

Protecting the Business Entities in Uzbekistan (Criminal-Legal Mechanisms)

Marufjon Kurbanov

Acting Associate Professor of Department of Tashkent State University of Law, Tashkent, Republic of Uzbekistan

Leila Delovarova

Acting Associate Professor of Department of International Relations and World Economy, Faculty of International Relations, Al-Farabi Kazakh National University Almaty, Kazakhstan

ABSTRACT: This article is dedicated to the institute of protecting business through criminal law in the Republic of Uzbekistan. In it, the author conducted an analysis of general characteristics of crimes related to obstruction, unlawful interference in business activities according to the Criminal code of the Republic of Uzbekistan. Therefore, researching of legal nature of crimes against business, analyzing its objective and subjective signs has a very special significance. The author reveals the social danger of these kinds of crimes, the necessity of appointing the criminal responsibility for it. Such types of crimes against business Violation of the right to private property, Forced involvement of business entities in charity and other events, Illegal suspension of activities of business entities and (or) operations on their bank accounts are analyzed. Therefore, researching 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 the 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. On the basis of the Criminal Code of the Republic of Uzbekistan, reviewed the significant aspects of protecting business through criminal law in the Republic of Uzbekistan.

KEYWORD: entrepreneurial activity, obstruction of entrepreneurial activity, unlawful interference, unprivileged private property, imposing on the owner of knowingly unacceptable conditions, incentive norms, compulsory involvement of business entities to charity and other activities.

Introduction

Among the world regularly discusses the need to ensure the inviolability of property rights, the effective use of criminal law mechanisms to protect the activities of business entities. If in 2020, about 15 million crimes against property were committed worldwide, then in 2021 this figure increased by 20 %.

As follows from the UN comments, one of the main reasons for committing crimes against business entities (business) is the inadequate protection of the objects of these crimes, the high level of latency of crimes of officials against property, the recognition of obstruction and illegal interference in the

| | |
|------------|--|
| 311 | ISSN 2690-9626 (online), Published by "Global Research Network LLC" under Volume: 3 Issue: 2 in February-2022 https://grnjournals.us/index.php/AJSHR |
| | Copyright (c) 2022 Author (s). This is an open-access article distributed under the terms of Creative Commons Attribution License (CC BY). To view a copy of this license, visit https://creativecommons.org/licenses/by/4.0/ |

activities of business entities as a socially dangerous act that threatens economic stability indicates the relevance of the topic.

Throughout the world, special attention is paid to the study of trends in criminal law protection of business activity as an object of crime, conducting scientific analysis of issues of ensuring the inviolability of property in achieving economic stability, improving mechanisms for reliable protection of the rights and legitimate interests of business entities. In particular, it is important to study the protection of property and property rights, as well as business activity from criminal encroachments, to improve legislation on the transition from ineffective civil and administrative legal means to the trend of criminal legal protection, as well as to study new directions and prospects for the prevention of crimes against property and business activity [5].

Material and Methods

This study is based on a sample of 1,633 cases considered in the courts of Uzbekistan in the period from 2015 to 2020. These data were obtained from the Supreme Court database that includes information during the investigation, judge trials and was subsequently entered into the Supreme Court database. As well as analyzing of the criminal-procedural legislation of developed foreign countries like as USA, Canada, Austria, Germany, Estonia and Russia.

Findings

In particular, it should be noted that the specifics of ownership relations in the States of antiquity lies in its connection with slavery, the recognition of the slave's property of his owner, the extension of the Roman legal principle that a private owner can take any action related to his property, in the absence of an outright ban that this provision has not lost its relevance today.

In turn, approaching each period separately when covering the history of the development of responsibility for violations of property rights, including the norms defining criminal liability, it should be noted that since ancient times, the protection of property rights was carried out in various ways and means, the Avesta, the sources of Muslim law, the laws of Yasa and the Code of Timur acted as the legal basis, and these sources provided specific definitions of norms aimed at protecting property rights. That is, in the sources of Islamic law, the offense expressed in encroachment on property rights – ‘*gasb*’ – is very close to the essence and content of the crimes studied.

