



## SOME ISSUES IN THE QUALIFICATION OF ABUSE OF POWER OR CAREER AUTHORITY

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**ABSTRACT:** The article emphasizes that today a special place in the system of crimes against the management order is the social danger of the crime of abuse of authority or career, which as a result of this crime is considered socially dangerous with a large or serious loss of rights of certain citizens or interests guarded by law or the interests of the state or society. The 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:** Criminal qualification, Law enforcement officers, criminal process, a criminal case, to identify the crime, obscurity to full accuracy.

### I. INTRODUCTION

Criminal qualification is a dynamic process that acquires its own characteristics at different stages of criminal proceedings. Law enforcement officers go from “obscurity to full accuracy” while performing criminal qualification at various stages of the criminal



process. [1] in particular, there will be very little information about the crime committed in the initiation of a criminal case. In the process of investigating and drawing up an indictment, the investigating authorities must have all the relevant and necessary information about the crime committed. This is evidenced by the fact that the qualification of the crime is complete and completed.

## 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

Speaking on the different stages of qualifying a crime, at the initial stage of the investigation, the possibility of an interrogator or investigator will be limited in order to accurately and fully assess the crime. It takes a lot of work to identify the crime, find the accused, identify the signs of the composition of the crime, find the information, while the new information received leads to a change in the legal description of the crime, and this is natural. [2]

At the stage of initiating a criminal case, the qualification of the crime will have an initial, referential nature, however, at the end of the criminal case, the qualification must be complete and clear. From the point of view of the person investigating the criminal case and performing the qualification, this qualification must manifest the characteristic of absolute truth, that is, this legal assessment must exclude the only and any alternative. In practice, however, the court is forced to either re-qualify most cases or send it to a re-investigation in light of the misqualification of the crime. Sometimes lawyers make petitions to clarify the



qualification of the crime, and these petitions are accepted by the court in most cases. When an infringement is evident to the person taking the case, it is necessary to determine what infringement is. In general, it is the determination that this behavior is contrary to the norm of one or another right, that the subject behaved contrary to the norms of law. A common feature of all offenses is their social danger. Social danger is an objectively existing reality, an objective feature of work. Social dangerousness is important in determining the types of offenses. [3]

Crimes fall into the category of offenses with the highest social risk. One of the main treatment in the qualification of crimes is the correct separation of offenses. Special legal training, only professional experience of a person will help to correctly solve this issue. However, in practice we also have certain problems about whether the offense is a crime or not. [4]

What area of law the Act belongs to, once the signs of the crime are identified, goes to the second stage of qualification, that is, to a special part of the Criminal Code, determining the type of crime, and sometimes also refers to the general part. [5]

The correct qualification of official crimes has an important socio-political, legal significance. The correct qualification of a crime means that it fully corresponds to the criminal law the nature, sides and other characteristics of an act. Proper qualification is expressed in the correspondence of that Article, part and clause, the sum of the crimes, to the crime committed. This violation of demand is incorrect, an error leads to qualification. Failure to apply a specific substance or use of an excess substance in the aggregate of crimes also leads to incorrect qualification. [7]

Proper qualification is the only criminal legal assessment given to a crime, and is the state's legal assessment that applies to such crimes, having a certain, complete and Unicity, excluding other additions. [8]



The signs of an act committed in the process of qualifying a crime are compared with the signs established by law of the composition of the crime and the crime is determined. Such a legal description contained in criminal law is called the composition of the crime. [9]

In this regard, when considering criminal cases in the field of Economics, courts should pay special attention to the implementation of laws that strictly define the right of each citizen to engage in entrepreneurship. An appropriate legal assessment of the actions of an official who is preventing the implementation of legal entrepreneurial activity is necessary. Violation of such illegal actions, including violation of the right to private property, violation of the procedure for checking and auditing financial and economic activities of business entities, unlawful suspension of activities or operations on their bank accounts, mandatory involvement in sponsorship and other events, refusal to issue a special permit (license) to engage in certain activities or refusal to issue it, K. can be included. [10]

The high risk of such illegal actions will consist in the violation of legal order in the field of economics, the weakening of the established state discipline of officials, and these will lead to the use of state power in personal interests, etc. The recorded actions of the guilty should be characterized, depending on the circumstances of the case and the consequences arising, by the relevant articles of Chapter XIII-1 of the Criminal Code (not by Article 205 or 207 of the Criminal Code), and when unfair goals are identified, these actions should be described as a masked form of demanding bribery. The seizure and appropriation of securities for FREE must be described as the act of looting the property of the other. Such actions should be characterized as abuse of authority or career authority if there are signs indicated in the dispositions of Article 19211 or Article 205 of the Criminal Code, having been found to violate the current laws governing the issuance and handling of securities on the case. Such violations may include, for example, preventing citizens and foreign investors from selling stock packages intended for free sale. [11]



In this regard, it must always be established that as a consequence of the crime provided for by Article 175 of the Criminal Code, a large or very large amount of damage was inflicted on the interests of the Republic. The fact that this damage is in large or very large quantities must be justified by the investigative body and the court in each specific case.

