



RULING OF THE PLENARY SESSION OF THE SUPREME COURT OF THE RUSSIAN FEDERATION

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On Judicial Practice in Cases on Bribery and Other Corruption-Related Crimes (as amended by Plenary Rulings No. 33 of 3 December 2013 and No. 59 of 24 December 2019)

The international community, striving to elaborate effective measures to prevent and root out corruption, has adopted a number of documents, which include the United Nations Conventions (e.g. the Convention against Corruption), the Council of Europe Criminal Law Convention on Corruption, the Organisation for Economic Co-operation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and others.

These documents point out that corruption has become a transnational phenomenon that affects all countries. This determines the exceptional importance of international cooperation in the sphere of prevention and combating of corruption.

In the Russian Federation, the legal basis for countering corruption is comprised by the Constitution of the Russian Federation, the universal principles and norms of international law, international treaties of the Russian Federation, Federal Law No. 273 of 25 December 2008 “On Countering Corruption”, Federal Law No. 115 of 7 August 2001 “On Countering the Laundering of Proceeds from Crime and the Financing of Terrorism” and other normative legal acts aimed at countering corruption.

In order to provide a criminal law framework for countering corruption and in the interests of fulfilling international obligations, the Criminal Code of the Russian Federation [hereinafter – the CrC RF] stipulates liability for corruption-related crimes. Bribery is the most widespread and the most dangerous of them. It infringes the foundations of state power, disrupts the normal governing activities of state and municipal bodies and institutions, undermines their authority, deforms the legal conscience of citizens, leading them to believe that it is possible to satisfy personal and collective interests by bribing officials, creates obstacles for competition, complicates economic development.

In cases on bribery and other corruption-related crimes, justice must be administered on the basis of principles of independence of the judiciary, adversarial proceedings and equality of the parties, respect for human rights and freedoms, in strict adherence to the requirements of criminal and criminal procedure legislation.

In order to ensure the uniform court application of legislation on liability for bribery (Articles [290](#), [291](#), [291.1](#), [291.2](#) of the CrC RF) and other corruption-related crimes (in particular, those stipulated in Articles 159 [Fraud], 160 [Misappropriation or Embezzlement], 184 [Exerting Unlawful Influence over the Results of an Official Sports Competition or a Commercial Spectator Competition], 200.5 [Commercial Bribing of a Procurement Department Employee, Procurement Manager, Member of a Procurement Commission], [204](#), [204.1](#), [204.2](#), [292](#), [304](#) of the CrC RF), as well as with regard to the issues encountered by the courts, the Plenary Session of the Supreme Court of the Russian Federation, guided by Article 126 of the Constitution of the Russian Federation, Articles 2 and 5 of Federal Constitutional Law No. 3 of 5 February 2014 “On the Supreme Court of the Russian Federation”, hereby rules to provide the following clarifications:

1. When resolving whether a corruption-related crime has been committed by an [official](#), a person occupying the office of a public official of the Russian Federation or public official of a constituent entity of the Russian Federation, a foreign official, an official of a public international organisation (hereinafter – an official) and, likewise, by a person performing managerial functions in a commercial or other organisation, the courts should be guided by Notes 1, 2 and 3 to [Article 285](#), Note 2 to Article 290, Note 1 to [Article 201](#) of the CrC RF, thereby taking into account the corresponding clarifications contained in Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 19 of 16 October 2009 “On Judicial Practice in Cases on Abuse of Official Powers and Excess of Official Powers”.

It is brought to the attention of the courts that foreign officials and officials of a public international organisation, as referred to in Articles 290, 291, 291.1 and 304 of the CrC RF, include persons regarded as such in particular by the international treaties of the Russian Federation in the sphere of countering corruption.

A foreign official is any appointed or elected person that occupies any particular position in a legislative, executive, administrative or judicial body of a foreign state and any person performing any particular public function for a foreign state, in particular for a public agency or a public enterprise (e.g. a deputy, minister, mayor).

Officials of a public international organisation include, in particular, employees of the organisation that are international civil servants, persons authorised to act on behalf of the public international organisation, members of parliamentary assemblies of international organisations, to which the Russian Federation is a member, persons occupying judicial offices in any international court, the jurisdiction of which is recognised by the Russian Federation.

2. When considering cases on crimes stipulated in Article 290 of the CrC RF, the courts should take into account that this Article stipulates liability for receipt of a bribe:

- a) in exchange for an official acting (failing to act) within the scope of her/his official powers for the benefit of the briber or persons represented by the briber;
- b) in exchange for an official contributing to said actions (failure to act) by virtue of her/his office;
- c) in exchange for general patronage or connivance in office;
- d) in exchange for performance of illegal actions (failure to act) by an official.

3. The actions (failure to act) of an official that are within the scope of her/his official powers should be understood as actions (failure to act) that he/she has the right and (or) is obliged to perform within the scope of her/his official competence (e.g. to consider the briber's address within a term shorter than stipulated in the law, to speed up the adoption of the corresponding decision, to choose an option that is the most favourable for the briber or the persons represented by the briber within the official's competence or statutory discretion).

4. The official's contribution to actions (failure to act) for the benefit of the briber or persons represented by the briber by virtue of her/his office is comprised by the

official using her/his authority and other possibilities provided by the occupied office for exerting any influence upon other officials for the purpose of performance by them of said actions (failure to act) in office, for example by plea, suasion, promises, coercion and otherwise.

Herewith, if an official receives remuneration for using solely her/his personal relations that do not pertain to her/his official position, this cannot be qualified under Article 290 of the CrC RF.

5. The courts should take into account that when a bribe is received for general patronage or connivance in office, the concrete actions (failure to act) for which it is received are not discussed by the briber and the recipient of the bribe at the moment when the bribe is accepted; they are just perceived by them as probable, possible in the future.

General patronage in office may in particular take the form of unsubstantiated appointment of a subordinate employee to a higher position (amongst other things, in violation of the stipulated manner), inclusion of that person into the lists of prospective recipients of incentive payments.

Connivance in office includes, for example, the consent of an official of a controlling body not to apply the liability measures within her/his competence, where a violation committed by the briber is discovered.

Actions (failure to act) pertaining to general patronage or connivance in office may be performed by an official both for the benefit of subordinates, as well as of other persons over whom her/his functions of oversight, control or other functions of a representative of the authorities, as well as organisational and managerial functions, extend.

6. Illegal actions (failure to act) in exchange for which an official receives a bribe (Part 3 of Article 290 of the CrC RF) should be understood as actions (failure to act) that:

- are performed by an official with the use of official powers, but in the absence of grounds or conditions stipulated in law for their implementation;
- are within the scope of powers of a different official;
- are performed by the official acting alone, however are supposed to be performed only collectively or upon approval of a different official or body;
- are comprised by failure to perform official duties;

- no one and under no circumstances has the right to perform.

Such actions in particular include falsification of evidence in a criminal case, failure to perform the statutory duty to draw up a report regarding an administrative offence, making an illegal decision based on knowingly forged documents, recording of information, which contradicts reality, in documents.

If an official receives a bribe for using her/his office in order to contribute to performance of illegal actions (failure to act) in office by another official, this should be qualified under Part 3 of Article 290 of the CrC RF.

7. If an official receives money, monetized services, etc. for performing actions (failure to act) that, despite pertaining to performance of her/his professional duties, do not fall within the scope of powers of a representative of the authorities, organisational and managerial or administrative functions, this does not form the elements of receipt of a bribe.

8. Liability for receipt, giving a bribe, acting as intermediary in bribery is entailed independent of when the official receives the bribe – before or after acting (failing to act) in office for the benefit of the briber or persons represented by the briber, as well as independent of whether said actions (failure to act) were conditioned in advance by the bribe or by an arrangement with the official that a bribe will be transferred in exchange for performing them.

9. Illegal rendering of monetized services and provision of property rights may be the subject matter of bribery (Articles 290, 291, 291.1, 291.2 of the CrC RF) and commercial bribery (Articles 204, 204.1, 204.2 of the CrC RF) along with money, securities, other property.

