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## **PECULIARITY OF CORRUPTION**

### **Аннотация.**

В статье освещается работа, проделанная в нашей стране за последние годы в борьбе с коррупцией, а также негативные последствия коррупции, виды коррупции и суть предложений по совершенствованию законодательства.

### **Ключевые слова.**

коррупция, коррупционный преступность, составы коррупционных преступлений, злоупотреблений, связанных со служебной деятельностью государственных служащих, виды коррупции, уголовную ответственность

### **Annotation.**

The article highlights the work done in our country in recent years in the fight against corruption, as well as the negative consequences of corruption, types of corruption and the essence of proposals for improving legislation.

### **Keywords.**

corruption, corruption crime, corpus delicti of corruption offenses, abuses related to the official activities of civil servants, types of corruption, criminal liability

In recent years, Uzbekistan has been taking comprehensive measures in the field of the judicial and legal system, including combating crime, early crime prevention and crime prevention, strengthening the rule of law and the rule of law, and reliable protection of human rights and interests.

There is no single universal approach to combating corruption in the world - it is individual for each historical period and each state, each country has its own national characteristics, methods and mechanisms of combating corruption [1].

Corruption is illegal actions of an official, which are aimed at obtaining material and non-material benefits for committing or refraining from committing certain actions using their powers [2].

Corruption is a social phenomenon that consists in the decomposition of society and the state, when civil servants, persons authorized to perform state and other administrative functions, including in the private sector, use their official position, status and authority of the position they hold against the interests of the service and the established norms of law and morality for the purpose of personal enrichment or in group interests.

The norm of Article 3 of the Law of the Republic of Uzbekistan dated January 3, 2017, No. 419 "On Combating Corruption" defines corruption as "illegal use by a person of his official or official position in order to obtain material or non-material benefits in personal interests or in the interests of other persons, and equal to the illegal provision of such benefits "[3].

Today, corruption crime is one of the topical issues of our time not only for Uzbekistan, but also for all countries of the world.

As the President of the Republic of Uzbekistan Sh.M. Mirziyoyev rightly pointed out: "Intolerance to any manifestations of corruption should become an integral part of our daily life. All state bodies, political parties, public organizations, mass media, every citizen must mobilize to fight this evil. We need to instill in children from an early age the understanding that corruption is a very serious crime, foster intransigence towards it, teach honest work and conscientious entrepreneurship. It is extremely important to prevent corruption and ensure transparency of decision-making processes in all state bodies "[4].

Since gaining independence, Uzbekistan has attached great importance to the issues of combating corruption. This problem has been given special attention in recent years. Practically in all his speeches, approved by the normative legal documents by the President of Uzbekistan Shavkat Mirziyoyev, demands are made to eradicate this social evil from the life of the country [5].

Main characteristics of this offence are

1. **A social phenomenon** that entails the decomposition of the entire civil society and the state, when acts of corruption become a daily norm in the life of society;
2. **The range of subjects of this offense** - civil servants, persons authorized to perform public functions, as well as persons authorized to perform management functions in the private sector;
3. **The use by these entities** (through action or inaction) of their official position, their legal status and authority of the position held, contrary to the interests of the service (ie civil service and service in private sector organizations)

and the established norms of law and morality;

**4. The activities of the above entities both for the purpose of personal enrichment and in the interests of other persons or corporate interests.**

It seems to us that corruption can be conditionally classified into several main types:

**1) by the status of subjects:**

- a) corruption in government;
- b) corruption in the private sector;
- c) corruption in politics or political corruption;

**2) by levels:**

- a) grassroots;
- b) apical;
- c) vertical [6];

**3) according to the degree of public danger:**

- a) corruption-misconduct;
- b) corruption is a crime.

In our opinion, considering corruption, the corpus delicti of corruption crimes can be conditionally divided into: direct (main) corruption; indirect, i.e. optional.

In order to exclude various abuses related to the official activities of civil servants, it became necessary to introduce norms aimed, first of all, at preventing the merging of senior officials with commercial and other organizations, as well as prohibiting to engage in entrepreneurial activities through their family members in cases where the organization, where a family member of a civil servant works is in some way dependent on a government authority.

In the system of government bodies of the republic, the authors propose to create subdivisions of a kind of "internal audits", as it is done in Germany, to identify and suppress the facts of corruption in government bodies. In other structures, it is proposed to create a kind of "subdivisions (departments) of their own security", as is done, for example, in the Ministry of Internal Affairs of the Republic of Uzbekistan.