In the Soviet period stands out for two specific features in the absence in practice of protection of private property or the rights and interests of the owner, and does not provide power, in practice the protection of property rights. Also, during this period, one of the main means of acquiring property – engaging in entrepreneurial activity, was declared a crime.

The fact that the formation of market relations based on private ownership, driven by means of entrepreneurship, development of entrepreneurship based on private ownership, is essential in ensuring the rule of respect for democratic principles in the management of socio-economic relations in society.

After the abolition of the Soviet economic system and the transition to a market economy, the country adopted laws that restrict government interference in business activities of various forms of ownership. The rapid development of economic relations in the country required the state to review criminal legislation in this area.

At the beginning of the last decade of the twentieth century, the economy of the Republic of Uzbekistan began to manifest itself in various forms of ownership, including private ownership. In order to create a stable economic foundation of society, the development of the environmental

economy required the protection of private property, strengthening its role in the economy, further improving the business environment, and the formation of a regulatory framework.

In particular, article 36 of the Constitution of the Republic of Uzbekistan states that everyone has the right to own property, the confidentiality of bank deposits, and the right to inheritance, which is guaranteed by law [1].

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.

Discussion

The experience of developed countries shows that the development of entrepreneurship plays a very important role in the introduction and improvement 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.

At the beginning of the twentieth century, the creation of a market for goods and services with a relatively low standard of living for the majority of the population, the development of various economic entities created a high level of criminogenic state of socio-economic contradictions and social relations. Therefore, the distribution of production and material values has led to the establishment of 'mass criminal control' over the activities of business entities, which negatively affects the economic security of the country. In these conditions, business activity needed not only an effective system of civil law regulation, but also adequate criminal legal protection [18].

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 [13].

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 [12].

Socially entrepreneurial activity is an important part of the transition to the civilized market relations, of formation in 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 in 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]

Therefore, in order to strengthen property relations, article 53 of the Constitution of the Republic of Uzbekistan states that private property is inviolable and protected by the state as other forms of property. [4] In turn, attention was paid to the process of denationalization and privatization of property.

The legal basis for the protection of private property is reflected in the Civil code of the Republic of Uzbekistan [5], the laws ‘On private enterprise’ [6], ‘On guarantees of freedom of business activity’ [7], and other legal acts.

As well as the criminal code of the Republic of Uzbekistan also provides for the protection of the interests of business or other activities not prohibited by law-banking, financial, etc. Civil legislation regulates the rules of business activity, business turnover, education, state registration, reorganization, succession and liquidation of legal entities.

Special attention was paid to the development of small businesses and business entities and ensuring sustainable economic growth through the liberalization of the country's economy. In particular, as a result of a radical revision of the legal framework to ensure reliable protection of private property, small business, and private entrepreneurship, more than 20 laws were adopted aimed at liberalizing the activities of small and medium-sized enterprises and removing obstacles to business activity.

Nowadays, in Uzbekistan business entities occupy an important place in the economy and their contribution to the national economy and the development of financial markets is significant. From 1991 to 2020 it was made more than 2,500 law acts, directly or indirectly regulating corporate relations.

Today it has gained sufficient experience, which shows that in the conditions of Uzbekistan and the justifier of the most appropriate option is itself a form of the property when the shares are owned, along with domestic and foreign investors. Uzbekistan has adopted a gradual and cautious approach in its transition to a market economy.

In order to clarify the concept of ‘entrepreneurial activity’, it should to have glanced at 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 [4].

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’ [5] 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) [5].

For that purpose, on January 22, 2018, Presidential Decree #5308 [12] approved the State Program for the implementation of the Action Strategy for the five development priorities of the Republic of Uzbekistan for 2017–2021. The decree created favorable legal and organizational conditions for the development of active entrepreneurship and provides legal guarantees for the protection of business entities and illegal interference in their activities [6].

In turn, it should be noted that offenses related to business obstruction and illegal interference undermine the country's economy and its investment attractiveness.