Among the transactions concluded against the interests of the Republic of Uzbekistan, for example, the state of sale of state property to other owners at a much reduced price can be included. The conclusion of the court about the conclusion of the transaction against the interests of the state can be drawn up taking into account the opinion of the relevant examination.

When investigating and hearing cases in this category, it is necessary that the causes and conditions that have allowed the origin of these crimes are necessarily clarified. If it is found that the culprit of the conclusion of the recorded transactions was the presence of greed and other low intentions, such actions should be characterized by the articles of the Criminal Code establishing responsibility for relevant crimes committed using the position of power or career.

17 of the decision of April 11 “on certain issues arising in the judicial practice of criminal cases in the field of Economics

According to paragraph 29, responsibility for the abuse of power or career power is established only when there is an appropriate retaliation and a consequence in the form of a large amount of harm or serious harm to the rights and law-protected interests of citizens or to the public or public interests.

In the decision of March 15, No. 9 “on judicial practice in cases of crimes and other offenses in the field of trade”, the markets that artificially maintain extremely high prices, preventing the free entry of goods or manufacturers of products into the market in exchange



for remuneration, officials of the administration of trade complexes and other officials who carry out their activities in the field of trade are liable for bribery under Section 210 of the Criminal Code or for bribery in Commerce under Section 1929, depending on whether the organization has a state share in the authorized fund.

In case of significant damage or serious damage to the rights and interests of citizens without regard to remuneration, the abuse of career authority by Article 205 of the Criminal Code or deviation from the authority or career authority by Article 206 of the Criminal Code, in the absence of a state share in the authorized fund of the organization, it is necessary to qualify

In addition, paragraph 4 of the decision of the plenum of the Supreme Court of the Republic of Uzbekistan dated December 20, 1996 No. 36 "on judicial practice in cases of crimes and other offenses in the field of Environmental Protection and the use of nature" on claims of enterprises, institutions, organizations and associations or damage or damage to agricultural properties in relation to these organizations, poor-quality when it is found that the damage caused by the death of crops and animals as a result of pollution of the environment, or in the case of civil cases of claims for compensation for damage caused by a different violation of the laws on nature protection, it is noted that the issue of responsibility of the courts should be decided on the issue

Crimes in the field of economics are often committed in conjunction with other crimes, such as abuse of career competence or deviation from the scope of career competence, a cold look at a career, a career fraud and the like.

Since trespassing by abuse of career position is intended as a sign of special qualification in the dispositions of the second part of Article 167 of the JK, such actions of an official, if the oath of the culprit is aimed at seizing the property of the owner, are considered by JK 19211 or



No additional qualification is made by Section 205.

However, if the act of an official contains a separate, criminal content in the manner of abuse of authority or career powers not related to the oath of looting of other property, such an act shall be established in articles 167 and 205 of the JC, respectively, or

The need to qualify under the set of crimes provided for in articles 19211 was established in the decision of the plenum of the Supreme Court of the Republic of Uzbekistan No. 4 of May 21, 2004 "on certain issues of applying the law on liberalization of penalties to crimes in the field of Economics".

The actions of officials of state authorities and governing bodies, non-governmental commercial or other non-governmental organizations aimed at deliberately assisting in tax evasion as part of participation in the crime as part of Article 28 of JK and JK.

Qualified under the relevant part of Article 184, if at the same time they were interested in unfair or other personal interests or assisted in the concealment of crimes for these purposes, the actions of officials of state authorities and governing bodies, as well as the relevant articles of the Criminal Code providing for responsibility for crimes against the management order (JK 205, 209,

210), and the actions of officials of non-governmental commercial or other non-governmental organizations shall also be qualified by the Articles of the Criminal Code providing for obstruction of entrepreneurial activity, crimes related to illegal interference and liability for encroachment on the rights and legitimate interests of economic entities (articles 1929, 19211, 228).

