

SUBJECT AND SUBJECTIVE SIDE OF THE CRIME OF ABUSE OF POWER OR CAREER AUTHORITY

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ABSTRACT: The article emphasizes that today social danger of this crime in the form of organized crime and corruption is further increased by the fact that it becomes extremely dangerous, the state becomes dangerous by the fact that it causes the consequences of the crisis of society also cause the characteristics of risk.

KEY WORDS: Law enforcement officers, criminal process, a criminal case, to identify the crime, obscurity to full accuracy.

I. INTRODUCTION

Under Part 1 of Article 205 of the Criminal Code, the subject of the crime of abuse of authority or career authority can be special subjects (officials) with a number of special signs, in addition to subjects with common signs. The concept of an official is given in Section VIII of a special part of the Criminal Code. In accordance with the law, an official is a person who is appointed or elected under a permanent, temporary or special authority, performs the duties of a representative of power, or is authorized to carry out organizational and managerial, administrative and economic functions in state bodies, citizens' self – government bodies, regardless of the form of property, enterprises, institutions, organizations, and commit acts of legal importance, as well as a person

II. METHODOLOGY

As components of the methodology, the author used general scientific methods, which involve the study of all phenomena and processes in their development, interconnection and interdependence, as well as special methods. In particular, the methods of dialectical materialism, system analysis, analysis and synthesis, logical, historical, comparative-legal, formal-legal used.

III. DISCUSSION



The following are recognized as dignitaries: persons who hold positions related to the performance of organizational and regulatory or administrative-economic obligations in state organizations, institutions or enterprises, but do not have the authority to perform legally significant actions (for example, an accountant, an employee of the Department); in enterprises, institutions or organizations of a non-governmental form of ownership-persons who perform organizational-ordered or administrative-economic functions and have the authority to carry out legally significant actions in the absence of authority over public administration in accordance with the procedure established by law (for example, a head, Chief Accountant).

It is necessary to understand that the powers of power in public administration are those that are carried out in order to carry out the functions of the state and are endowed with the force of coercion of the state. Organizational and regulatory tasks (obligations) consist in guiding the activities of other people, managing people, workspace. They include: Organization of work of institutions in general and in individual parts, selection and placement of personnel, recruitment and dismissal, organization and planning of work, Control and verification of performance, implementation of disciplinary rights, etc. Each employee of the institution, who has other employees in its service subordination, manages their activities, directs and organizes their work, is an official due to the fact that they have organizational and regulatory obligations.

Such tasks are carried out, in particular, by the heads of enterprises and organizations, heads of private educational institutions (rectors, vice-rectors), members of liquidation commissions, etc. Administrative and economic tasks of officials are formed from the management of enterprises, institutions and organizations, regardless of their form of ownership. At the disposal of the listed structures are material values, all employees who have to take into account and control their spending, organize the shipment, receive and issue material values, issue funds with the registration of relevant documents, take into account the work performed and set a reward for Labor, regardless of the positions held, are considered officials according to their The powers of one size or another can be possessed by the heads of the plan-farm, supply, financial departments and services and their deputies, heads of warehouses of material values, accountants, cashiers and those who perform other tasks in government bodies or institutions.

Many officials simultaneously perform both organizational and regulatory and administrative-economic functions. Actions with the capacity to create, modify or terminate legal relations can be recognized as legally significant (for example, a contract, a certificate of office, a power of attorney, etc.). According to this sign, officials can be entered into persons who, on behalf of an enterprise, institution or organization, can issue official documents that grant this or that right or exempt from obligations or certify a certain legal fact .

In cases where career duties are temporarily performed, or in their performance according to special authority, the person is recognized as the subject of the crime being commented on in the manner in which the specified obligations or powers are established on him, and only in temporary cases imposed on him, or in connection with the performance of career duties imposed on him. The circumstances of the Fulfillment by the subjects of one-time assignments (for example, participation in an examination, participation in the work of one or another commission, etc.) can also cause their prosecution as an official in the crime under review. At this point, continuing the analysis, we also dwell on the concept of a special subject of crime. In the theory of criminal law, the concept of a special subject of crime is given. In order for a person to be considered a special subject of a crime, along with the necessary signs of the subject (age, sanity), there must necessarily be other signs that such an unmarked person cannot be criminalized by the appropriate norm. In most cases, these signs are indicated in the dispositions of criminal legal norms, or their interpretation is determined orally.

