

RECIDIVITY IN CRIMINAL LAW: EXPERIENCE OF UZBEKISTAN AND FOREIGN COUNTRIES

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Abstract

This article provides a comparative analysis of the concept of recidivism, an important institution of criminal law, its types, legal consequences and its place in national legislation using the example of Uzbekistan and foreign countries. The author reveals the theoretical foundations of recidivism, its importance in determining punishment, as well as existing problems and shortcomings in this area. In particular, the legislation of the CIS countries such as Uzbekistan, Russia, Kazakhstan, Belarus, as well as Japan, China, the USA and European countries is compared. As a result of the study, effective mechanisms for combating recidivism are proposed.

Keywords: Recidivism, crime, conviction, dangerous recidivism, especially dangerous recidivism, sentencing, plural, foreign experience.

Introduction

JINOYAT HUQUQIDA RESIDIV: O‘ZBEKISTON VA XORIJIY DAVLATLAR TAJRIBASI

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Annotatsiya

Ushbu maqolada jinoyat huquqining muhim instituti bo‘lgan residiv tushunchasi, uning turlari, huquqiy oqibatlari va milliy qonunchilikda tutgan o‘rni O‘zbekiston va xorijiy davlatlar misolida qiyosiy tahlil qilinadi. Muallif residivning nazariy asoslarini, jazoni belgilashdagi ahamiyatini, hamda ushbu sohadagi mavjud muammo va kamchiliklarni ochib beradi. Xususan, O‘zbekiston, Rossiya,

Qozog‘iston, Belarus kabi MDH davlatlari, shuningdek, Yaponiya, Xitoy, AQSh va Yevropa mamlakatlari qonunchiligi qiyoslanadi. Tadqiqot natijasida residivga qarshi kurashishning samarali mexanizmlari taklif etiladi.

Kalit so‘zlar: residiv, jinoyat, sudlanganlik, xavfli residiv, ayniqsa xavfli residiv, jazoni belgilash, ko‘plik, xorijiy tajriba.

РЕЦИДИВ В УГОЛОВНОМ ПРАВЕ: ОПЫТ УЗБЕКИСТАНА И ЗАРУБЕЖНЫХ СТРАН

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Аннотация

В данной статье представлен сравнительный анализ понятия рецидивизма как важного института уголовного права, его видов, правовых последствий и места в национальном законодательстве на примерах Узбекистана и зарубежных стран. Автор раскрывает теоретические основы рецидивизма, его значение в определении наказания, а также существующие проблемы и недостатки в этой области. В частности, проводится сравнение законодательства стран СНГ, таких как Узбекистан, Россия, Казахстан, Беларусь, а также Японии, Китая, США и европейских стран. По результатам исследования предлагаются эффективные механизмы борьбы с рецидивизмом.

Ключевые слова: рецидивизм, преступление, обвинительный приговор, опасный рецидивизм, особенно опасный рецидивизм, вынесение приговора, множественное число, зарубежный опыт.

INTRODUCTION

The concept of "recidivism" (Latin *recidivus* - returning) is of particular importance in criminal law. It means that the person who committed the crime commits a new intentional crime before the term of his conviction has expired or has not been removed. Recidivism is taken into account as an aggravating

circumstance when determining the punishment and indicates the degree of danger of the offender to society. The fight against recidivism remains an urgent problem both in the Republic of Uzbekistan and in other countries.

This article provides a comparative analysis of the concept, types of recidivism and their legal consequences using the example of the legislation of Uzbekistan, the CIS and other foreign countries. The main purpose of the study is to study foreign experience and develop proposals for improving the criminal legislation of Uzbekistan.

CONCEPT AND TYPES OF RESIDENCY

Recidivism is a type of a large number of crimes. In the theory of criminal law, recidivism is characterized by the following features:

- A new crime must have been committed intentionally;
- The person must have a previous conviction for an intentional crime;
- The conviction must not have been removed or canceled in accordance with the established procedure.

Article 34 of the Criminal Code of the Republic of Uzbekistan states: “Recidivism is understood as the commission of a new intentional crime by a person after being convicted of a previously committed intentional crime.” A similar definition is found in Article 18 of the Criminal Code of the Russian Federation.