The courts should understand illegal rendering of monetized services as provision of the official, in the capacity of a bribe, with any material gains, in particular release of the official from property obligations (e.g. provision of a loan with a lowered interest rate, provision of package tours free of charge or at a lowered price, apartment renovations, construction of a country house, transfer of property (in particular, of automobile transport) for temporary use, performance of obligations due to other persons).

When property rights are the subject matter of a bribe, the official that received such illegal remuneration gains the ability to take possession or dispose of another's

property as of her/his own, to claim performance of property obligations from the debtor in her/his favour, to gain income from using paperless securities or digital rights, etc.

The property given as a bribe or subject matter of commercial bribery, the rendered monetized services or the provided property rights must receive monetary evaluation based on the evidence provided by the parties, in particular, where necessary, taking into account a conclusion of a specialist or expert.

10. The receipt and giving of a bribe, as well as of illegal remuneration in case of commercial bribery, are regarded as accomplished from the moment when an official or a person performing managerial functions in a commercial or other organisation accepts at least a part of the valuables transferred to her/him (e.g. from the moment they are given to the official in person, transferred with the official's consent to the account or e-wallet indicated by her/him). Herewith, it is of no significance, whether said persons gain a real opportunity to use or dispose of the valuables transferred to them at their own discretion.

The receipt and giving of a bribe should be qualified as an accomplished crime, where, in accordance with prior arrangement, the briber puts the valuables in an arranged place, to which the recipient of the bribe has access, or access to which is granted by the briber or another person after the placement of valuables. The actions of persons performing the transfer and receipt of the subject matter of commercial bribery in similar circumstances are subject to qualification under the corresponding part of Article 204 of the CrC RF, likewise without reference to Article 30 of the CrC RF [Preparation to a Crime and Attempted Crime].

11. Where the subject matter of receipt or giving of a bribe or commercial bribe is the illegal rendering of monetized services, the crime is regarded as accomplished from the moment when the actions directly aimed at deriving material gain for the official or person performing managerial functions in a commercial or other organisation begin with that person's consent (e.g. from the moment when an IOU is destroyed or returned, property is transferred to another person towards performance of obligations of the recipient of the bribe, a loan contract is concluded with a knowingly reduced interest rate, renovations begin at a knowingly reduced cost).

11.1. If the briber intended to transfer, and the official intended to receive a bribe in substantial, significant or especially significant amount, but the illegal remuneration actually accepted by the official did not reach said amount, this should be qualified as

accomplished giving or receipt of a bribe, accordingly, in substantial, significant or especially significant amount. For example, when a bribe was supposed to be transferred in several payments, and the recipient of the bribe was apprehended after the transfer of the first part of the bribe, not amounting to the aforementioned sum, this should be qualified under Item “c” of Part 5 of Article 290 of the CrC RF.

12. If an official or a person performing managerial functions in a commercial or other organisation refused to accept a bribe or the subject matter of commercial bribery, the actions of the briber or of the person transferring the illegal remuneration in case of commercial bribery are subject to qualification as an attempt to commit a crime stipulated in Article 291, Article 291.2 of the CrC RF as regards the giving of a bribe, Parts 1–4 of Article 204, Article 204.2 of the CrC RF as regards transferring the subject matter of commercial bribery.

The act should also be qualified as an attempt to give or receive a bribe, an attempt to commit commercial bribery, where the arranged transfer of valuables did not take place for reasons beyond control of the persons, whose actions were aimed at giving or receiving the valuables.

13. The receipt or giving of a bribe and, likewise, receipt or transfer of illegal remuneration in case of commercial bribery, where committed within the framework of operative-investigative measures, should be qualified as an accomplished crime, in particular when the valuables were seized by officers of law enforcement bodies immediately after being accepted by the official or person performing managerial functions in a commercial or other organisation.

13.1. A promise or suggestion to transfer or accept illegal remuneration for acting (failing to act) in office should be regarded as intended creation of conditions for commission of the corresponding corruption-related crimes, where the intent to transfer or receive a bribe or subject matter of commercial bribery, expressed by a person, was aimed at bringing it to the notice of other persons, in order to give them valuables or receive valuables from them, as well as where arrangements have been made between the aforementioned persons.

If the persons were thereby unable to perform other actions aimed at fulfilling the promise or suggestion for reasons beyond their control, this should be qualified as preparation for giving a bribe (Part 1 of Article 30 and, accordingly, Parts 3–5 of Article 291 of the CrC RF) or for receipt of a bribe (Part 1 of Article 30 and, accordingly, Parts 2–6 of Article 290 of the CrC RF), as well as for commercial

bribery (Part 1 of Article 30 and, accordingly, Parts 3–4 or Parts 7–8 of Article 204 of the CrC RF).

13.2. Acting as intermediary in bribery (Article 291.1 of the CrC RF) and, likewise, in commercial bribery (Article 204.1 of the CrC RF) is regarded as not only directly transferring money and other valuables following the instructions of the briber or recipient of the bribe, as well as of the person transferring or receiving the subject matter of commercial bribery, but also as otherwise assisting in reaching or implementing the agreement between these persons regarding the receipt and giving of the bribe or subject matter of commercial bribery (e.g. organising their meeting, engaging in negotiations with them).

Acting as intermediary by otherwise assisting in reaching or implementing the agreement should be regarded as accomplished from the moment when the intermediary performs one of these actions, independent of whether an agreement is reached between the briber and the recipient of the bribe and, likewise, between the person transferring the subject matter of commercial bribery and the person receiving it.

If, pursuant to the arrangement between the recipient of the bribe or the person accepting the subject matter of commercial bribery and the intermediary, money and other valuables received from the briber or the person transferring the commercial bribe remain with the intermediary, the crime is regarded as accomplished from the moment when the intermediary receives the valuables. In other instances, acting as intermediary by directly transferring the bribe or subject matter of commercial bribery is qualified as an accomplished crime, provided that at least a part of them is actually transferred to the person, for whom they are intended.

13.3. Proceeding from the disposition of Articles 291.1 and 204.1 of the CrC RF, in accordance with which acting as intermediary in bribery or commercial bribery is criminally punishable when committed in substantial, significant and especially significant amount, if a person renders the services of an intermediary during transfer of a bribe or subject matter of commercial bribery that does not amount to a sum higher than 25 000 rubles, this person cannot be liable as an accomplice in receipt or giving of a bribe, petty bribery, or commercial bribery, petty commercial bribery, with reference to Article 30 of the CrC RF.

13.4. When distinguishing between acting as intermediary in bribery through direct transfer of the bribe following the instructions of the briber from giving a bribe to an

official for actions (failure to act) in office for the benefit of a natural or legal person represented by the briber, the courts should proceed from the premise that an intermediary transfers the bribe while acting on behalf and at the expense of the briber. In contrast to the intermediary, the briber transferring the bribe for actions (failure to act) in office for the benefit of the person represented by her/him uses, as the bribe, the property belonging to or illegally obtained by her/him.

13.5. A promise or offer to act as intermediary in bribery and, likewise, in commercial bribery is regarded as an accomplished crime from the moment when a person performs actions aimed at bringing information about one's intent to become an intermediary in bribery or commercial bribery to the notice of the briber and (or) of the recipient of the bribe, or of the person transferring and (or) receiving the subject matter of commercial bribery.

By implication of the law, if a person that promised or offered to act as intermediary in bribery, commercial bribery consequently commits a crime stipulated in Parts 1–4 of Article 291.1 or Parts 1–3 of Article 204.1 of the CrC RF, this is qualified under the corresponding parts of those Articles as acting as intermediary in bribery without cumulation with Part 5 of Article 291.1 or Part 4 of Article 204.1 of the CrC RF.

Where a person that promised or offered to act as intermediary in bribery, commercial bribery knowingly did not intend to transfer the valuables to an official, person performing managerial functions in a commercial or other organisation, or to an intermediary and appropriated the valuables after receiving them, this should be qualified as fraud without cumulation with the crime stipulated in Part 5 of Article 291.1 or Part 4 of Article 204.1 of the CrC RF.