The signs of a special subject of a crime are different, they can be of service, profession, fukarolic or military obligation . For example, karshi to the management order the subject of crimes can only be an official(205, 206, 207, 208, 209, 210, 211-articles), in crimes related to military service, fakat military personnel can be subjects (articles 279-300). In crimes related to traffic and its use, its subject can be the person who is driving a fakat vehicle (articles 260, 266). In the crime of violation of the rules for the operation of repair AIDS or transport, the subject can only be the repairman or the person responsible for the transportnyng technical condition. For the disclosure of state secrets, only a person whose state secrets are entrusted with a service or profession is liable (Article 162).

A study of a special part of criminal law shows that the signs of a special subject of a crime can be classified as follows: 1) foucauli; 2) demographic signs (gender,

age); 3) career; 4) allocations to military service; 5) the work he is doing; 6) professional obligation; 7) personal obligations; 8) the main cases of the subject (residivist, dangerous residivist). This classification is certainly approximate. When each socially dangerous act is committed, forensic officers must identify individual signs of a special subject of the crime, without which the person who committed the act should not be identified as the subject of this crime. Now let's dwell on the subjective side of the crime of abuse of power or career authority. A clear determination of the subjective side of the crime is a necessary condition for the correct qualification of the crime and the appointment of a punishment, taking into account the level of fair, individual guilt. One of the important features of the criminal law of the Republic of Uzbekistan is the sanity of the subject, that is, the control of the culprit's own action it is his awareness of the social danger of the consequence caused by his receipt and action. In accordance with Article 20 of the Criminal Code of the Republic of Uzbekistan, a person who committed a socially dangerous act intentionally or behind negligence can be found guilty of committing a crime, that is, subjective sanity means that a person is criminalized only if fakat is guilty of an act committed intentionally or after negligence.

In the theory of criminal law, when called the subjective side of a crime, the mental attitude of the guilty person to the socially dangerous act committed by him and its consequences is understood. The identification of the subjective side of the crime presents certain difficulties in forensic investigation practice. In this regard, it is necessary to study in depth the purpose and motives of the socially dangerous act committed by the offender. It is the correct identification of the subjective side of the crime that is important in determining the degree of social danger of the criminal person. The purpose of the crime, motive and insufficient research of guilt lead to errors in the qualification of the crime, causing the person to be criminalized for an act that he did not commit, which leads to a violation of the principle of fair punishment, Justice.

Therefore, in forensic investigation practice, it is necessary to give a very large Z'tib to the correct determination of the motive, purpose and guilt of the crime, since, in accordance with Article 9 of the Criminal Code, "a person will be responsible only for socially dangerous acts, the guilt of which is proven in the manner prescribed by law." The subjective side of the abuse of authority or career authority is characterized by intentional occurrence. The culprit realizes that he is abusing the

authority of the career and doing action (inaction), that his act is socially dangerous, and that as a result, the consequences indicated in the dispositions of the substance being commented on may arise, and consciously allows their origin. Continuing the research work, we will also dwell on Part 2 of the substance being analyzed. That act (abuse of authority or career authority): a) by causing too much damage; b) if committed in the interests of an organized group, it creates the composition of the crime.

By a very large amount of damage caused by abuse of authority or career powers, it is necessary to understand the amount of damage that is five hundred times or more of the amount of the base calculation. Abuse of authority or career authority in the interests of an organized group is qualified under Section 205 (2) "(b)" of JK. According to the general signs of the subjective side, the intellectual element of the sworn form of guilt in this case is characterized by the fact that the official consciously committed the crime in the interests of an organized group . An organized group is one of the most dangerous forms of participation in crime. The general concept of an organized group, regardless of the type of crime, is revealed in Article 29 of the Criminal Code. It is established that the commission of a crime by an organized group generates more severe liability on the grounds provided for by the Criminal Code. Organized group interests are situations that motivate an organized group to commit one or another socially dangerous act or create conditions for their timely occurrence. Such interests include providing information about the activities of a eunuch, one or another organization, eliminating information that exposes an organized group, committing crimes in the interests of an organized group, in particular, assisting in the implementation of a criminal purpose of abuse of authority or career authority, etc.

