



Research Article

CRIMINAL LIABILITY FOR CORRUPTION IN THE LEGISLATION OF SOME FOREIGN COUNTRIES

Submission Date: April 12, 2022, **Accepted Date:** April 20, 2022,

Published Date: April 30, 2022

Crossref doi: <https://doi.org/10.37547/social-fsshj-02-04-20>

Journal Website:
<https://frontlinejournal.s.org/journals/index.php/fsshj>

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ABSTRACT

The article contains a comparative legal analysis of the rules establishing responsibility for corruption in the legislation of FRG, Italy, Austria, France, the USA, as well as the aggravating features of the liability.

KEYWORDS

Corruption, bureaucracy, establishment, passive bribery, corrupt deal, property interest.

INTRODUCTION

Western experts note that, despite the fact that big changes are taking place today, the main task

of social management is to ensure the preservation of teamwork as a factor in ensuring

the achievement of a common goal. Therefore, the interest of foreign scientists in the problems of bureaucracy and the structure, functions of the "establishment" and responsibility for it is growing. It is recognized as one of the decisive problems of democracy. In accordance with the law, it was established that the burden of ensuring the prosperity and well-being of the state falls on the shoulders of bureaucracy, bureaucracy has a great influence on the spirituality and behavior of a citizen. "The Establishment" means a group of persons who have real power in society, without holding any official positions and without having the corresponding powers. If public officials are the target of bribery, the institution can be characterized as an environment in which bribery thrive. They will be able to influence the economy by using the powers of officials for their own purposes, without having the necessary decision-making position for them.

Therefore, the fight against corruption abroad is strictly regulated in the legal sense, so that the process of management instability does not go beyond what is permitted, and does not pose a threat to the foundations of public security and public order. In the laws of Western European

countries in this regard, there are the following specific aspects: depending on the signs of the party-object and the subject of receiving a bribe, liability is differentiated; the subject of the bribe is broadly understood; only individuals will be subject to this crime; for this action, rather severe types of punishments and measures are provided. Only officials can be the subjects of a crime related to receiving a bribe. Despite differences in laws, it is understood that an official is an entity performing public duties. According to scientists, the composition of corruption crimes has been developed thoroughly.

If an official occupies a special position, his responsibility will increase even more. For example, accepting a simple bribe in accordance with § 331 of part 1 of the Criminal Code of the Federal Republic of Germany, that is, extorting property or other benefits from officials, accepting such benefits or promising to stop working simultaneously or in the future, is punishable by a fine or imprisonment for up to two years.

A judge or arbitration court is punishable by a fine or imprisonment for a term of up to three years for such an act committed in the performance of his duties (CC of FRG, § 331 part 2 [1]. Liability for

bribery is differentiated depending on whether the objective side has certain characteristics. Usually, such signs include illegal remuneration before and after the commission of official actions in favor of the bribe giver; legality or illegality of bribery; whether there were harmful consequences as a result of bribing an employee; method of extortion (the requirement of extortion and the presence of signs of mediation in bribery).

According to part 2 of Art. 318 Criminal Code of Italy, the receipt by an official of remuneration for an act committed in the interests of the bribe-giver is a privileged offense. Such an act is punishable by imprisonment for up to one year.

In civil, criminal or administrative proceedings, giving a bribe to facilitate or harm one of the parties is an aggravating circumstance. In the case of deliberate unlawful conviction of a bribe taker, the punishment imposed on the guilty official is determined by the type and measure of punishment imposed on the unlawfully convicted person in accordance with the law (Criminal Code of Italy, article 319, part 3 [2]. The interests of the bribe giver do not have to be legal for the official's actions to be regarded as extortion. In this case, it is sufficient to determine whether the official had

a psychological impact on the paying subject. In accordance with the Austrian Criminal Code, bribery for legal acts is punishable by imprisonment for up to one year, and bribery for illegal acts is punishable by imprisonment for up to three years. Giving a bribe through an intermediary is a more serious crime than directly receiving a bribe. (Criminal Code of Austria, § 306).

The objective side of the norms of French criminal law is of great interest from the point of view of its specificity. Bribery is literally called "passive bribery".