Recidivism is divided into the following types:

Turi	Ta’rifi
Oddiy residiv	Shaxs har qanday qasddan jinoyat uchun sudlanganlik holatida yangi qasddan jinoyat sodir etsa.
Xavfli residiv	Yangi jinoyat oldingisiga o’xshash bo’lsa (tavtologik) yoki JK maxsus ko’rsatgan hollarda boshqa moddalar bo’yicha sodir etilsa.
Ayniqsa xavfli residiv	Og’ir yoki o’ta og’ir jinoyat sodir etilgan bo’lib, oldingi sudlanganliklar ham og’ir toifadagi jinoyatlar bo’lsa va jazo muddati kamida 5 yil ozodlikdan mahrum qilish bo’lsa.

RECIDIVITY IN THE CRIMINAL LAW OF UZBEKISTAN. The Criminal Code of the Republic of Uzbekistan defines Article 34 as the main norms regulating recidivism. According to the Code:

- Ordinary recidivism (Part 1 of Article 34) - the commission of a new intentional crime by a person after being convicted of a previous intentional crime.
- Dangerous recidivism (Part 2) - if the new intentional crime is tautological (exactly the same) as the previously convicted crime or, in specially specified cases of the Criminal Code, is committed under other articles.
- Especially dangerous recidivism (Part 3) - the new crime is punishable by imprisonment for at least 5 years and is applied in the following cases:
 - a) for a particularly serious crime - if the person was previously sentenced to imprisonment for a particularly serious crime or for two serious crimes and for each of them at least 5 years;
 - b) for a serious crime - if the person has previously been sentenced to imprisonment for two serious crimes or for serious and especially serious crimes in any sequence and for each of them at least 5 years.

In accordance with Part 3 of Article 34, a special punishment regime is applied to a person recognized by a court verdict as an especially dangerous recidivist: the first two years of the sentence are served in prison, and the rest in a special regime colony. It is also specifically noted that a person recognized as an especially dangerous recidivist is not eligible for conditional early release (Article 73 of the Criminal Code) and commutation of punishment to a lighter type (Article 74 of the Criminal Code).

When determining the status of an especially dangerous recidivist, the following convictions are not taken into account:

- convictions for crimes committed by a person before reaching the age of 18;
- convictions that have been removed or canceled in accordance with the established procedure.

Example from judicial practice: On December 25, 2025, the Akhangaran City Criminal Court sentenced 31-year-old M.T. to 18 years in prison under Part 4 of Article 119 (forcible sexual satisfaction of a person under the age of 14 in an unnatural way) and found him to be an especially dangerous recidivist under Part 3, Subparagraph “a” of Article 34 of the Criminal Code. The first two years of the sentence will be served in prison, and the rest in a special regime colony.

Statistical data:

- In 2021, the number of recidivism cases amounted to 9,724, while in 2022 this figure increased to 11,635 (by 19.6%).

- The number of crimes committed by persons conditionally released ahead of schedule amounted to 168 in 2021 and 184 in 2022 (an increase of 9.5%).

Preventive accounting. The preventive accounting system, introduced by the Law of the Republic of Uzbekistan “On the Prevention of Crimes” dated May 14, 2014, is the main tool for preventing recidivism. Within the framework of this system, persons who have previously committed crimes are accounted for and individual preventive measures are applied to them. During 2019-2024, the effectiveness of this system was studied, and some shortcomings were identified - insufficient interdepartmental cooperation and weak social adaptation programs.

RECIDIVITY IN THE CRIMINAL LAW OF THE RUSSIAN FEDERATION. Article 18 of the Criminal Code of the Russian Federation defines the following types of recidivism:

- Ordinary recidivism (Part 1) - the commission of any intentional crime in the presence of a previous conviction for an intentional crime.

- Dangerous recidivism (Part 2):

- a) when a person has committed a grave crime and is sentenced to real imprisonment, if this person has previously been deprived of liberty for an intentional crime of medium gravity two or more times;

- b) when a person has committed a grave crime, if he has previously been deprived of liberty for a grave or especially grave crime.

- Especially dangerous recidivism (Part 3):

- a) when a person has committed a grave crime and is deprived of liberty, if he has previously been deprived of liberty for a grave crime twice;

- b) when a person commits a particularly serious crime, if he has previously been convicted of a serious or particularly serious crime (including a suspended sentence).

Article 68 establishes the following rules for determining punishment:

- In the case of an ordinary recidivism, the term of punishment cannot be less than 1/3 of the maximum term of the most severe type of punishment;

- In the case of a dangerous recidivism - at least 1/2;

- In case of especially dangerous recidivism - at least 2/3.

