Illegal influence on the results of sports or spectacular commercial competitions (article 184 of the Criminal Code of the Russian Federation): problems of legislative regulation and law enforcement practice

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Annotation. Corruption crimes are posted in almost every chapter of the Criminal Code of the Russian Federation. This fact clearly shows that corruption has penetrated, if not all, then into many areas of public relations that require criminal law protection. Chapter 22 of the criminal law of Russia, which reflects the rules on liability for certain corruption crimes, including Art. 184 of the Criminal Code. The authors made an attempt to analyze the normative regulation of responsibility for commercial bribery in the field of sports and show business, and also discussed the issues of regulation and qualifications of exerting unlawful influence on the result of an official sports competition or spectacular commercial competition.

Keywords: criminal law, crime, corruption, economic activity, bribery, sports competition, commercial competition, illegal influence, criminal liability, regulation, qualification.

Оказание противоправного влияния на результаты спортивных соревнований или зрелищных коммерческих конкурсов (ст. 184 УК РФ): проблемы законодательной регламентации и правоприменительной практики

Annotation. Коррупционные преступления размещены практически в каждой главе УК РФ. Данный факт наглядно показывает, что коррупция проникла, если не все, то во многие сферы общественных отношений, которые требуют уголовно-правовой охраны. Не исключением стала и глава 22 уголовного закона России, в которой отражены нормы об ответственности за некоторые коррупционные преступления, в том числе, ст. 184 УК РФ. Авторами сделана попытка проанализировать нормативную регламентацию ответственности за коммерческий подкуп в сфере спорта и шоу-бизнеса, а также рассматриваются дискуссионные вопросы регламентации и квалификации оказания противоправного влияния на результат официального спортивного соревнования или зрелищного коммерческого конкурса.

Ключевые слова: уголовный закон, преступление, коррупция, экономическая деятельность, подкуп, спортивное соревнование, коммерческий конкурс, противоправное влияние, уголовная ответственность, регулирование, квалификация.

Introduction. The inclusion of an article on liability for bribery in the sphere of sport and show business (article 184) in the criminal code of the Russian Federation assumes that it is the circle of social relations that are the object of the crime, is subject to special protection and is the most relevant to society. Under this condition, it is necessary that the inclusion of such social relations under the protection of the criminal law was justified from the point of view of their value to society and the size of harm. The increase in the number of articles in the criminal code is not to say that improving the quality of protection of specific social relations, on the contrary, excessive conglomeration of the code articles, the complexity of its terminology may lead to errors in law enforcement, and thus reduce the effectiveness of the criminal law. Article 184 of the criminal code is present in the code since its adoption, although initially it had a slightly different name and content. Likely, with the inclusion of article 184 of the criminal code, the legislator was guided by the fact that professional sports have always had a great importance both in international and in domestic politics of a particular state. And, of course, nobody argues with the need to protect the professional sports and entertainment competitions from undue interference. But despite this, for the duration of the criminal code of the Russian Federation judicial practice under this article, despite the fact that corruption in Russian sport is the place to be. So, according to the rating of the Italian Agency «Sportradar», for the period from 2017 to 2018 in our country was made 42 of contractual football match, and on this indicator Russia took seventh place in the list of most corrupt countries in Europe. In this regard, the question arises why, despite this level of corruption in the field of sport, until now no one has been prosecuted? Accordingly, the next logical question
– whether the existence of article 184 of the criminal code of the Russian Federation and how this norm demanded by the practice.

Basic research. As noted earlier, article 184 of the criminal code is present in the criminal code since its adoption. But it is worth noting that for all time of its existence it has been significantly redesigned. Initially, the article was entitled “Bribery of participants and organizers of professional sports competitions and entertainment commercial competitions”. First, in 2013, changed the object of encroachment: originally the article stated only professional sports competitions and entertainment commercial competitions, and after the changes (and present) in the range of public relations falling under the protection of this article, include the official sports competitions and commercial entertaining competitions. In addition, was expanded objective party of the crime provided by part 1 of article 184 of the criminal code – to the previously available have been added such acts as coercion or inducement of persons referred to in article aimed at unlawfully influencing the result of a spectacular commercial contest or competition. In part 3 of article 184 also has a new offender party spectacular commercial competition.

And that is important to us, therefore, introduced in 2013, the goal changes, increased liability for acts stipulated by article 184 of the criminal code, in connection with what has changed and categories of crimes. So, if the acts envisaged in part 1 of article 184, 184 3, 4 of article 184 of the criminal code was applied to minor offenses, and part 2 of article 184 of the criminal code – to crimes of average weight, then after the changes, the first group of crimes became crimes of medium gravity, and part 2 of article 184 of the criminal code is a serious offence.

To date, under the provision of illegal influence on results of official sports competitions and entertainment commercial contest the legislator understands:

1) the Transfer of the athlete, the sports judge, the coach, the head athletic teams, the other participant or organizer of official sports competition (including the employee), the jury member, participant or the organizer of commercial competition, money, securities, other property, and also rendering to him services of property character, granting of other property rights, including when the indication of such person's property is transferred or services are rendered or property rights are granted to another person or entity;

2) an athlete, a coach, or a leader of a sports team or other participants of official sports competition, as well as members of the entertaining commercial competition, money, securities, other property, and the use of services of property nature or other property rights (including when the indication of such person's assets are transferred, or services of property character are, or property rights are granted to another individual or legal entity), or preliminary agreement of such parties for the purpose of illegal influence on results of official sports competitions and entertainment commercial contest.

