

## Objective Signs of a Crime of Resistance to an Official or a Person Performing a Civil Duty

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### ABSTRACT

The dissertation explores the general description and legal analysis of responsibility for resisting a government official or a person performing a civic duty.

It includes the concept of resistance to a civil servant or a person performing a civil duty, the social necessity of responsibility for this offense and crime, administrative and criminal elements, aggravating circumstances for violating the rules, analysis of foreign legislation and proposals and scientific research. analysis, recommendations are described.

**Keywords:** Offense, crime, composition of crime, criminal liability, punishment, representative of the authorities, person performing civic duty, resistance.

According to Article 219 of the current Criminal Code, resistance, ie active resistance to the lawful activities of a public official or a person performing civic duties, is a fine of up to fifty times the basic amount or compulsory public work for up to three hundred and sixty hours. or is punishable by up to three years of correctional labor or up to one year of restriction of liberty or up to one year of imprisonment. Forcing the persons specified in the first part of this article to perform their official duties or civic duty in any form, as well as to commit illegal acts - up to three years of correctional labor or two to five years of imprisonment or up to five years is punishable by imprisonment.

In order for a socially dangerous act to be considered a crime, the crime must be fully

criminal. The elements of the crime are: subject, subjective side, object, objective side. Below we analyze the object and the objective side of Article 219 of the Criminal Code.

The direct object of the crime is the social relations related to the interests of society and the state, public authorities and administration, the normal functioning of public associations, ensuring the personal inviolability of a representative of the government or performing his civic duty. The object of this crime is the social relations that govern this governance.

The objective aspect of a crime is a set of signs established by law that characterize the external aspects of a socially dangerous act committed.<sup>1</sup> That is, a set of signs that indicate the ways and means of committing a crime. Usually, these signs are specified in the provisions of the Special Part of the Criminal Code. Objective party - in the disposition of each article of the Special Part of the Criminal Code is indicated as a necessary feature of the crime.

The objective aspect of Article 219 of the Criminal Code is the active resistance to the lawful activities of a public official performing a criminal service or to a person performing a civic duty. Resistance can be active or passive. According to the law, only active resistance can lead to criminal prosecution.

This crime can be committed by objectively resisting, using physical violence, or threatening to use such violence. Active resistance in the form of physical resistance is

the intentional infliction of bodily harm, beating, beating, tying, imprisonment or other restriction of the liberty of persons performing their official or civic duties. yish

The offense in the interpreted part of this article differs objectively from the act envisaged in the first part by a number of specific features. If, according to Part 1 of the Article, the responsibility is established for active resistance to the lawful activity of a representative of the authorities or a person performing a civic duty, in Part 2, these persons are not allowed to perform their official duties or civil rights in any form. a person who compels him to refuse to perform his duty, as well as to commit illegal acts, shall be held liable.

The objective aspect of the crime of resisting a government official or a person performing a civic duty may take the following forms:

1. Coercion;
2. Coercion by physical force;
3. Spiritual coercion

Coercion is the physical or mental coercion of a government official or a person performing a civic duty in order to prevent them from fulfilling their obligations or to commit illegal acts in favor of the coercive person. Unlike physical coercion in resistance, the use of force during coercion has a different purpose.<sup>1</sup>

Coercion is defined as the act of inflicting bodily harm or restricting a victim's physical freedom against his or her will, as well as inflicting moderate bodily harm through beatings, beatings, or other acts.

Psychological coercion is defined as the infliction of moral harm to a representative of the authorities or a person performing his / her civic duty, the infringement of his / her legal rights and interests, by the perpetrator's words

or other expression of his / her intention. If they are seriously injured as a result of the use of force against a government official or a person performing their civic duty, the actions of the perpetrator must be qualified as a total of crimes. Since intimidation by force is part of the concept of coercion, the perpetrator's actions should not be further qualified under Article 112 of the CC.

The purpose of coercion is to influence the legitimate activities of an official in the performance of his or her official duties in order to achieve the performance of illegal acts by persons performing civic duties in favor of the coercive.