According to the Resolution of the Plenum of the Supreme Court of Russia No. 10 dated April 13, 2023, the cancellation of a suspended sentence constitutes a recidivism only if the decision to cancel it was made before the commission of a

new crime. If the suspended sentence is canceled after the commission of a new crime, recidivism does not occur.

The main differences between the legislation of Russia and Uzbekistan:

Mezon	O'zbekiston (JK 34-modda)	Rossiya (JK 18-modda)
Ayniqsa xavfli residiv uchun jazo minimal muddati	5 yildan kam bo'lmasligi kerak	2/3 qism
Ayniqsa xavfli residivist maqomi	Sud tomonidan maxsus e'tirof etiladi	Maqomi yo'q, faqat jazo muddati oshiriladi
Yengillashtiruvchi holatlar	Jazoni kamaytirishga ta'sir qiladi	68-modda 3-qismi bo'yicha cheklovlar bilan

RECIDIVITY IN THE LEGISLATION OF THE CIS STATES

The Republic of Kazakhstan. Article 14 of the Criminal Code of Kazakhstan defines the concept of recidivism and its types (ordinary, dangerous, especially dangerous). Dangerous recidivism is when a person commits an intentional crime punishable by imprisonment, if he has previously been deprived of liberty twice or has been convicted of a serious crime. Especially dangerous recidivism is when a person has been deprived of liberty at least three times for serious or medium-gravity intentional crimes, or has been convicted twice for a serious crime or for an especially serious crime.

There is no status of "especially dangerous recidivist" in the legislation of Kazakhstan - this is a significant difference from the legislation of Uzbekistan. The legislation of Kazakhstan bases recidivism not on the qualities of the person, but on the objective characteristics of the crime (the nature and amount of the harm caused, the method of committing the crime and other objective circumstances).

The Republic of Belarus. Article 43 of the Criminal Code of Belarus defines the concept of recidivism: "Recidivism is the intentional commission of a crime by a person who has a criminal record for an intentional crime." Dangerous recidivism is when a person commits an intentional crime punishable by deprivation of liberty, if he has previously been deprived of liberty at least three times and served his sentence. Especially dangerous recidivism is when a person commits an

intentional crime punishable by deprivation of liberty, if he has previously been deprived of liberty at least three times and has been convicted of a serious crime at least twice.

Article 65 establishes the rules for determining punishment:

- In the case of a dangerous recidivism, the term of punishment is at least 1/2 of the maximum term of punishment;
- In the case of an especially dangerous recidivism - at least 2/3 of it.

RECIDIVITY IN THE LEGISLATION OF FOREIGN STATES

1. East Asian countries

Japan. According to Article 56 of the Japanese Criminal Code, if a person has been sentenced to imprisonment and commits a crime again within 5 years after the expiration or cancellation of the sentence, this crime is considered a repeat offense (second sentence). The maximum term of the sentence cannot exceed twice the maximum term established for the relevant crime.

Approximately 55-60% of prisoners in Japan are repeat offenders. In 2023, 14.3% of the 14 thousand prisoners were elderly people who required special treatment. Reforms that came into force in 2025 introduced an approach based on the individual needs of prisoners, instead of simply dividing them into “first-time offenders” and “repeat offenders”.

China. According to Article 65 of the Chinese Criminal Code, a recidivist (累犯) is a person who has been sentenced to a fixed-term imprisonment or a heavier punishment and has committed another crime punishable by fixed-term imprisonment or a heavier punishment within 5 years after the expiration of the sentence or pardon. A recidivist **is subject to a heavier punishment. Crimes committed recklessly or by a person under the age of 18 are not taken into account in determining recidivism.

Article 66; provides for special recidivism: a person convicted of a crime against national security, terrorist activities or organized gangsterism who repeatedly commits one of the above crimes at any time after the expiration of the sentence shall be sentenced as a recidivist.

Chinese law does not have the concepts of "dangerous recidivism" and "especially dangerous recidivism", but only defines "ordinary" and "special" types of recidivism. Chinese lawyers are proposing the introduction of a “three

strikes rule” (a mechanism similar to the “Three Strikes” in the US) and a system of progressively increased punishment.

2. Western countries

USA. The US federal law has a “Three Strikes” law (Violent Crime Control and Law Enforcement Act of 1994), according to which a person convicted of a serious or violent crime twice commits a third such crime and is sentenced to life imprisonment. However, the recidivism rate in the USA is very high (about 70%) - almost three times higher than in European countries (20% in Norway). The reasons for this include high incarceration rates, the perception of punishment as retribution, and insufficient attention to rehabilitation.