14. Taking into account that the norms on liability for petty bribery and petty commercial bribery are special norms with regard to provisions of Articles 290, 291, 204 of the CrC RF, the receipt or giving of a bribe and, likewise, of subject matter of commercial bribery in amount not exceeding 10 000 rubles should be qualified under Part 1 of Article 291.2 of the CrC RF or Part 1 of Article 204.2 of the CrC RF, no matter for what actions (legal or illegal), in what composition of participants (whether as a single person or as a group of persons) and under what other qualifying elements of bribery and commercial bribery they were committed.

Herewith, the subject of the crime of petty bribery coincides completely with the subject of crimes stipulated in Articles 290 and 291 of the CrC RF, and the subject of

the crime of petty commercial bribery – with the subject of the crime stipulated in Article 204 of the CrC RF.

15. A bribe or subject matter of commercial bribery should be regarded as received by a group of persons by prior conspiracy, if two and more officials or two and more persons performing managerial functions in a commercial or other organisation participated in the crime, having previously reached an agreement on joint commission of that crime by accepting illegal remuneration in exchange for each of them acting (failing to act) in office for the benefit of the person that transferred such remuneration or for the benefit of persons represented by that person.

The crime is regarded as accomplished from the moment when at least one of the officials (or persons performing managerial functions in a commercial or other organisation) comprising the criminal group accepts the bribe or subject matter of commercial bribery.

In order to qualify the actions of the aforementioned persons as perpetrated by a group of persons by prior conspiracy, it is irrelevant, what sum was received by each of the members of the criminal group, as well as whether the briber was aware that several officials were participating in receipt of the bribe.

The actions of persons who do not have the features of a special subject stipulated in Article 290 or Article 204 of the CrC RF and participate in receipt of a bribe or subject matter of commercial bribery by a group of persons by prior conspiracy are qualified, when there are corresponding grounds, as acting as intermediary in bribery (Article 291.1 of the CrC RF) or commercial bribery (Article 204.1 of the CrC RF).

16. Proceeding from provisions of [Article 35](#) of the CrC RF, the characteristic features of an organised group are stable composition, high level of organisation, distribution of roles, presence of an organiser and (or) leader within the group.

Apart from one or several officials or persons performing managerial functions in a commercial or other organisation, persons that do not have the features of the special subject of the crime of receipt of a bribe or of commercial bribery may be members of an organised group (Item “a” of Part 5 of Article 290 of the CrC RF and Item “a” of Part 7 of Article 204 of the CrC RF).

If a bribe or subject matter of commercial bribery is recognised as received by an organised group, the actions of all its members that participated in preparation and

commission of these crimes are subject to qualification under the corresponding part of Article 290 or Article 204 of the CrC RF without reference to [Article 33](#) of the CrC RF, independent of whether they performed the functions of the perpetrator, organiser, instigator or accessory. The crime is regarded as accomplished from the moment when illegal remuneration is accepted by any member of the organised group.

17. When resolving whether to qualify a bribe or subject matter of commercial bribery as received by a group of persons by prior conspiracy or by an organised group, the court should proceed from the total cost of the valuables (property, property rights, monetized services) intended for all the members of the criminal group.

18. Solicitation of a bribe (Item “b” of Part 5 of Article 290 of the CrC RF) or of subject matter of commercial bribery (Item “b” of Part 7 of Article 204 of the CrC RF) should be understood not only as a request of an official or a person performing managerial functions in a commercial or other organisation to give a bribe or to transfer the illegal remuneration in case of commercial bribery, accompanied by a threat to perform actions (fail to act) which may harm the lawful interests of a person, but also the knowing creation of conditions in which the person is compelled to transfer said items in order to avoid harmful consequences for its interests protected by law (e.g. intended violation of statutory time limits for consideration of addresses of citizens).

For an act to be qualified under Item “b” of Part 5 of Article 290 of the CrC RF or under Item “b” of Part 7 of Article 204 of the CrC RF, it does not matter whether the official or the person performing managerial functions in a commercial or other organisation has a real opportunity of implementing said threat, if the person that transfers the bribe or subject matter of commercial bribery has reasons to fear that the threat will be carried out (for example, an investigator, who knows that a criminal case is subject to termination due to absence of elements of crime in an act threatens to forward the case with an indictment to the prosecutor and then, after receiving the bribe, terminates the case based on statutory grounds).

If, in the course of solicitation of a bribe or subject matter of commercial bribery, an official or a person performing managerial functions in a commercial or other organisation performs actions (failure to act) entailing significant violation of rights and lawful interests of citizens or organisations, this, where there are corresponding

grounds, should be additionally qualified under Article 285, 286 [Excess of Official Powers] or 201 of the CrC RF.

19. The receipt of a bribe or subject matter of commercial bribery should also be qualified under Item “b” of Part 5 of Article 290 of the CrC RF or under Item “b” of Part 7 of Article 204 of the CrC RF, where the solicitation is performed with consent or at the instructions of the official or person performing managerial functions in a commercial or other organisation by another person, who is not the recipient of the bribe or subject matter of commercial bribery. Where there are corresponding grounds, the actions of the latter should be regarded as acting as intermediary in bribery under the corresponding parts of Article 291.1 of the CrC RF or acting as intermediary in commercial bribery under the corresponding parts of Article 204.1 of the CrC RF.

20. The qualifying elements characterising the heightened social danger of bribery or commercial bribery (solicitation, commission of the crime by a group of persons by prior conspiracy or by an organised group, taking of a bribe in substantial, significant or especially significant amount, etc.) should be taken into account during legal evaluation of actions of the accomplices of the corresponding crimes, if these circumstances were within their scope of intent.

21. Giving or receipt of a bribe or of illegal remuneration in case of commercial bribery, where performed continuously through several payments, should be distinguished from cumulation of crimes. In particular, the systematic receipt of bribes from the same briber for general patronage or connivance in office, where said actions are united by single intent, should be qualified as a single continuing crime.

There is also no cumulation of crimes, where a bribe or illegal remuneration in case of commercial bribery is received or transferred from several persons, but for performance of one action (failure to act) in the common interests of these persons.

Simultaneous receipt of a bribe or illegal remuneration in case of commercial bribery from several persons, in particular through an intermediary, cannot be qualified as a single continuing crime, if the official or person performing managerial functions in a commercial or other organisation performs a separate action (failure to act) in the interests of each one of those persons. These acts, under such circumstances, form a cumulation of crimes.

If the overall value of property, property rights, monetized services received by an official exceeds 25 000 rubles, 150 000 rubles or 1 000 000 rubles, the act may be qualified as receipt of a bribe in, accordingly, substantial, significant or especially significant amount, only when the acceptance of all the valuables formed episodes of a single continuing crime.

22. It is brought to the attention of the courts that when an official or a person performing managerial functions in a commercial or other organisation performs actions (fails to act) that constitute elements of a separate crime in exchange for a bribe or illegal remuneration in case of commercial bribery, this is not covered by the objective element (*actus reus*) of the crimes stipulated in Article 290 and Parts 5–8 of Article 204 of the CrC RF. In these instances, the act of the recipient of the bribe is subject to qualification as a cumulation of crimes – as receipt of a bribe in exchange for illegal actions in office and also under the corresponding Article of the Special Part of the Criminal Code of the Russian Federation, stipulating liability for abuse of official powers, excess of official powers, forgery committed by an official, falsification of evidence, etc.

23. If property is transferred, property rights are provided, monetized services are rendered in exchange for performance of actions (failure to act) in office by an official not to the official in person or to her/his relatives or close ones, but knowingly to other persons, in particular legal persons, and the official, her/his relatives or close ones do not receive material gain from that, this cannot be qualified as receipt of a bribe (for example, where the head of a state or municipal institution accepts sponsor support for ensuring the activities of that institution in exchange for performing actions in office for the benefit of persons providing such support).