After amendments in July 2016 has changed sanctions in this article (in the direction of tightening). Now the penalty for committing a crime under part 1 of article 184 provides for a fine of up to 700 (previously 500) thousand rubles or the salary or other income of the convicted person for a period from 4 months to 1 year (previously from 1 to 3 years), as well as imprisonment for up to 5 years with a fine in the amount of 100 thousand rubles or the salary or other income of the convicted person for a period up to five months, or without (previously, imprisonment up to 4 years with a fine in the amount of 100 thousand rubles or the salary or other income of the convicted person for a period up to five months, or without it.

In addition, the article was supplemented by part 5 provides for liability for intermediation in committing the acts stipulated under parts 1 to 4 of article 184 of the criminal code, in large amount, and notes (which will be discussed later).

Note a few of the problems characteristic of the normative regulation and the use of the investigational article. First, you need to pay attention to the location of article 184 of the Criminal Code of the Russian Federation. It is located in Chapter 22, crimes in the sphere of economic activity. Object types of crimes included in this Chapter are the social relationships in the sphere of economic activity. In accordance with paragraph 9 of article 2 of the Federal law dated 04.12.2007 N 329-FZ official sport event is a sporting event included in the Unified calendar plan of interregional, all-Russian and international sports events, schedules of sports actions of subjects of the Russian Federation, municipal formations.

In the power of the Olympic Charter the goal of the official sports of the event is to promote sport and a healthy lifestyle, attract people to the sport, increased skill level of athletes and identifying the strongest for participation in competitions of higher rank and/or formation of national teams of the municipality, County, Russia. Therefore, committing a crime, violating the legitimate carrying out of official sports competitions affects including the interests of morality. Accordingly, the question arises whether the presence 184 Chapter 22, if the protection of morality as the object of a crime designed different Chapter of the criminal code (Chapter 25)? But at the same time the conduct of any official sports activities are inevitably associated with significant material costs and is not without conclude various transactions. For example, elementary providing facilities for competitions, necessary equipment, equipping of the athlete – all this requires a significant investment. And, probably, no such competition is not without sponsorship. That is, in this case a kind of economic rationale in the article are also available.

Under a spectacular commercial competition means any competition (not competition in the sense of trading) by a business organization in its business activities and which is a spectacle for the audience (beauty contest, some televised contests). That is right here is an indication of the entrepreneurial nature of the activity. In any case, it turns out that in one article placed under the protection of two groups of public relations of different nature.

Also raises the question of the justification of being in one article, a socially dangerous act, expressed in the transfer of money, valuables and other property were received and mediation. Why the legislator in this case has not followed the path that he chose for the article
290–291.1 of the Criminal Code of the Russian Federation. Because then it turns out that there is violated a principle of legislative technique, as it is uniformity. Why under some offenses allowed such a separate article, and in other – is not allowed. Probably, the legislator is guided by what we consider to be not used in practice, accordingly, there is no need to make any significant changes.

If the subject of the crime under parts 1, 2, 5 of article 184 of the Criminal Code of the Russian Federation is any sane person over the age of 16. Then, with reference to parts 3, 4 of article 184 of the Criminal Code of the Russian Federation the subject of the special. The feature that distinguishes the liability under the criminal code. In our opinion, not justified can be considered the difference in sanctions of parts 3 and 4 of article 184 of the Criminal Code of the Russian Federation. The least strict liability provided for by part 3 of this article. The subject of the crime here are the participants of official sports competitions and entertainment commercial contest. But if the same crime is committed by a judge, the organizer or jury member, for which a greater punishment is provided. I believe that the actions, behaviours, results of the athletes and participants of the spectacular commercial competitions depends on the economic result that is received, and accordingly, in their hands are the result. But if you look at it from the other side, then it is the judge and jury make the final legal decision. Probably, it would be logical in this case to equate the sanctions of these articles.

The objective party of the crime provided by part 1 of article 184 of the criminal code of the Russian Federation, expressed alternative. It is expressed in the active action consisting in the transfer of funds, securities or other property, as well as in the provision of services of property character, granting of other property rights, or coercion or attempts to influence or advance the conspiracy. An essential condition is the aim at providing impact on the results of official sports competitions and commercial entertaining competitions. A drawback of the legislator, I believe that it is not explained what is meant by coercion and inducement in this article. In my opinion, these terms are synonymous and their simultaneous use redundant. Generally, if you apply to other articles of the special part of the criminal code, it may be noted that in them the term "coercion" is interpreted in different ways. In relation to article 141, 142 of the criminal code it involves non-violent action, and under article 120, 179 of the criminal code, rather violent. But if you take into account the provisions of the General part of the criminal code, in particular article 40 of the criminal code, this term should be seen as providing mental and physical abuse. Accordingly, it is necessary to make corresponding explanations.

Now, as to the notes. According to paragraph 2 notes the person who committed the offence referred to in paragraphs 1, 2 or 5 of article 184 of the criminal code, exempted from criminal liability if they actively contrib-

**Литература:**