Germany. The German Criminal Code (StGB) takes a rehabilitation-oriented approach to recidivism. The main emphasis is not on increasing punishment, but on reintegrating criminals into society and preventing repeat offenses. Germany has a well-developed probation service and social control system.

5.3. Comparative table

Davlat	Residiv turlari	Jazoni belgilash	Maxsus xususiyatlar
O'zbekiston	Oddiy, xavfli, ayniqsa xavfli	5 yil minimal jazo (ayniqsa xavfli)	“Ayniqsa xavfli residivist” maqomi
Rossiya	Oddiy, xavfli, ayniqsa xavfli	1/3, 1/2, 2/3 qism	Maqom yo'q, faqat jazo oshiriladi
Qozog'iston	Oddiy, xavfli, ayniqsa xavfli	Maxsus qoidalar	Maqom yo'q, obyektiv mezonga asoslanadi
Belarus	Oddiy, xavfli, ayniqsa xavfli	1/2, 2/3 qism	Maqom yo'q
Yaponiya	Oddiy (takroriy jinoyat)	Maksimal muddatning ikki baravari	5 yillik qayta jinoyat muddati
Xitoy	Oddiy, maxsus	Og'irroq jazo	5 yillik qoida, 18 yoshga to'lmaganlar hisobga olinmaydi
AQSh	“Three Strikes”	Umrbod ozodlikdan mahrum qilish	Yuqori residiv darajasi (70%)
Germaniya	Reabilitatsiyaga yo'naltirilgan	Probatsiya va ijtimoiy nazorat	Kam residiv darajasi
Fransiya	Kuchaytirilgan jazo	Ikki baravar yoki undan ko'p	Qat'iy yondashuv

MECHANISMS OF COMBATING RECIDIVITY IN UZBEKISTAN

Preventive accounting system. The main mechanism for preventing recidivism in Uzbekistan is the preventive accounting system. This system was introduced by the Law “On Prevention of Offenses” (2014) and covers the following categories of persons:

- those sentenced to conditional sentences;
- those released on parole;
- those released after serving their sentences.

The following measures are used within the framework of preventive accounting:

- legal advocacy;
- psychological support;
- social assistance.

However, studies show that the preventive accounting system has the following shortcomings:

- insufficient interdepartmental cooperation;
- weak social adaptation programs;
- low effectiveness of preventive measures at the local level.

Legislative reforms. Uzbekistan has taken important steps in recent years to liberalize and humanize criminal legislation:

- By the Plenum resolution of November 24, 2025, judicial practice was brought into line with current legislation;
- By the law of January 15, 2026 (No. 1112), amendments were made to the Criminal, Criminal Procedure and Criminal Executive Codes, creating the opportunity to reduce the term of punishment for convicts who have undergone correction;
- Improving measures against persons on preventive accounts.

Also, according to legislative changes introduced in March 2026, life imprisonment is provided for persons who have committed repeated crimes against sexual integrity against minors.

CONCLUSIONS AND PROPOSALS

The institution of recidivism in the criminal legislation of Uzbekistan is sufficiently developed, and Article 34 of the Criminal Code clearly defines the types of simple, dangerous and especially dangerous recidivism. However, the study of foreign experience allows us to put forward the following proposals:

1. Improving legislation:

- More clearly defining the mechanism for taking into account convictions when determining the status of a particularly dangerous recidivist;
- Regulating the ratio of mitigating and aggravating circumstances when determining punishment with clearer rules.

2. Strengthening the prevention system:

- Strengthening interdepartmental cooperation (internal affairs bodies, courts, prosecutor's office, social services);
- Expanding programs for the social adaptation of persons released from places of deprivation of liberty.

3. Introducing foreign best practices:

- Strengthening the rehabilitation-oriented approach, as in the experience of Germany and Norway;
- Introduce a system that takes into account the individualized needs of convicts, as in the Japanese experience;
- Introduce China's special recidivism mechanism for certain categories of serious crimes (for example, terrorism, organized crime).

4. Expand statistical monitoring and scientific research:

- Publish regular statistical reports on the level of recidivism and its dynamics;
- Support criminological research studying the causes of recidivism.

The fight against recidivism should not be limited to strict punitive measures, but should include comprehensive measures aimed at reintegrating criminals into society and preventing recidivism. Although Uzbekistan has made significant steps in this regard in recent years, there is room for further improvement of the system by studying foreign experiences and adapting them to national legislation.

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