If a person that transferred property, provided property rights, rendered monetized services to an official in exchange for performing actions (failing to act) in office was aware that said valuables are not intended for unjust enrichment of the official, of her/his relatives or close ones, this does not form the elements of the crime stipulated in Article 291 or in Article 291.1 of the CrC RF.

24. If an official or a person performing managerial functions in a commercial or other organisation receives valuables for performing actions (failure to act) within her/his official powers or to which he/she can contribute by virtue of her/his office, as well as for general patronage or connivance in office, this should be qualified as receipt of a bribe or as commercial bribery, independent of whether the person intended to perform said actions (failure to act).

If, through deceit or abuse of trust, an official receives valuables in exchange for performance of actions (failing to act) in the interests of the giver or of other persons or for contribution to such actions, which he/she cannot perform in the occupied office or due to lack of corresponding powers, this should be qualified as fraud committed by a person with the use of powers vested in her/him by virtue of her/his office. In these instances, the owner of transferred valuables bears liability for attempted giving of a bribe or attempted commercial bribery. Herewith, such a person cannot be recognised as a victim and cannot claim for those valuables to be returned, as well as claim damages in case of their loss.

25. If an official performing organisational and managerial or administrative functions in a state or municipal body or institution concluded a contract on behalf of the corresponding body (institution), by virtue of which he/she transferred the funds entrusted to her/him in an amount that knowingly exceeded the market value of goods, works or services indicated in the contract, receiving illegal remuneration for that act, this should be qualified as a cumulation of crimes – as embezzlement of entrusted property (Article 160 of the CrC RF) and receipt of a bribe (Article 290 of the CrC RF).

If under the aforementioned circumstances the value of goods, works or services was not artificially inflated, this should be qualified as receipt of a bribe.

26. Excluded by Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 59 of 24 December 2019.

27. Excluded by Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 59 of 24 December 2019.

28. An official or a person performing managerial functions in a commercial or other organisation, who instructed a subordinate employee to transfer a bribe to an official in order to reach the desired action (failure to act) in the interests of her/his organisation, is liable for giving a bribe under Article 291 or Article 291.2 of the CrC RF, depending on its size, and the employee that followed the instructions – for acting as intermediary in bribery under Article 291.1, where there are corresponding grounds.

An official or a person performing managerial functions in a commercial or other organisation, who instructed a subordinate employee to transfer illegal remuneration

to a person performing managerial functions in a commercial or other organisation in order to reach the desired action (failure to act) in the interests of her/his organisation, is liable for illegally transferring the subject matter of commercial bribery to a person under Parts 1–4 of Article 204 or under Article 204.2 of the CrC RF, depending on its size, and the employee that followed the instructions – for acting as intermediary in commercial bribery under Article 204.1, where there are corresponding grounds.

The fact that the aforementioned persons are held criminally liable for giving a bribe or illegally transferring the subject matter of commercial bribery does not exempt the legal person, on whose behalf or in whose interests the corresponding corruption-related actions were performed, from liability for illegal remuneration on behalf of a legal person, as stipulated in Article 19.28 of the Code of the Russian Federation on Administrative Offences.

29. A person may be exempt from criminal liability for acting as intermediary in bribery (Article 291.1 of the CrC RF) or in commercial bribery (Article 204.1 of the CrC RF) by virtue of Notes to said Articles, where two obligatory conditions are met: the person must voluntarily inform about the committed crime and must actively contribute to solving and (or) investigating the crime.

In order to exempt a person from criminal liability for giving a bribe (Articles 291, 291.2 of the CrC RF) and, likewise, for transferring the subject matter of commercial bribery (Parts 1–4 of Article 204, Article 204.2 of the CrC RF), the court needs to establish that the person actively contributed to solving and (or) investigating (suppressing) the crime, as well as that he/she voluntarily informed about the committed crime, or that a bribe or the subject matter of commercial bribery was solicited from her/him.

The fact of informing (in writing or orally) about the crime must be recognised as voluntary, independent of the motives of the applicant. Herewith, a statement about a crime, made by a person due to her/his apprehension based on suspicion of committing that crime, cannot be regarded as voluntary.

Active contribution to solving and investigation of the crime must comprise performance of actions aimed at incriminating the persons involved in the committed crime (the briber, the recipient of the bribe, the intermediary, the persons who accepted or transferred the subject matter of commercial bribery), at the discovery of property transferred as the bribe or subject matter of commercial bribery, etc.

30. The fact that the briber or the person committing commercial bribery, who actively contributed to solving and (or) investigation of the crime and from whom the bribe or subject matter of commercial bribery was solicited, is exempt from criminal liability, does not mean that her/his actions do not contain the elements of a crime. This is why such persons cannot be regarded as victims and are not entitled to claim for the valuables transferred by them as a bribe or subject matter of commercial bribery to be returned to them.

The court should distinguish between transfer of a bribe or subject matter of commercial bribery under the influence of solicitation and the actions of a person compelled to transfer money, valuables, other property, to provide property rights, render monetized services to an official or a person performing managerial functions in a commercial or other organisation in extreme necessity or as a result of mental coercion (Article 39 and Part 2 of Article 40 of the CrC RF), where there were no other legal means of preventing harm to the legally protected interests of the property owner or of the persons represented by her/him, which is not a crime. In such an instance, the property received by the official or person performing managerial functions in a commercial or other organisation is subject to be returned to its owner.

The actions of a person do not form the elements of the crime stipulated in Parts 1–4 of Article 204, Article 291 of the CrC RF, as well as Articles 204.2 and 291.2 of the CrC RF in the part of transfer of subject matter of commercial bribery or of a bribe, in particular where someone requests a bribe or commercial bribe from that person, and before transferring the valuables he/she voluntarily states this information to a body authorised to initiate a criminal case or engage in investigative activities. Herewith, where the transfer of property, provision of property rights, rendering of monetized services were performed under control with the aim of apprehending the person that made such a request *in flagrante delicto*, the money and other valuables transferred as a bribe or subject matter of commercial bribery are subject to be returned to their rightful owner.

31. When considering cases on crimes stipulated in Article 204 of the CrC RF, the courts should take into account that by virtue of Article 23 of the CrPC RF [Criminal Procedure Code of the Russian Federation], criminal prosecution for commercial bribery committed by a person performing managerial functions in a commercial organisation that is not a state or municipal enterprise may only be performed upon application or with consent of the head of that organisation.

If the illegal remuneration in case of commercial bribery was received by the head of such a commercial organisation, then he/she is criminally prosecuted upon application or with consent of the managing body of the organisation, competent to elect or appoint that head, as well as with consent of a member of the organisation's managing body or of persons authorised to make decisions directing the activities of the legal person.

Criminal prosecution is performed on a general basis, where the commercial bribery committed by a person performing managerial functions in a commercial organisation that is not a state or municipal enterprise results in harm to the interests of other organisations or the interests of citizens, of the society or the state.

If the state or a municipal entity participates in the charter (share) capital (share fund) of an organisation, and the interests of that organisation are harmed, this should be regarded as harm to the interests of the state or of the municipal entity, and criminal prosecution in these instances will be performed in the general manner.

32. Liability stipulated in Article 304 of the CrC RF for provoking a bribe, commercial bribery or commercial bribery in the sphere of procurement of goods, works, services for state or municipal needs is only entailed, if the (attempted) transfer of money, securities, other property or the attempt to render monetized services was made solely for the purpose of artificially forming evidence of commission of a crime or for the purpose of blackmail, when it was known to the guilty person that the official, person performing managerial functions in a commercial or other organisation and, likewise, the person referred to in Part 1 of Article 200.5 of the CrC RF not only did not consent, but also did not perform any actions indicating such consent, or directly refused to receive illegal remuneration beforehand.

The crime stipulated in Article 304 of the CrC RF is accomplished from the moment when at least part of the property is transferred or when the rendering of monetized services begins.

Since such actions are performed unknown to or knowingly contrary to the will of the official, person performing managerial functions in a commercial or other organisation and, likewise, of the person referred to in Part 1 of Article 200.5 of the CrC RF, these persons are not subject to criminal liability for receipt of a bribe or for commercial bribery due to absence of the fact of the crime (Item 1 of Part 1 of Article 24 of the CrPC RF).

