


## CRIMINAL-LEGAL ANALYSIS OF THE SPECIAL SUBJECT OF CRIMES WITH ATTRIBUTES OF A PUBLIC OFFICIAL

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Article Info	ABSTRACT
<p><b>Article history:</b> Received May 05, 2024 Revised May 20, 2024 Accepted May 25, 2024</p> <p><b>Keywords:</b> special subject, official, representative of power, official offences, statistics.</p>	<p>The article is devoted to the criminal-legal analysis of a special subject of a crime having the attributes of a public official. An official is a special subject and the offences committed by him are directly related to his official position. A person may use official information as well as other means to achieve his goal, based on his official duties. Although official offences do not have a large share in the overall structure of crime, they pose a great danger to society, the state and citizens. To date, the issues related to the prosecution of a person who has committed an official offence remain controversial.</p> <p style="text-align: right;">This is an open-access article under the <a href="#">CC-BY 4.0</a> license.</p> 

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### INTRODUCTION

Today, strengthening the fight against crime, crime prevention is one of the important tasks facing our country and awaiting its solution. From this point of view, strengthening the fight against official offences is of topical importance. These crimes disrupt the normal operation of state and public organisations and cause great damage to the rights and legally protected interests of citizens. Furthermore, official offences are

inextricably linked to other dangerous crimes. Research has shown that the majority of offences of officials tried in courts are committed in close connection with other offences.

Within the framework of this paper we will dwell in detail on the concept of an official, which is one of the types of special subjects of the offence.

The Criminal Code considers official offences as a special type of criminal offence, with special attention paid to the object and subject of the offence.

Official crimes are socially dangerous acts aimed at violation of legally regulated activity of the state apparatus, committed by officials of this state apparatus through abuse of their official position[1].

Section 8 of the Criminal Code, entitled "Legal meaning of terms", defines the concept of an official as follows:

«Official - a person appointed or elected permanently, temporarily or by special authority, performing the functions of a representative of power or exercising organisational, administrative and economic functions in state bodies, self-governing bodies of citizens, enterprises, institutions, organisations, regardless of the form of ownership and authorised to perform legally significant actions, as well as a person exercising the above functions in an international organisation or in a legislative, executive body».

## METHODS

Analysis of judicial statistics shows that in the total number of convicted persons in the country the share of those convicted for official offences is much higher. For example, over the past three years, the number of persons convicted of offences under articles 167, 168, 205, 206, 207, 210, 211 and 212 of the Criminal Code amounted to 2.8 per cent, 2.5 per cent, 3 per cent and 3.4 per cent respectively (see table). This alarming situation demonstrates the need to further strengthen the fight against the above-mentioned offences.

**Table 1**

Years	Total number	Article 167	Article 168	Article 205	Article 206	Article 207	Article 209	Articles 210-212	Other crimes
2020	1723 (2,8%)	660 (38,3%)	167 (9,6%)	47 (2,7%)	25 (1,4%)	22 (1,3%)	11 (0,6%)	127 (7,3%)	280 (16,2%)
2021	2804 (2,5%)	1741 (62%)	268 (9,5%)	168 (6 %)	42 (1,4%)	25 (0,9%)	41 (1,5%)	165 (5,9%)	353 (12,6%)
2022	3116	2103	243	265	14	22	51	169	249

	(3 %)	(67,4% )	(7,8%)	(8,5%)	(0,5% )	(0, 7%	(1, 6%	(5,4 %)	(8 %)
<b>2023</b>	3575 (3,4%)	2205 (61,6% )	272 (7,6%)	397 (11,1%)	30 (0,8% )	25 (0, 7%	36 (1 %)	195 (5,4 %)	415 (11,6% )

As can be seen from the table, the number of persons convicted of official offences is increasing every year. This is mainly due to officials who committed theft by embezzlement. In 2022, the number of convictions for embezzlement was 2,103 and in 2023 - 3,575. Among official crimes, the conviction rates for this offence were 67.4% and 61.6%, respectively.

The number of people convicted of fraud has also increased significantly. While 243 people were convicted of this offence in 2022, this figure will be 272 in 2023. Although their number has increased by 29 people compared to the previous year, their proportion among those convicted of offences of fraud has fallen from 7.8% to 7.6%.

There has been a particular increase in the number and severity of convictions for abuse of power or official authority. In 2022, 265 people were convicted for this offence, and in 2023, 397 people were convicted. Among those convicted of official offences, their proportion increased from 8.5% to 11.1%.

The number of persons convicted for receiving (giving) a bribe and mediation in receiving and giving a bribe has also increased. If in 2022 there were 169 such persons, in 2023 - 195 persons. As we can see, despite the increase in their number by 26 persons, their weight practically did not change, i.e. their weight among those convicted of official offences was 5.4%.