Crimes related to obstruction, illegal interference in business activities represent general rules and definition of which is based on the content of legislation regulating public relations related to business.

As the country strengthens market relations, freedom of economic activity, and maximum expansion of the rights of subjects of such activity, it becomes more and more urgent to strengthen property rights in every possible way, and therefore to counteract any encroachments on it, including those that, being directly directed against other objects, often cause damage to the property interests of owners or other owners. In this regard, in order to support business entities, create favorable conditions for them, as well as increase the level of employment, prevent illegal interference in business activities that play an important role in the development of the country's economy.

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

Features of the 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.

Currently, a significant majority of the population is engaged in entrepreneurial activities. Therefore, it would be useful to clarify the concept of this term. The term "entrepreneur" was coined by the French economist Richard Cantillon, who lived in the early eighteenth century. Since then, it has meant a person who risks starting a new business or developing a new idea, new product or service offered to the community [10]. As V. Dal notes: 'being an entrepreneur means making a decision to do something new'. Consequently, entrepreneurship can be defined as the creative expression of a person or enterprise in developing new products, quality services, or productivity [12].

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 your own risk [7].

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 [8].

Accordingly, these actions – crimes associated with obstruction, unlawful interference in business activities, prevent illegal interference in entrepreneurial activities of legal and natural persons registered in the prescribed manner, and carry on business at his own risk and expense to own property liability.

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 (Criminal code of the Republic of Uzbekistan, article 192¹), Forced involvement of business entities in charity and other events (Criminal code of the Republic of Uzbekistan, article 192⁴) Violation of legislation on licensing and legislation on permitting procedures (Criminal code of the Republic of Uzbekistan, article 192⁵), Illegal refusal, non-use or obstruction in the application of benefits and preferences (Criminal code of the Republic of Uzbekistan, 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 (Criminal code of the Republic of Uzbekistan, article 192²), Illegal suspension of activities of business entities and (or) operations on their bank accounts (Criminal code of the Republic of Uzbekistan, article 192³), Illegal claim of information on the availability of funds in the accounts of business entities (Criminal code of the Republic of Uzbekistan, article 192⁸) [9].

These types of crimes are considered less serious danger according to their character.

It is determined that the main direct object of this crime is social relations that are formed in connection with ensuring the freedom of entrepreneurial activity guaranteed by the Constitution of the Republic of Uzbekistan from illegal interference of officials. As an additional direct object of the crime under consideration, it is necessary to designate public relations arising in connection with ensuring the normal activities of state authorities and local self-government.

The objects of crimes related to obstruction of business activity, illegal interference, include public relations that ensure freedom of business activity in the economy, in particular, established by law.

Followings are considered as direct-objects:

- ✓ inviolability and protection of private property of citizens;

| | |
|------------|--|
| 316 | ISSN 2690-9626 (online), Published by "Global Research Network LLC" under Volume: 3 Issue: 2 in February-2022 https://grnjournals.us/index.php/AJSHR |
| | Copyright (c) 2022 Author (s). This is an open-access article distributed under the terms of Creative Commons Attribution License (CC BY). To view a copy of this license, visit https://creativecommons.org/licenses/by/4.0/ |

- ✓ verification of financial and economic activities of business entities;
- ✓ maintaining the procedure for suspending the activities of business entities and (or) operations on their Bank accounts;
- ✓ regulation of free use of own funds by business entities;
- ✓ ensuring the licensing procedure and the procedure for licensing the activities of business entities;
- ✓ ensuring the procedure for applying the benefits and preferences provided for by law for business entities;
- ✓ Secrecy and confidentiality of business information on the Bank accounts of business entities related to the confidentiality and security of information about funds, the availability of funds on Bank accounts and operations on Bank accounts.

The subject of the crime is property in various forms.

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.

The subject of the alleged crimes is a sane individual who has reached the age of 16 and has the special characteristics of a criminal. These types of crimes are committed by an official or employee of a controlling, law enforcement or other state body or public organization.