33. *Excluded by Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 59 of 24 December 2019.*

34. The crime stipulated in Article 304 of the CrC RF should be distinguished from the actions of officers of law enforcement bodies, who provoke an official or person performing managerial functions in a commercial or other organisation to accept a bribe or the subject matter of commercial bribery.

Said actions are performed in violation of Article 5 of Federal Law No. 144 of 12 August 1995 “On Operative-Investigative Activities” and consist in transferring the bribe or subject matter of commercial bribery with consent or upon offer of the official or person performing managerial functions in a commercial or other organisation, when such consent or offer was granted as a result of inducement of those persons into receipt of valuables under circumstances indicating that without the interference of officers of law enforcement bodies the intent to receive them would not arise, and the crime would not be committed.

Under such circumstances, the fact that an official or person performing managerial functions in a commercial or other organisation accepts money, securities, other property or property rights, as well as monetized services, cannot be regarded as a criminal offence. In this instance, the elements of crime are absent (Item 2 of Part 1 of Article 24 of the CrPC RF).

35. It is clarified to the courts that the subject matter of the crime stipulated in Article 292 of the CrC RF is an official document certifying the facts that have legal consequences in the form of granting or deprivation of rights, imposition or relief of duties, change of the volume of rights and duties. Such documents should include, in particular, sick leave certificates, employee’s health records, examination records, student record books, salary certificates, minutes of sessions of procurement commissions, car registration certificates.

The entry of knowingly false information into official documents, making of corrections distorting the actual content of said documents should be understood as knowingly describing and (or) certifying facts that contradict reality both in existing official documents (through erasure, write-in, etc.) and by creation of a new document, in particular with the use of a blank sheet of the corresponding document.

Officials authorised to certify said facts or state or municipal servants, who are not officials, may be subjects of the crime of forgery by an official.

36. It is brought to the attention of the courts that they should comply with requirements of the law regarding the strictly individual approach to appointment of punishment for persons who commit corruption-related crimes using the powers vested in them by virtue of their office. When assessing the degree of public danger of the act, the court should take into account the motives and aims, the significance of violated duties, the duration of criminal actions (failure to act), the nature and severity of caused harm, other facts of the case and information about the personality of the guilty person.

36.1. When resolving the issue of what punishment should be appointed for the convicted person that committed a corruption-related crime, if the sanction of an article stipulates punishment in the form of a fine, the court should discuss whether it is possible to enforce that punishment. When appointing a fine, determining its amount and resolving the issue of its payment in instalments, the court should not only take into account the gravity of the committed crime, but also the property status of the convicted person and her/his family, as well as whether he/she is able to receive salary or other income (Part 3 of Article 46 of the CrC RF). For this purpose, the court should take into account whether the convicted person has a principal place of employment, the amount of her/his salary or other income, whether he/she is able to become employed, whether he/she has property, dependent persons, etc.

36.2. Where Part 3 of Article 47 of the CrC RF applies, the courts should discuss whether it is necessary to appoint an additional punishment in the form of deprivation of right to occupy a certain office or engage in certain activities for the person guilty of a corruption-related crime, taking into account that this type of punishment may be appointed independent of whether it is stipulated in the sanction of criminal law, under which the convicted person's actions are qualified.

36.3. The results of an operative-investigative measure may be used as evidence in a criminal case on a corruption-related crime, if they were received and transferred to the preliminary investigation body or to the court in accordance with the law and indicate that the person intended to receive or give a bribe or the subject matter of commercial bribery, as well as to perform an intermediary's actions, and that this intent formed independently from the activities of officers of bodies engaged in operative-investigative activities. In this regard, in order to evaluate the evidence received in the course of operative-investigative activities, the courts need to check

the legality and substantiation of every such investigative measure, independent of whether the defendant pleads guilty or not.

37. It is recommended to the courts, in consideration of cases on corruption-related crimes, to establish the circumstances that contributed to commission of such crimes, especially to the receipt and giving of a bribe, acting as intermediary in bribery, to violation of rights and freedoms of citizens, as well as to establish violations of legislation of the Russian Federation, and in every particular instance to adopt special rulings (court decrees) in accordance with Part 4 of Article 29 of the CrPC RF, drawing the attention of the corresponding organisations and officials to said circumstances and facts of violation of law, which require adoption of the necessary measures in order to be remedied.

38. In view of adoption of this Ruling, the following are abrogated:

- Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 6 of 10 February 2000 “On Judicial Practice in Cases on Bribery and Commercial Bribery” (as amended by Plenary Rulings No. 7 of 6 February 2007, No. 31 of 23 December 2010 and No. 7 of 22 May 2012);
- Item 14 of Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 7 of 6 February 2007 “On Amendments and Additions to Certain Rulings of the Plenary Session of the Supreme Court of the Russian Federation regarding Criminal Cases”;
- Item 1 of Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 31 of 23 December 2010 “On Amendments and Additions to Certain Rulings of the Plenary Session of the Supreme Court of the Russian Federation regarding Criminal Cases”;
- Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 7 of 22 May 2012 “On Amendment of Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 6 of 10 February 2000 ‘On Judicial Practice in Cases on Bribery and Commercial Bribery’”.

Chief Justice of the Supreme Court of
the Russian Federation

V.M. Lebedev

Secretary of the Plenary Session, Judge of
the Supreme Court of the Russian Federation

V.V. Momotov

ANNEX

Translation of articles of the Criminal Code of the Russian Federation, referred to in the text of the Ruling (as of 1 August 2020)

Article 33. Types of Accomplices of Crime

1. In addition to the perpetrator [*исполнитель*], the accomplices of a crime [*соучастники преступления*] are the organiser [*организатор*], the instigator [*подстрекатель*] and the accessory [*пособник*].
2. The perpetrator is a person who directly committed the crime or directly participated in its commission together with other persons (co-perpetrators), and also a person who committed the crime by using other persons, who are not subject to criminal liability due to age, insanity or other circumstances stipulated in this Code.
3. The organiser is a person who organised the commission of the crime or managed its commission, and also a person who created an organised group or a criminal community (criminal organisation) or managed them.
4. The instigator is a person who induced another person into committing the crime through suasion, bribery, threat or in another manner.
5. The accessory is a person who assisted in the commission of the crime by advice, directions, provision of information, means or instruments of the crime or by removing the obstacles to it, as well as a person who promised in advance to conceal the criminal, the means or instruments of the crime, the traces of the crime or the criminally acquired items, as well as a person who promised in advance to purchase or deal in such items.

Article 35. Commission of a Crime by a Group of Persons, Group of Persons by Prior Conspiracy, Organised Group or a Criminal Community (Criminal Organisation)

1. A crime is regarded as committed by a group of persons, if two or more perpetrators participated in its commission without prior conspiracy.
2. A crime is regarded as committed by a group of persons by prior conspiracy, if persons who agreed in advance about the joint commission of a crime participated in it.
3. A crime is regarded as committed by an organised group, if it was committed by a stable group of persons, who united in advance in order to commit one or several crimes.

4. A crime is regarded as committed by a criminal community (criminal organisation), if it is committed by a structured organised group or an association of organised groups acting under a single leadership, the members of which are united for the purpose of jointly committing one or several grave or particularly grave crimes in order to directly or indirectly obtain financial or other material gains.

5. A person who created an organised group or a criminal community (criminal organisation) or headed them is subject to criminal liability for organising and leading them, where Articles 205.4, 208, 209, 210 and 282.1 of this Code apply, as well as for all the crimes committed by the organised group or criminal community (criminal organisation), if those crimes were within the scope of her/his intent. Other participants of the organised group or criminal community (criminal organisation) are criminally liable for participation therein, where Articles 205.4, 208, 209, 210 and 282.1 of this Code apply, as well as for the crimes in preparation or commission of which they participated.

6. The creation of an organised group in the instances not stipulated in Articles of the Special Part of this Code entails criminal liability for preparation to the crimes for commission of which it was created.

