


Current Legislative Problems Regarding Liability for Corruption Crimes and Issues of their Elimination

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	<p>Abstract: Corruption is a negative vice that hinders the development of states, their economic, political, and spiritual progress. As the President of the Republic of Uzbekistan Shavkat Mirziyoyev noted, "If we do not prevent corruption, we cannot create a real business and investment environment, and in general, no sector of society will develop." Indeed, corruption crimes hinder the development of the state, as well as those who do not obey the law, are unworthy of their duties, and those who, for their own selfish purposes, bypass the law and commit this crime in exchange for a certain right or benefit, are currently causing a weakening of trust between state bodies and citizens. The lack of normative and legal definitions of a number of concepts related to corruption crimes in the current legislation, as well as the inadequate coverage of corrupt acts by criminal law, are obstacles to achieving the desired results in the fight against corruption and improving our country's position in international rankings in this area.</p>
<p>Keywords: Corruption crimes, Transparency International, The problem of corruption, liability for corruption crimes, Corruption crimes under Uzbek law, forensic practice, state system, Bribery and bribery, harm to public interest.</p>	

Introduction

In recent years, our country has been implementing large-scale reforms aimed at combating corruption. In particular, on January 3, 2017, the Law "On Combating Corruption" was adopted. With the adoption of this law, the concept of corruption was officially defined. Article 3 of this Law defines corruption as the unlawful use of a person's position or office for personal gain or for the benefit of other persons, as well as the unlawful provision of such a benefit.

This definition was developed taking into account international standards and fully covers the most important elements that reveal the meaning of the term corruption. However, the provisions of the articles on corruption crimes in our current criminal legislation do not sufficiently meet the requirements of this definition and the current anti-corruption policy of our state.[1]

Article 210 of the current Criminal Code establishes criminal liability for “receiving material values or having a property interest of an official”. In this case, we can see that the provision of Article 210 covers the receipt of material benefits by an official only for himself. However, the above definition of the concept of corruption also includes the performance of certain actions “in the interests of other persons” in addition to “personal interests”.

Similarly, in accordance with the content of Article 211 of the Criminal Code, bribery is considered to be the provision of material values or property interest of an official in exchange for the performance or non-performance of a certain action by the person giving the bribe in his own interests. In this case, the legislator did not take into account that the crime of bribery can be committed not only by the person giving the bribe, but also by the interests of other persons.

We can also see such problems in Articles 1929-19210 and 213-214 of the Criminal Code, which provide for bribery crimes. Therefore, it is necessary to add additions to these articles of the Criminal Code that also provide for the acceptance or giving of bribes for the benefit of third parties, that is, other individuals.[2]

Also, although the official definition of the concept of “official” also includes international organizations and foreign state officials, Articles 1929-19210 and 210-214 of the Criminal Code establish liability only for the criminal acts of national officials. Therefore, taking into account international standards in this area, it is necessary to make amendments and additions to the above-mentioned articles of the Criminal Code, which provide for criminal liability for the bribery of officials and employees of a foreign non-governmental organization, foreign state organization or international public organization or for the bribery of such categories of persons. The official definition of corruption offenses indicates that corruption crimes are committed with the aim of obtaining material or non-material benefits. However, the current criminal legislation limits the subject of bribery only to “material values” and “property benefits”. At the same time, the Plenum of the Supreme Court also clarifies that the subject of a bribe can only be valuables and services of a property nature. After all, in accordance with paragraph 2 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 24, 1999 No. 19 “On Judicial Practice in Bribery Cases”, “money, valuables, material assets, as well as services that are not returned to the bribe taker, but have a property nature (for example, repair, construction, restoration work, etc.), may be the subject of a bribe.”

The existence of such norms prevents the recognition of a number of acts of a corrupt nature as crimes and ensuring the inevitability of punishment.

If we pay attention to international standards and foreign experience on this issue, we can witness the widespread recognition of intangible assets and non-property interests as the subject and essential element of corruption crimes. In this case, intangible assets and non-property interests mean interests and services that cannot be measured in money.[3]

Taking into account the above, it is necessary to recognize intangible assets and non-property interests as the subject of these crimes by making appropriate amendments and additions to the provisions of Articles 1929-19210, 210-211, 213-214 of the Criminal Code.

Also, in accordance with the current criminal legislation, while accepting and giving bribes is a crime, actions such as asking for a bribe, offering a bribe, accepting an offer to give a bribe, or promising to give a bribe are not covered by the provisions of the relevant articles. This situation may lead to the qualification of such actions as incomplete crimes or not being recognized as

crimes at all. However, generally recognized norms of international law, including the UN Convention against Corruption, stipulate that, in addition to accepting and giving bribes, soliciting, offering, accepting an offer to pay a bribe, or promising to pay a bribe should also be recognized as completed crimes.

In addition, the recommendations of the Organization for Economic Cooperation and Development for the Republic of Uzbekistan also recommend that such actions as soliciting, offering, accepting an offer to pay a bribe, or promising to pay a bribe should be covered by the provisions of Articles 210-211 of the Criminal Code, recognized as complete independent crimes, and criminal liability should be established for them.

In our opinion, based on international standards, such actions as offering a bribe, promising to give a bribe, asking for a bribe and accepting an offer of a bribe should be recognized as completed crimes. This is because such acts, by their very nature, are considered to be as socially dangerous as completed bribery and bribery crimes.

Articles 210-211 of the Criminal Code differ from Articles 192⁹-192¹⁰ and 213-214 of the Criminal Code mainly in terms of the subject of the crime and consist of almost identical elements. However, although the provisions of the crimes of accepting and giving bribes also include actions such as receiving and giving a bribe directly or through intermediaries, we can see that these elements are not covered by the provisions of the articles establishing liability for bribery in the private sector and bribery of an official.[4]

Therefore, in order to further clarify Articles 192⁹-192¹⁰ and 213-214 of the Criminal Code and bring them into line with Articles 210-211, it would be appropriate to include the elements of "receiving a bribe directly or through intermediaries".

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Also, although the official definition of the concept of "official" also includes officials of international organizations and foreign states, Articles 192⁹-192¹⁰ and 210-214 of the Criminal Code establish liability for the criminal acts of only national officials.[5]

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References:

1. Антйкоруруцпыонныре реформы в Узбекистане (4-й раунд мониторинга в рамках Стамбульского плана действий по борьбе с коррупцией) // [Электронный ресурс]. URL: https://www.oecd.org/corruption/acn/OECD-ACN-Uzbekistan-4th-Round_Monitoring-Report-2019-RUS.pdf
2. Антйкоруруцпыонныре реформы в Узбекистане (4-й раунд мониторинга в рамках Стамбульского плана действий по борьбе с коррупцией) // [Электронный ресурс]. URL: https://www.oecd.org/corruption/acn/OECD-ACN-Uzbekistan-4th-Round_Monitoring-Report-2019-RUS.pdf.
3. Стамбульский план действий по борьбе с коррупцией. Узбекистан. www.oecd.org/corruption/acn
4. Антйкоруруцпыонныре реформы в Узбекистане (4-й раунд мониторинга в рамках Стамбульского плана действий по борьбе с коррупцией) // [Электронный ресурс]. URL: https://www.oecd.org/corruption/acn/OECD-ACN-Uzbekistan-4th-Round_Monitoring-Report-2019-RUS.pdf
5. O'zbekiston Respublikasining Jinoyat-protsessual kodeksi // <https://lex.uz/docs/111460#252886>