In accordance with the law (French Criminal Code, article 432, part 11), an official may or may not perform his official duties, duties, representational duties, as well as receive awards, positions, employment contracts or other preferential decisions in the public or administrative sphere, directly or indirectly soliciting or soliciting offers, promises, gifts or gifts for abusing one's real or false position in order to achieve a goal is called "passive bribery" [3]. It is interesting that the sanctions of the norms providing for responsibility for covert forms of bribery are much milder than the sanctions provided for ordinary "passive"

bribery, where one demand of an official to give a bribe is sufficient. It can be assumed that such a solution to the problem by the legislator is explained, first of all, by facilitating the disclosure of the crime, as well as by life experience and common sense.

Any illegal payment a servant receives is also not a "classic" bribe. If an official receives an additional payment in the form of taxes or corporate income, as provided or exaggerated by law, the likelihood of "passive bribery" is very high.

In addition, officials dealing with taxes, levies, as well as officials controlling business activities (concluding contracts, taking measures to prevent market monopolization, etc.) will be more exposed to the effects of corruption than others.

The practice of the countries of the world confirms the correctness of our opinion. This is probably why paragraphs 10 and 12 of article 432 of the French Criminal Code do not specify whether an official will be rewarded for the performance or non-performance of his duties. It should be noted that liability for bribery is based on the same criteria as the definition of liability

for bribery, which is the basis for establishing the rules of criminal law (for example, part 1 of Article 433 of the French Criminal Code, paragraphs 1 and 2 of Article 333 of the Criminal Code of the FRG). But this is not an absolutely immutable rule. For example, under Italian criminal law, if an official is prosecuted for taking a bribe before or after committing an action falling under his jurisdiction (article 318), a person who bribed an official for this action is not considered a criminal offense under article 312 of the Italian Criminal Code. In part 1 of Art. 333 of the Criminal Code of the FRG, special attention is paid to the offer of a bribe to a member of the Bundeswehr. However, the Bundeswehr soldier himself is not considered a subject of bribery (in part 1 of article 331 of Criminal Code of the FRG there is no such sign). In the criminal law of Western European countries, the subject of bribery is much broader - it is understood as a property or other benefit. In some cases, the characteristics of the material or other benefit presented as the subject of a bribe are important for qualifying a crime. For example, according to Criminal Code of Italy, giving a bribe in the form of a position, scholarship, pension, a written agreement of interest to an official is considered

an aggravating circumstance of bribery (part 2 of article 319 of Criminal Code of Italy).

In the criminal legislation of some countries, the penalties are the same (part 1 of paragraph 333 of Criminal Code of Italy, paragraph; article 432-11 and article 433-1 of Criminal Code of French; article 321 of Criminal Code of Italy).

However, the preferential composition of offenses (turning an employee into a bribe) provides for a punishment of up to two-thirds of the fine that can currently be imposed on a bribe-taker.

Unlike criminal law in the US, UK, legal measures to prevent worker bribery in Italy, France and FRG are more stable.

In France, until 1992, perpetrators were prosecuted under articles 177-183 of the Criminal Code of 1810; serious amendments to the Criminal Code of Italy of 1930 regarding malfeasance were made only in 1990.

In the German Criminal Code, adopted in 1871, the norms on bribery remained practically unchanged.

In the US and UK Criminal Codes, the topic of bribery is treated more broadly; фақат жисмоний шахслар эмас, legal entities are also recognized as subjects of corruption; punitive measures are softer than in Western Europe: there are some procedural features of bringing to criminal liability for bribery; the sources of law in which the principles of liability for corruption are expressed are numerous, and the legislation is not distinguished by its stability.

Under criminal law in the United States and the United Kingdom, employees of public organizations - both officials and other employees - can be prosecuted for accepting a bribe. For example, according to section 201 of the United States Code, the subjects of bribery are: civil servants (members of the US Congress, employees of the executive branch, advisers, etc.); persons elected or chosen as candidates to serve as a public official (provided they have been notified of the forthcoming election or appointment); special government employees (i.e. paid or unpaid employees in the federal legislature and executive agencies or in any independent US agency for at least 130 days a year).

Under English law of 1889 "On Corruption in Public Organizations", of 1906 and 1916 on the Prevention of Corruption, a member or employee of a public organization can be prosecuted for bribery in order to bribe himself or another person in exchange for a bribe, whoever solicits or receives or agrees to solicit a gift, debt, payment, reward or privilege for himself or another person as a means of inciting him to do or omitted to do something is guilty of "accepting a bribe".