7. The commission of a crime by a group of persons, group of persons by prior conspiracy, organised group or criminal community (criminal organisation) entails a stricter punishment on the grounds and within the limits stipulated in this Code.

Article 201. Abuse of Powers

1. The use of one's powers by a person performing managerial functions in a commercial or other organisation contrary to the lawful interests of this organisation and for the purposes of deriving gains and benefits for oneself or other persons, or of causing harm to other persons, where this act entails significant harm to the rights and lawful interests of citizens or organisations, or to the interests of the society or the state, protected by law, -

is punished by a fine in the amount up to 200 000 rubles or in the amount of salary or other income of the convicted person for a period up to 18 months, or by obligatory works for a term up to 480 hours, or by corrective works for a term up to 2 years, or by compulsory labour for a term up to 4 years, or by arrest for a term up to 6 months, or by deprivation of liberty for a term up to 4 years.

2. The same act, where it entails grave consequences, -

is punished by a fine in the amount up to 1 000 000 rubles or in the amount of salary or other income of the convicted person for a period up to 5 years, or by compulsory labour for a term up to 5 years with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years, or by deprivation of liberty for a term up to 10 years with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

Notes:

1. In the Articles of this Chapter¹, as well as in Articles 199.2 and 304 of this Code, a person performing managerial functions in a commercial or other organisation, as well as in a non-commercial organisation that is not a state body, local self-government body, state or municipal institution is a person exercising the functions of a single managing body, of a member of the board of directors or of a different collective executive body, as well as a person that exercises organisational and managerial or administrative functions in these organisations on a permanent, temporary basis or by virtue of special authority.

2. *Abrogated*

3. *Abrogated*

Article 204. Commercial Bribery

Illegal transfer of money, securities, other property, as well as illegal rendering of monetized services, provision of other property rights to a person performing managerial functions in a commercial or other organisation (in particular, when the property is transferred, or the monetized services are rendered, or the property rights are provided to a different natural or legal person at the instructions of the aforementioned person) in exchange for performance of actions (failure to act) in the interests of the giver or of other persons, if said actions (failure to act) are within the official powers of such a person, or if he/she can contribute to said actions (failure to act) by virtue of her/his office, -

are punished by a fine in the amount up to 400 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 6 months, or in the amount of 5 to 20 times the sum of the commercial bribe; or by restriction of liberty for a term up to 2 years; or by corrective works for a term up to 2 years; or by deprivation of liberty for the same term, with or without a fine in the amount up to 5 times the sum of the commercial bribe.

2. Acts stipulated in Part 1 of this Article, where perpetrated in substantial amount, -

are punished by a fine in the amount up to 800 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 9 months, or in the amount of 10 to 30 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 2 years; or by restriction of liberty for a term of 1 to 2 years, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by corrective works for a term of 1 to 2 years, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by deprivation of liberty for a term up to 3 years, with or without a fine in the amount up to 10 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

3. Acts stipulated in Part 1 of this Article, where perpetrated:

¹ Chapter 23 of the CrC RF, “Crimes against the Interests of Service in Commercial and Other Organisations”; it includes Articles 201 to 204.2 – *translator’s note*

- a) by a group of persons by prior conspiracy or by an organised group;
- b) in exchange for knowingly illegal actions (failure to act);
- c) in significant amount, -

are punished by a fine in the amount up to 1 500 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 1 year, or in the amount of 20 to 50 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by deprivation of liberty for a term of 3 to 7 years, with or without a fine in the amount up to 30 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

4. Acts stipulated in Part 1, Items “a” and “b” of Part 3 of this Article, where perpetrated in especially significant amount, -

are punished by a fine in the amount of 1 000 000 to 2 500 000 rubles, or in the amount of salary or other income of the convicted person for a period of 1 year to 2 years and 6 months, or in the amount of 40 to 70 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years; or by deprivation of liberty for a term of 4 to 8 years, with or without a fine in the amount up to 40 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years.

5. Illegal receipt of money, securities, other property, as well as illegal use of monetized services or other property rights by a person performing managerial functions in a commercial or other organisation (in particular, when the property is transferred, or the monetized services are rendered, or the property rights are provided to a different natural or legal person at the instructions of the aforementioned person) in exchange for performance of actions (failure to act) in the interests of the giver or of other persons, if said actions (failure to act) are within the official powers of such a person, or if he/she can contribute to said actions (failure to act) by virtue of her/his office, -

are punished by a fine in the amount up to 700 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 9 months, or in the amount of 10 to 30 times the sum of the commercial bribe; or by deprivation of liberty for a term up to 3 years, with or without a fine in the amount up to 15 times the sum of the commercial bribe.

6. Acts stipulated in Part 5 of this Article, where perpetrated in substantial amount, -

are punished by a fine in the amount of 200 000 to 1 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 3 months to 1 year, or in the amount of 20 to 40 times the sum of the commercial bribe, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by deprivation of liberty for a term up to 5 years, with or without a fine in the amount up to 20 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

7. Acts stipulated in Part 5 of this Article, where:

- a) perpetrated by a group of persons by prior conspiracy or by an organised group;

- b) accompanied by solicitation² of the subject matter of commercial bribery;
- c) perpetrated in exchange for illegal actions (failure to act);
- d) perpetrated in significant amount, -

are punished by a fine in the amount of 1 000 000 to 3 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 1 to 3 years, or in the amount of 30 to 60 times the sum of the commercial bribe, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years; or by deprivation of liberty for a term of 5 to 9 years, with or without a fine in the amount up to 40 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years.

8. Acts stipulated in Part 5, Items “a” to “c” of Part 7 of this Article, where perpetrated in especially significant amount, -

are punished by a fine in the amount of 2 000 000 to 5 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 2 to 5 years, or in the amount of 50 to 90 times the sum of the commercial bribe, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 6 years; or by deprivation of liberty for a term of 7 to 12 years, with or without a fine in the amount up to 50 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 6 years.

Notes:

1. In this Article and in Article 204.1 of this Code, the substantial amount of a commercial bribe is the sum of money, the cost of securities, of other property, monetized services, other property rights exceeding 25 000 rubles, the significant amount of a commercial bribe – those exceeding 150 000 rubles, the especially significant amount of a commercial bribe – those exceeding 1 000 000 rubles.

2. A person who committed a crime stipulated in Parts 1–4 of this Article is exempt from criminal liability, if he/she actively contributed to solving and (or) investigating the crime, and either the subject matter of commercial bribery was solicited from that person, or he/she voluntarily informed the body authorised to initiate a criminal case about the committed crime.

Article 204.1. Acting as Intermediary in Commercial Bribery

1. Acting as intermediary in commercial bribery, i.e. directly transferring the subject matter of commercial bribery (illegal remuneration) following the instructions of the person transferring the subject matter of commercial bribery or of the person receiving the subject matter of commercial bribery, or otherwise assisting these persons in reaching or implementing the agreement between them regarding the transfer and receipt of the subject matter of commercial bribery in substantial amount -

² The term “solicitation” is commonly used in English to Russian translations on this topic, however the Russian word used in these Articles of the Code, *вымогательство*, literally translates as “extortion” – *translator’s note*

is punished by a fine in the amount up to 400 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 6 months, or in the amount of 5 to 20 times the sum of the commercial bribe; or by restriction of liberty for a term up to 2 years; or by corrective works for a term up to 2 years; or by deprivation of liberty for the same term, with or without a fine in the amount up to 5 times the sum of the commercial bribe.

2. Acting as intermediary in commercial bribery, where:

- a) committed by a group of persons by prior conspiracy or by an organised group;
- b) the subject matter of commercial bribery is transferred in exchange for knowingly illegal actions (failure to act);
- c) committed in significant amount, -

is punished by a fine in the amount up to 800 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 6 months, or in the amount of 10 to 30 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years; or by deprivation of liberty for a term up to 5 years, with or without a fine in the amount up to 30 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years.

3. Acting as intermediary in commercial bribery, where committed in especially significant amount, -

is punished by a fine in the amount up to 1 500 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 1 year and 6 months, or in the amount of 40 to 70 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 6 years; or by deprivation of liberty for a term of 3 to 7 years, with or without a fine in the amount up to 40 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 6 years.

