

## Summary

**The year:** 2020.

**Specialty / field of study (code and full name):** 40.03.01-Law

**Level of study:** bachelor's degree.

**Institute or Higher school:** Law University.

**Department** of criminal law disciplines and forensic expertise

**The subject of the final qualifying work:** "Crimes aimed at obstructing the established procedure for carrying out entrepreneurial and other economic activities not prohibited by law. Questions of theory and legislative regulation of law enforcement practice".

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**The relevance of the research topic.** Having chosen the market path of economic development, Russia began to actively form market relations, where the main role is assigned to subjects of free economic activity-entrepreneurs and individuals. World experience shows that the more opportunities there are for expanding business and other free economic activities, the higher the rate of development of the national economy and the growth of the welfare of citizens. In these circumstances, it is very important to ensure favorable conditions for the development of this activity in the country. The reality of the Russian economy is that entrepreneurs and individuals face not only economic, organizational, and legal difficulties in commercial activities and their development, but also negative attitudes of officials whose actions are illegal and criminal in nature. This, in turn, makes it necessary to maintain a sufficient level of economic security and business security.

One of the potentially effective means of ensuring the development of entrepreneurial and other free economic activities is their criminal protection, which provides for criminal liability for obstructing such activities-article 169 of the Criminal code of the Russian Federation. However, the implementation of this criminal law norm is carried out with significant difficulties, or is completely ignored. For example, out of 11 registered crimes under article 169 of the criminal code in 2007, no case has ever gone to trial. In addition, the latency of this crime is about 80%.Therefore, this very effective, according to the legislator's plan, method of protecting the rights and legitimate interests of citizens and legal entities remains in little demand.

Thus, the relevance of the research topic is due to the need to identify the reasons for the lack of demand for the criminal law norm enshrined in article 169 of the criminal code of the Russian Federation and an attempt to solve this problem.

Purpose: analysis of criminal liability for obstruction of legitimate business or other activities.

Tasks: - by means of historical analysis, consider the evolution of the legal formalization of liability for obstruction of legitimate business or other activities;

- determine the place of article 169 of the criminal code of the Russian Federation in the system of norms providing for criminal liability for crimes in the sphere of economic activity;

-by means of a criminal law analysis of obstruction of legitimate business or other activities, to clarify the object of this crime;

- identify the features and disadvantages of the objective side and subjective signs of the crime under article 169 of the criminal code.

The theoretical significance of the study is primarily due to the fact that the economic system of the country depends on the effectiveness of legal regulation of crimes aimed at obstructing the

established procedure for carrying out entrepreneurial and other economic activities that are not prohibited by law.

Practical significance of the study. Conclusions, and proposed amendments to article 169 of the criminal code, may become the legislative basis for ongoing adjustments in relation to this article.

The results of the research can be used for teaching courses in criminal law and criminology in law schools.

The materials contained in the dissertation can serve as a basis for further research.

Research result.

1. With the transition of Russia to qualitatively new market relations, when entrepreneurship becomes one of the main factors of economic development, state policy is aimed at protecting the rights and legitimate interests of citizens who have expressed a desire to embark on the path of entrepreneurial activity. In turn, the directions of state policy were accepted by the legislator and implemented in article 169 "Obstruction of legitimate business or other activities" of the criminal code of the Russian Federation.

2. Analysis of the norms of Chapter 22 of the criminal code of the Russian Federation has shown that it does not have a unified system for constructing motives and goals, which causes certain difficulties in the qualification of crimes. Ignoring the above provisions leads to a violation of the system of norms in the criminal code of the Russian Federation, to contradictions in their application.

3. the Commission of these acts in violation of a judicial act that has entered into legal force, as well as the infliction of major damage, shall be considered a Qualified crime. The Commission of acts in violation of a judicial act that has entered into legal force means that the actions (inaction) of an official contradict not only the law, but also the court decision adopted in accordance with it, which establishes the official's obligation to perform certain actions or comply with certain conditions for the activities of commercial organizations. According to the note to the commented article, major damage is recognized in the amount exceeding one million five hundred thousand rubles.

4. it is also necessary to Distinguish between such forms of composition as restriction of the rights and legitimate interests of an individual entrepreneur or legal entity and restriction of independence or other illegal interference in their activities. The restriction of rights and legitimate interests is nothing more than a restriction on the independence of an individual entrepreneur or legal entity; both constitute illegal interference in their activities. Thus, by restricting the right of a legal entity or individual entrepreneur to conclude contracts (contracts) with a firm, an official, without a doubt, restricts the independence of an economic entity and at the same time illegally interferes with its activities.

Recommendations:

Historical analysis has shown that the evolution of the legal formalization of obstruction of legitimate business or other activities proceeded in accordance with state policy. Having passed a difficult path from collecting "promises" for certain public services to criminal legislation regulating relations in the sphere of economic activity, Russia has reached new frontiers in the legislative formalization of the fight against official arbitrariness.

Since 1990, when the planned economy in Russia was replaced by qualitatively new market relations, state policy has been focused on encouraging entrepreneurship. Economic relations based on the principle of freedom of economic activity enshrined in the Constitution of the Russian Federation were taken under criminal law protection by including in Chapter 22 "Crimes

in the sphere of economic activity" of the criminal code of the Russian Federation article 169 "Obstruction of legitimate business or other activities".

The results obtained in the course of this study revealed a number of shortcomings in the disposition of article 169 and in the note to it. Thus, based on the legal concept of business and economic activity and their distinctive features, it was revealed that business activity is an element of a broader concept of free economic activity, which means other activities. The legislator, using the phrase "legitimate business or other activity", tried to emphasize the importance of business activity, without removing, at the same time, from the criminal law protection and other economic activities that are not entrepreneurial. Hence, the main object of criminal encroachment under art. 169 of the criminal code should be considered public relations developing in sphere of free economic activity commercial (business) and nonprofit (other activities) of nature, with the aim to systematically make a profit (business) and without it (other activities). By specifying the terms "entrepreneurial" and "other activities", this wording expands the scope of application of art. 169 of the criminal code of the Russian Federation, forcing the law enforcement officer to focus not only on business activities, as it was previously, but also on other economic activities, in conditions of freedom of its implementation.

In this regard, the view of the objective side of the crime and its subjective features changes. First, in order to free the disposition of article 169 from congestion, it was found necessary to replace the types of criminal acts of officials described by the legislator with the following expression: "unlawful refusal to issue documents required for business or other free economic activity, or evasion of their issuance."

Secondly, having identified the importance of entrepreneurial and other free economic activity at the current stage of development of the market economy in our country, as well as continuing the idea of understanding major damage based not only on the quantitative component, but also on its qualitative side, it was proposed to add a sentence to the note to article 169: Article 169 also takes into account non-material damage, which is expressed in harming the authority of government and management bodies, and the business reputation of the relevant economic entities.

Third, based on the fact that the concept of an official specified in note 1 to article 285 of the criminal code applies only to articles of Chapter 30 of the criminal code, which complicates the application of article 169 of the criminal code in practice, it was proposed to add the phrase "and other articles of this Code" to note 1 to article 285.

In addition, the analysis of subjective signs of impeding legitimate business, it was established that when a criminal offence of obstructing the lawful business or other activities should proceed from the fact that having a formal-material composition, the offence is committed with direct intent in relation to the actions themselves, and with indirect intention in relation to criminal consequences.

Therefore, in order to impute this crime, the court must prove that the act of a person has all the mandatory features of both the main structure and the consequences that have occurred in the form of major damage, while focusing on the issues of the official's guilt in relation to the socially dangerous consequences that have occurred, negligence and intent to cause major damage.