



THE COMPOSITION AND CRIMINOLOGICAL ASPECTS OF THE CRIME OF COMMERCIAL BRIBERY

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Abstract: *This article examines the legal composition and criminological aspects of the crime of commercial bribery by analyzing its structural elements and underlying causes within an IMRAD framework and synthesizing findings from academic research, demonstrating that commercial bribery represents a complex form of corruption rooted in abuse of entrusted power in private sector relations and requiring comprehensive legal and criminological approaches for effective prevention and control*

Keywords: *commercial bribery, corruption, criminal liability, private sector crime, abuse of power, criminology, corporate governance, economic crime*

1.Introduction

Commercial bribery has emerged as a significant form of corruption within modern economic systems particularly in the context of market economies where private sector actors play an increasingly dominant role in economic transactions and decision making and it is generally understood as the unlawful provision or receipt of benefits by an employee or representative of a commercial organization in exchange for actions contrary to the interests of that organization, such practices undermine fair competition distort market mechanisms and erode trust in economic institutions as corruption broadly defined as the abuse of entrusted power for private gain applies equally to private sector interactions and has serious consequences for economic development and governance (Iddrisu, 2019), historically criminal law focused primarily on bribery involving public officials but the expansion of

corporate activities and globalization of markets have led to recognition of commercial bribery as a distinct and serious offense requiring specific legal regulation and criminological understanding because private sector corruption can lead to unfair competition financial losses and systemic economic risks (Salam & Prakasa, 2021), therefore studying the composition and criminological aspects of this crime is essential for developing effective legal frameworks and preventive measures.

The performance or non-performance of an act using one's official powers implies the use of legal and practical opportunities, that is, it includes actions (or inaction) within the scope of the employee's authority, as well as actions (or inaction) that go beyond this scope but are based on the employee's official status, reputation, awareness, access to information, and similar factors.

The performance or non-performance of an act must, by its nature, be unlawful in advance or be contrary to the lawful interests of the non-governmental non-profit organization or other non-governmental bodies, enterprises, institutions, and organizations where the employee works. The method and form of commercial bribery are not of significance. The unlawful receipt of material valuables or property benefits may be carried out personally by the employee or through an intermediary.

Commercial bribery may be carried out openly or secretly, in the form of gifts, through the sale of material valuables at an obviously reduced price, by concluding fictitious employment contracts, or in other forms.

The law does not distinguish between commercial bribery committed before performing a specific act or after the act has been performed; both constitute a criminal offense subject to the same punishment. (M.H.Rustamboyev, 2016)

2. Methods

This study is based on qualitative analysis of academic literature on corruption criminal law and criminology using comparative and systematic approaches to

examine the legal elements of commercial bribery and identify its criminological determinants the research synthesizes findings from multiple jurisdictions and theoretical perspectives to provide a comprehensive understanding of the phenomenon and relies on peer reviewed studies addressing corruption in both public and private sectors

3. Results

The findings show that the composition of the crime of commercial bribery includes several essential legal elements namely the object of the crime the objective side the subject and the subjective side and these elements collectively define the legal nature of the offense the object of commercial bribery is the normal functioning of commercial organizations and the integrity of economic relations while the objective side involves the unlawful transfer or receipt of material or non material benefits in exchange for actions or omissions in favor of the bribe giver the subject of the crime is typically an employee or representative of a commercial organization who has decision making authority or influence and the subjective side is characterized by direct intent and the presence of a selfish motive such as personal enrichment or career advancement, research indicates that the recognition of corporate and individual liability for corruption has significantly expanded in modern legal systems allowing for holding both organizations and their officials accountable for corrupt acts (Sarjiyati, 2019), moreover comparative legal analysis shows that criminal liability for corruption offenses including commercial bribery has been increasingly harmonized with international standards although challenges remain in defining key elements and ensuring consistent enforcement (Lykhova et al., 2022), from a criminological perspective the causes of commercial bribery are multifaceted and include organizational factors such as weak internal controls lack of compliance systems and poor corporate governance as well as individual factors such as greed moral disengagement and rationalization of unethical behavior, studies demonstrate that corruption persists where there is insufficient oversight and

accountability mechanisms and where individuals perceive low risk of detection and punishment (Hope, 2014), additionally systemic factors such as economic pressure competitive market environments and cultural tolerance of corruption contribute to the prevalence of commercial bribery by creating incentives for unethical conduct (Vu, 2017)

4. Discussion

The analysis highlights that the legal composition of commercial bribery reflects its dual nature as both an economic and ethical violation affecting not only individual organizations but also broader market systems and therefore effective legal regulation requires clear definitions of the elements of the offense and robust enforcement mechanisms, one of the key challenges in addressing commercial bribery is the difficulty of detecting and proving such crimes due to their covert nature and the involvement of private transactions which often lack transparency, thus preventive measures such as internal compliance programs corporate governance reforms and external oversight mechanisms are essential for reducing opportunities for corruption as evidence shows that strong compliance frameworks and accountability systems can significantly reduce corruption risks in organizations (Tuliakov et al., 2025), furthermore criminological analysis suggests that addressing the root causes of commercial bribery requires a comprehensive approach that includes not only legal sanctions but also organizational and cultural changes aimed at promoting ethical behavior and transparency, the role of civil society media and regulatory institutions is also critical in creating an environment of accountability and reducing tolerance for corruption as stronger public oversight and transparency mechanisms are associated with lower levels of corruption (Themudo, 2013), additionally international cooperation and harmonization of anti corruption standards play an important role in addressing cross border aspects of commercial bribery which are increasingly common in globalized markets

Conclusion

In conclusion the composition and criminological aspects of the crime of commercial bribery demonstrate that it is a complex and multifaceted phenomenon requiring both legal and criminological approaches for effective prevention and control as the legal structure of the offense defines its essential elements while criminological analysis reveals the underlying causes and conditions that facilitate its occurrence, addressing commercial bribery requires strengthening legal frameworks improving enforcement mechanisms enhancing corporate governance and promoting ethical standards within organizations and society, ultimately a comprehensive and integrated approach is necessary to reduce the prevalence of commercial bribery and ensure fair and transparent economic relations

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