4. A promise or offer to act as intermediary in commercial bribery -

is punished by a fine in the amount up to 1 000 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 1 year, or in the amount of 10 to 20 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by restriction of liberty for a term of 1 to 2 years, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by deprivation of liberty for a term up to 4 years, with or without a fine in the amount up to 15 times the sum of the commercial bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

Note:

A person who committed the crime stipulated in this Article is exempt from criminal liability, if he/she actively contributed to solving and (or) investigating the crime and voluntarily informed the body authorised to initiate a criminal case about the committed crime.

Article 204.2. Petty Commercial Bribery

1. Commercial bribery, where the sum does not exceed 10 000 rubles, - is punished by a fine in the amount up to 150 000 rubles or in the amount of salary or other income of the convicted person for a period up to 3 months, or by obligatory works for a term up to 200 hours, or by corrective works for a term up to 1 year, or by restriction of liberty for a term up to 1 year.

2. The same act, where perpetrated by a person who has a criminal record for commission of crimes stipulated in Articles 204, 204.1 of this Code or in this Article, - is punished by a fine in the amount up to 500 000 rubles or in the amount of salary or other income of the convicted person for a period up to 6 months, or by corrective works for a term up to 1 year, or by restriction of liberty for a term up to 2 years, or by deprivation of liberty for a term up to 1 year.

Note:

A person who transferred the subject matter of petty commercial bribery is exempt from criminal liability, if he/she actively contributed to solving and (or) investigating the crime, and either the subject matter of commercial bribery was solicited from this person, or after committing the crime he/she voluntarily informed the body authorised to initiate a criminal case about transferring the subject matter of commercial bribery.

Article 285. Abuse of Official Powers

1. The use by an official of her/his official powers contrary to the interests of service, where this act is perpetrated in pursuit of profit or other personal interests and results in significant violation of rights and lawful interests of citizens or organisations, or of interests of the society or the state, protected by law, - is punished by a fine in the amount up to 80 000 rubles or in the amount of salary or other income of the convicted person for a period up to 6 months, or by deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years, or by compulsory labour for a term up to 4 years, or by arrest for a term of 4 to 6 months, or by deprivation of liberty for a term up to 4 years.

2. The same act, where perpetrated by a person occupying the office of a public official of the Russian Federation or public official of a constituent entity of the Russian Federation and, likewise, by the head of a local self-government body, - is punished by a fine in the amount of 100 000 to 300 000 rubles or in the amount of salary or other income of the convicted person for a period of 1 to 2 years, or by compulsory labour for a term up to 5 years with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years, or by deprivation of liberty for a term up to 7 years with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

3. Acts stipulated in Parts 1 or 2 of this Article, where they entail grave consequences, -

are punished by deprivation of liberty for a term up to 10 years with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

Notes:

1. In the context of this Chapter³, officials [*должностные лица*] are persons who, on a permanent, temporary basis or by virtue of special authority, exercise the functions of a representative of the authorities or perform organisational and managerial, administrative functions within state bodies, local self-government bodies, state and municipal institutions, state corporations, state companies, state and municipal unitary enterprises, in stock companies, the controlling interest in which belongs to the Russian Federation, to constituent entities of the Russian Federation or municipal entities, as well as within the Armed Forces of the Russian Federation, other military forces and military formations of the Russian Federation.

2. In the context of this Chapter and other Articles of this Code, persons occupying the offices of public officials of the Russian Federation [*лица, занимающие государственные должности Российской Федерации*] are persons occupying positions established by the Constitution of the Russian Federation, federal constitutional laws and federal laws for the direct exercise of powers of state bodies.

3. In the context of this Chapter and other Articles of this Code, persons occupying the offices of public officials of constituent entities of the Russian Federation are persons occupying positions established by constitutions or charters of constituent entities of the Russian Federation for the direct exercise of powers of state bodies.

4. State servants and municipal servants who do not pertain to officials bear criminal liability under the Articles of this Chapter, where so explicitly stipulated in the corresponding Articles.

5. *Abrogated*

Article 290. Receipt of a Bribe

1. The receipt of a bribe by an official, foreign official or an official of a public international organisation, directly or through an intermediary, in the form of money, securities, other property or in the form of illegal rendering of monetized services, provision of other property rights to that person (in particular, when the bribe is transferred to another natural or legal person at the instructions of the official) in exchange for performance of actions (failure to act) for the benefit of the briber or the persons represented by the briber, if said actions (failure to act) are within the scope of official powers of the official, or if the official may contribute to said actions (failure to act) by virtue of her/his office; and, likewise, for general patronage or connivance in office - is punished by a fine in the amount up to 1 000 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 2 years, or in the amount of 10 to 50 sums of the

³ Chapter 30 of the CrC RF, “Crimes against the State Power, the Interests of the State Service and Service in Local Self-Government Bodies”; it includes Articles 285 to 293 – *translator’s note*

bribe, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by corrective works for a term of 1 to 2 years, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by obligatory works for a term up to 5 years, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by deprivation of liberty for a term up to 3 years, with or without a fine in the amount of 10 to 20 times the sum of the bribe.

2. The receipt of a bribe in substantial amount by an official, foreign official or official of a public international organisation -

is punished by a fine in the amount of 200 000 to 1 500 000 rubles, or in the amount of salary or other income of the convicted person for a period of 6 months to 2 years, or in the amount of 30 to 60 times the sum of the bribe, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by deprivation of liberty for a term up to 6 years, with or without a fine in the amount up to 30 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

3. The receipt of a bribe by an official, foreign official or official of a public international organisation in exchange for illegal actions (failure to act) -

is punished by a fine in the amount of 500 000 to 2 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 6 months to 2 years, or in the amount of 40 to 70 times the sum of the bribe, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years; or by deprivation of liberty for a term of 3 to 8 years, with or without a fine in the amount up to 40 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years.

4. Acts stipulated in Parts 1–3 of this Article, where perpetrated by a person occupying the office of a public official of the Russian Federation or public official of a constituent entity of the Russian Federation, as well as by the head of local self-government, -

are punished by a fine in the amount of 1 000 000 to 3 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 1 to 3 years, or in the amount of 60 to 80 times the sum of the bribe, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 7 years; or by deprivation of liberty for a term of 5 to 10 years, with or without a fine in the amount up to 50 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 7 years.

5. Acts stipulated in Parts 1, 3, 4 of this Article, where perpetrated:

a) by a group of persons by prior conspiracy or by an organised group;

b) with solicitation of a bribe;

c) in significant amount, -

are punished by a fine in the amount of 2 000 000 to 4 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 2 to 4 years, or in the amount of 70 to 90 times the sum of the bribe, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 10 years; or by deprivation of liberty for a term of 7 to 12 years, with or without a fine in the amount up to 60 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 10 years.

6. Acts stipulated in Parts 1, 3, 4, Items “a” and “b” of Part 5 of this Article, where perpetrated in especially significant amount, - are punished by a fine in the amount of 3 000 000 to 5 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 3 to 5 years, or in the amount of 80 to 100 times the sum of the bribe, accompanied by deprivation of right to hold a certain office or engage in certain activities for a term up to 15 years; or by deprivation of liberty for a term of 8 to 15 years, with or without a fine in the amount up to 70 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 15 years.

Notes:

1. In this Article, in Articles 291 and 291.1 of this Code, the substantial amount of the bribe is the sum of money, cost of securities, other property, monetized services, other property rights exceeding 25 000 rubles, the significant amount – those exceeding 150 000 rubles, the especially significant amount – those exceeding 1 000 000 rubles.

2. In this Article, in Articles 291, 291.1 and 304 of this Code, a foreign official is understood as any appointed or elected person occupying any particular position in a legislative, executive, administrative or judicial body of a foreign state and any person performing any particular public function for a foreign state, in particular for a public agency or a public enterprise; an official of a public international organisation is understood as an international civil servant or any person authorised by such an organisation to act on its behalf.