Unlawful acts of a representative of the authorities or persons performing civic duties in favor of the coercive and non-performance of obligations directly within the scope of his legal authority shall be considered as a refusal of a representative of the authorities to perform his official duties or perform civic duties.

The existence of a causal link between the use of force against a representative of the authorities and a person and the performance of his official duties by these persons is a necessary sign of the objective aspect of the act under Part 2 of Article 219 of the CC.

Consequences from the moment of commission of coercive actions aimed at forcing a person performing official duties to perform his / her official duties or to renounce his / her civil duties, as well as to commit illegal acts, in any form regardless of origin, the crime is considered completed.

If the victim was inflicted moderate or severe bodily injury in the course of the resistance, the perpetrator was charged under Article 219, Part 1 of the Criminal Code and Article 105 of the Criminal Code (intentional infliction of moderate bodily harm). infliction of

bodily injury) or Article 104 (intentional infliction of grievous bodily harm).

Violent intimidation is defined as the words and actions of an offender that indicate his intention to use physical force against a person performing his official or civic duty.

If the offender is threatened with murder or the use of force, his actions are punishable under Article 112 (intimidation with murder and use of force) and Article 219 (1) of the Criminal Code. should be qualified.

According to Article 219, the representatives of the authorities include the responsible officials who have the right to give legal instructions, which are binding. These include law enforcement, oversight bodies: prosecutors, law enforcement officers, SSS, tax officials, etc., as well as persons who, by law, perform basic or additional law enforcement duties. For this reason, resisting a responsible official who is not a representative of the authorities does not constitute a criminal offense if he or she fails to perform his or her civic duty.

Article 220 of the Criminal Code (actions disrupting the work of penitentiary institutions) or Article 221 of the Criminal Code in the presence of appropriate signs of resistance to law enforcement agencies, employees of penitentiary institutions acting as representatives of the authorities. (Disobedience to the lawful requirements of the administration of the penitentiary institution).

It should be noted that the legality and legitimacy of the activities of a government official or a person performing a civic duty is a necessary feature of the objective aspect of the crime being interpreted. This means that the government official and the citizen must be acting legally, otherwise the resistance against them will not constitute a crime. If they are engaged in one of

the following activities, their activity is considered legal.

1. Activity on protection of a public order - prevention and fight against offenses (including crimes) concerning interests of unknown persons (on streets, squares, parks, highways, railway stations, airports and other places) legal activities aimed at maintaining public order, monitoring compliance with the established rules of the passport system, identifying situations that contribute to the commission of offenses, etc.).

2. Social security activity - a way to maintain the necessary level of protection of vital interests of various groups of unidentified persons from various threats (assistance to those who are helpless or otherwise, whose life or health is in danger, legal activity aimed at monitoring compliance with traffic safety regulations, monitoring compliance with the rules of handling firearms, ammunition, explosives, etc.).

Truthfulness is the conformity of the activities or results of a legal entity to the events of social life. Integrity is reflected not only in the behavior of legal entities, but also in law enforcement documents. Truthfulness means not deviating from the rule of law in any way. Its opposite is a violation of the law.

To properly qualify a crime, you need to determine:

- first, whether the resistance is directed at the lawful activity of a government official in the performance of his official duties or at the performance of a civic duty;

- Second, to determine whether the resistance occurred during the performance of a service duty or civic duty.

Only after these circumstances are identified will the offender's actions be qualified under Article 219 of the Criminal Code. It is not a crime to oppose a government official or person who is committing an illegal act.

It is the legitimate actions of government officials and citizens that are criminally protected. A criminal offense shall be deemed to have been committed from the moment of the active opposition to the lawful activity of the acting official or to the person performing the civic duty, regardless of the consequences. In this case, the act of the perpetrator is classified as a set of crimes, as a result of which the legal activity of the official in charge of the service or the life or health of the person performing the civic duty is harmed or other socially dangerous consequences.

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