



THEORETICAL AND PRACTICAL ISSUES OF QUALIFYING INCOMPLETE CRIMES: THE INSTITUTIONS OF PREPARATION FOR A CRIME AND ATTEMPTED CRIME

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Abstract. This article analyzes the theoretical and practical issues of qualifying incomplete crimes under the criminal legislation of the Republic of Uzbekistan. In particular, it examines the legal nature, objective and subjective elements of preparation for a crime and attempted crime, as well as the criteria for distinguishing these institutions from each other and from a completed crime. Particular attention is paid to the legal significance of the direction of criminal intent, the degree of implementation of the objective elements of the crime, and the failure to complete the crime due to circumstances beyond the offender's control. The article also considers the distinctive features of voluntary abandonment in comparison with incomplete crimes, the peculiarities of sentencing for incomplete crimes, and certain problems arising in law-enforcement practice. As a result of the study, scientific and practical proposals are put forward to further clarify the criteria for qualifying incomplete crimes.

Keywords: crime, incomplete crime, preparation for a crime, attempted crime, stages of crime, criminal intent, legal qualification, voluntary abandonment, criminal liability, punishment.

Introduction

In criminal law, providing an accurate legal assessment of a socially dangerous act committed by a person is an essential condition for ensuring the principles of legality, justice, and liability for guilt. Incorrect qualification of an act directly affects the scope of a person's criminal liability, the type and severity of the punishment imposed, as well as other criminal-law consequences.

Under the Criminal Code of the Republic of Uzbekistan, prevention of crime is recognized as one of the main objectives of criminal legislation. The Code is based on the principles of legality, equality of citizens before the law, democracy, humanity, justice, liability for guilt, and inevitability of liability.

Criminal intent does not always result in the final outcome sought by the offender. In certain cases, a person creates conditions for the commission of a crime, but due to circumstances beyond his or her control, the conduct is interrupted before the direct commission of the crime begins. In other situations, the direct commission of the crime has



already commenced, but the crime is not completed due to circumstances independent of the person's will.

In order to regulate such situations, Chapter VI of the Criminal Code of the Republic of Uzbekistan is devoted to the institution of "Incomplete Crime." Article 25 regulates preparation for a crime and attempted crime, while Article 26 governs voluntary abandonment of a crime.

The main difficulty in the proper qualification of incomplete crimes lies in the need to clearly determine the legal boundaries between preparation for a crime, attempted crime, and a completed crime.

The Criminal-Law Essence of the Concept of Incomplete Crime

The stages of committing a crime may be understood as the process beginning with the manifestation of criminal intent in external conduct and continuing until the full completion of the relevant elements of the crime.

In criminal law, the mere existence of an internal thought or intention to commit a crime is not sufficient to establish criminal liability. Criminal liability is connected with the commission of a socially dangerous act established by law.

In this sense, at the stages of preparation and attempt, the person's criminal intent is manifested in certain external actions.

The main characteristic of an incomplete crime is that the person begins to realize his or her intent, but the crime is not completed to the extent intended due to circumstances beyond the person's control.

The legal significance of incomplete crimes is expressed in two main respects. First, even where the crime has not been fully completed, the person's conduct may nevertheless pose a certain degree of social danger. Second, the fact that the criminal intent has not been fully realized must be taken into account when determining liability and punishment.

The Concept and Elements of Preparation for a Crime

According to Article 25 of the Criminal Code of the Republic of Uzbekistan, preparation for a crime consists of an intentional act creating conditions for committing or concealing a crime, where such conduct is interrupted, due to circumstances beyond the person's control, before the commission of the crime itself begins.

A number of legal characteristics of preparation for a crime follow from this provision.

First of all, preparation may only relate to an intentionally committed crime. The person intends to commit a particular crime in the future and takes actions aimed at creating the conditions necessary to achieve that objective.

Second, at the preparatory stage, the direct actions constituting the objective element of the relevant offence have not yet begun.

Third, the preparatory actions carried out by the person must be objectively and subjectively connected with the intended future crime.

Fourth, the process of committing the crime must have been interrupted due to circumstances beyond the person's control.



Therefore, the mere existence of criminal intent is insufficient for conduct to be regarded as preparation for a crime. There must also be an actual external act aimed at implementing that intent.

The Legal Nature of Attempted Crime

Attempted crime represents a more advanced stage of realization of criminal intent than preparation for a crime.

At the stage of attempt, the stage of creating conditions for the commission of the offence has already been passed, and the person begins to directly perform the objective elements of the relevant crime.

However, the crime is not completed due to circumstances beyond the person's control.

The subjective aspect is particularly important in the qualification of attempted crime. In legal scholarship, including research devoted to the subjective elements of attempt, it is argued that a criminal attempt is associated with direct intent, since the offender is aware of the socially dangerous nature of the conduct and desires the intended result to occur. From this perspective, attempted crime cannot generally be based on indirect intent or negligence.

