



## **PROBLEMS OF QUALIFICATION OF THE CRIME OF NON-EXECUTION OF COURT DOCUMENTS AND IMPROVEMENT OF THE NORM ESTABLISHING LIABILITY**

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### **Abstract**

This article analyzes in detail the issues of legal qualification of the crime of non-execution of court documents, its practical application and improvement of the regulatory and legal framework determining liability. In the course of the research, the Criminal Code of the Republic of Uzbekistan, judicial practice, as well as international experience were studied, shortcomings in existing legislation and problems in practical application were identified. The author developed recommendations on the correct qualification of cases of non-execution of court documents, a clear definition of criminal liability, as well as the creation of effective enforcement mechanisms. The results of the research serve to prevent crimes, increase the efficiency of the legal system and ensure fair judicial practice.

**Keywords:** Court documents, non-execution, crime, qualification, liability, legal norms, improvement, judicial practice, prevention.

### **Introduction**

#### **АННОТАЦИЯ**

В данной статье подробно анализируются вопросы правовой квалификации преступления неисполнения судебных документов, его практического применения и совершенствования нормативно-правовой базы, определяющей ответственность. В ходе исследования были изучены Уголовный кодекс Республики Узбекистан, судебная практика, а также международный опыт, выявлены недостатки существующего законодательства и проблемы практического применения. Автор разработал рекомендации по правильной квалификации случаев неисполнения судебных документов, четкому определению уголовной ответственности, а также созданию эффективных



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механизмов исполнения. Результаты исследования служат предотвращению преступлений, повышению эффективности правовой системы и обеспечению справедливой судебной практики.

**Ключевые слова:** Судебные документы, неисполнение, преступление, квалификация, ответственность, правовые нормы, совершенствование, судебная практика, профилактика.

## **INTRODUCTION**

The crime of failure to execute court documents is one of the pressing problems in the modern legal system. Court documents are the main legal documents that ensure the rights and obligations of individuals and organizations, and their execution determines the effectiveness of the state legal system. Failure to timely and fully execute court decisions and other documents negatively affects not only the rights and legitimate interests of citizens, but also the legal stability and climate of trust in society.

Although the criminal legislation of the Republic of Uzbekistan currently establishes liability for failure to execute court documents, in practice various problems arise in correctly qualifying them and determining the gravity of the crime. At the same time, some provisions of the regulatory and legal framework do not fully cover modern legal relations, which can lead to injustice or incorrect liability in judicial practice.[1] The main purpose of the study is to analyze the crime of non-execution of judicial documents from a scientific and legal perspective, identify the strengths and weaknesses of existing legal norms, and develop scientifically based recommendations for their improvement. In this regard, the article studies the experience of practical application of the norms of the Criminal Code, judicial practice, as well as international experience, and proposes mechanisms for effective control over cases of non-execution of judicial documents in the conditions of Uzbekistan.

The results of this study will not only serve to prevent crimes and strengthen legal stability, but also help to increase the efficiency of the judicial system, develop the legal culture of citizens and organizations, and ensure fair judicial practice.[2]



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## **DISCUSSION AND RESULTS**

Failure to properly qualify the crime of non-enforcement of judicial acts is considered one of the most complex issues in legal practice. This is explained, first, by the lack of clearly defined boundaries between the elements of this crime and other offenses and crimes. Second, the absence of a unified approach to applying the mechanism for transitioning from administrative liability to criminal liability creates significant difficulties.

The authority to impose criminal liability belongs exclusively to the court; therefore, sentencing is one of the most responsible stages of judicial activity. At this stage, numerous issues are resolved, as the principle of justice enshrined in law is practically realized in the determination of punishment, and the level of fair justice is assessed primarily through this process. [3]

When determining a fair punishment for a person who has committed the crime of non-enforcement of a judicial act, it is essential to take into account the offender's personality, the social danger of the crime, the amount of damage caused, and other circumstances of the case. This also enables the offender to feel that the punishment corresponds to the consequences of their actions. The formation of such a perception is one of the main and most important objectives of punishment.