According to the criminal law of the Republic of Uzbekistan, the official is the person appointed or elected permanently, temporarily, or on special authority performing the functions of a representative of authority or performing organizational-administrative, is administrative-economic functions in state bodies, local authorities, enterprises, institutions, organizations, irrespective of forms of ownership and authorized for the performance of legally significant actions, as well as the person performing these functions in international organizations or in legislative, an Executive, administrative, or judicial body of a foreign state.

According to the criminal law of the Republic of Uzbekistan, the term ‘employee’ means a person employed under an employment or civil contract by the government body, commercial, non-profit organizations that do not have signs officials.

Crimes related to obstruction of business activity or illegal interference are committed intentionally.

It is clear that the commission of a crime under aggravating circumstances affects the type and size of the sentence imposed. Accordingly, crimes related to obstruction of business activities are committed under the following aggravating circumstances:

- on the grounds of an objective party-with the infliction of major and especially large damage;
- On the grounds of a subjective side – by prior agreement of a group of persons or in the interests of an organized group.

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

The objective side of this crime – Forced involvement of business entities in charity and other events (article 192⁴) 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 paying 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.

This study analyzes the views of a number of scientists on the topic by studying the opinions of M.Kh.Rustambayev, R.Kabulov, R.A.Zufarov, B.D.Akhrarov, K.R.Abdurasulova, Sh.Ya.Abdukodirov, G.U.Akhmedova, O.M.Makhkamov, Anne-Marie Kilday, David Nash, Frank E. Vogel, G.S.Avanesyan, D.I.Aminova, A.A.As lakhanova, E.E.Dementieva, A.Yu.Ezhova, N.A.Lopashenko, M.F.Musaelyan, G.K.Smirnova, A.V.Borbat, A.V.Zarubina, etc., who revealed such features of crimes related to obstruction and illegal interference in business activities, where the subject of this crime is a special subject – an official, and the main and additional objects of the crime are public relations related to the implementation of entrepreneurial activity, as well as the order of power and management, and the encroachment is mainly directed against entrepreneurial activity [11].

In turn, we point out that there is no single approach to the topic under consideration, no clear scientific and legal definition of this type of crime is given, its legal status within the framework of criminal law policy is not comprehensively and systematically studied, and its close connection with a number of criminal law institutions is separately indicated when applying criminal legislation.

The public danger of crimes related to obstruction, illegal interference in business activities is expressed in the fact that as a result of obstruction and illegal interference in the activities of a business entity, the guilty person using their position or assigned official tasks, harms the interests of the individual, society and the state, also suppresses entrepreneurial initiative, slows down production, there is an outflow of local capital, loss of investment attractiveness and negative impact on other similar indicators.

An analysis of the criminal legislation of the CIS member states-Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, as well as China, Germany, Spain,

Bulgaria, South Korea and other states indicates that many countries provide for liability for the acts under study.

In the criminal legislation of most European countries, crimes against business activity, depending on their nature, are divided into the following two groups:

- ✓ obstruction of lawful business activity (freedom of business activity);
- ✓ Engaging in illegal business activities.

In contrast to national criminal legislation, which protects business activity as an object of crime, in most European countries, civil and administrative liability is provided for for hindering business activity or illegal interference in its activities, and we disagree with the position of some scientists who, they put forward the idea of abandoning the trend of criminal law protection of freedom of entrepreneurial activity and, at the same time, the idea of switching to the use of civil and administrative legal means in such relations [13].

In our opinion, this position is justified as follows –

-the socio-economic environment that has developed in countries with transition market economies, based on the current situation, causes the need for the use of criminal legal means [10];

- in European countries with developed market economies, such relations are not regulated by criminal law means [14];
- noting that in countries with stable developed economies, no one can deny the consideration of the question of criminal liability in the event of future critical situation related to the obstruction of business activities, particular attention is paid to ensure that the protection of business activities in a legal aspect is a topical one in the process of increasing the investment attractiveness, a reliable guarantee of the inviolability of ownership, professionalizing organizational and management training [12].

