
Problems of Improving Criminal Legal Measures against Corruption

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Abstract: This article discusses the concept of corruption crimes, recent reforms in our country aimed at preventing corruption crimes, problems and shortcomings in their implementation. In addition, opinions were expressed on the measures provided for by law for corruption crimes, in particular, criminal law measures: the essence of the concept and content, their correct order and grounds. In addition to the scientific-critical view of the author on the subject. The scientific and theoretical views of a number of our domestic and foreign lawyers were also studied.

In the course of the study, it was found that there are shortcomings in the criminal legislation on liability for corruption offenses, the procedure for imposing penalties and other coercive measures, and in order to correct them, it is necessary to make some changes to the Criminal Code. Also. On the basis of a system analysis, the legislation of some developed foreign countries on the application of criminal law measures against corruption crimes was also studied, and a number of proposals were made to improve criminal legislation, taking into account the experience of foreign countries.

Keywords: corruption, bribery, responsibility, coercive measures, punishment, criminal sanctions.

One of the most important measures in the prevention and fight against corruption is criminal law. Was a criminal instrument that compelled him to stand up and served to prevent the commission of a crime.

In this case, we can divide the measures of criminal law into several types, which are:

A measure of responsibility for a specific act;

Appropriate punishment for those who have committed a particular crime;

Other coercive measures applied to persons who have committed a particular crime.

First of all, with regard to the measure of liability for a particular act, according to Article 16 of the Criminal Code, criminal liability is the legal consequence of a crime expressed in the application of a court sentence, punishment or other legal measure against a person guilty of a crime.

According to M. Usmonaliev, criminal liability is a criminal relationship between a person and the state for the commission of an act prohibited by the Criminal Code [1, 173].

In determining criminal liability for a particular act, there must be a set of circumstances that must be proved in order to find a person guilty of a crime. [2, 95].

In other words, the commission of an act that has all the elements of a criminal offense under the Criminal Code is the basis for prosecution.

According to Article 42 of the Criminal Code, the imposition of appropriate punishment for a

person who has committed a specific crime is a coercive measure applied to a person convicted of a crime by a court on behalf of the state and depriving or restricting certain rights and freedoms provided by law.

There are various scientific and theoretical views in this regard, according to M.Kh. Rustambaev, punishment is a coercive measure of the state, which has the character of influencing the public, as defined by criminal law [3, 139].

According to H.R. Ochilov, punishment is a coercive measure of the state, which is expressed in the restriction of a person from certain rights and freedoms for a certain period of time, resulting in a person's criminal record [4, 69].

S.I. According to Dementev, the punishment is in committing a crime is a special coercive measure that deprives the guilty person of certain rights in the manner prescribed by law [5, 45].

In our view, criminal punishment is a special coercive measure of the state applied by a court to a person who has committed a crime on behalf of the state in order to prevent crimes.

There are several types of penalties in the Criminal Code, and Article 43 of the Criminal Code lists 9 types of penalties.

It should be noted that among the above punitive measures, the penalty of deprivation of a certain right can be applied both as a basic penalty and as an additional penalty.

Penalties in the form of restriction on service or transfer to a disciplinary unit are also applied to servicemen.

In addition, other coercive measures are included in the criminal law, and the current Criminal Code imposes coercive measures on adults and minors. However, the subject of corruption crimes is the Criminal Code Since under Article 17 they are persons who have reached the age of 18, we will discuss below the coercive measures applied to adults.

Chapter 18 of the Criminal Code provides for the use of only compulsory medical measures for adults, and medical coercive measures are imposed by a court in accordance with Article 92 of the Criminal Code.

The criminal law measures taken to prevent corruption offenses are different in different periods and in different states, and they are radically different from the criminal law measures provided for in our current national legislation. In particular, such measures of influence, in contrast to the current Criminal Code, were also provided for in the 1959 Criminal Code of the USSR, which will be discussed in more detail below.

In addition, Article 1491 of the Code provides for overstatement of reports on the implementation of plans and other violations (Article 209 of the current Criminal Code, the crime of official forgery), Article 150, the offense of abuse of power or service, 151 According to Article 1511, for the crime of negligence in the service, according to Article 1511, for violation of the order of consideration of proposals, applications and complaints of citizens, according to Article 152, for committing the actions specified in the first part of the crime of bribery.

For the acts provided for in the second part of the article, with confiscation of property, imprisonment for a term of eight to fifteen years, and with or without deportation for a period of two to five years after the expiration of the term of imprisonment. his property was confiscated and he was sentenced to death.

It also provides for the release of a person from criminal liability if he or she is persuaded to

pay a bribe by extortion, or if the person voluntarily confesses after giving the bribe.

The subsequent reform of criminal law and the supremacy of human rights have led to a significant liberalization of penalties, which today has led to the imposition of lighter sentences for corruption offenses.

Although this system of penalties is developed in sync with the penitentiary system of developed countries, there are many problematic cases that are not regulated in our legislation, which we will analyze below with the example of foreign legislation.