Article 291. Giving a Bribe

1. The giving of a bribe to an official, a foreign official or an official of a public international organisation, directly or through an intermediary (in particular, when the bribe is transferred to another natural or legal person at the instructions of the official) - is punished by a fine in the amount up to 500 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 1 year, or in the amount of 5 to 30 times the sum of the bribe; or by corrective works for a term up to 2 years, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by compulsory labour for a term up to 3 years; or by deprivation of liberty for a term up to 2 years, with or without a fine in the amount of 5 to 10 times the sum of the bribe.

2. The giving of a bribe in substantial amount to an official, foreign official or an official of a public international organisation, directly or through an intermediary (in particular, when the bribe is transferred to another natural or legal person at the instructions of the official) - is punished by a fine in the amount up to 1 000 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 2 years, or in the amount of 10 to 40 times the sum of the bribe; or by corrective works for a term of 1 to 2 years, with or without deprivation of right to hold a certain office or engage in certain activities for a term of 1 to 3 years; or by deprivation of liberty for a term up to 5 years, with or without a fine in the amount of 5 to 15 times the sum of the bribe.

3. The giving of a bribe to an official, foreign official or an official of a public international organisation, directly or through an intermediary (in particular, when the bribe is transferred to another natural or legal person at the instructions of the official), in exchange for performance of knowingly illegal actions (failure to act) -

is punished by a fine in the amount up to 1 500 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 2 years, or in the amount of 30 to 60 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years; or by deprivation of liberty for a term up to 8 years, with or without a fine in the amount up to 30 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years.

4. Acts stipulated in Parts 1–3 of this Article, where perpetrated:

a) by a group of persons by prior conspiracy or by an organised group;

b) in significant amount, -

are punished by a fine in the amount of 1 000 000 to 3 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 1 to 3 years, or in the amount of 60 to 80 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 7 years; or by deprivation of liberty for a term of 7 to 12 years, with or without a fine in the amount up to 60 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 7 years.

5. Acts stipulated in Parts 1–4 of this Article, where perpetrated in especially significant amount, -

are punished by a fine in the amount of 2 000 000 to 4 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 2 to 4 years, or in the amount of 70 to 90 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 10 years; or by deprivation of liberty for a term of 8 to 15 years, with or without a fine in the amount up to 70 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 10 years.

Note:

A person who gave a bribe is exempt from criminal liability, if he/she actively contributed to solving and (or) investigating the crime, and either the bribe was solicited from this person by an official, or after committing the crime he/she voluntarily informed the body authorised to initiate a criminal case about giving the bribe.

Article 291.1. Acting as Intermediary in Bribery

1. Acting as intermediary in bribery, i.e. directly transferring the bribe following the instructions of the briber or of the recipient of the bribe, or otherwise assisting the briber and (or) the recipient of the bribe in reaching or implementing the agreement between them regarding the receipt and giving of a bribe in substantial amount -

is punished by a fine in the amount up to 700 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 1 year, or in the amount of 20 to 40 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for

a term up to 3 years; or by deprivation of liberty for a term up to 4 years, with or without a fine in the amount up to 20 times the sum of the bribe.

2. Acting as intermediary in bribery, where the bribe is given in exchange for performance of knowingly illegal actions (failure to act), or where committed by a person with the use of powers vested in her/him by virtue of her/his office, -

is punished by a fine in the amount up to 1 000 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 1 year, or in the amount of 20 to 50 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years; or by deprivation of liberty for a term of 3 to 7 years, with or without a fine in the amount up to 30 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

3. Acting as intermediary in bribery, where committed:

a) by a group of persons by prior conspiracy or by an organised group;

b) in significant amount, -

is punished by a fine in the amount of 1 000 000 to 2 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 1 to 2 years, or in the amount of 50 to 70 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years; or by deprivation of liberty for a term of 5 to 10 years, with or without a fine in the amount up to 60 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years.

4. Acting as intermediary in bribery, where committed in especially significant amount, -

is punished by a fine in the amount of 1 500 000 to 3 000 000 rubles, or in the amount of salary or other income of the convicted person for a period of 2 to 3 years, or in the amount of 60 to 80 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 7 years; or by deprivation of liberty for a term of 7 to 12 years, with or without a fine in the amount up to 70 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 7 years.

5. A promise or offer to act as intermediary in bribery -

is punished by a fine in the amount up to 3 000 000 rubles, or in the amount of salary or other income of the convicted person for a period up to 3 years, or in the amount up to 60 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years; or by deprivation of liberty for a term up to 7 years, with or without a fine in the amount up to 30 times the sum of the bribe, with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 5 years.

Note:

A person who committed a crime stipulated in this Article is exempt from criminal liability, if he/she actively contributed to solving and (or) suppressing the crime and voluntarily informed the body authorised to initiate a criminal case about the committed crime.

Article 291.2. Petty Bribery

1. Receipt of a bribe, giving a bribe directly or through an intermediary, in an amount not exceeding 10 000 rubles, -

are punished by a fine in the amount up to 200 000 rubles or in the amount of salary or other income of the convicted person for a period up to 3 months, or by corrective works for a term up to 1 year, or by restriction of liberty for a term up to 2 years, or by deprivation of liberty for a term up to 1 year.

2. The same acts, where perpetrated by a person who has a criminal record for commission of crimes stipulated in Articles 290, 291, 291.1 of this Code or in this Article, -

are punished by a fine in the amount up to 1 000 000 rubles or in the amount of salary or other income of the convicted person for a period up to 1 year, or by corrective works for a term up to 3 years, or by restriction of liberty for a term up to 4 years, or by deprivation of liberty for a term up to 3 years.

Note:

A person who gave a bribe in the amount indicated in this Article is exempt from criminal liability, if he/she actively assisted in solving and (or) investigating the crime, and either the bribe was solicited from this person, or after committing the crime he/she voluntarily informed the body authorised to initiate a criminal case about giving the bribe.

Article 292. Forgery by an Official

1. Forgery by an official, i.e. the entry of knowingly false information into official documents by an official, as well as by a state servant or a municipal servant, who is not an official, and, likewise, entry of corrections distorting the actual contents into said documents, where these acts are perpetrated in pursuit of profit or other personal interests (in the absence of elements of the crime stipulated in Part 1 of Article 292.1 of this Code), -

is punished by a fine in the amount up to 80 000 rubles or in the amount of salary or other income of the convicted person for a period up to 6 months, or by obligatory works for a term up to 480 hours, or by corrective works for a term up to 2 years, or by compulsory labour for a term up to 2 years, or by arrest for a term up to 6 months, or by deprivation of liberty for a term up to 2 years.

2. The same acts, where they result in significant violation of rights and lawful interests of citizens or organisations, or of the interests of the society or state, protected by law, -

are punished by a fine in the amount of 100 000 to 500 000 rubles or in the amount of salary or other income of the convicted person for a period of 1 to 3 years, or by compulsory labour for a term up to 4 years with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years, or by deprivation of liberty for a term up to 4 years with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

Article 304. Provocation of a Bribe, Commercial Bribery or Commercial Bribery in the Sphere of Procurement of Goods, Works, Services for State or Municipal Needs

Provocation of a bribe, of commercial bribery or commercial bribery in the sphere of procurement of goods, works, services for state or municipal needs, i.e. an attempt to transfer money, securities, other property, or to render monetized services, provide property rights to an official, foreign official, an official of a public international organisation, a person performing managerial functions in commercial or other organisations, or to a person referred to in Part 1 of Article 200.5 of this Code, without that person's consent, for the purpose of artificially creating evidence of commission of a crime or for the purpose of blackmail, -

is punished by a fine in the amount of up to 200 000 rubles or in the amount of salary or other income of the convicted person for a period up to 18 months, or by compulsory labour for a term up to 5 years with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years, or by deprivation of liberty for a term up to 5 years with or without deprivation of right to hold a certain office or engage in certain activities for a term up to 3 years.

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Translated by George Borisov, counsellor of International Cooperation Department
of the Supreme Court of the Russian Federation