The actions of officials who illegally cross the customs border using their service office are qualified under paragraph "g" of the second part of Article 182 of JK and do not require additional qualification by Articles of the Criminal Code providing for liability for





crimes of authority or career abuse (articles 19211, 205 of the Criminal Code) or deviation from the scope of

#### IV. CONCLUSION:

It provides for improving legislation for abuse of power or career authority, further improving the technical base of the activities of law enforcement agencies, developing rules of Conduct for officials, combating even the smallest units of the fight against corruption in citizens and not compromising with it.

It is also advisable to ensure the correct and uniform application of legislative innovations in order to avoid mistakes in the protection of the rights, freedoms and legitimate interests of citizens and organizations.

Taking into account the experience of foreign countries, it is advisable to include in the legislation the concept of serious harm in the section of the Criminal Code of the eighth i.e. the legal meaning of terms for the crime of abuse of authority or career power.

Article 205 of the Criminal Code punishes if the intentional use of the career powers of an official of a state body, an organization with state participation or a self-governing body of citizens causes a large amount of damage or serious damage to the rights or interests of citizens protected by law or to the interests of the state or public. Definitions of the concept of serious harm are given only in the comments.

In the Criminal Code, a large amount is understood as an amount that is calculated in a monetary unit, that is, from three hundred times to five hundred times the amount of the base calculation.

It is appropriate to calculate the damage caused for the benefit of the state or the public with this amount, but the damage to the rights of citizens and their interests guarded





by law cannot always be measured in quantity, therefore it is advisable to leave the concept of serious damage in this part of the substance's disposition.

Section 8 of the Criminal Code (the legal meaning of the terms) includes the concept of serious harm and should be given a clear definition.

Therefore, it is advisable to state Article 205 of the Criminal Code in the following wording.

The abuse of power or career authority, that is, the intentional use of one's career powers by an official of a public body, an organization with the participation of a state or a self-governing body of citizens, in the event of a large amount of damage or serious damage to the rights or interests of citizens protected by law, or a large amount of damage to, —

a fine of one hundred and fifty to two hundred times the amount of the base calculation is punishable by a fine, or public works for up to three hundred and sixty hours, or correctional work for up to three years, or a restriction of freedom for one to three years, or imprisonment for up to three years.

That act:

with too much damage;

if committed in the interests of an organized criminal group;

in case of severe consequences, —

two hundred to four hundred times the amount of the base calculation is punishable by a fine or a restriction of freedom from three to five years or imprisonment from three to five years.

In our analysis of the judicial practice of foreign countries, it became known that the Criminal Courts of these countries also apply an additional punishment measure of



confiscation of the property of guilty persons, which was established in special norms for abuse of career power.

For this reason, the criminal code is in accordance with Masad to introduce a procedure for "confiscation of the property of an official" as an additional legal measure of influence.

It is advisable to supplement the Criminal Code of the Republic of Uzbekistan with article 205-1 of the following content

#### Article 205-1

The illegal acquisition by a civil servant of wealth in excess of the money or property provided for in the declaration of income and property —

one hundred to two hundred times the amount of the base calculation is punishable by a fine or up to three years of correctional work.

#### Literature used:

1. Kommentariy K ugolovnomu kodekodu RF. OTV. Editor prof. A.V.Naumov 1997. S. 30,53.
2. Ugolovnoe prava RF Obtshaya chast. M. 1997. S. 135.
3. Vetrov N.I. Ugolovnoe pravo. Obshaya chast M. 1999 S. 112
4. Ugolovnoe prava RF Obtshaya chast. M. 1997. S. 119.
5. Sakharov A.B. Ugolovnoe prava RF Obtshaya chast. M. 1997. S. 121
6. Guk O.M. Problemnie Voprosi ugolovnoy otvetstvennosti za zloupotreblenia vlast'yu ili slujebnim pologeniem. Autoref.dis .kand.yurid.nauk. - Kiev. 1988. S.9.



7. M.H. Rustambaev, B.J. Akhrarov. Qualification of crimes against the management procedure. Tutorial. - T.: Tdyui nashriëti, 2006. -134 PP. In the title: Ministry of Justice of the Republic of Uzbekistan, TDYUI.
8. That Is, P.S. Obtshestvenno opasnie posledstviya doljnostnix prestupleniy / / zakonnost. 2014. № 3.
9. The plenum of the Supreme Court of the Republic of Uzbekistan dated April 17, 1998 No. 11 "on certain issues arising in the judicial practice of criminal cases in the field of Economics".
10. The plenum of the Supreme Court of the Republic of Uzbekistan dated April 17, 1998 No. 11 "on certain issues arising in the judicial practice of criminal cases in the field of Economics".
11. Article 15 of the plenum of the Supreme Court of the Republic of Uzbekistan No. 18 of September 6, 2013 "on judicial practice in violation of customs legislation and smuggling cases".