



ANALYSIS OF THE SUBJECTIVE SIGNS OF INVOLVING MINORS IN ANTISOCIAL BEHAVIOR

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Annotation: This article analyzes the subjective aspect of the crime of involving minors in antisocial behavior, particularly legal categories such as the form and content of guilt, intention, and purpose. It is substantiated that the accurate and complete identification of subjective signs is crucial for the correct qualification of this crime. The article also examines various practical problems that arise and provides scientific and practical recommendations. Additionally, the article analyzes the views and opinions of scholars who have studied the subjective aspects of involving minors in antisocial behavior.

Keywords: Minor, child, person, antisocial behavior, subjective aspect, subject, guilt, intention, purpose, qualification, special subject, crime, punishment, involvement in crime, responsibility.

In recent years, the crime of involving minors in antisocial behavior has become a pressing issue, causing various legal and social problems in society. Serious attention should be paid to this matter both in Uzbekistan and worldwide to ensure the healthy development, moral growth, and proper upbringing of young people.

In practice, it is crucial to analyze the subjective aspect of the crime of involving minors in antisocial behavior, to correctly determine the form and content of guilt, and the intentions and goals of the perpetrators. Identifying subjective features is one of the guarantees for accurate qualification of crimes and ensuring the correctness and fairness of punitive measures applied to the guilty parties.

According to criminal law, a person who has reached the age of criminal responsibility is considered a subject of a crime. The age limit for bringing a person to justice is established by the legislative body, taking into account their life experience, level of psychophysiological development, and socio-psychological state. Therefore, in accordance with part 4 of Article 17 of the Criminal Code of the Republic of Uzbekistan, the subject of the crime of involving a minor in antisocial behavior is recognized as any sane person who has reached the age of 18.

Some authors consider it inappropriate to apply criminal liability in cases where the age difference between the perpetrator and the minor is insignificant.

For example, according to Kuznetsov, liability for involving a minor in criminal activity should only be applied when the age of the perpetrator is significantly greater than that of the minor[1].

Sh.A. Obid ugli emphasizes that persons who have reached the age of 18 should be held liable only if they involve minors in the commission of a crime[2].

In criminal legislation, cases of an adult involving a minor in antisocial behavior are considered a crime, regardless of the age of the involved minor.

Legal literature notes that young people aged 18-20 play the primary role in involving minors in criminal activities and alcohol consumption. Specifically, according to F.Yu. Safin's

research, individuals in this age category constituted 48.2 percent of all types of perpetrators and instigators. It was also noted that the majority of minors involved in criminal activity - 70.7 percent - are teenagers aged 16-17. This situation indicates that youth groups have a significant influence on the spread of crime and alcoholism among young people[3].

Part 3 of Article 127 of the Criminal Code, which outlines the aggravating circumstances of this crime, specifies "a person who has previously committed any crime related to the illegal circulation of narcotic drugs or psychotropic substances" as a special subject.

"Special subject of a crime" refers to persons who, along with the general subjective requirements specified in the Criminal Code - sanity and reaching a certain age, have a certain legal status - that is, persons who can be brought to criminal responsibility on the grounds of the characteristics specified in the law or directly in the criminal law[4].

The term "previously" means that the measures of criminal-legal influence applied to the person who committed the crime have retained their force. Therefore, if a person previously committed one of the crimes related to narcotic drugs or psychotropic substances and subsequently involved a minor in the use of these drugs or the commission of a crime, then a criminal-legal assessment cannot be given on the basis of paragraph "a" of part 3 of Article 127 of the Criminal Code, if the criminal-legal measures applied for the previous act have ceased to be in effect (i.e., the term of conviction has expired or the conviction has been expunged in accordance with the law).

The specified paragraph of this article establishes as a separate aggravating factor the fact that a person previously had unlawful handling of narcotic drugs or psychotropic substances. Because criminal record - in cases stipulated by criminal law, acquires legal significance only if the person commits a crime again. If a person's criminal record is terminated or removed in the prescribed manner, this circumstance does not affect their legal status and they are free from the legal consequences associated with their previous crime.

From a criminal-legal point of view, the consequences of a criminal record arise only if he commits a new crime before the expiration or official removal of the criminal record[5].

Thus, if the fact of conviction for committing one or more of the above-mentioned crimes and involving a minor in the use of narcotic drugs or psychotropic substances, as well as in the commission of a crime, has not lost its criminal-legal effect, his actions are qualified under paragraph "a" of part 3 of Article 127 of the Criminal Code.

The subjective side of a crime is an important component of the corpus delicti, reflecting the internal, psychological attitude of the individual towards their actions. The correct determination of the subjective side of the corpus delicti ensures the correct implementation of the tasks of justice and the correct qualification of the act[5].

The subjective side of a crime consists of the main (guilt) and facultative (motive and purpose) elements. The subjective side of the crime is the main criterion that determines whether the act is a crime or not, and if it is a crime, the form of guilt is intentional or negligent[6].

The doctrine of guilt is one of the most pressing social and legal problems. Guilt, by its nature, expresses the psychological essence of the subjective side of the crime. At all stages of the development of criminal legislation, the basis of responsibility was the presence of subjective guilt[7].