Discussing about the object of the studied crimes, it is necessary to pay attention to the location of this crime in the section "Crimes in the field of economics", while earlier the act defined in article 206¹ of the Criminal Code, where the legislator provided for liability for obstructing the activities of economic entities, was defined in the fifth section – Crimes against the functioning of government bodies, management and public associations, in turn, in this situation, it is very controversial that the object of illegal interference in the activities of economic entities, that is, the deliberate initiation and (or) conduct of inspections, suspension of the activities of economic entities and (or) operations on bank accounts by an official or other person using his official position, not authorized by law to do so, and reclaim them with information on the availability of funds on accounts of economic entities in cases not provided for by law, committed after application of administrative penalty for the same actions, as well as a pattern or logic to the location of article 206¹ of the section on crimes against the functioning of authorities and public associations, while Chapter XIII¹ located in a completely different section three – Offences in the sphere of economy.

The current criminal law of Uzbekistan, the basic direct object of crimes related to obstruction and illegal interference in entrepreneurial activities, are social relations such as the inviolability of private ownership of citizens and protection; ensure the established order of conducting checks and audits of financial and economic activities of business entities; order the suspension of activities of business entities and (or) transactions on their Bank accounts; regulation of the free disposition of private funds by businesses; enforcement of licensing and permitting procedures for activities of business entities; providing application procedure in respect of businesses of privileges and preferences

specified in the law. In addition, an additional direct object of this type of crime is the normal procedure for officials or employees to carry out their official or official activities; an optional direct object is the health, honor and dignity of the owner or entrepreneur. However, based on the fact that the subject of the crimes connected with obstruction and unlawful interference in business activities, is a special subject, and objective signs of act, it can be concluded that the main direct object of this crime is the normal exercise of the officers or employees of their official or service activity, the head XIII¹ UK is in a section not corresponding to the object of her standards.

It will also be necessary to note that in cases where one person is a de jure individual entrepreneur or founder or owner, and another person is de facto engaged in business activities and manages the affairs of another person, when committing an act related to obstruction, illegal interference in business activities in relation to the real beneficiary, the "shadow director", the issue of bringing to justice under the norms of the criminal law under study is controversial.

The subject of crimes related to obstruction and illegal interference in business activities is a special subject, i.e. an official or employee of a controlling, law enforcement or other state body and organization, but the legislator does not differentiate the responsibility of an official or employee according to the specifics of the subject of the crime, in addition, the concept of "law enforcement agency" in normative legal acts has not found its clear reflection.

We have thoroughly studied the employees of which industries commit the crimes under investigation. The materials of criminal cases under articles 192¹-192⁶ and 192⁸ of the Criminal Code, which were considered in the republican courts of Uzbekistan, were studied, and it was indicated that this crime was committed mainly by officials (84 %). At the same time, according to the results of the survey, it was revealed that cases of obstruction and illegal interference in business activities are mainly committed by officials and employees of district/city/regional khokimiyats (72 %), as well as by officials and employees of the State tax Service (64 %).

Citing that criminal law in the protection activities of business entities with criminal law measures, the legislator aims to strengthen the rights and legitimate interests of persons engaged in legitimate business activities, major taxpayers, and also carrying out social functions, the researcher noted that because of the nature of crimes Chapter XIII¹ criminal code, which protected criminal law means activities of business entities engaged in illegal entrepreneurial activities, in the act committed against them, there is no composition of obstruction and illegal interference in business activities, while the act should be assessed as a crime in the form of abuse of power or official authority.

In addition, the production of audit in order of criminal procedural law (Chapter 221 of the criminal procedure code of the Republic of Uzbekistan), the persons appointed to carry it out of the established procedure of the audit is the objective side of article 192² of the criminal code of the Republic of Uzbekistan, the subject of this crime are persons appointed to conduct the audit and the need for decriminalization under article 192² of the criminal acts, expressed in "initiating illegal check of activity of subjects of entrepreneurship".

