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ACTUAL ISSUES OF IMPROVING ACCOUNTABILITY FOR CRIMES IN THE FIELD OF ENTREPRENEURSHIP

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Abstract

In this article special attention is paid to protect the legitimate interests of businesses, historical analyses of accountability for crimes in the field of entrepreneurship, In conclusion the above recommendations made to improve the practice of criminal prosecution and sanctioning of perpetrators of crimes in the sphere of economic activity are reflected in the liberalization of criminal law providing for liability for committing such crimes.

INTRODUCTION

After gaining national independence it was established the regulatory framework aimed at liberalizing the economy, the formation of the legal framework of economic relations, as well as the early development of business and entrepreneurship.

It is critical to review the existing legislative acts in the field of business, with the focus of the adoption of new regulatory acts should be to protect the rights and legitimate interests of small businesses and entrepreneurship, the development of all-round development of the potentialities of this sector. On the basis of the set of data to our head of state priorities, conducted considerable work to improve the relevant legislative acts. In addition, special attention is paid to protect the legitimate interests of businesses.

It should be emphasized that during this period the system of verification and control of the activities of business entities has been continuously improved, the number of checks and the grounds were sharply reduced. In other words, the country has all the opportunities to do business within the law. Unfortunately, despite the creation of favorable business opportunities, however, still continues to happen all by itself dishonest persons offenses.

The fight against crime in this area is a priority. Since, due to the commission of these crimes do not go to the budget taxes and other payments, as a consequence of having difficulty in financing of defense, law enforcement, ultimately providing a quiet life of a dishonest businessman, his family, relatives, protection and conservation of the property creating conditions for conducting free enterprise, in addition to the difficulties of financing is complicated by a variety of timely social and cultural activities, however, are harmful to the interests of the entrepreneurs that operate strictly within the law, the atmosphere is really competitive market.

It should be noted in the chapter Crimes in the sphere of economic activity of the Criminal Code in recent years has made quite a number of changes and additions, in particular Article 187 (cheating customers or customer) of the Criminal Code has been excluded, in turn, were introduced three new articles (article 1861 (Illegal production and turnover of ethyl alcohol, alcohol and tobacco products), Article 1862 (Illegal production and turnover of products derived from cotton seed), 1863 IRTO (production, manufacture, acquisition, possession, transportation for the purpose of sale or sale of substandard or counterfeit drugs or medical devices)), section 1861 was amended twice (excluding administrative prejudice, introduced the norm of responsibility for the protection of such actions), and several times revised sanctions.

A variety of criminal-law infringements in the sphere of economic activity required to add new articles to the Criminal Code of the Republic of Uzbekistan and changes in some existing rules of law. This work is being done at the moment. In the process of lawmaking responsibility for the commission of crimes in this sphere is clearly differentiated and takes shape, more or less outdated.

Of course, to solve the problems associated with crime in the sphere of economic activity is quite insufficient activation of punitive mechanism by introducing new rules in the Criminal Code of the Republic of Uzbekistan. In our opinion, it is necessary to conduct a systematic and purposeful work to detect and prevent crime in this area.

Chapter 13 of the Criminal Code, adopted in 1994, is the third section of the Criminal Code, referred to as "economic crimes" called itself "Crimes in the sphere of economic activity." Under this chapter, for crimes in the sphere of economic activity provides for the following offenses:

Production, storage, transportation for the purpose of distribution or sale of goods, works or services that do not meet safety requirements (Article 186 of the Criminal Code); Illegal production and turnover of ethyl alcohol, alcohol and tobacco products (st.1861 CC); Illegal production and turnover of products derived from cotton seeds (st.1862 CC); The production, manufacture, acquisition, possession, transportation for the purpose of sale or sale of substandard or counterfeit medicines or medical devices (st.1863 CC); Illegal trading and intermediary activities (Art. 188 of the Criminal Code); Violation of rules of sale or provision of services (Art. 189 of the Criminal Code); Lesson activities without a license (Art. 190 of the Criminal Code); Illegal collection, disclosure or use of information (Art. 191 of the Criminal Code); Discrediting a competitor (Art. 192 of the Criminal Code).

We believe that the number of criminal acts in the sphere of economic activity subject to some Offences subjects of legal relations in the sphere of economic activities aimed at the disruption of the normal functioning, disabling the foundations of the consumer market and its individual elements. These criminal acts encompass the complex acts related to illegal interference in economic activity.

Illegal encroachment of economic activity must be distinguished according to their degree of social danger of crimes and administrative offenses.

The offenses in the sphere of economic activity constitute a separate kind of illegal actions, which share common socio-legal (unlawfulness, guilt, punishment for) and special features (special object of attacks, special subject). This fact testifies to the real existence of the act makes it possible to distinguish it from many other types of offenses.

Under the crimes in the sphere of economic activity should be understood prohibited by criminal law guilty socially dangerous acts that infringe on public relations, under the protection of the criminal law and related to the production, sale of goods, works or services to consumers.

In our view, the economic sphere defines the following important specific elements of crimes:

a) the linkage with the relations of production, sales of goods, performance of work or provision of services to consumers;

b) the specificity of a particular subject such crimes;

c) crimes in the process of its legal fact legitimate activity or activity that could be become legitimate.

