
Some Qualification Issues about Illegal Influence on the Result of Official Competition or Visual Commercial Tender

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Abstract:

The purpose of the article is a development of recommendations about establishment of termination moment of illegal influence on the result of official competition or spectacular commercial tender. During the study process authors analyze the forms of criminal action, described in the article 184 of the Criminal Code of the Russian Federation, and link the moment of crime termination in coordination it to each of these forms with the achievement of a certain result.

As a result authors come to a conclusion that in relation to the article 184 of the Criminal Code of the Russian Federation various qualifications of concrete forms of incomplete socially-dangerous activity are possible. On the basis of the conducted research, there is offered recommendations qualification issues of crimes connected with illegal influence on the result of official competition or visual commercial tender.

Keywords: *The objective element of a crime, the moment of a crime termination, preparatory, instigated, organizing activity, bribery, qualification of crimes.*

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Introduction

Law-appliers had remained problematic with criminal-legal assessment of illegal influence on the result of official competition or visual commercial tender (article 184 of the Criminal Code of the Russian Federation). In particular, one of the thorny qualification issues of criminal acts, described in this article is the moment of their ending.

The relevance of the topic of this study are related to few conditions: raison of the right qualification of crimes, provided for in article 184 of the Criminal Code of the Russian Federation; openness of theoretical foundations about the end of illegal influence on the result of official competition or visual commercial tender; imperfect of law enforcement relating to the right qualification of the crimes about illegal influence on the result of official competition or visual commercial tender.

Present work proceeds from a hypothesis about the need of the law-enforcement improvement practice connected with establishment of the moment of the end of the socially-dangerous acts, provided for in article 184 of the Criminal Code of the Russian Federation.

This article is intended to set the end of illegal influence on the result of official competition or visual commercial tender. This article solve the number of tasks for that purpose, such as to detail the end of crime in coordination it to the forms of criminal act described in article 184 of the Criminal Code of the Russian Federation; to request the qualification question of the failed instigated or organizing activity in the context of article 184 of the Criminal Code of the Russian Federation and to make proposals about formulating methodologies of definition of the end of the criminal act under article 184 of the Criminal Code of the Russian Federation. Social relations in the scope of a criminal law enforcement, regulating bringing to justice for illegal influence on the result of official competition or visual commercial tender serve as a subject of research. The subject of the research is a criminal law provided for in article 184 of the Criminal Code of the Russian Federation .

Literature review

The problems of understanding of the content of the scope linked with the end of illegal influence on the result of official competition or visual commercial tender had been repeatedly examined in criminal law literature.

Objective element of a crime, provided for in article 184 of the Criminal Code of the Russian Federation, represents bribery of participants and organizers of official sport competitions and visual commercial tender. Object party of a crime make illegal payment of remuneration in parts 3 and 4 of article 184 of the Criminal Code of the Russian Federation (Ulezko S. *et al.*, 2016).

Commission of crime of remuneration isn't included into neither the objective party of neither receiving, nor transfer of a subject of bribery and doesn't influence the solution of a question of the termination of a crime. (A.V. Brilliantov, A. *et al.*, 2015). As a result of carrying out a review of literature on a research subject it is possible to conclude that a degree of study of a problem is rather high.

Methods of researching

Authors of this article turn to general scientific methods of knowledge – dialectic, system, and private and scientific methods – structurally functional, standard logically, technical legally as methodology of carrying out a research.

Results

In our opinion, it is necessary to pay attention to a difficult nature of acts, forming its objective party of illegal influence on result of official competition or spectacular commercial tender. As Inogamova-Hegay (2015) has correctly noticed, that the objective party is designed in the form of the difficult act consisting of action of the guilty person and action (criminal or not criminal) other person (involved, declined) in structures of involvement (the Art. of Art. 150, 151, 240 of CC) and inducement (Art. 230 of CC) as well as in structures of bribery (Art. 291 of CC), commercial bribery (p.1 by Art. 201 of CC), bribery of the witness, the victim (p.1 Art. 309 of CC), etc. Other authors also pointed to the difficult nature of act in structures of bribery and the organization of various criminal formations by naming it «necessary complicity» (Konovalova, 2008; Kantimir, 2010).

We think that it is necessary to detail a moment of a crime termination, linking it to achievement of a certain result, applied to concrete forms of criminal action, described in article 184 of the Criminal Code of the Russian Federation. It is obviously that instigators seek to encourage potential perpetrators to exert an illegal impact to one or another visual contest through coercion, inducement, active bribery. Organisers wish to organise a committing of this action through a consolidation of potential perpetrators into group of individuals

It is necessary to consider a crime over in forms of inducement and coercion when the incited person has an intention to make antisocial act which he anyway showed outside from the moment of emergence.