Despite the fact that the subject of the examined crimes is special in the articles of the 192¹ and 192⁴ the criminal code of Uzbekistan official and an employee are not differentiated by the nature of the perpetrator, 3 cases (article 192⁷, 192¹⁰, 214) in the criminal code of Uzbekistan with a crime directly specified employees, with only 1 case (article 192⁷ of the Uzbek criminal code), as the subject of the crime the employee is specified along with an official, in other cases (article 192⁴, 214 of the criminal code of Uzbekistan) serves as the subject of the offence is specified separately from the officials, In this connection, the dissertation comes to the conclusion that it is advisable to differentiate the responsibility of these persons [16].

It should also be emphasized that the investigated crimes are committed with direct intent by an official or employee not only to "demonstrate" their powers in relation to the subject of entrepreneurial activity, "punish" the subject of entrepreneurial activity for not showing a positive attitude, crimes of this type can also be committed for the purpose of "insurance" by officials and employees from possible risks, insufficient practice of applying the norms of legislative acts. In addition, we support the opinions of K.Vorozhko, G.Avanesyan and other scientists regarding the commission of such acts from selfish or other base motives, and the need to include this circumstance as an aggravating feature is emphasized.

Statistical data about dynamics of structure of these crimes shows that in 2015 and is currently among the crimes of this 32 % is a violation of private property rights, 54 % – violation of order of carrying out checks and audits of financial and economic activities of business entities, 14 % – illegal suspension of activities of business entities and (or) transactions on their Bank accounts [15].

The influence of crimes related to obstruction, illegal interference in business activities on the socio-legal climate of society was studied, and the social factors that give rise to these crimes were justified in the theoretical and legal aspects [17]. The causes and conditions of general criminality, as well as the reasons for the commission of crimes related to obstruction, illegal interference in business activities, and the conditions that contribute to them, are also identified and clarified.

As conditions that contribute to the analyzed crimes, such circumstances as weak control by higher authorities, an inadequate level of ensuring the inevitability of responsibility and the concealment of mutual guilt on the part of officials and employees are cited [18]. Also, some gaps in the legislation, the lack of sufficient legal regulation of certain public relations give an impetus to the commission of this type of crime.

One of the main reasons and conditions for the commission of crimes related to obstruction, illegal interference in business activities, is the unsatisfactory salary of officials and employees, the assignment of other functions to them in addition to their functional duties, gaps in the legislation on the regulation of business activities, as well as the victim behavior of victims, a serious difference in the tax burden among business entities, the victims themselves become the cause of the latency of crimes [19].

The high latency of crimes in this category is justified by the fact that 66 % of respondents who participated in the survey did not report the crimes committed to the law enforcement agencies due to the fear of a negative impact when carrying out further business activities.

It was found that according to the respondents who participated in the survey, the most frequently committed acts related to obstruction, illegal interference in business activities are violations of the procedure for conducting inspections and audits of the financial and economic activities of business entities (28 %) and forced involvement of business entities in charity and other activities (34 %).

Noting that the commission of crimes of this category allows business entities to commit other offenses or crimes in the course of their activities [20].

Conclusion

Undoubtedly, it is important to note that illegal interference of officials in business activities is a special type of official abuse in the sphere of economic activity. The main factors contributing to the increased public danger of illegal interference of officials in business activities are the following:

- 1) Violation of the freedom of entrepreneurial activity guaranteed by the Constitution of the Republic of Uzbekistan by such an act;

| | |
|------------|--|
| 321 | ISSN 2690-9626 (online), Published by "Global Research Network LLC" under Volume: 3 Issue: 2 in February-2022 https://grnjournals.us/index.php/AJSHR |
| | Copyright (c) 2022 Author (s). This is an open-access article distributed under the terms of Creative Commons Attribution License (CC BY). To view a copy of this license, visit https://creativecommons.org/licenses/by/4.0/ |

- 2) The possibility of a negative impact on the competition of economic entities;
- 3) Discrediting state authorities and local self-government bodies.

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.

The socio-economic importance of business entities not only as taxpayers, but also as potential employers who create new jobs, turns the prevention of crimes related to obstruction, illegal interference in business activities, and the fight against them into a social necessity.