When qualifying an act as an abuse of power or career authority in the interests of an organized group, law enforcement agencies should pay special attention to the fact that an official commits a crime in the interests of an organized group . According to paragraph 12 of the plenum of the Supreme Court of the Republic of Uzbekistan "on issues related to qualification of an act in the event of several crimes", if the law establishes that one of the acts included in the set of crimes can be committed only by a special subject, and others, by a general subject, such crimes must be qualified separately by the relevant articles Also, according to the decision of the plenum in question, the crimes that make up the set of crimes must be qualified

in this way, even if the subject is involved in the commission of one of them as the perpetrator of the crime, and in the commission of others as the organizer, signatory or assistant.

In such cases, the actions of a person participating in the commission of a crime as an organizer, signatory, assistant must be qualified by the relevant article of the special part of the Criminal Code, which provides for responsibility for the crime committed, and in the case of an act in which he is a criminal executor-by the relevant article of the Criminal Code, When crimes that constitute a set of crimes are committed by an organized group or criminal association, the actions of all participants in the crime are directly qualified by the relevant article of the special part of the Criminal Code, which provides for responsibility for the crime committed, regardless of the type of participation. One of the signs that characterizes an organized group is that it is stable.

In this, the organizer draws up a criminal plan, distributes tasks between the participants, directs their activities and strengthens the order in the group, and also monitors group discipline, etc. Qualifying the action of participants in an organized criminal group is different from committing a crime by prior language. If the crime was committed by several executors with prior collusion, then it is qualified only without applying Article 28 with the corresponding article itself in the "special" part. Regardless of what the task of the participants in the commission of a crime is when a crime is committed by an organized group (organizer, executor, signatory, assistant, participant), liability is established using Article 28 of the Criminal Code. "The actions of the persons involved in the removal of the vehicle as part of the organized group should be recognized as participation, regardless of the role of each of them." In practice, there have also been cases when one of the members of an organized group took part in the commission of a crime and then suspended his criminal activities.

In such cases, regardless of the number of their criminal acts, he is criminalized for committing crimes as part of an organized group (in cases where he himself realized this). The first part of Article 16 of the Criminal Code of the Republic of Uzbekistan provides for the definition of liability for a crime, the responsibility for which is the legal consequence of committing a crime, expressed in the application of a judicial judgment, punishment or other legal measure of influence on a person guilty of committing a crime. Reflecting on the time limit of criminal liability,

A.A.Piontkovsky writes that "criminal liability begins at the moment of the commission of a crime." Ya.M.Brainin, on the other hand, believes that "criminal prosecution begins from the moment the crime is discovered".

In particular, in crimes of abuse of authority and career, a special subject of the crime is of particular importance in the matter of the subject of the crime. In order for a person to be considered a special subject of a crime, along with the necessary signs of the subject (age, sanity), there must necessarily be other signs that such an unmarked person cannot be criminalized by the appropriate norm. The sign of a special subject in the form of an official of a crime is a facultative sign of a criminal entity, these signs are not necessary for crimes provided for by all articles of the special part of the Criminal Code, but are considered necessary only for official crimes. Among the special subjects of the crime, the sign of office is the most common sign of a special subject. To be charged with the crime of office, a person must of course be an official in accordance with the law. Almost a third of the Criminal Code of the Republic of Uzbekistan in the dispositions of its norms, the criminal liability of special entities is provided for. In most legal literature, the fact that the characters of a special subject are subjects of a crime on the authority of a career (167-m., Part 2, paragraph "g", 205-211-m.) can be noted for the prevalence of the character.

Likewise, in criminal law, the signs of a special subject can also be specified in a separate norm. This condition is prominent in the disposition of Article 331 of RF JK. It lists individuals who may be criminally prosecuted for committing crimes related to military service. In particular, the Criminal Code of the Republic of Uzbekistan has been called crimes against the management procedure of Chapter XV, some articles of this chapter: articles 205-212 specify exactly the types of official crimes in our national legislation. In this respect, it is more important today than ever to increase the legal consciousness and legal literacy of the citizens of the country to ensure the rule of law in the country, to employ all means along the way. In particular, the coverage of the concept of office in criminal law has been interpreted in different ways to this day.