A deal before a bribe is known in British jurisprudence as a "corrupt deal". Neither the proof of such an agreement that took place before the payment of the fine, nor the fact that the payment was made after the provision of the service, are of any importance for the qualification of the offense.

However, the classifying features can be the powers of an official and features of official activity, signs of a crime.

Under Section 201 of the U.S. Code of Conduct, an aggravating circumstance is bribing a government official to induce him or her to commit or commit fraudulent acts against the United States. For example, to involve a member

of Congress, a delegation of the Federal District of Columbia, a member of the Congressional Standing Committee against Tax Evasion (paragraph 203 of the US Code of Laws) to resolve issues affecting the interests of the government, to help or promise a position or place from the US public service to a private person (paragraph 211 (215th line), the use of monetary funds allocated in accordance with a Congressional document to pay for any services in order to influence the opinion of a member of Congress without congressional authorization are part of separate crimes [4].

In the US and UK legislation, the subject of *pork* is widely understood. In England, according to criminal law, it is "a gift or something of value." According to paragraph 7 of the California Penal Code, *pork* is understood as "any material costs or privileges." However, the Model Criminal Code also defines the concepts of "interest" and "property interest". Benefit means "a benefit or privilege or anything else that a beneficiary considers to be a benefit or privilege.

"Property interest" means an interest whose primary meaning is "economic benefit". At the same time, in some components of bribery, the

subject of bribery can consist only of property interests, and in others - of interests in general.

At the same time, in some components of bribery, the subject of bribery can consist only of property interests, and in others - of interests in general. Thus, in the US criminal law, the subject of bribery is interpreted in different ways.

In the criminal legislation of individual states, the amount of the bribe paid when bribing an employee affects the qualification of the act.

In some cases, the level of social risk of bribery is determined by the size of the bribe. "Teas" is a separate topic of bribery.

In our opinion, there is no serious difference between a bribe and a tip. When we say "tip", we mean the additional payment that an official receives for the provision of legal services. But unlike bribery in the narrow sense, taking and giving tips falls under the category of misdemeanours.

Legal sanctions for corruption in US and UK law also have a number of unique features.

British common law provides for a fine or up to two years in prison for this act. Under the statute,

long-term imprisonment for bribery (up to 7 years under the Bribery in Public Offices Act 1889), as well as the right to return gifts, debts, fees or royalties to public organizations, the right to be elected or appointed to public office for a period of 5 years with deprivation of the right to vote in elections to parliament or other public organization for a period of 5 years, deprivation of the right to receive a pension or compensation.

Fines and imprisonment may be given as an alternative punishment or both.

Individual US states have more stringent penalties under criminal law for aggravated bribery. For example, a category "A" felony is punishable by up to 25 years in prison for bribing an officer to investigate, arrest, prosecute, or detain a defendant.

However, under federal law, accepting or giving a bribe is punishable by a fine of up to \$10,000 dollars or imprisonment for up to 2 years. The existence of certain procedural peculiarities in the initial investigation and trial of cases of corruption significantly complicated the process of identifying and investigating bribery. Cases of bribery of an official in connection with the conclusion of a transaction of national



importance are considered in the court of advisers.

When it is assumed that the subject has committed an act that violates the law, the defendant must prove that the receipt or grant of any rights or privileges is not illegal (English law 1916).

Under U.S. criminal law, paying a bribe requires a bribe agreement. Giving a bribe for a previously committed act is a privileged corpus delicti. This is due not only to the relatively low level of social risk of bribery in the form of gratitude, but also to the right to collect evidence.

In the United States, along with federal corruption laws, state criminal codes also apply. Articles in the US Criminal Codes on liability for bribing an employee in bribery are quite diverse

Liability for bribery in British statutory law is determined by the laws of 1889, 1906, 1916 and 1925, and is also regulated by judicial precedents. This is evidenced by the fact that the anti-corruption legislation of England has a dynamic nature. Detailed, sometimes excessively detailed definitions, the establishment of the same special norms as the general sanctions, or the

introduction into the law of unnecessary classified (preferential) contents (for example, a substance for which responsibility is provided for the issuance and receipt of tip) are among the peculiarities of the US anti-corruption legislation.

Undoubtedly, it is useful to take certain provisions from the laws of modern foreign countries (for example, to study the broad understanding of the subject of bribery in US criminal law, the definition of the circle of officials who should be held accountable, strict for bribery, the application of a fine for this crime and a fairly long prison sentence).

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