The Criminal Code of the Russian Federation provides for liability under two articles for legalization (legalization of proceeds from criminal activity). In particular, Article 174 of the Criminal Code of the Russian Federation is entitled "Legalization of money or other property obtained as a result of a crime committed by another person."

Article 174.1 is called "legalization of money or other property by a person who has committed a crime" [6]. That is, the Russian Criminal Code establishes a separate liability for the legalization of property found as a result of a crime committed by another person, with the legalization of property found as a result of a crime committed by him.

Article 201, Chapter 18, "Crimes and Criminal Procedure," of the U.S. Penal Code criminalizes bribery of officials or witnesses, as well as offering, promising, soliciting, and agreeing to accept bribes in addition to accepting and giving bribes. will be [7].

Under the Georgian Criminal Code, an act aimed at abusing the position of an official is considered a completed crime and punishable, regardless of whether or not the act resulted in an impact or whether the impact resulted in the intended result. [8]

We can also see specific norms in the criminal law of Armenia, including the fact that in this country the illegal enrichment of an official is recognized as a crime. The case of a significant increase and (or) decrease in liabilities is considered to be illegal enrichment and is the basis for criminal liability if it is not logically substantiated by the official, as well as in the absence of other criminal elements in his actions [9].

There is also an uncompromising fight against bribery in China, including the fact that Chinese police officers are not allowed to carry cash. They buy food and necessities through special coupons. If an employee is found to have cash, he or she will be fired immediately.

We can also see that in some foreign countries, administrative liability has been established for less significant manifestations of corruption. In particular, according to the legislation of Kazakhstan, it is not a crime for an official to accept or grant a property, property rights or other property interest in the amount not exceeding two monthly calculation indices as a gift without prior consent for the commission of an act (omission) within its competence. will be grounds for administrative or disciplinary action [10].

Switzerland's JKgabinoan may also impose dismissals on those who commit crimes using their official powers.

According to Article 323 of the Italian Criminal Code, abuse of office is punishable by up to 4 years in prison, while abuse of power is punishable by up to 15 years in prison under Article 28 of the German Criminal Code.

According to the first paragraph of Article 220 of the Criminal Code of the State of Bosnia and Herzegovina, a serious violation of the rights of another person by abusing his official or governmental authority, ie for personal gain by going beyond his official powers, is punishable by six to five years in prison.

According to Article 359 (1) of the Serbian Penal Code, if an official abuses his / her official position, illegally increases his / her property, seriously harms the interests of the state and citizens by deliberately evading his / her official duties, he / she shall be sentenced to six months to five years in prison. Will be deprived [14].

Article 247 of the Belgian Penal Code defines the crime of abuse of office as an independent criminal offense, which is defined as the act of influencing a public official to take or refrain from taking any action using the actual or presumed official position of the person performing public functions. Rated [15].

In addition to taking bribes, Article 129 of the South Korean Penal Code also provides for liability for soliciting bribes and promising to take bribes. It is noteworthy that the criminal law of this state considers not only bribery or the promise of a bribe, but also the fact that a person has expressed his desire to pay a bribe as a punishment [16].

In Asian countries, as well as in Europe, the fight against corruption is a topical issue, and a system of ruthless fight against corruption has been established in public policy. In Japan, for example, in addition to fighting corruption, reporting false (slandorous) bribes can be punishable by up to three years in prison or a fine. Penalties for a number of official crimes have been increased through reforms in criminal law. For example, abuse of power by government and public officials was punishable by up to 2 years in prison or imprisonment. Previously, a person could face up to six months in prison for such a crime.

In addition, this measure is reflected in the legislation of developed countries. It is stated that it is encouraged in the manner prescribed by the Government of the Republic of Kazakhstan [18].

Some of the criminal sanctions for corruption offenses in the laws of the countries analyzed above are more severe than the sanctions in our legislation, and some are less severe, and it is advisable to apply them to our legislation with further improvement.

It is advisable to improve the criminal sanctions for corruption offenses based on the above analysis and the experience of developed countries, which are:

1. It is necessary to expand the existing scope of liability and punishment in the Criminal Code for corruption, and to criminalize the following new crimes in the Criminal Code, as well as to amend the disposition of existing norms:

Particular, Articles 19210, 213 and 214 of the Criminal Code provide for administrative prejudice in the prosecution and punishment of corruption offenses.

2. The Criminal Code should be amended to include a new provision in this regard in order to eliminate cases of corruption by abusing state titles (awards) or public status provided to them by individuals.
3. In addition, it is necessary to establish liability in the Criminal Code in order to prevent corruption in foreign affairs, in particular, conflicts of interest.
4. The Criminal Code should establish a separate liability for the legalization of property acquired as a result of the commission of a crime by another person, with the legalization of property acquired as a result of a crime committed by the person himself.
5. It is also necessary to amend the system of penalties for corruption-related crimes.
6. It is also necessary to establish new types of penalties for corruption-related crimes and to include them in the system of additional penalties in the General Part of the Criminal Code, which are:

Deprivation of a person of a state title (award);

Compensation for material damage;

Confiscation of property obtained as a result of a crime.

7. It is also necessary to introduce the following main and additional penalties for the commission of corruption crimes by citizens of foreign countries.

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