Official crimes-a large amount of damage or serious damage to the rights or law-guarded interests of citizens or to the interests of the state or society caused by the violation by an official of his obligations established by his career competence. Serious damage is determined taking into account the nature of the material damage

caused, the severity of the moral damage, the number of victims and other circumstances. Official crimes encroach on the normal activities of state authorities, civil service, local authorities and self-government bodies. Official crimes are committed by the fact that an official does or does not perform an action, in his own interest, using the opportunities established by the powers of the career, or coldly treats his duties and duties .

Another source indicates that official crimes are crimes that negatively affect the implementation of the state's power activities and are committed by officials using their service powers, and are included among the crimes of the Criminal Code of the Republic of Uzbekistan against the order of activity of the authorities, management and public associations. B.Ahrarov also gave a similar definition to the above to this concept, arguing that the crime of office is an act that causes a large amount of damage or serious damage to the state, public interest or to the rights of citizens and interests guarded by law, as a result of the official's violation of his obligations by intentional negligence, using the powers of I.N.Pakhomov argues that an official should only be understood by civil servants who have the authority of the state . Ts.A.Yampol'skaya, on the other hand, says that an official must be understood by civil servants who, according to his service powers, influence the circumstances of various subjects of the law, causing legal consequences with the emergence of acts of administrative stewardship .

G.I.Petrov, on the other hand, says that an official must be understood by persons who can commit legal actions that cause the emergence, change and termination of legal relations with the authority of a career in the state or public apparatus . V.M.Manokhin, on the other hand, says that it is necessary to summarize all the concepts and understand the servants who have the authority to issue orders by the official .

Despite the fact that a special part of the Criminal Code of the Republic of Uzbekistan is a definition given to the concept of an official in the "legal sense of terms" in Section 8, it is also necessary to study the concept of an official in aoxia, as it causes problematic cases according to the task and authority it performs. In the process of working on the draft Criminal Code of the Republic of Uzbekistan adopted on September 22, 1994, a different approach to the creation of the concept of an official appeared in the sphere of Legal Sciences. In judicial practice, in the process of qualifying crimes, the practice of interpreting the concepts of an official,

a responsible official began to emerge. Especially since, after the independence of the Republic of Uzbekistan, the Soviet system began to change and the form of property, including the emergence of private, cooperative, state, public properties, public properties, the concepts of an official will not be able to meet the requirements of the Times.

It is known that in the Criminal Code of the Republic of Uzbekistan, adopted on September 22, 1994, the "official" is a person who is given organizational and managerial or administrative economic powers and does not have the symptoms of a responsible official, as well as representatives of the authorities; persons who hold positions related to the permanent or temporary organizational and managerial or administrative; the heads of enterprises, institutions and organizations of other forms of ownership, representatives of the public, who were given authority over public administration in the prescribed manner; persons holding positions related to the implementation of organizational and managerial or administrative-economic functions in the self-governing bodies of citizens were designated as "responsible officials". According to this rule, the responsible official, along with the presence of a certain career authority, is defined by the fact that he is able to work in state organizations, institutions and bodies and exercise these powers within the structure of the state organization or bodies in which he is working.

As a result of this, a kind of special legal relationship arises: 1) relations in the process of organizing the civil service (selection of personnel, appointment to a career, determination of procedures for the service and completion, etc.k.s.); 2) social attitude to the implementation of the function of the public service under the system of a particular sphere (organizational-managerial or administrative-economic powers) (management of Personnel, property management, control of internal disciplinary rules, Organization of working hours, etc.k.), 3) social relations (relations of state power) related to the performance of the functions of a state body outside the system of a particular sphere. Depending on what position a person holds in the system of a state body and what powers are assigned to him, the scope of his powers, the function he performs (service or authority) is determined. At the same time, it is noteworthy that the law of the Republic of Uzbekistan dated August 20, 2015 No. 391 described the concept of the term "official" in a new revision, as well as excluded the term "responsible official" from the Criminal Law. It is important to highlight the criminal legal description of official crimes, to interpret and correctly

apply the Terms official, clerk, representative of power in the qualification of this type of crime.

