

**Criminal law regulation of business activity:
the example of the Republic of Uzbekistan**

Marufjon Kurbanov

Researcher of Tashkent State University of Law, Tashkent, Republic of Uzbekistan



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Abstract. This article is dedicated to the institute of criminal law regulation of business activity in the Republic of Uzbekistan. In this article, the author conducted a criminal-legal analysis of crimes related to obstruction, illegal interference in business activities according to the Criminal code of the Republic of Uzbekistan. Therefore, researching of criminal law regulation of business activity in the example of the Republic of Uzbekistan, analyzing its objective signs has a very special significance. The author reveals the social essence of criminal law regulation of business activity in Uzbekistan danger. And, namely it has been provided specifics of criminal legal protection of entrepreneurial activity in the criminal law of Uzbekistan are determined by the model of the economic system and the legal regulation of economic relations in the state.

Keywords: obstacles to business activity, illegal interference, inviolability of private property, incentive norms, compulsory involvement of business entities to charity and other activities.

1. Introduction

Closely related to such categories of values in law, such as equality, freedom, and justice, is the category of property. At its core, it is an objective continuation of human existence, expressed in material objects and other values associated with the work of man and other activities. Property is one of the main elements of the content of society's life, public relations. Around them, legal norms are formed that regulate both the property relations themselves and all other relationships associated with this category. It makes no sense to talk about justice in a civilized and therefore reasonable society if the problems of understanding and regulating it as a source of life and development of every human being and of the whole society are not solved.

Moreover, the individual only becomes a person who has been developed in moral, social and political terms if he has property in the sphere of a variety of social relations — an obligatory material attribute of his being, which is supported by the state and therefore has the right to property. [1]

As Walter emphasized, the right to property is a natural and inalienable human right. It is the broadest type of property rights that secure the ownership of things to subjects of civil legal relations. [2]

Socially entrepreneurial activity is an important part of the transition to the civilized market relations, of formation in a civil society, democracy development, reliable socio-economic, political and other rights and freedoms of man and citizen.

The development of entrepreneurship means the emergence of a layer of people focused on independent, proactive activities aimed at making a profit, able to take risks and be responsible for the results and consequences of their actions. This is a layer of entrepreneurs, which is the main pillar of the market economy in developed countries, and is currently in the process of formation and development in Uzbekistan.

Thus, on the one hand, entrepreneurship creates a certain group of social relations that is very important for modern society, which, as it develops, is able to exert a reforming and civilizing influence on the entire social mechanism. On the other hand, a whole layer of carriers of these relations – entrepreneurs who fill the life of society with reasonable initiative, risk, responsibility for their work and its results-appears and grows. [2]

The country's economic development depends on economic liberalization, guarantees of freedom of economic activity, entrepreneurship and labor, equality and legal protection of all forms of ownership, improvement of the business environment, creation and legal support of property.

The experience of developed countries shows that the development of entrepreneurship plays a very important role for of market relations. Entrepreneurship is also a driving force for community development and the economic base of civil society. This is due to the fact that the formation of entrepreneurial activity in society creates opportunities for the realization of personal creative potential, encourages an initiative and innovative approach to the development of various forms of ownership in the field of competition. [3]

In the scientific literature, there are still many definitions that characterize entrepreneurship and the entrepreneur from economic, psychological, managerial and other points of view.

For example, considering the concept of entrepreneurship and entrepreneur from an economic and managerial point of view, R. Khizrig and M. Peters note that entrepreneurship should be understood as an innovative process that creates values that have value, and under the entrepreneur- a person who spends the necessary time and effort on this process, who takes all the financial, psychological and social risk, receiving money and satisfaction for the achieved results. [5]

In order to clarify the concept of ‘entrepreneurial activity’ it should be glanced to legal acts related to this sphere. In particular, article 3 of the Law of the Republic of Uzbekistan dated May 2, 2012 ‘On guarantees of freedom of entrepreneurship’ defines the concept of ‘entrepreneurial activity’, according to which entrepreneurial activity is carried out in accordance with the law, it is an initiative aimed at generating income (profit) at own risk [10].

In accordance with article 4 of the Law of the Republic of Uzbekistan dated May 2, 2012 ‘On guarantees of freedom of entrepreneurship’, business entities (business entities) are legal entities and individuals registered in accordance with the established procedure and engaged in business activities [10].

So, in our opinion business activity needed not only an effective system of civil law regulation, but also adequate criminal legal protection.

Features of criminal legal protection of business activity in the criminal law of foreign countries are determined by the model of the economic system and the legal regulation of economic relations in the state.

The most similar criminal law methods of regulating business activity in Uzbekistan and in the former republics of the USSR. In these countries, as in Uzbekistan, criminal liability for obstructing business activities is established.

Criminal law regulation of business: example of Uzbekistan

The criminal code of the Republic of Uzbekistan contains provisions that provide for liability for crimes related to obstruction of business activities, illegal interference in business activities, and other crimes that infringe on the rights and legitimate interests of economic entities.

It should be noted that in accordance with the decree of the President of the Republic of Uzbekistan dated May 15, 2015 ‘On measures to ensure reliable protection of private property, small business and private entrepreneurship, removing barriers to their accelerated development’ [8] the Law of the Republic of Uzbekistan ‘On amendments and additions to certain legislative acts of the Republic of Uzbekistan aimed at further strengthening the reliable protection of private property, business entities, removing barriers to their accelerated development’ [9], and on the basis of this Law, Chapter XIII¹ of the Criminal code of the Republic of Uzbekistan was introduced (Crimes related to obstruction, illegal interference in business activities, and other crimes that infringe on the rights and legitimate interests of economic entities) [11].