According to the objects of encroachment, corruption crimes should be classified into the following types:

- corruption crimes related to the theft of someone else's property (clause "d", part 2 of article 167 of the Criminal Code of the Republic of Uzbekistan);
- corruption crimes against the foundations of the economy (Article 175, item "g", Part 2, Article 182, Criminal Code of the Republic of Uzbekistan);
- corruption crimes in the economic sphere (item "g", part 2 of article 186<sup>1</sup>, item "g", part 2 of article 186<sup>2</sup>, item "g", part 2 of article 186<sup>3</sup> of the Criminal Code of the Republic of Uzbekistan);

- corruption crimes related to obstruction, illegal interference in entrepreneurial activity, and other crimes that infringe on the rights and legitimate interests of economic entities - (Articles 192<sup>1</sup>-1921<sup>1</sup> of the Criminal Code of the Republic of Uzbekistan);

- corruption crimes in the field of ecology (Art. 194, item "b", Part 3, Art. 202 of the Criminal Code of the Republic of Uzbekistan);

- corruption crimes against the order of functioning of authorities, administration and public associations - (Articles 205-206, 209-211, 213, 214, Articles 230, 231, Part 2 of Article 232, Articles 234, 235, Part 2. Article 236, 241<sup>1</sup> of the Criminal Code of the Republic of Uzbekistan);

- corruption crimes against public safety and public order (clause "c", part 2 of article 247, cl. "g", part 2 of article 250<sup>1</sup>, cl. "c", part 2 of article 251, cl. "c »Part 2 of article 252 of the Criminal Code of the Republic of Uzbekistan);

- crimes constituting illegal circulation of narcotic drugs or psychotropic substances (clause "d", part 2 of article 271 of the Criminal Code of the Republic of Uzbekistan);

- corruption crimes in the field of information technology (clause "c" part 2 of article 278<sup>2</sup>, clause "c" part 2 of article 278<sup>3</sup> of the Criminal Code of the Republic of Uzbekistan);

- Corrupt military official crimes (Article 301 of the Criminal Code of the Republic of Uzbekistan).

It seems that in order for Article 190 of the Criminal Code of the Republic of Uzbekistan (Engaging in activities without a license) to work properly, as well as to significantly reduce the level of corruption among civil servants, it is necessary to strengthen responsibility for crimes committed under this article.

The prevalence of bribes has led to the fact that in many institutions a multi-stage system of bribery has developed, in which tariffs for the provision of services are rather rigidly prescribed, depending on their complexity and the position of the person. The technology of bribery, worked out over the years, has made the fight against this phenomenon quite difficult.

In this regard, it seems necessary to supplement Chapter XV of the Criminal Code of the Republic of Uzbekistan with the following articles: Art. 214<sup>1</sup> "Office forgery in commercial and other organizations", Art. 214<sup>2</sup> "Negligence in commercial and other organizations."

Most ordinary citizens communicate directly with ordinary civil servants (chief, leading specialists, etc.) who do not belong to the category of officials. Often, the solution of a particular issue for a citizen depends on this communication, and based on the results of this communication, an assessment of all power as a whole is given. In the case of extortion of illegal remuneration from

civil servants, citizens develop an appropriate opinion that all power is for sale, which affects, first of all, the authority of state power and the interests of civil service and service in local self-government bodies.

In this regard, it seems advisable to supplement Chapter XV of the Criminal Code of the Republic of Uzbekistan with Article 214<sup>3</sup>, which provides for criminal liability for illegal receipt of remuneration by extortion from civil servants who do not belong to the category of officials, in the following wording:

**“Article 214<sup>3</sup>. Receiving illegal remuneration**

Illegal receipt by an employee of a state organization who is not an official, as well as an employee of a non-governmental organization who does not perform managerial functions, material remuneration, benefits or services of a property nature for the performance of work or the provision of services that are within the scope of his duties, if this act is associated with extortion, -

shall be punishable by a fine up to one hundred minimum monthly wages, or by deprivation of the right to occupy certain positions or engage in certain activities for a term of up to two years, or to engage in community service for a term of up to one hundred and fifty hours, or to correctional labor for a term of up to one year.

The same act, committed repeatedly or connected with the receipt of remuneration in a large amount, -

is punishable by deprivation of the right to hold certain positions or engage in certain activities for a term of five years, or restraint of freedom from three to five years, or imprisonment for up to two years with the deprivation of the right to occupy certain positions or engage in certain activities for a term of up to three years.”

It seems advisable to introduce additional norms providing for liability for cashing out funds and violating the rules of accounting and reporting, placing them in Chapter XII of the Criminal Code of the Republic of Uzbekistan (Crimes against the fundamentals of the economy): Article 184<sup>2</sup> “Illegal cashing of funds”.