This approach is important for understanding the essence of criminal attempt. If a person did not desire a particular result, classifying the conduct as an attempt specifically directed at achieving that result becomes problematic.

Therefore, when qualifying an attempted crime, it is necessary to determine precisely the object against which the person's intent was directed and the particular consequence that the person intended to bring about.

Criteria for Distinguishing Preparation from Attempt

One of the most difficult issues in criminal-law theory and investigative and judicial practice is determining the boundary between preparation for a crime and attempted crime.

In distinguishing these two stages, particular attention must first be paid to whether the performance of the objective elements of the offence has already begun.

In preparation, the person creates conditions that make it possible to commit the crime later. However, the conduct directly described in the relevant provision of the Special Part of the Criminal Code has not yet begun.

In an attempt, by contrast, the person has already entered the stage of directly infringing upon the protected legal interest, that is, he or she has begun to perform the objective elements of the offence.

The following criteria are particularly important in distinguishing between preparation and attempt:

1. the content and direction of the person's intent;
2. the degree to which the conduct is directly aimed at the object of the offence;
3. whether the objective elements provided for in the relevant provision of the Special Part have begun to be performed;
4. the stage at which the crime was interrupted;
5. the reason why the crime was not completed.



Therefore, the distinction between preparation and attempt cannot be made solely on the basis of time or the number of actions performed. The key criterion is the legal relationship between the conduct and the relevant elements of the offence.

Distinguishing Attempted Crime from a Completed Crime

In order to distinguish an attempted crime from a completed offence, the legal construction of the relevant offence under the Special Part of the Criminal Code must first be determined.

Where the offence requires a particular socially dangerous consequence, failure of that consequence to occur may indicate that the crime remained at the stage of attempt.

However, in certain offences, the performance of the conduct prescribed by law is sufficient for the offence to be regarded as completed.

Accordingly, when determining the moment at which a crime is completed, it is necessary to consider whether the offence has a material or formal structure, how the objective elements are defined by law, and whether a particular consequence constitutes a mandatory element of the offence.

This demonstrates that the boundaries between attempt and completion cannot be absolutely identical for all crimes.

The Importance of the Direction of Intent in Legal Qualification

The direction of the offender's intent is of decisive importance in the qualification of incomplete crimes.

In some cases, the external conduct of the person may resemble the elements of several different offences. In such situations, it is necessary to determine the precise socially dangerous result the person intended to achieve and the specific objective toward which the person's actions were directed.

The content of intent should not be determined solely on the basis of the person's own statements, but rather on the basis of the totality of objective circumstances established in the case.

Such factors may include the sequence of actions, the nature of the conduct, the circumstances in which the offence was committed, and the reasons why the offence was not completed.

Legal scholarship also emphasizes that proper determination of the subjective aspect of an attempted crime is one of the principal conditions for correct legal qualification. Where motive, purpose, or other optional subjective elements are expressly established as mandatory elements of the offence under the Special Part, they must also be identified.

Distinguishing Voluntary Abandonment from Incomplete Crime

Voluntary abandonment is closely related to incomplete crime, but differs significantly from it in terms of legal consequences.

According to Article 26 of the Criminal Code of the Republic of Uzbekistan, voluntary abandonment occurs when a person, while realizing that he or she has the possibility to complete the preparatory acts or the actions directly aimed at committing the offence,



voluntarily stops them, or, while being aware that the criminal consequence may occur, takes steps to prevent that consequence.

Voluntary abandonment excludes criminal liability for the abandoned offence. However, where the conduct already committed contains all the elements of another independent offence, the person may still be held liable for that offence.

Thus, the main distinction between preparation or attempt and voluntary abandonment lies in the reason why the crime was not completed.

In preparation or attempt, the person wishes to continue committing the crime, but external circumstances prevent him or her from doing so.

In voluntary abandonment, by contrast, the person understands that continuation of the crime is realistically possible but nevertheless chooses to stop the criminal conduct voluntarily.

For this reason, the question “Why was the crime not completed?” is of central importance in legal qualification.

Procedure for Qualifying Incomplete Crimes

Article 25 of the Criminal Code establishes that liability for preparation for a crime and attempted crime is determined in accordance with the relevant provision of the Special Part establishing liability for the completed offence.

When qualifying an incomplete crime, the specific offence the person intended to commit must first be identified.

The next step is to determine which elements of the offence were actually carried out and which elements remained unrealized due to circumstances beyond the person’s control.

In this process, the following factors must be assessed together:

- the object of the offence;
- the degree to which the objective elements were implemented;
- the form of guilt and the direction of intent;
- the purpose of the offender;
- the reasons why the crime was interrupted.

It is insufficient to rely solely on whether the final consequence occurred or did not occur. The precise stage reached by the person’s criminal conduct must also be legally substantiated.