The correct imposition of punishment by courts serves as an important guarantee of the administration of justice. The primary purpose of imposing a fair sentence is the moral rehabilitation of the convicted person, as well as increasing the effectiveness of preventing the commission of new crimes by both the convicted individual and others. When determining punishment for the crime of non-enforcement of a judicial act, it is necessary to analyze the penalties provided by law.

Article 232 of the Criminal Code establishes the application of administrative penalties as a mandatory precondition for criminal liability for this crime. In practice, cases of administrative liability for failure to enforce judicial acts are widespread. However, although this norm serves a preventive purpose, a number of problems arise in practice, in particular: [4]

- situations where an administrative offense has been committed but no administrative report has been drawn up;
- evasion of enforcement actions by the debtor;
- difficulties in proving continued non-enforcement even after the imposition of an administrative penalty.



For example, a person held administratively liable for failure to pay alimony may make a payment within a short period and then subsequently cease payments again. In some cases, such conduct is assessed as a repeated administrative offense, and no criminal case is initiated. At the same time, intentional non-enforcement of the judicial act continues.

One of the most common mistakes in practice is treating the failure to enforce a judicial act as ordinary indebtedness. In civil-law relations, obligations arise from a contract or law, whereas failure to enforce a judicial act is based on a court decision that has entered into legal force. Situations where a debt is unpaid prior to the adoption of a court decision fall within the scope of a civil-law dispute. However, once the court decision enters into legal force and enforcement proceedings are initiated by a state enforcement officer, imposing an obligation on the debtor, failure to comply should be qualified as a crime.

For instance, under a decision of an economic court, the recovery of debt from a legal entity was ordered. The debtor—the head of the enterprise—despite having available funds, transferred them to other bank accounts and provided false information to the state enforcement officer. In this case, the conduct constitutes not only an economic dispute but also intentional non-enforcement of a judicial act. [5]

Part one of Article 232 of the Criminal Code provides for punishment in the form of a fine of up to one hundred times the basic calculation amount, or compulsory community service for up to 360 hours, or restriction of liberty for up to one year, or deprivation of liberty for up to one year. Part two provides for a fine of 100 to 200 times the basic calculation amount, deprivation of a specific right for up to five years, or restriction of liberty for two to five years, or deprivation of liberty for up to five years.

In addition, Article 232<sup>1</sup> establishes, under part one, a fine of 100 to 200 times the basic calculation amount, compulsory community service for 360 to 480 hours, or restriction of liberty for one to three years; and under part two, a fine of 200 to 300 times the basic calculation amount, restriction of liberty for three to five years, or deprivation of liberty for three to five years.

The Criminal Code defines a fine as the monetary recovery from the offender in favor of the state. Under Article 44, the amount of a fine may range from five to six hundred times the minimum monthly wage. Paragraph 15 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated February 3, 2006, “On



Judicial Practice in the Imposition of Criminal Punishment,” recommends that courts apply fines broadly not only for minor and less serious crimes but also for persons who have committed serious crimes. [6]

When imposing a fine, the court must specify in the operative part of the verdict the amount of the fine, calculate it based on the minimum monthly wage in effect at the time the crime was committed, and indicate the total sum. In determining the fine, courts usually consider the offender’s financial situation, permanent employment, and the presence of dependents. According to the law, the fine must be paid within three months from the date of detention of the convicted person, and within six months in the case of a minor. However, taking into account the financial condition of the convicted person, the court may, pursuant to Article 533 of the Criminal Code, allow installment payments or defer enforcement for up to six months.