Bribery is another matter. Although active bribery is a type of inducement in general-theoretical sense of the word, however, agreement of a bribed person to accept an illegal remuneration cannot be recognized a moment of a crime termination.

It is generally recognized that a referral (from one side) and receiving (from the other side) bribery subject recognize completed action since the moment when

bribed accepted at least a part of material remuneration or started to use property services or property rights. Making for a remuneration expected actions from the gifted person isn't included into the objective party of neither receiving, nor transfer of a subject of bribery and doesn't influence the solution of a question of the termination of a crime isn't included into the objective party of neither receiving, nor transfer of a subject of bribery and doesn't influence the solution of a question of the termination of a crime (Borzenkov, N. *et al.*, 2013; Gracheva, V. *et al.*, 2012; Blinnikov, V. *et al.*, 2012). The Plenum of the Supreme Court of the RF gave equal explanation about a moment of bribery termination in item 10, 11 of the resolution of July 9, 2013 N 24 «About court practice on cases of bribery and of other corruption crimes».

Given the foregoing, it is necessary to recognize that instigated and organizing activity within the meaning of part 1 article 184 of the Criminal Code of the Russian Federation is over (held) since the moment of an achievement of proposed result, when potential perpetrators of an illegal influence on the result of visual competition (specified in the p. 3, 4 of article 184) have been pledged an illegal influence on the end of the competition or tender, receiving subject of bribery or entering into a prior conspiracy. As it is correctly noted in some comments to the criminal law a crime will take place if it is proved that remuneration is received for the promise to make actions that can influence on the outcome of a contest or competition (Ulezko *et al.*, 2016). If potential co-perpetrators agreed on jointly illegal influence on the result of official competition or visual commercial tender on their own, then what you've done forms the ended corpus of crime, described in parts 3 or 4 article 184 of the criminal code of Russian Federation.

An issue about qualification of unsuccessful inflammatory or organising action deserves to be considered in the context of art. 184 CC of the RF, containing a truncated crime.

It is worth noting, that some authors permit preparations in crimes with the truncated corpus. Chernokozinskaya (2005) calls such forms of preparatory activity as finding, making a tool to commit a crime, adaptation of instruments or means of a crime; finding of co-conspirators, encouraging their participation in crime and etc.; other intentional creation of conditions, including developing contingency plans, planning of use of weapon.

Reshetnikova (2012) thinks differently. She believes that in truncated corpus of crimes only stages of attempt and finished crime since their objective (party) describes with signs, specific to preparatory actions. In our opinion, applied to the article 184 of the Criminal Code of the Russian Federation various qualification of concrete forms of an unfinished socially-dangerous action is possible. So, if the action of the instigator on inducement, coercion or organiser on integration of co-conspirators in group of individuals by prior conspiracy was not successful (potential perpetrators were not accepted to conduct an antisocial action) then what

you've done forms attempt and qualifies according to the p. 3 of article 30 and part 1 of article 184 of the of the Criminal Code of the Russian Federation. Attempt at active bribery takes place in case of refusal of the persons specified in the law to accept from giving illegal remuneration and to make antisocial act (the p. 3 of Art. 30 and p.1 Art. 184 of the criminal code of Russian Federation).

If receiving a subject of bribery didn't take place on the circumstances which aren't depending on will of the person trying it to receive, they also should qualify what you have done as the attempt at illegal receiving bribery (the p. 3 of Art. 30, the p. 3 or the p. 4 of Art. 184 of the criminal code of Russian Federation) as in Brilliantov *et al.* (2015).

The highest judicial authority makes similar recommendations about a criminal legal treatment of commercial bribery. So, the Plenum of the Supreme Court of the Russian Federation in item 12 of the resolution of July 9, 2013 № 24 «About cases of bribery and of other corruption crimes» says about jurisprudence that in case the person which is carrying out administrative functions in commercial or other organization refused to take the subject of commercial bribery, actions of the person which are directly directed to their transfer qualifications as attempt at the crime provided by part 1 or part 2 of article 204 of the Criminal Code of the Russian Federation.

Discussion

The results of the conducted research indicate that applied to the concrete forms of illegal influence on the result of official competition or visual commercial tender, a moment of a crime termination should be detailed, linking it to an achievement of a certain result.

Conclusion

As a result of a research of the questions concerning assessment of the objective party of illegal influence on result of an official competition or a spectacular commercial competition, issues of qualification of the corpus of the crime analyzed by us have to be resolved taking into account that in general-theoretical sense the criminal actions provided p.1 by Art. 184 of the Criminal Code of the Russian Federation are a kind of preparatory, instigated and organizing activity, but in the p. 3, 4 of Art. 184 of the Criminal Code of the Russian Federation preparatory acts of potential performers of illegal influence on result of an official competition or a spectacular commercial competition are depicted.

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