In our view, crime prevention requires the extensive use of the following approaches: legal literacy, legal awareness; criminalization of acts associated with "raiding"; increase penalties for committing a crime; optimization of travel expenses in order to avoid the situations, determinants, involving the Commission of crimes, the reduction of orders that are not included in the functional duties of officials and employees, establish such other restrictions; the application of targeted preventive measures aimed at prevention of crimes; implementation of victim logical prevention.

We strongly believe that from a criminological point of view, in the prevention of crime, it is advisable not to follow the path of criminalization or strengthening responsibility, but to develop, with the help of other measures, social, psychological, and sociological ways to effectively combat crime.

In order to prevent crimes related to obstruction and illegal interference in business activities, it is proposed to:

1) In the prevention of crimes related to obstruction and illegal interference in business activities, it is necessary to distinguish between the following approaches ex-post control and ex-anti control:

- improving legal literacy, the level of legal awareness among entrepreneurs;
- the establishment of certain restrictions (optimization of business trip expenses) in order to prevent the circumstances and determinants that lead to the commission of crimes;
- ensuring the inevitability of responsibility for the committed crime (rapid response to reports of crimes spread through social networks, mass media), etc.;
- introduction of the practice of studying the correlation (relationship) of the current legislation and its compliance, as well as conducting a special examination before the adoption of legislative acts related to business activities from the point of view of economic efficiency with the participation of the Commissioner for the Protection of the Rights and Legitimate Interests of Business Entities under the President of the Republic of Uzbekistan and other responsible bodies in the prevention of crimes related to obstruction and illegal interference in business activities.

References

1. The Constitution of the Republic of Uzbekistan [Electronic resource] - access Mode: <http://www.lex.uz/acts/35869> national database of legislation, 06.03.2019, no. 03/19/527/2706, 05.09.2019, no. 03/19/563/3685.
2. Civil code of the Republic of Uzbekistan [Electronic resource] - access Mode: <http://lex.uz/docs/111181> national database of legislation, 23.10.2019, no. 03/19/572/3943.
3. Law of the Republic of Uzbekistan 'On private enterprise' [Electronic resource] - access Mode: <http://www.lex.uz/acts/53152> national database of legislation, 21.03.2019, no. 03/19/531/2799.

| | |
|------------|--|
| 322 | ISSN 2690-9626 (online), Published by "Global Research Network LLC" under Volume: 3 Issue: 2 in February-2022 https://grnjournals.us/index.php/AJSHR |
| | Copyright (c) 2022 Author (s). This is an open-access article distributed under the terms of Creative Commons Attribution License (CC BY). To view a copy of this license, visit https://creativecommons.org/licenses/by/4.0/ |