Peculiarities of Sentencing for Incomplete Crimes

The degree of social danger posed by an incomplete crime is generally assessed differently from that of a fully completed offence. For this reason, criminal legislation provides specific rules governing sentencing for incomplete crimes.

Under Article 58 of the Criminal Code, when imposing punishment for an incomplete crime, the court takes into account the seriousness of the offence, the degree to which the criminal intent was realized, and the reasons why the crime could not be completed.

As a general rule, subject to the exceptions provided for by law, the term or amount of punishment imposed for preparation or attempted crime may not exceed three quarters of the maximum punishment prescribed for the completed offence.



This rule demonstrates that the degree of implementation of criminal intent is an important factor in the individualization of punishment.

For example, a situation in which the criminal conduct was interrupted at an early preparatory stage is not necessarily equal in social danger to a situation in which the objective elements of the offence were almost fully implemented but the final consequence did not occur.

Therefore, the court must consider not only the formal legal qualification of the act, but also the actual degree to which the criminal intent was implemented.

Theoretical and Practical Problems in the Qualification of Incomplete Crimes

A number of controversial issues arise in connection with the qualification of incomplete crimes.

The first problem concerns determining the boundary between preparation and attempt. The concept of “direct commencement of the commission of a crime” does not have identical content for all offences. Therefore, conduct that may still constitute preparation in one offence may, in another offence, be regarded as the beginning of the objective elements of the offence.

The second problem concerns determining the actual direction of the offender’s intent. Incorrect assessment of intent may result in an incomplete offence being improperly classified as another crime or, conversely, in an independent completed offence being incorrectly classified as an attempt.

The third problem concerns determining why the crime was not completed. Where the person stopped voluntarily, Article 26 on voluntary abandonment may become applicable. Where the conduct was interrupted as a result of external circumstances, the act may, where the relevant conditions are met, be classified as preparation or attempt.

The fourth problem concerns the correct determination of the legislative structure of the offence. If the point at which the crime is considered legally completed is determined incorrectly, it will also be impossible to correctly distinguish attempted crime from a completed offence.

Proposals for Improving the Qualification of Incomplete Crimes

On the basis of the issues discussed above, several areas may be identified for improving the practice of qualifying incomplete crimes.

First, in investigative and judicial practice, it is advisable to apply the principle of the unity of objective and subjective criteria when distinguishing preparation from attempt. The assessment should not be limited either to the external conduct alone or solely to the person’s purpose; both should be examined in their interrelationship.

Second, when determining the starting point of attempted crime, the objective elements of each specific offence under the Special Part should be analyzed separately.

Third, judicial decisions should clearly indicate the reason why the crime was not completed. Identifying the specific circumstances beyond the person’s control makes it possible to distinguish preparation and attempt from voluntary abandonment more accurately.



Fourth, it is advisable to further clarify the criterion of direct intent in law-enforcement practice on the basis of scientific approaches and judicial practice concerning the subjective aspect of attempted crime.

Fifth, investigative and judicial documents should not be limited to the general statement that “the crime was not completed.” They should also provide legal reasoning as to the degree to which the criminal intent had been implemented and specify the exact circumstance that prevented continuation of the offence.

Conclusion

The institution of incomplete crime is one of the important institutions of criminal law in the Republic of Uzbekistan, as it makes it possible to provide a legal assessment of forms of criminal conduct in which the offender’s intent has not been fully realized.

Preparation for a crime and attempted crime constitute the principal forms of incomplete crime. The main distinction between them lies in the degree of implementation of criminal intent and, in particular, whether the objective elements of the offence have begun to be performed.

At the preparatory stage, the person creates conditions for committing the crime but has not yet directly begun to perform the objective elements of the offence. In an attempted crime, by contrast, the direct commission of the offence has already begun, but the crime is not completed due to circumstances beyond the offender’s control.

For the correct qualification of an incomplete crime, it is necessary to conduct a comprehensive analysis of the content and direction of the person’s intent, the nature of the actions performed, the degree of implementation of the objective elements of the offence, and the reasons why the crime was not completed.

Furthermore, the reason for interruption of the offence is one of the decisive criteria for distinguishing preparation and attempt from voluntary abandonment. Where the person had the possibility to continue the offence but voluntarily refused to do so, the institution of voluntary abandonment applies.

The results of this study demonstrate that it is impossible to rely on a single formal criterion when qualifying incomplete crimes. Proper and lawful qualification requires an interconnected assessment of the objective and subjective elements of the act, consideration of the legislative structure of the offence, and determination of the actual degree to which criminal intent was implemented.

Accordingly, further improvement of judicial and investigative practice in cases involving incomplete crimes, development of clearer legal approaches to distinguishing preparation from attempt, and detailed reasoning in judicial decisions concerning the stage and reasons for interruption of criminal conduct would contribute to the consistent and fair application of criminal legislation.





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