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CRIMINAL LAW IN UZBEKISTAN: PROBLEM AND ANALYSIS

Annotation: This article discusses to qualify bribery with current criminal legislation of the Republic of Uzbekistan; differences of crimes related to bribe, especially bribe-giving and intermediation in bribery; their specific aspects has been analyzed. In addition, it focuses on the analysis of the problems in qualifying such crimes and has been concluded.

Key words: property, bribery, intermediation in bribery, redsidivist, dangerous redsider, criminal offense.

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УГОЛОВНОЕ ПРАВО В УЗБЕКИСТАНЕ: ПРОБЛЕМА И АНАЛИЗ

Аннотация: В данной статье рассматривается квалификации взяточничество с действующим уголовным законодательством Республики Узбекистан; различия в преступлениях, связанных со взяткой, особенно дача взятки и посредничество во взяточничестве и их конкретные аспекты были проанализированы. Кроме того, он сосредоточен на анализе проблем в квалификации таких преступлений и был сделан вывод.

Ключевые слова: имущество, взяточничество, посредничество во взяточничестве, редсидивист, опасный рецидив, уголовное преступление.

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O'ZBEKISTONDA JINOYAT HUQUQI: MUAMMO VA TAHLIL

Annotatsiya: Ushbu maqolada poraxo`rlikni hozirgi kundagi O`zbekiston Respublikasi jinoyat qonunchiligi orqali kvalifikatsiya qilish muhokama qilinadi, poraxo`rlik jinoyatlarining, ayniqsa pora berish va pora olish-berishda vositachilik qilish jinoyatlarining bir biridan farqli jihatlari hamda ularning o`ziga xos xususiyatlari tahlil qilingan. Bundan tashqari bu kabi jinoyatlarni kvalifikatsiya qilishdagi muammalar tahliliga e`tibor qaratilgan va xulosalar qilingan.

Kalit so`zlar: mol-mulk, pora berish, pora olish-berishda vositachilik qilish, redsidivist, xavfli redsidivist, jinoiy qilmish.

In order to build a democratic legal state and to form a civil society, there have consistently been reforms through perspective programs in Uzbekistan. As the First President of our country Islam Abduganievich Karimov emphasized, "First of all, based on the requirements of the future, we need to strengthen our steadfast efforts in upgrading and modernizing the country and to upgrade them at a new, higher level"[1].

It should be noted that, the effectiveness of the ongoing reforms in the country largely depends on how the system of the public service is forming, how its employees which are counted as civil servants are following the current legislation and their duties and responsibilities.

The crimes in Articles 211-212 of the Criminal Code of the Republic of Uzbekistan are considered as crimes which are corruption-related and against administrative procedures and these crimes damage legal and social relations, to preform public administration effectively and legally through bribing state officials, mediating in bribing. Any social-danger act which is against the normal function of the state apparatus during the process of building a society based on the principle of legal democratic and priority human rights, improving the governance system, the competences and performance of officials creates serious damage to the flourish of the society, causes distrust state apparatus. In the process of changing the system of the society, there is a need to overcome the old system problems and resistance, on the basis of it there are new forms of crime, and the fight against it requires great skill.

At present, the Criminal Code of the Republic of Uzbekistan sets out the following general abusive circumstances for bribery crimes:

- repeatedly, committed by a dangerous recidivist or a person who has previously committed crimes which are meant in Articles 210 or 211 (212) of the present Code;
- committed in large amounts,
- in especially large amount,
- in the interests of an organized group.

Particular abusive circumstances are following:

- in the instance of acceptance of a bribe by a group of officials acting by previous concert, which is known to the agent;
- for remuneration.

According to the resolution of Plenum of the Supreme Court of the Republic of Uzbekistan in May 24, 1999, it was explained that in qualifying acceptance of bribe, bribe-giving, intermediation in bribery with the sign of repetitive, if the period of criminal prosecution has not expired, it means one crime is committed at least twice.

According to Article 32 of the Criminal Code of the Republic of Uzbekistan, repeated crime shall be non-simultaneous commission of at least two crimes envisaged by the same paragraph, Article or in the instances specially envisaged by Criminal Code, by different articles of Special Part (in particular by a person who previously committed crimes envisaged by Article 210-212 of this Code), for commission of which a person has not been convicted.