It seems that the main features of crimes in the sphere of economic activities are unlawful and socially dangerous act; the presence in the Criminal Code of the Republic of Uzbekistan responsible for the act; the infringement of public relations in the sphere of production, sales of goods, works or services to consumers in general, the relations connected with the economic activity; the subject of the act - the subject of relations in the sphere of economic activity.

The offenses having all the above features are included in the category of crimes in the sphere of economic activity.

Thus, the criminal assault in economic activity become a serious obstacle to ensure food security, the full realization of the rights and legitimate interests of consumers and ultimately achieve quality assurance implemented by the consumer products, services rendered. An analysis of the current situation on the consumer market suggests that without greater action to fight crime in this market are not worth talking about the formation of the efficient exchange of commodities. It's not only becomes an obstacle to the normal functioning of the consumer market, but also interferes in the tasks of development in Uzbekistan market economy, building the economy "mixed type", therefore, considered to be one of the major obstacles in building the country's social state of law.

Also, we would make the following changes and additions to the crimes in the sphere of economic (business) activity:

1. The first part of Art. 186 of the Criminal Code (production, storage, transportation for the purpose of distribution or sale of goods, works or services that do not meet safety requirements) and should be supplemented as follows "manufacture, storage, transport for the purpose of distribution or sale of goods, works or services that do not meet the requirements of safety of life and health of consumers, which caused by negligence of moderate severity or serious bodily injury. "

The current rule of law has a formal structure, ie entails criminal liability regardless of the consequences.

The proposed change will be the basis to evaluate the conduct as an aggravating circumstance. This will reduce the number of cases of criminal convictions and criminal acts.

It should be noted that in the original version of the first part of this article of the Criminal Code was attended by the words "which caused moderate severity or serious bodily injury";

2. In the current version of Article 1861 of the Criminal Code (Illegal production or turnover of ethyl alcohol, alcohol and tobacco products) provided the imposition of criminal liability, if he commits a criminal offense for the first time in a significant amount for the second time after previously engaging in administrative responsibility. For example, if a person brought to administrative responsibility for the sale of one bottle of vodka, and then within a year he was again detained during the implementation of one bottle of vodka, it is subject to criminal liability. Therefore, in the current edition of the first part of this article of the Criminal Code should state "after the application of an administrative penalty for the same acts committed in significant amount." This will lead to the liberalization of penalties and reduce the incidence of criminal records and the number of criminal acts. This edition of the Code does not meet the standards in some other articles of the Criminal Code. For example, the wording of Article 177, 182, 184, 188, 190 of the Criminal Code also refer to our proposed wording.

Also, part of the fourth article of the Criminal Code of 1861 is necessary to delete the words "A large or a large scale." If an official protector of illegal manufacture or sale of ethyl alcohol, alcohol and tobacco products in a large amount, by abuse of authority or official powers, thus the criminal liability would not be? For this reason, should be excluded in the quantitative measure of the fourth article;

3. The first part of Article 1862 of the Criminal Code (Illegal production and turnover of products derived from cotton seed) should be supplemented, and shall read as follows "Illegal production or turnover of products derived from cotton seed with intent to sell, committed after the application of an administrative penalty for the same actions ". Currently, criminal liability is incurred, even if the perpetrators produced only one bottle of cottonseed oil. The forensic investigative practice known cases of criminal sentencing the person who sold only 5 liters of oil factory made suitable for use. This will lead to the liberalization of penalties and reduce the incidence of criminal records and the number of criminal acts.

In addition, this norm does not provide responsible for causing moderate or serious bodily harm, or caused the death of a person, of human life or other serious consequences as a result of the commission of the crime of illegal production and circulation of products derived from cotton seeds (Criminal st.1862). This, in turn, can lead to a number of problems in the proper, fair characterization of an act;

4. It is advisable to combine the rules of the Criminal Code st.188 (illegal trading or brokering) and Art. 190 of the Criminal Code (exercise of an activity without a license) in one article under the title "employment of illegal business activities."

The concept of illegal business activities covers the implementation of a trading or brokering evasion of registration in the prescribed manner in order to obtain an uncontrolled profit (income), as well as engage in activities subject to licensing without obtaining a special permit to define the basis of criminal responsibility for the commission of these offenses.

Thus, the proposed article includes articles 188 and 190 of the Criminal Code. For states where entrepreneurial activity without state registration, as well as entrepreneurial activities without a special permit (license) is provided as a criminal act are particularly Russia (Article 171 of the Criminal Code), Azerbaijan (Article 192 of the Criminal Code.), Georgia (Article 192 of the Criminal Code.), Belarus (st.233 Criminal Code.), Latvia (st.207 Criminal Code.), Estonia (st.148 Criminal Code.), Kyrgyzstan (st.180 Criminal Code), Kazakhstan (st.190 CC) , Tajikistan (Article 259 of the Criminal Code);

5. Also, in the crimes in the sphere of economic activity should include a new article of the Criminal Code "St.1911. Misappropriation of information constituting a business or banking secrecy ," St.1921. Illegal use of trademarks ", as the current law criminalizes such acts are not provided.

In conclusion, we note that the above recommendations made to improve the practice of criminal prosecution and sanctioning of perpetrators of crimes in the sphere of economic activity are reflected in the liberalization of criminal law providing for liability for committing such crimes. We hope that the introduction of the Criminal Code of the proposed changes and additions will improve the practice and effectiveness of forensic investigators in the qualification and appointment of punishment for the perpetrators of crimes in the sphere of economic activity.