

OBJECTIVE AND SUBJECTIVE ELEMENTS OF THE CRIME OF COMMERCIAL BRIBERY INVOLVING AN EMPLOYEE OF A NON-GOVERNMENTAL NON-PROFIT ORGANIZATION OR ANOTHER NON-GOVERNMENTAL ORGANIZATION

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Abstract

This article examines the objective and subjective elements of the crime of commercial bribery involving employees of non-governmental non-profit organizations and other non-governmental organizations by applying an IMRAD-based structure and synthesizing academic research, demonstrating that this form of corruption reflects a complex interaction between legal elements and criminological factors, requiring precise legal qualification and comprehensive preventive mechanisms to ensure accountability and integrity in the private and nonprofit sectors

Keywords: commercial bribery, objective elements, subjective elements, non-governmental organizations, criminal liability, corruption, abuse of power, criminology

1. Introduction

Commercial bribery involving employees of non-governmental non-profit organizations represents a specific manifestation of corruption within the private and civil society sectors where individuals entrusted with certain functions misuse their position for personal gain and this phenomenon has gained increasing attention due to the growing role of NGOs in economic and social processes and the expansion of private sector interactions, corruption defined as the abuse of entrusted power for private benefit undermines trust damages institutional integrity and disrupts fair competition (Iddrisu, 2019), traditionally criminal law addressed bribery primarily in the public sector but modern legal systems increasingly recognize that similar risks exist in private and nonprofit organizations where employees can influence decision making processes and access resources, therefore understanding the objective and subjective elements of this crime is essential for proper legal qualification and effective enforcement, as well as for identifying the criminological conditions that facilitate such offenses.

According to the second condition, if a person, after committing criminal acts, voluntarily reports this within thirty days, sincerely repents, and actively assists in solving the crime, they shall be exempted from criminal liability under Article 1929 of the Criminal Code.

A person who has committed commercial bribery may voluntarily report this to any authority (National Security Service, прокуратура, court, police, local government authorities, neighborhood committee, and others) in any form (oral, written, or through third parties). In determining the voluntariness of such a report, it is necessary to take into account that it must be made before law enforcement authorities become aware of the crime. The motive and purpose of such a report (fear of exposure or punishment, remorse, etc.) are not significant for exemption from liability.

However, the exemption of a person who committed commercial bribery from criminal liability does not mean that there is no corpus delicti in their actions.

Therefore, such persons cannot be recognized as victims and are not entitled to demand the return of the предмет of the bribe transferred to the recipient in the course of commercial bribery. (M.H.Rustamboev, 2016)

2. Methods

This research is based on qualitative analysis of legal doctrine and academic literature related to corruption criminal law and criminology using systematic and comparative approaches

to examine the structure of the crime and its underlying causes the study synthesizes findings from multiple jurisdictions and theoretical perspectives to provide a comprehensive understanding of both objective and subjective elements of commercial bribery involving NGO employees.

3.Results

The findings indicate that the objective elements of the crime of commercial bribery involving an employee of a non-governmental non-profit organization include several key components such as the act of offering promising or giving material or non material benefits as well as receiving or accepting such benefits in exchange for performing or refraining from performing certain actions in the interest of the bribe giver and contrary to the lawful interests of the organization, the objective side also encompasses the method and form of bribery which may occur openly or secretly directly or through intermediaries and may involve various forms such as gifts financial incentives or disguised transactions, research shows that corruption in private sector interactions often takes sophisticated forms including indirect benefits and hidden arrangements making detection and prosecution more difficult (Salam & Prakasa, 2021), moreover the objective elements also include the harmful consequences of such acts which may involve financial losses reputational damage and distortion of organizational activities, in addition the subject of the crime is typically an employee or representative of a non-governmental organization who possesses certain authority or influence over organizational decisions, studies indicate that modern legal systems increasingly extend criminal liability to both individuals and organizations in cases of corruption thereby strengthening accountability mechanisms (Sarjiyati, 2019), the subjective elements of the crime are characterized by direct intent as the perpetrator is aware of the unlawful nature of their actions and deliberately engages in them for personal gain or other benefits and the motive is typically selfish involving financial enrichment career advancement or other personal interests, criminological analysis shows that such behavior is often facilitated by rationalization weak ethical standards and perceived low risk of punishment (Hope, 2014), additionally cultural and systemic factors such as tolerance of corruption lack of transparency and inadequate oversight contribute to the formation of criminal intent and increase the likelihood of such offenses (Vu, 2017)

4. Discussion

The analysis demonstrates that the distinction between objective and subjective elements is crucial for proper legal qualification of commercial bribery as the objective side establishes the external manifestation of the crime while the subjective side reveals the internal mental state of the offender and both must be present for criminal liability to arise, one of the key challenges in practice is proving the subjective element particularly intent and motive due to the covert nature of bribery and the use of intermediaries and indirect benefits, therefore legal frameworks must provide clear definitions and evidentiary standards to ensure effective prosecution, moreover preventive measures such as strengthening internal controls implementing compliance programs and promoting ethical organizational culture are essential to reduce opportunities for corruption as research indicates that strong compliance systems and accountability mechanisms significantly decrease corruption risks (Tuliakov et al., 2025), furthermore the role of civil society media and regulatory institutions is important in increasing transparency and accountability as greater public oversight is associated with lower levels of corruption (Themudo, 2013), addressing both objective and subjective aspects of the crime requires a comprehensive approach that combines legal regulation institutional reform and social awareness.

Conclusion

In conclusion the objective and subjective elements of the crime of commercial bribery involving employees of non-governmental non-profit organizations constitute a complex legal and criminological structure that reflects the multifaceted nature of corruption in the private and nonprofit sectors while the objective elements define the external actions and consequences of the crime the subjective elements reveal the intent and motives of the offender and both are

essential for establishing criminal liability effective prevention and control of this crime require strengthening legal frameworks enhancing enforcement mechanisms promoting transparency and accountability and addressing the underlying criminological factors that contribute to corrupt behavior.

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