4. Law of the Republic of Uzbekistan ‘On amendments and additions to the law of the Republic of Uzbekistan ‘On guarantees of freedom of business activity’ [Electronic resource] - access Mode: <http://www.lex.uz/acts/2006777> national database of legislation, 21.03.2019, no. 03/19/531/2799.
5. Decree of the President of the Republic of Uzbekistan ‘On measures to ensure reliable protection of private property, small business and private entrepreneurship, removing barriers to their accelerated development’ no. up-4725 15.05.2015 [Electronic resource] - access Mode: <http://lex.uz/docs/2647221> national database of legislation, 30.07.2018, no. 06/18/5490/1584.
6. 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 accelerated development’ [Electronic resource] - access Mode: <http://www.lex.uz/acts/2724500> national database of legislation, 08.11.2019, no. 03/19/581/4004.
7. Law of the Republic of Uzbekistan ‘On guarantees of freedom of business activity’. National database of legislation, 21.03.2019, no. 03/19/531/2799, 12.12.2019, no. 03/19/592/4144; 08.01.2020, no. 03/20/601/0025.
8. Criminal code of the Republic of Uzbekistan [Electronic resource] - access Mode: <https://lex.uz/docs/111457>.
9. Decree of the President of the Republic of Uzbekistan dated 22.01.2018 no. #5308 ‘On the state program for the implementation of the action strategy for five priority areas of development of the Republic of Uzbekistan in 2017-2021 in the year of ‘Support for active entrepreneurship, innovative ideas and technologies’ [Electronic resource] - access Mode: https://nrm.uz/contentf?doc=529037_&products=1_vse_zakonodatelstvo_uzbekistana (accessed 20.02.2020).
10. Yu.P. Mikhalechuk. Organizational and legal, criminal procedural guarantees for ensuring the rights and liberties of individuals in criminal proceedings//Bulletin of the Krasnodar University of the Ministry of Internal Affairs of Russia, 2014, No. 4 (26), P.88-89.
11. O.V.Chemicheva., O.V. Michurina Fundamentals of Criminal Procedure: Educational Manual for Universities/edited by G.P. Khimicheva .M., 2005, P.291.
12. V.N.Grigoriev, A.V. Pobedkin, V.N. Yashin Criminal trial: Students’ book. M., 2005, P.62.
13. O.Y.Baev Attacks on evidentiary information and evidence in criminal proceedings//Bulletin. Voronej state university. Ser. ‘Law’. 2009. No. 2 (7), P. 367.
14. A.V.Pobedkin The criminal process, the state out of the law. M., 2013, P. 117.
15. Allanova, A. A. (2020). Responsibility For Crimes Related Unlimited Border In European Countries And The United States Of America. Electronic Journal" Legal Research, 8(5).
16. Allanova, A. (2020) "Aggravating circumstances of illegal travel abroad or illegal entry into the Republic of Uzbekistan," Review of law sciences: Vol. 4 : Iss. 1 , Article 3. DOI: 10.24412/2181-1148-2020-1-175-177. Available at: https://uzjournals.edu.uz/rev_law/vol4/iss1/3
17. Шамсиддинов Зайниддин (2020). ВОПРОСЫ ДЕЙСТВИЯ УГОЛОВНОГО ЗАКОНА ВО ВРЕМЕНИ В ЗАКОНОДАТЕЛЬСТВЕ НЕКОТОРЫХ ЗАРУБЕЖНЫХ СТРАН: СРАВНИТЕЛЬНЫЙ АНАЛИЗ. Review of law sciences, 1 (Спецвыпуск), 233-239. doi: 10.24412/2181-919X-2020-1-233-239

18. Shamsiddinov, Z. Z. (2021). Sources of Criminal Law of some European Countries and Rules for the Application of Criminal Law in Time. *Psychology and Education Journal*, 58(1), 1133-1137.
19. Khaydarov S. Measures of preventing crime of non-performance of ones duties in their profession //Review of law sciences. – 2018. – Т. 2. – №. 4. – С. 22.
20. Худайкулов, Ф. Х. (2021). Жиноят таркиби объектив томони зарурий ва факультатив белгиларининг жиноят-ҳуқуқий аҳамияти: таҳлил ва таклиф. *ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ*, 6(1).
21. Rubanik V. E. Property and property rights: legal, philosophical, sociological and economic approaches in their historical development: in 3 vols. 1. property Relations and their reflection in the East Slavic tradition of property rights. Moscow, 2010. P. 188.
22. Walter A. K., Sartania D. G. Historical development of property rights in Russia//Young scientist. - 2018. - №19. - Pp. 275-277. - URL <https://moluch.ru/archive/205/50104/>
23. Ezhov Yu. A. Crimes in the sphere of entrepreneurship. Moscow, 2001. P. 5 11.
24. Zarubin, A.V. Criminal and legal protection of business activity: textbook / A.V. Zarubin. – Saint Petersburg: Saint Petersburg law Institute (branch) Academy of the Prosecutor General's office of the Russian Federation, 2016. С. 5.
25. Khizrich R., Peters M. Entrepreneurship. Moscow, 1991. Issue 1. P.
26. 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 activity’ [Electronic resource] - access Mode: <https://lex.uz/docs/2307200> (accessed 20.02.2020)