<b>Elements of Crime</b>	<b>Criterion for Differentiation</b>	<b>Rule of Qualification</b>
Article 122 of the Criminal Code (Failure to pay alimony)	Article 122 is a special norm relating specifically to alimony	No concurrence of crimes; only Article 122 applies
Article 148 of the Criminal Code (Violation of labor rights)	Article 148 concerns labor relations, while Article 232 concerns enforcement of a judicial act	If the court orders reinstatement at work, Article 232 applies
Article 233 of the Criminal Code (Unlawful disposal of seized or attached property)	Article 233 is a special norm where property has been seized or attached	No concurrence of crimes; only Article 233 applies
Article 168 of the Criminal Code (Fraud)	Article 168 aims at unlawful acquisition of property, while Article 232 concerns non-enforcement of a judicial act	Concurrence of crimes may be possible

It is necessary to clarify the rules of qualification for the above-mentioned articles and to provide courts with systematic guidelines.

If a debtor conceals property that has been seized pursuant to a judicial act, such conduct may be qualified in two different ways: [7]

- under Article 232 of the Criminal Code — failure to enforce a judicial act;
- under Article 233 of the Criminal Code — unlawful disposal of seized property.



Example:

By a decision of an economic court, recovery of a debt in the amount of 500 million soums from “X” LLC was ordered. The state enforcement officer seized the company’s motor vehicles. The director of the LLC, Z., concealed the vehicles in a garage and, despite having been subjected to administrative liability, failed to surrender the property and provided false information claiming that it had been lost.

Qualification: [8]

- if the intent is solely to retain or conceal the seized property — Article 233 of the Criminal Code applies;
- if the intent is to prevent the enforcement of the court decision — Article 232, Part Two, of the Criminal Code applies;
- if both intents are present — qualification is carried out under the concurrence of Articles 232 and 233 of the Criminal Code.

In practice, courts often apply only Article 232, as Article 233 requires the presence of specific elements such as “misappropriation” or “embezzlement” of seized property. Concealment, however, does not fully correspond to these statutory elements.

In criminal law, a special norm prevails over a general norm. Therefore, the rules of application are formed as follows:

<b>General Norm</b>	<b>Special Norm</b>	<b>Rule of Application</b>
Article 232 of the Criminal Code (Failure to enforce a judicial act)	Article 122 of the Criminal Code (Evasion of providing material support to a minor child)	Apply only Article 122
Article 232 of the Criminal Code	Article 123 of the Criminal Code (Evasion of providing material support to parents)	Apply only Article 123
Article 232 of the Criminal Code	Article 233 of the Criminal Code (Unlawful disposal of seized property)	Depending on the circumstances: • If the act concerns only seized property — apply Article 233 • If there is a broader failure to enforce a court decision — apply Article 232 • If both circumstances are present — apply concurrence of crimes

Thus, the application of a special norm in preference to a general norm makes it possible to correctly qualify the elements of a crime and to prevent injustices in judicial practice. [9]



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## **CONCLUSION**

The crime of failure to enforce judicial acts is considered one of the most complex and sensitive issues in the field of criminal law. Correct qualification of this offense requires an accurate determination of the offender's intent and the proper application of the existing normative framework. Practice shows that courts often apply only Article 232 of the Criminal Code, since Article 233 requires the presence of specific elements such as "misappropriation" or "embezzlement" of seized property. At the same time, cases of concealment or intentional evasion of enforcement of judicial acts are widespread, and such conduct should be examined under the concurrence of Articles 232 and 233 of the Criminal Code.

Taking into account the principle that a special norm prevails over a general norm in criminal law, the application of only the relevant special provisions—Articles 122, 123, and 233 of the Criminal Code—in corresponding situations ensures clarity and uniformity in judicial practice. Furthermore, when determining punishment, consideration of the debtor's financial status, family circumstances, and other social factors constitutes an essential element of ensuring fair justice.

In conclusion, the correct qualification of the crime of non-enforcement of judicial acts and the imposition of fair liability not only strengthen the rule of law but also serve as a deterrent, encouraging offenders to refrain from committing crimes. Therefore, it is necessary to improve the regulatory framework, provide courts with systematic guidance through Plenum resolutions, and base judicial practice on unified legal principles.

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