## RESULTS AND DISCUSSION

When defining an official in the CC, the legislator uses not formal, but material attributes - rights and duties of an employee. Organisational and managerial tasks should be understood as human functions related to the management of production activities of a certain collective, work area, individual employees, direct management of people.[2]. These functions include: recruitment and placement, hiring and firing, work planning, organising the work of subordinates, monitoring and checking work performance, rewarding, punishing, etc. These functions, including heads of ministries, agencies, industrial and agricultural enterprises or institutions, directors, heads and heads of science, education, culture, healthcare institutions and their deputies, heads of various structural units (heads of departments, sectors, laboratories, department heads and their deputies) and other similar officials. Any employees of organizations and enterprises who have dependents on their service, who initiate and organize their work, are considered officials. [3].

Administrative and economic tasks should be understood as related to managing and disposing of property, establishing the procedure for storing, processing and selling property, receiving and issuing material assets, receiving and issuing money, various documents, and other similar functions. Officials belonging to this category include heads of finance, planning, supply departments and services and their deputies, heads of stores, warehouses, restaurants, kitchens, buffets and other commercial outlets, workshops, studios, rental points and their deputies, accountants, cashiers. , supervisors and other similar officials.

Among the officials, representatives of the authorities form a separate group. The concept of representative of authority is not disclosed in the CC, which leads to different interpretations of this concept[4]. However, all of these interpretations, taking into account the essence, the representative of the authority has the right to perform the tasks of the authority in the field of his activity and within the scope of his powers, i.e. to make demands, as well as to make decisions that must be executed by subordinates and persons administratively dependent on him. allows to conclude that the person.

The activity of the representative of the authority is based on mutual relations with people, that is, issuing orders to individual citizens, officials of other state or public organizations, as well as performing actions considered universally obligatory in relation to the persons belonging to this category, will have legal significance, because the functions of authority specific to the representatives of the authorities include the above-mentioned persons. obliges to comply with these requirements[5]. Many representatives of the authorities, for example, ordinary employees of the internal affairs bodies, do not have subordinates in terms of service, and they are given the powers of authority. At the same time, the powers of a number of authorities in connection with their performance of departmental duties have legal significance within a certain scope and are considered universally binding.

Representatives of the authorities include: Deputies of the Legislative Chamber of senators of the Supreme Assembly of the Republic of Uzbekistan; heads of executive state bodies of power; employees of the prosecutor's Office, investigative, administrative and judicial bodies (prosecutors, investigators, judges, bailiffs, people's advisers of judicial bodies) during the period of implementation of judicial activities, they have the right to; the operational composition of the internal affairs bodies carrying out the activities of maintaining public order and combating crime, the operational staff of state security bodies, military personnel of the internal troops at the time of fulfilling the combat service obligations assigned to them, representatives of the military authorities, etc [6].

For example, employees of the prosecutor's office and investigative bodies, including the prosecutor, investigator, etc., who hold a certain position in this system. representatives of the authorities perform their duties on a regular basis, and court advisers participating only during the trial of a specific criminal case temporarily perform their duties as representatives of the authorities.

Thus, in addition to representatives of the authorities, it is recognized that persons who are permanently or temporarily holding positions related to the performance of organizational and managerial or administrative-economic functions in state or public organizations or enterprises, or who perform the above-mentioned functions in these enterprises or organizations, are also officials. [7].

According to A.V. Galakhova, ordinary employees of state power or management bodies (for example, an employee of the internal affairs body) are considered officials during the performance of authority functions in relation to persons who are not part of this power and management body, because they are given legally significant orders or given the right to perform actions. However, "ordinary employees of state authorities or management bodies are not officials in the field of service relations with other employees of relevant bodies, because they do not have the right to issue legally significant orders or perform actions in this field." [8].

Thus, in the Criminal Code of the Republic of Uzbekistan, an official is defined as "a person who holds positions related to the performance of permanent or temporary organizational management or administrative-economic tasks by election or appointment in a state enterprise, institution or organization and is authorized to perform legally significant actions." from the definition, whether officials, including representatives of the authorities, perform these tasks permanently or temporarily is not important in the qualification of the act.

Of all the officials mentioned in the Criminal Code of the Republic of Uzbekistan, only the representatives of the authorities have the powers of the authorities and perform actions of legal significance for everyone.

## CONCLUSION

The effectiveness of the fight against official crimes is determined to a large extent by the appropriate punishment based on the nature and level of the socially dangerous act committed by the guilty official. Judging from the fact that officials are recognized as special entities in the criminal law, the issue of considering the identity of this category of criminals is of great theoretical and practical importance.

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