to commit criminal acts that constitute the elements of a completed crime, and the second—when the criminal activity is terminated either forcibly or voluntarily by the person themselves[13]. Moreover, according to S.Z. Feller, a continuing crime has two moments of completion: the first—the initial moment of completion, which occurs upon the expiration of the minimum period, and the second—the final moment of completion, when the criminal behavior ceases. The first moment is a condition for the occurrence of the crime, while the second determines its degree. The first moment characterizes the quality of the crime, while the second reflects its quantitative indicators[14]. In this regard, S.V. Malikov also expressed his opinion, according to which a crime is legally considered completed at the moment when all the signs of a specific crime composition are present in the person's act (i.e., a completed crime has been committed). However, in fact, the negative impact on the object of criminal-legal protection continues until it is terminated either by the will of the perpetrator or against their will. The termination of harm to the object of criminal-legal protection is considered the actual moment of completion of a prolonged crime[4].

In turn, in continuing crimes, it should be taken into account that the long-term failure to fulfill obligations "starts" from a certain moment, from which the criminal state continues to exist. Therefore, it is reasonable to recognize the moment of the beginning of the criminal state as the moment of completion of a continuing crime.

Taking the above into account, we consider it appropriate to incorporate the following provisions when improving the institution of retroactive effect in the draft of the new edition of the Criminal Code of the Republic of Uzbekistan:

1. Clarify the concepts of "improvement of a person's legal status" and "worsening of a person's legal status", specifying concrete grounds for their recognition—such as amendments to criminal law norms on crime classification, sentencing, reduction of limitation periods and criminal record terms, changes in provisions regarding exemption from criminal liability or punishment, and modifications to the list of mitigating or aggravating circumstances.

2. With regard to incomplete offenses, it is advisable to apply the rules of a formal (truncated) offense, meaning that the time of completion of incomplete offenses should be recognized as the moment of execution of the criminal act (the moment of committing the objective act of preparation or attempt).

3. When applying the rules on the time of crime and the retroactive effect of the law in relation to continued and continuing crimes, it should be taken into account that a continued crime should be reasonably considered completed at the moment of completion of the last identical act, covered by a common intent with previous acts and aimed at a single goal, necessary for recognizing the actually

committed act as a crime, while a continuing crime should be considered completed from the moment the state of prolonged failure to fulfill obligations arises.

4. A corresponding resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan should be adopted to clarify controversial issues in the interpretation of the norms of criminal law on the time of crime and the retroactive effect of the law.

Clarification and specification of the criteria for the retroactive effect of criminal law are of great importance in ensuring the legality of criminal prosecution and the fairness of the application of criminal law.

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