It seems that the criminal code of the Republic of Uzbekistan should refer directly to crimes related to obstruction of business activity and illegal interference in business activity: Violation of the right to private property (article 192¹) Violation of the procedure for conducting inspections and audits of the financial and economic activities of business entities (article 192²), Illegal suspension of activities of business entities and (or) operations on their bank accounts (article 192³), Forced involvement of business entities in charity and other events (article 192⁴), Violation of legislation on licensing and legislation on permitting procedures (article 192⁵), Illegal refusal, non-use or obstruction in the application of benefits and preferences (article 192⁶), Illegal claim of information on the availability of funds in the accounts of business entities (article 192⁸).

According to the Criminal law of the Republic of Uzbekistan, crimes related to obstruction of business activity or illegal interference can be divided into the following two groups:

1) *crimes related to obstruction of business activity* – Violation of the right to private property (article 192¹), Forced involvement of business entities in charity and other events (article 192⁴) Violation of legislation on licensing and legislation on permitting procedures (article 192⁵), Illegal refusal, non-use or obstruction in the application of benefits and preferences (article 192⁶);

2) *crimes related to illegal interference in business activities* – Violation of the procedure for conducting inspections and audits of the financial and economic activities of business entities (article 192²), Illegal suspension of activities of business entities and (or) operations on their bank accounts (article 192³), Illegal claim of information on the availability of funds in the accounts of business entities (article 192⁸).

In order to understand crimes related to obstruction of business activity in Uzbekistan it should be noticed that National Lawmaker meant followings by crime of ‘Violation of the right to private property’ (article 192¹):

Causing a private official or employee of a controlling, law enforcement and other state body and state organization to damage private owners by violating their rights, that is, illegal restriction and (or) deprivation of property rights, encroachment on private property, imposing objectionable unacceptable conditions on the owner, including unreasonable transfer requirement property or property rights, as well as the removal of property or forcing it to give up the right to own property in case of the presence of signs of theft.

However, a necessary indication of the objective side of this type of crime is that the criminal was previously subjected to administrative punishment for such actions.

In another norm of Criminal code of Uzbekistan provides for criminal liability for Forced involvement of business entities in charity and other events (article 192⁴). Objective side of this crime is the forced involvement of business entities by an official or employee of the controlling, law enforcement and other state bodies and state organizations to charity and other activities related to the diversion of funds and other material values.

It should be pay attention to that, this crime commits against the willing of business entities.

In this regard, it should be noted that taxes and other mandatory payments for carrying out the activities of the profession, as well as privileges and preferences on tariffs are provided for, but the sponsorship law does not specify the granting of benefits and preferences on taxes and other mandatory payments and tariffs to the subjects of sponsorship. In our opinion, the benefits and preferences granted for the performance of sponsorship and employment activities, which in essence are mutually similar activities, are intended to be unified.

In accordance with the decree of the Cabinet of Ministers of the Republic of Uzbekistan # 227 of August 12, 2014 ‘Regulation on the procedure for the use of funds in the form of charitable donations of business entities by budgetary organizations’ was adopted, according to which compulsory involvement of business entities in charitable activities and other activities related to their spending

In the case of compulsory involvement of business entities in sponsorships and other activities related to the allocation of funds and other material values, it shall be understood by the official or employee who has the relevant authority that the funds in the account of the business entity or its material assets are involved in sponsorship, charity or certain types of sponsorship.

When it comes to compulsory involvement, it should be understood that the entrepreneurial subjects are forced into sponsorship for the purpose of carrying out activities, providing services, carrying out works through coercion, harassment, demand, intimidation in a non-masculine manner.

Resolution of the Plenum of the Supreme court of the Republic of Uzbekistan dated December 11, 2013 #20 ‘On certain issues of judicial practice in cases related to business activities’ indicates that illegal interference in business activities should be represented as follows:

–illegal restriction and (or) deprivation of property rights, encroachment on private property, forcing the owner to knowingly unacceptable conditions;

–compulsory involvement of business entities in charity and other activities related to the allocation of money and other material assets;

–violation of the established procedure and terms for issuing licenses and other permits;

–illegal refusal to use privileges and preferences, non-use or obstruction of application, etc.

[13]

The legislator threatens to impose criminal penalties for crimes related to obstruction, illegal interference in business activities as imprisonment, restriction of liberty, fine, deprivation of a certain right, mandatory community service, correctional labor.

The criminal law also serves as an incentive for a person to behave positively, which significantly reduces the social risk of committing a crime. In particular, article 192⁴ of the Criminal code of the Republic of Uzbekistan provides for an incentive norm. According to this, in the case of **Japan, Osaka**

compensation for material damage, the penalty of restriction of liberty and deprivation of liberty is not applied.

Conclusion

The experience of criminal law protection of business activities in Uzbekistan is most useful for improving the protection of the rights and legitimate interests of business entities.

In some countries where business activity has long been an organic part of the economy, criminal law protection of business activity is implemented through the application of general rules on crimes in the field of economic activity and official crimes.

This is largely due to the need to ensure the economic security of the state, compliance with the ban on the penetration of criminal proceeds into the legal sector of the economy.

The specifics of criminal legal protection of entrepreneurial activity in the criminal law of Uzbekistan are determined by the model of the economic system and the legal regulation of economic relations in the state.

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