This law added and amended the legal meaning of certain terms related to official crimes in the Criminal Code of the Republic of Uzbekistan. Accordingly, an "official" is a person who is appointed or elected under a permanent, temporary or special authority, performs the duties of a representative of power, or performs the duties of a representative of power in state bodies, citizens' self-government bodies, regardless of the form of property, carries out organizational and managerial, administrative and economic functions in enterprises, institutions and organizations, and is authorized to commit acts of An analysis of the legal meaning of the Criminal Justice term "official" in the new edition allows us to conclude as follows.

That is, the organizational management tasks of the official are expressed in the form of leadership of the team, the selection and placement of personnel, the organization of the service of labor of subordinate persons, the provision of discipline, promotion, the application of disciplinary sanctions. In a public body, in a commercial, non-profit organization, a person who carries out labor activities on the basis of an employment contract or a civil-legal contract, does not have the symptoms of an official, is considered a servant. In the literature on the theory of state and law, officials who have the authority of power, issue legal acts and introduce them into life independently should be considered civil servants And the representative of power is a person who acts on behalf of any authority of the state, carries out certain tasks permanently or temporarily and has the right to commit acts or issue orders within his competence, which are mandatory for many or all citizens or officials. Such persons may include, for example, members of the Senate of the Supreme Assembly and deputies of the legislative chamber, members of the Government of the Republic of Uzbekistan, deputies and members of the Government of the upper Kengesi of the Republic of Karakalpakstan, governors of Regions and Tashkent cities, heads of ministries and departments of the Republic of Uzbekistan and the Republic of Thus, an official is understood as a person who is given organizational-managerial or administrative-economic powers and does not have the symptoms of a responsible official. The presence of the following signs in the legal precepts of a person should be the basis for its identification as an official:

- * Subject of law;
- * The presence of mutual legal relations (rights and obligations) between the individual and the state;
- Delimitation and the presence of prohibition;

• The presence of double legal liability and the occurrence of legal forms of activity in their violation . The concept of an official is also given in the National Encyclopedia of Uzbekistan. In particular: "an official is a person who carries out the duties of a representative of the government in state bodies, local self – government bodies, state, municipal institutions, as well as in the armed forces, other troops and military structures on a permanent, temporary or special authority, or performs organizational management, administrative and economic functions. Such a person is a subject of official crimes in the criminal law of the Republic of Uzbekistan".

As a result of a misinterpretation of the concept of an official, officials in the state apparatus can fall into a category of ham, other employees-Ham. Organizational and managerial competencies are understood as the tasks of guiding a particular plot of activity, the production activities of some employees. The activities of the heads of ministries, departments, departments (directors, their deputies, heads of structural divisions and khakozos) of these officials can consist in the selection and promotion of Personnel, their placement, organization and control of their activities. Administrative economic powers are understood as tasks such as managing and disposing of property, determining the conditions and procedure for its maintenance, ensuring the creation, sale of property . For example, the Administrative-Economic part, the head of supply, sales, the warehouse, the accounting managers of Singari are individuals with such powers. Since an official is permanently or temporarily elected or appointed to a position related to the performance of organizational-managerial or administrative-economic duties, he or she is considered an official. Relying on the experience of foreign countries to describe this understanding, according to the Criminal Code of Bosnia and Herzegovina, an official is understood as a person elected or appointed to the position of a servant, executive and court, who is legally empowered in state and administrative institutions or services . According to the Turkish Criminal Code, in administrative bodies or institutions, a person who constantly or periodically performs a service function and an authorized person in an entrepreneurial enterprise or a servant of state bodies who performs certain tasks within the framework of the relevant powers is understood .

Official in the dictionary of terms of the Serbian Criminal Code: 1) a person performing service duties in a public authority; 2) a person elected, appointed in a

public authority, a local self-governing body, or a person who performs a duty of service in such bodies on a permanent or periodic basis; 3) state Notary, Executive and arbitration court, as well as an official of an institution, enterprise or other subject with the authority of an authorized state body, an authorized person who decides on the rights or obligations of individuals or legal entities or in relation to the public interest; 4) an official, as well as a person who performs a service function or assignment of the state; 5) a member of the military service is understood. In many cases when we analyze judicial practice, the subject of official crimes is made up of individuals who perform the function of organizational management and administrative economic, or individuals who are representatives of the government. In the interpretation of the concept of an official as a representative of the government, one can meet the concept of a public official by some scientists in the theory of criminal law, including in the work of scientists of the Soha of administrative law.