"Guilt is a mandatory attribute of the subjective side of the crime. There is no and cannot be a corpus delicti without guilt. This is the distinguishing feature of a criminal act from a non-



criminal one. The legislator places great importance on guilt. Responsibility for guilt has been elevated to the level of a principle of the Criminal Code. According to Article 9 of the Criminal Code, a person is liable only for socially dangerous acts for which their guilt has been proven"[8].

At the same time, it should be noted that the perpetrator can be held criminally liable under this article only if they knew in advance that the person involved in the antisocial act was a minor. The reason is that a person committing an intentional crime, as all the signs reflecting the objective side of the act, in addition to its social danger, must also know the victim's age in advance.

According to M.Kh. Rustambaev, the subjective side of the crime of involving a minor in antisocial behavior is committed only with direct intent[9].

In addition, clarifications on this issue are given in paragraph 7 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On Judicial Practice in Cases of Juvenile Crimes," which states:..."it is also necessary to establish whether an adult, knowing or allowing such an opinion, involves a minor in antisocial behavior. If an adult involves a person in antisocial behavior and does not know or could not have known about their minority, then criminal liability under Article 127 of the Criminal Code is not possible"[10].

However, it should be noted that the disposition of Article 127 of the Criminal Code of the Republic of Uzbekistan does not contain the provision that the guilty person's involvement in antisocial behavior or the commission of a crime, knowing in advance that the person being involved is a minor, entails liability.

For example, before amendments and additions were made to the Criminal Code of the Republic of Uzbekistan dated 12.04.2023 by the Law of the Republic of Uzbekistan dated 11.04.2023 No. ZRU-829, the disposition of Article 128 of the Criminal Code (sexual intercourse with a person under the age of 16) was stated as "sexual intercourse with a person knowingly under the age of sixteen or satisfaction of sexual needs in an unnatural way."

However, after the amendments and additions were made, the disposition of Article 128 of the Criminal Code was changed to "Sexual intercourse with a person under the age of sixteen or satisfaction of sexual needs in an unnatural way," and in this case, such criteria as the perpetrator's need to know in advance whether the victim was 16 years old or not, and whether this circumstance was known to him in advance, became irrelevant.

One of the Uzbek scientists who conducted research on this topic, N.U. Ashurova, during her research, proposed to adopt Article 127 of the Criminal Code of the Republic of Uzbekistan in a new edition and include in its disposition the provision that the guilty person, knowing in advance that the minor is actually a minor, may involve him in the commission of a crime[11].

However, based on the results of our observations and research, we believe that it would be more expedient to leave the disposition of this article unchanged.

When analyzing judicial and investigative practice, it became known that in court proceedings, cases are frequently observed when adults do not know the exact age of the minor involved in committing the crime at the time of the commission of the socially dangerous act, believe that he is an adult, or believe that the idea of committing the crime came from a minor, and that he was actually involved in committing the crime by a minor, on



the basis of which Article 127 of the Criminal Code is removed from the charges against adults.

For example, in 2023, citizen A, in collusion with minor B, secretly plundered the property of others. The preliminary investigation body qualified the criminal actions of citizen A. under Article 169, Part 3, Clause "a," Article 127, Part 3 of the Criminal Code of the Republic of Uzbekistan, that is, "involving a minor in a crime." However, during the trial, A. stated that he was involved in the commission of the crime by minor B., and moreover, he did not know that he was a minor.

The court, considering that the criminal actions of the accused A. were over-qualified by the preliminary investigation bodies under part 3 of Article 127 of the Criminal Code of the Republic of Uzbekistan, that is, the signs of the crime "involving a minor in a crime," and taking into account that in the above case, the accused A. cannot be held criminally liable under Article 127 of the Criminal Code, part 3 of Article 127 of the Criminal Code was dropped from his charge[12].

In our opinion, considering that the crime provided for in Article 127 of the Criminal Code poses a serious threat to the normal moral and physical development of a minor, his health and relations ensuring public safety and order, and the high social danger of involving a minor in the commission of a crime, we believe that the fact of involving a minor in antisocial behavior or committing a crime, regardless of whether the guilty party knew in advance about the fact that the person involved was actually a minor, information about his age, should be sufficient for qualifying the actions of the guilty party under the relevant parts and clauses of Article 127 of the Criminal Code.

The reason is that by establishing this practice, firstly, the rule of law is ensured, and the protection of the rights and interests of minors is even more guaranteed.

Furthermore, investigative bodies will prevent negative situations, such as additional investigations and acquittals, during the investigation of criminal cases, the qualification of the perpetrators' actions, and in situations similar to those mentioned above.

In addition, it can be said that the majority of respondents who participated in a survey conducted among law enforcement officers indicated the need to qualify their actions under Article 127 of the Criminal Code, regardless of whether the adult person knew in advance about the age and minority of the recruit [13].

In conclusion, it is advisable to exclude from paragraph 7 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On Judicial Practice in Cases of Crimes of Minors" the explanation that "If an adult involves a person in antisocial behavior and does not know or could not know that he is a minor, then it is not possible to bring him to criminal liability under Article 127 of the Criminal Code," and instead, it is advisable to introduce a provision that the actions of a minor involved by an adult involving a minor in antisocial behavior or committing a crime, regardless of the age of the involved minor, whether he knew in advance that he was actually a minor, should be qualified under the relevant parts and clauses of Article 127 of the Criminal Code of the Republic of Uzbekistan.

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