



CRIMINAL LIABILITY FOR THE OFFENSE OF EXCEEDING POWER AND OFFICIAL AUTHORITY IN THE LEGISLATION OF CERTAIN CIS AND BALTIC COUNTRIES

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Abstract: This article analyzes the opinions of legal scholars and legislative norms regarding liability for exceeding power and official authority in the legislation of some CIS and Baltic countries. The author develops proposals and recommendations based on this analysis.

Keywords: CIS, Baltic states, criminal legislation, power, official authority, crime, liability.

Analyzing legislative approaches to regulating criminal liability for exceeding power and official authority in the member states of the Commonwealth of Independent States (CIS) is of scientific and practical importance. Foreign experience demonstrates the social significance of this institution of criminal law, while the diversity in definitions of the crime's features allows for considering their advantages and disadvantages when choosing ways to improve Article 206 of the Criminal Code of the Republic of Uzbekistan.

The examination of criminal codes of CIS member states, unlike the legislation of distant foreign countries, is related to the presence of a general norm on exceeding official authority. However, the position of this norm in the Criminal Codes of these countries, and consequently, the question of the object of the crime, is not resolved uniformly. In most of them, as in the 1996 Model Criminal Code[1] for CIS member states, two chapters are formed: one on crimes of officials and another on crimes of persons managing commercial and other non-governmental organizations. Accordingly, the object of the crime under investigation includes the lawful activity of state authorities, state bodies, organizations with state participation, or bodies of citizen self-government.

In the Criminal Codes of the Republics of Belarus[2] and Ukraine[3], the object of abuse of power or official (service) authority is considered more broadly and includes concepts such as "service interests," "sphere of service activity," and "order." That is, the protection of state service and service interests in commercial and other organizations, regardless of the form of ownership, was carried out equally, which, in our opinion, is somewhat debatable considering the various social goals of the relevant bodies and organizations.

For example, the Criminal Code of the Republic of Azerbaijan[4] recognizes abuse of office as "the commission by an official of actions that clearly exceed the limits of his powers, if this leads to serious damage to the rights and legitimate interests of citizens or organizations or the legally protected interests of society or the state." It can be seen that the term "clearly" is used as a qualifying feature of the norm in this Code.

In the CIS member states, the doctrinal interpretation of the most characteristic forms of abuse of power or official authority practically does not differ from the current criminal legislation of our Republic.

The Criminal Code of the Republic of Belarus, in some aspects, shows similarities with the criminal law of our country, particularly in terms of the consequences of this offense, that is, the amount of damage caused.

In the Criminal Codes of CIS countries, when characterizing the subjective features of a comparable crime, the law clearly stipulates that the act is committed intentionally. The Criminal Codes of Armenia[5], the Republics of Belarus, and Ukraine explicitly state the intentional commission of acts that clearly exceed the limits of authority. A common feature of the Criminal Codes of CIS countries is the definition of the characteristics of the subject of abuse of power - an official, the concept of which is based on the identification of a substantive criterion. In most of them, the subject is a representative of power (public authority), performing organizational-managerial and administrative-economic functions (obligations, actions). Its characteristics also include the place and legal basis for the implementation of these functions.

Analysis of the definitions of an official shows that in the Criminal Codes of many CIS countries, the scope of this concept is broader than in the Criminal Code of the Republic of Uzbekistan. For example, in the Criminal Codes of the Republic of Azerbaijan and the Republic of Moldova, this category also includes persons with appropriate powers in state (municipal) enterprises and organizations.

The Criminal Code of the Republic of Uzbekistan[6] defines officials within the framework of "a state body, an organization with state participation, or a body of citizen self-government."

The Criminal Law of the Republic of Kazakhstan demonstrates a progressive approach to this issue, since, on the one hand, it specifically defines the responsibility of persons performing managerial functions in commercial and other organizations (Chapter 8 of the Criminal Code), and on the other hand, it clearly distinguishes the responsibility of persons authorized to perform state functions (Chapter 13) [7]. It is also clearly established that the subjects of this crime are persons performing management functions in organizations with a state share in the authorized capital. Thus, in accordance with part 1 of Article 308 of the Criminal Code of this state, persons authorized to perform state functions or equated to them may exceed the limits of power or official authority, and in Article 307, we can see that the first group includes "officials, parliamentarians and people's deputies, judges and all civil servants." Persons authorized to perform state functions are equated to: "1) persons elected to local self-government bodies; 2) citizens registered in the manner prescribed by law as candidates for President of the Republic of Kazakhstan, deputies of the Parliament and Maslikhats of the Republic of Kazakhstan, as well as members of elected local self-government bodies; 3) employees permanently or temporarily employed in local self-government bodies, whose remuneration is made from the state budget of the Republic of Kazakhstan; 4) persons performing management functions in state organizations and organizations in whose authorized capital the state share is not less than thirty-five percent" (part 2 of note to Article 307).

In the Rehabilitation Code of the Republic of Kazakhstan, the scope of the concept of an official is narrowed compared to the Criminal Code of our country by excluding representatives of state power and persons performing organizational-managerial or administrative-economic functions (part 3 of Article 307, note). However, it should be noted

that there are some contradictions in the norms of this code. The commission of the crime under consideration by an official is recognized as an aggravating circumstance.

In the article, you studied the approaches to abuse of power and official authority in the criminal legislation of the CIS and Baltic countries and compared the laws of different countries. Now the conclusion, summarizing the differences, similarities, and mutual comparisons in this legislation, can be as follows:

The approaches in the criminal legislation of the CIS and Baltic countries related to exceeding the limits of power and official authority reflect the socio-economic differences between states and the legal approaches of legislative bodies. At the same time, in all countries, the consequences of committing these crimes and the severity of responsibility are determined in their own way.

The clarity of the subjective and objective signs of abuse of power in legislation influences the criminal liability of persons who committed this crime. For example, in the legislation of Belarus, Ukraine, and Azerbaijan, a broader interpretation of abuse of office and the use of qualification (or the term "clear") indicate that the boundary between state and non-state organizations in these countries is less distinct.

Although the definitions of officials in the criminal codes of the CIS countries and the limitations within their powers are often similar, some countries (for example, Kazakhstan and Azerbaijan) have broader approaches. In particular, the legislation of Kazakhstan separately indicates the responsibility of persons performing managerial functions in state and non-state organizations, and there are contradictions in this legislation.

In cases related to the definition of an official in the Criminal Code of the Republic of Uzbekistan and the liability of this category of persons, there are some differences from the legislation of the CIS countries. Taking these differences into account can be useful for developing new approaches to improving the criminal legislation of Uzbekistan. At the same time, improvements and updates in legislation should be considered a necessary factor that fully corresponds to the activities of state bodies, especially when drawing conclusions.

In addition, in all CIS countries, the commission of a crime by officials is considered an aggravating circumstance. As a result, it is necessary to make legislation clearer and more transparent in order to prevent misuse of powers in the state system.

This conclusion summarizes the main analysis and comparisons in the article, making it clear and understandable. It will also be useful to highlight the specific direction of ideas in the article and determine which areas are relevant for improvement and research.

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