This concept was introduced in the laws of distant foreign countries from the very beginning. Representatives of the IOC include persons within their competence or heads of any structural units (enterprises, institutions, organizations), such citizens or heads of enterprises, institutions, organizations, the category of officials who are given the right to make mandatory legal requirements for them to fulfill, regardless of service or subordination. When referring to official crimes, corruption cannot necessarily be bypassed. After all, corruption is a major obstacle to ensuring the principle of the rule of justice in the country. As long as the roots of corruption in society are not broken, there will be no progress and growth, development in the life and public administration of the country.

Important in this area was the United Nations Convention Against Corruption, which was adopted at the 58th Session of the UN General Assembly on 31 October 2003 and entered into force on 14 December 2005, and was a preliminary step internationally to combat corruption. This convention consists of 8 sections and 71 articles, which are now joined by 172 States. According to it, the above states commit themselves to introduce anti-corruption measures in the field of legislation and law enforcement. Also, in September 2003, Istanbul adopted the "action plan for combating corruption", which included Armenia, Azerbaijan, Georgia, Kazakhstan, the Kyrgyz Republics, the Russian Federation, Tajikistan and Ukraine,

and which today is one of the important international standards for corruption and combating, preventing.

After all, corruption is an ill that does not choose space and time, negatively affects public administration, sharply traces the life of society and public administration. Therefore, the fight against this vice is an important and priority that must be carried out not only within the country, but also internationally. A number of anti-corruption reforms have also been implemented in the Republic of Uzbekistan, in particular, on January 3, 2017, the OORQ-419 law of the Republic of Uzbekistan "on anti-corruption" was adopted, which aims to regulate relations in the field of anti-corruption. Article 3 of this law covers the concept of "corruption", according to which "corruption is the unlawful use of an individual's position of office or service in order to obtain material or intangible benefit in the interests of other persons, as well as the unlawful presentation of such benefit". Along with the increase in the crime rate in society, the amount of crimes committed by officials also increases. However, only if the strengthening of sanctions in criminal law does not prevent the crimes of officialdom. In this regard, the adoption of the law "on the Prevention of violations" of May 14, 2014 became an important normative document in reducing the rate of committing official crimes in society at the expense of preventing persons committing official crimes in our country from committing such a socially dangerous act again in the future and developing their legal consciousness. Through this law, four types of prevention of offenses were established. In particular, general, special, individual and victimological prevention of offenses. In addition, it is also good to limit the holding of a specific career or position, which is belied in law, for a certain period of time to persons who have committed official crimes.

It is worth noting that one of the serious problems in criminal law today is the fact that legal entities are not prosecuted as a criminal entity. After all, most norms of official crimes provide for officials of state bodies, enterprises and institutions, organizations as subjects of crime. A draft law on the recognition of a legal entity to the current criminal law precisely as a criminal subject has been discussed and prepared, and the adoption of such a law will undoubtedly help to eliminate a serious problem in the current criminal law. Because it is by legal entities that many crimes are committed, that they cannot be held accountable as a subject of crime in practice,

making them illegal income and in ulterior motives making a fortune. It is the adoption of the above law that is the requirement of today.

In addition, it is necessary to study the phenomenon, events and processes, the causal connection between them, acting as the reasons that dictate, determine, influence the presence of crime in society, the development of which in order to achieve an effective result in combating official crimes, reduce its amount to the lowest level, reduce negative consequences.

IV. CONCLUSION:

The Greek philosopher Plato appealed to the legislators, calling on them to create laws that would make people who could commit crimes disgusted with the crime. That is, legislators make such laws that those affected by these laws refrain from committing crimes, as well as another Greek philosopher, Arastu, "to prevent crimes is to fight, first of all, corrupt and contrary to reason, that is, to build a society in such a way that it is contrary to reason, to fight broken morals, customs and habits," as it is of its importance at that time,

It follows from this that the Prevention of official crimes cannot be achieved only if you know how to develop laws or strengthen penalties, but also because society, citizens, government bodies and agencies, organizations, the general public, self-governing bodies, the media and each individual see it as their duty and duty, instill it in the minds of the future young generation, if necessary, each other.

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