

THE CONCEPT OF LIABILITY OF A COMMERCIAL ORGANIZATION'S OFFICIAL FOR OFFICIAL (OFFICE-RELATED) CRIMES

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Abstract

The criminal liability of officials in commercial organizations has gained increasing attention in contemporary legal scholarship, particularly in light of the growing economic influence of private enterprises. Officials entrusted with managerial, administrative, or financial authority may exploit their positions for personal gain, resulting in office-related crimes that undermine organizational integrity and public trust. This article examines the concept of liability of a commercial organization's official for office-related crimes, emphasizing the application of criminal law principles and the rule of law. Using doctrinal legal analysis and comparative law methods, the study explores the definition of a commercial official, the nature of office-related crimes, and the conditions for criminal liability. The findings indicate that effective accountability frameworks are essential for preventing abuse of authority and ensuring lawful business conduct. The article concludes that precise legal regulation and adherence to procedural fairness are critical for balancing organizational oversight with individual rights.

Keywords: commercial organization, official, office-related crimes, criminal liability, rule of law, economic governance

1. Introduction

Commercial organizations are central actors in modern economies, influencing investment, employment, and wealth creation. The effective management of these entities relies on officials who wield significant authority over financial and operational decisions. However, the concentration of such powers introduces risks of misconduct, particularly in the form of office-related crimes—acts committed by officials exploiting their position to gain unlawful advantages or cause harm to the organization or third parties (Gobert & Punch, 2003).

Historically, the concept of office-related crimes primarily applied to public officials (Ashworth, 2015). Nevertheless, private-sector officials, including directors, executive managers, and chief accountants, increasingly fall within the ambit of criminal liability due to their capacity to affect substantial financial and legal outcomes (Wells, 2011). This shift reflects a broader legal recognition that abuse of power in private organizations can generate harms comparable to those in the public sector, including fraud, bribery, embezzlement, and other economic crimes.

This article investigates the concept of liability of a commercial organization's official for office-related crimes under modern criminal law, emphasizing legal definitions, key characteristics, and procedural requirements for liability. The analysis is framed within the principle of the rule of law, ensuring that accountability is consistent, predictable, and proportional.

Bribery in Commercial Organizations – This is a generalized term that covers two independent components of official (office-related) crimes against the functioning of a non-governmental commercial organization or other non-governmental entity: namely, the giving and receiving of material values or property interests. Each act of encroachment against the stated interests cannot occur independently of the other; they are intrinsically linked. In this context, if the subject of bribery is absent, the act of receiving cannot be considered to have occurred in itself.

As with all crimes against the functioning of state authority, administration, and public associations, bribery in a commercial organization constitutes an infringement upon the normal functioning of the administrative apparatus, represented by state bodies and officials.

The social danger of a crime such as bribery in commercial organizations is high because it allows officials of a non-governmental commercial organization or other non-governmental entity to grossly violate the prescribed procedure for exercising their official powers, thereby seriously undermining the interests of the commercial activity. Bribery in commercial organizations is considered one of the most typical and distinctive forms of corruption.

The direct object of the crime under consideration is the social relations within the sphere of ensuring the normal functioning of the management apparatus of a non-governmental commercial organization or other non-governmental entity, including the labor and financial interests of the organization's employees.

2. Methods

The research employs a doctrinal legal methodology with complementary comparative analysis to examine office-related crimes in commercial organizations. The primary methods are as follows:

1. **Normative Analysis:** Examination of national and international legal frameworks governing criminal liability for office-related crimes, including statutory provisions and case law (Clarkson et al., 2014).

2. **Conceptual Analysis:** Clarification of key concepts such as “commercial organization official,” “office-related crime,” and “criminal liability” to ensure precise legal interpretation.

3. **Comparative Analysis:** Review of selected foreign jurisdictions to identify best practices and common approaches in regulating private-sector official crimes (OECD, 2020).

4. **Systematic Interpretation:** Application of legal principles, including the rule of law, legality, and proportionality, to assess the boundaries and rationale for liability.

This methodological framework allows an integrated understanding of both theoretical foundations and practical applications of criminal liability for commercial officials.

3. Results

3.1 Definition of a Commercial Organization's Official

A commercial organization's official is an individual authorized to exercise managerial, administrative, or financial functions that significantly affect the organization's operations or assets. This category typically includes:

- Directors and members of executive boards
- Chief executive officers and general managers
- Chief financial officers and accountants
- Heads of branches or subsidiaries (Wells, 2011)

The elevated decision-making authority of these officials justifies imposing specific legal obligations, including criminal liability for misconduct.

3.2 Nature of Office-Related Crimes

Office-related crimes in commercial organizations are characterized by the misuse of position to benefit oneself or others, contrary to the organization's interests. Common forms include:

- Abuse of authority and overstepping official powers (Ashworth, 2015)
- Bribery and corruption in commercial transactions (UNODC, 2018)
- Embezzlement or misappropriation of organizational assets
- Deliberate concealment of conflicts of interest
- Fraudulent accounting or financial reporting (Gobert & Punch, 2003)

These crimes are distinguished from ordinary corporate errors by their direct reliance on the official's position and intent to gain personal or external advantage.

3.3 Conditions for Criminal Liability

Criminal liability arises when the following elements are satisfied (Clarkson et al., 2014):

1. Legal element: A statutory provision defines the act as a crime.
2. Objective element: There is an unlawful act or omission linked causally to harm.
3. Subject element: The offender is a commercial organization official, recognized as a special subject of the offense.
4. **Subjective element:** The act is committed with intent or, in some cases, with gross negligence.

Importantly, liability is not imposed for business failures or poor managerial decisions but only for conduct meeting all the elements of an offense.

4. Discussion

Extending criminal liability to commercial organization officials represents an evolution in modern criminal law that prioritizes economic governance and corporate integrity (OECD, 2020). From a rule-of-law perspective, liability must be grounded in clearly defined legal norms, ensuring predictability, fairness, and proportionality (Ashworth, 2015).

A key challenge is differentiating criminal acts from civil breaches or administrative misconduct. Overly broad criminalization risks discouraging legitimate business decisions and undermining confidence in commercial law. Therefore, statutes must clearly delineate the conduct constituting an office-related crime and provide procedural safeguards to protect the rights of officials (Clarkson et al., 2014).

Comparative studies indicate a global trend toward holding private-sector officials accountable for corruption, fraud, and fiduciary breaches. This convergence emphasizes the importance of harmonizing domestic regulations with international anti-corruption standards (UNODC, 2018).

The preventive aspect of liability is equally important. By clarifying legal obligations and potential consequences, criminal law reinforces corporate compliance, fosters transparency, and strengthens public confidence in economic institutions (Gobert & Punch, 2003).

Conclusion

The liability of commercial organization officials for office-related crimes is a critical component of modern criminal law, reflecting the need to prevent abuse of authority and safeguard economic interests. The concept encompasses officials with decision-making authority who misuse their position for personal gain or to the detriment of the organization. Criminal liability should be imposed based on clear legal criteria, adhering to principles of fairness, proportionality, and the rule of law. Strengthening legal clarity and enforcement mechanisms ensures effective accountability, corporate integrity, and public trust in economic governance.

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