In court trials, it can be difficult to find out whether bribery from multiple individuals can be considered repeatedly or not.

As explained in paragraph 8 of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan in May 24, 1999, if receiving bribes of the official from several person simultaneously, committed separate act for each bribe-givers, it should be described as repeated bribery. It is also necessary to qualify as a repeated offense in cases where several person give a bribe or they are intermediaries in bribery. [2].

According to Article 32 of the Criminal Code of the Republic of Uzbekistan, if the bribe-taker and the bribe-giver have agreed upon a certain amount of money for the fulfillment or non-execution of an action, and if the sum is paid individually or through the intermediary several times, this is not a repeated bribery, but a "prolonged bribe" (bribe taking, bribe giving, mediation in bribery).

No bribery can be committed repeatedly when the official receives agreed money and subsequently demands a bribe from the bribe-giver.

The concept of dangerous recidivist is defined by the second part of article 34 of the Criminal Code of the Republic of Uzbekistan, which, commits a crime similar to that previously convicted, and also in particular cases in the present Code, the person which convicted by other articles of the Special Part commits a new crime intentionally. Unlike regular recidivist, a dangerous recidivist is referred to as a qualifying feature in many articles of the Special Part of the Criminal Code. Having qualified as a criminal offense committed by a dangerous recidivist, the law enforcement authorities are required to blame him considering this feature.

An offense committed by a dangerous recidivist is an indication of a number of offenses and should have been proven by a person in the capacity of an accused person in the proceedings before the pretrial investigation body and subsequently justified in the descriptive part of the judgment [2].

According to the content of the second part of article 34 of the Criminal Code of the Republic of Uzbekistan, it is not significant in dangerous recidivism that the act is a dangerous recidivism, and a person as a dangerous recidivist, whether the person was adult or underage, and what kind of punishment and the term of punishment he is convicted. It is important that the person has reached the age of the subject which is specified in the law.

According to the Eighth Section of the Special Part of the Criminal Code of the Republic of Uzbekistan, a large amount is meant to be 300 to 500 times of the minimum monthly wage, and to a large extent - 500 times and more than it of the minimum monthly wage.

In the "c" item of the second part of Article 212 of the Criminal Code of the Republic of Uzbekistan is a particular aggravating circumstance, that is, taking bribe by a group of officials acting by previous concert, which is known to the agent.

Pre-conspiracy by a group of individuals is a qualifying feature of many offenses. In criminal law theory and in the practice of criminal activity, this characteristic of a criminal offense is understood as the co-operation of the participants before the crime is committed. When bribe is taken, it means, it is envisaged that officials will coordinate the taking of bribes. Article 9 of the Plenum of the Supreme Court of the Republic of Uzbekistan, September 24, 1999, states: "If there are two or more officials who agreed beforehand in committing crime, it is considered that bribery has been committed by a group of senior officials by previous concert.

Being intermediary for remuneration is an aggravating situation that is specific to Article 212 of the Criminal Code.

The intermediary is financially interested in intermediation in bribery for remuneration. From a civil-law perspective, the agreements can be concluded for money and for free. In agreements for money, one side gets money or property for given property or service. In agreements for free, one party can give property or do something without getting money [3].

The subjective aspect of intermediation in bribery involves intention of the guilty and the content of the offense covered by the objective features of it which -mentioned above. The motives that intermediary follows are different, and if the agent gets a "service charge," it may be mercenary. The items which considered service fees are recognized as bribe-taking and bribe-giving. In this case, material objects can be handed over by both parties. Again, it should be noted that this crime is committed to a spirit of amorality or self-righteousness.

It is noteworthy that in the criminal law of the CIS member states, there is no such feature which qualifies a crime [4].

Article 4 of the Article 29 of the Criminal Code of the Republic of Uzbekistan stipulates that a group of two or more members which engage in criminal activities will be found an organized group. An organized group is a relatively dangerous form of participation. An organized group is different from the complex participation of its organizational level, the role of group members in the group, and the role of each member of the group in the criminal activity. As in the case of at least two people participating in the crime in all forms of participation, at least two people should be involved as a criminal in an organized group.

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