As some scholars rightly point out, the problems that give rise to corruption can be roughly divided into general and specific.

The common ones include those that are characteristic not only of Uzbekistan, but also of most countries undergoing a transition period from a centralized to a market economy. Some of these problems are:

- 1) unrooted democratic political traditions;
- 2) weakness of civil society, separation of society from power;
- 3) inefficiency of government institutions;
- 4) underdevelopment and imperfection of legislation;
- 5) difficulties in overcoming the inheritance of the totalitarian period;

6) economic decline and political instability.

*Specific modern problems are a continuation of those that, in manifestation or origin, are rooted in the Soviet period. Some of them are exacerbated by the conditions of the transition period:*

- low efficiency of the ships;
- underdevelopment of the legal consciousness of the population;

The habitual focus of law enforcement agencies and their representatives on the protection of exclusively “interests of the state” and “public property”.

The tradition of subordinating officials not to the law, but to instructions and to the boss.

Many domestic experts consider inadequate legal regulation of certain areas of activity and shortcomings in the current legislation to be the legal factors that determine corruption. Among these, the most often stand out:

- improper regulation of the official powers of officials of state power and management bodies;
- insufficient effectiveness of the current criminal legislation on responsibility for specific forms of manifestation of corruption;
- inadequate legal regulation of the financing of pre-election campaigns to state and local authorities;
- lack of a comprehensive legal framework aimed at combating corruption, including a political one;
- the presence of legislative consolidation of immunity from criminal prosecution of certain subjects of politics, both representatives of state power and applicants for these positions (candidates for the President of the Republic of Uzbekistan, deputies of the Parliament of the Republic of Uzbekistan, etc.);
- the mechanism of electoral legislation requiring perfection, ensuring the real independence of the elected persons from their voters.

The group of organizational and managerial factors that determine corruption includes:

- a) an insignificant number of competitions for the replacement of rolling top government posts, the presence of a system of professional employees and political appointees;
- b) lack of effective financial and other control over the activities of policy subjects;
- c) instability of the civil service;
- d) the absence of special independent services that exercise financial control during elections or competitions for taking up an appropriate position in government bodies;
- e) ineffectiveness of the activities of state bodies in the fight against



corruption;

f) the lack of appropriate forms of social control over the sphere of political relations and the activities of representatives of public authorities and candidates for these positions both from the state and society;

g) the lack of political will of the highest officials of the state, both in relation to the fight against corruption throughout the country, and to individual cases of its manifestation.

The ideological and educational factors that determine corruption include:

- carrying out so-called campaigns to combat corruption in all its forms and manifestations, which are more likely to be harmful than positive, since they most often pursue political goals and are one of the ways to achieve them, because often the persons who have achieved the goals set before themselves political goals (taking or retaining the relevant position), after that they forget about their promises about increasing the effectiveness of the fight against this social phenomenon;

- the lack of formation of the political culture of civil society, which is reflected primarily in the election process, when some voters cast their votes for small sums of money or material values, receiving insignificant property benefits, and secondly, in praise or, on the contrary, in indiscriminate criticism subjects of politics without any serious preliminary study and analysis of their election programs;

- absence or insufficiently well-established work in the educational system for anti-corruption education of the younger generation;

- insufficient work of the mass media on anti-corruption education of the population.

**Socio-economic conditions of corruption:**

- privatization of state property;
- distribution of budgetary funds;
- provision of exclusive rights (privileges, including for export and import, taxes, licensing, etc.).

**Banking sector:**

- illegal lobbying in the legislature;
- law enforcement and economic crime;

**Conditions for grassroots corruption:**

- housing and communal services;
- law enforcement agencies;
- taxes and customs duties;
- conscription for military service;

Thus, the following conclusions can be drawn:

Firstly, it is possible to reduce and limit corruption only by simultaneously solving the problems and conditions that give rise to it: secondly, countering corruption with all decisiveness and in all directions will contribute to solving these problems.

The problems that give rise to corruption include those that are characteristic not only of Uzbekistan, but also of most countries that are in the stage of modernization, primarily those undergoing a transition period from a centralized to a market economy. First, various interpretations of the causes of corruption contradict each other, and secondly, none of them can be considered perfect. In our opinion, the truth should be somewhere in between.

Any society has its negative sides. The most dangerous of them for the state and the people is corruption. This phenomenon occurs in all states, regardless of their level of development and volume of territory. Struggle and opposition must first of all begin with family education and climate [7].

Only after properly studying the causes and conditions that give rise to corruption, it is possible to determine and develop specific measures to limit and reduce it.

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