

CHAPTER 33. OFFENCES OF CORRUPTION AND OTHER OFFENCES AGAINST [INTERESTS OF] SERVICE

Section 308. Abuse of office

308.1. Abusing official powers, that is deliberate, contrary to interests of service, use by the official of service powers from self-interest or other personal interest, causing essential harm to rights and legitimate interests of citizens or organizations or protected by law interests of a society or state shall be punished by the penalty at a rate from one up to 2 thousand Manats, or with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to 3 years, or corrective works for the term up to 2 years, or imprisonment for the term up to 3 years.

308.2. The act provided by Section 308.1 of the present Code, entailed heavy consequences – shall be punished by imprisonment for the term from 3 up to 7 years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to 3 years.

The Note:

1. Representatives of the state authorities, including persons elected or appointed to public institutions in order provided by the Constitution and statutes of the Republic of Azerbaijan, as well as persons representing public and self-governing institutions on the basis of special powers, military personnel of officers, warrant officers and ensigns, as well as civil servants (including special categories of civil service);

2. persons, whose candidacy to elected posts in state institutions has been registered according to statutory rules;

3. managers and employees of state and municipal establishments, enterprises or organizations, and other commercial and non-commercial organizations;

4. persons carrying out organizational-administrative or managerial-administrative functions in state and municipal establishments, enterprises or organizations, and other commercial and non-commercial organizations, on the basis special authority;

5. persons engaged in commercial activity without incurring legal person identity;

6. officials of public institutions of foreign states, members of elected institutions of foreign countries, officials and other servants of international organizations, members of the international parliamentary assemblies;

7. judges and other officials of international courts, arbiters of foreign and national arbitration courts, foreign and national jurors.

Section 309. Excess of official powers

309.1. Commitment by official of actions, which are obviously au dehors of his/her powers, if caused essential harm to rights and legitimate interests of natural and legal persons or interests of society or state protected by law shall be punished by fine at a rate of 1,000 to 2,000 Manats; or corrective works for the term up to 2 years; or imprisonment for the term up to 3 years with

deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to 3 years and with confiscation of property.

309.2. The actions specified by Section 309.1 of the present Code, committed with application of violence or with threat of its application, or with application of weapon or other special means, or resulted in grave consequences shall be punished by imprisonment for the term of 3 up to 7 years with deprivation of the right to hold the certain posts or to engage in the certain activities for the term up to 3 years and with confiscation of property.

Section 310. Appropriation of powers of the official

Commission of actions causing essential infringement of rights and legitimate interests of natural and legal persons by self-presentation as official or appropriation of powers of the official shall be punished by fine at a rate of 500 to 1,000 Manats; or or public works for the term up to 200 hours, or corrective works for the term up to 2 years; or imprisonment for the term up to 3 years.

Section 311. Receiving a Bribe (Passive Bribery)

(1) Receiving a bribe - i.e. request or receipt or acceptance of offer or promise by an official, directly or indirectly, personally or through the intermediary of third persons, of any material or other values, privileges or advantages for him/herself or third persons, for any act (inaction), as well as general patronage or indifference, in the exercise of his/her official functions shall be punished by 4 to 8 years imprisonment with deprivation of the right to hold certain positions or to engage in certain activities for a period of up to 3 years and confiscation of property.

(2) Receiving a bribe by an official for committing an illegal act (inaction) shall be punished by 5 to 10 years' imprisonment with deprivation of the right to hold certain positions or to engage in certain activities for a period of up to 3 years and confiscation of property.

(3) The acts provided by articles 311 (1) or (2) of the present Code, committed:

1. on preliminary arrangement by a group of persons or an organized group;
2. repeatedly;
3. involving a large amount;
4. with application of threats

shall be punished by 8 to 12 years' imprisonment and confiscation of property.

Section 312. Giving a Bribe (Active Bribery)

(1) Giving a bribe – i.e. offering, promising or giving any material or other values, privileges or advantages, directly or indirectly, personally or through the intermediary of third persons, to an official for him/herself or third persons to act or refrain from acting in the exercise of his/her official functions – shall be punished by a fine of 1,000 to 2,000 Manat⁴ or 2 to 5 years imprisonment and confiscation of property.

(2) Giving of a bribe to an official for the commitment of an intentional illegal act (inaction) by him/her, or repeated presentation of a bribe, shall be punished by a fine of 2,000 to 4,000 Manats or 5 or 4 to 8 years' imprisonment and confiscation of property.

Note: The person giving a bribe shall be released from criminal liability if the presentation of the bribe took place under threat by the official or if the person has voluntarily informed the appropriate State body about the presentation of a bribe.

Section 312-1. Influencing the decision of an official (Trading in influence)

(1) Requesting or receiving, or accepting the offer or promise of any material or other values, privileges or advantages by any person for him/herself or third persons, directly or indirectly, personally or through the intermediary of third persons, with the purpose of exerting an improper influence over the decision-making of an official using his/her real or assumed possibilities of influence shall be punished by a fine of 3,000 to 5,000 Manat or 3 to 7 years imprisonment and confiscation of property.

(2) Giving, offering, or promising to any person of any material or other values, privileges or advantages, for him/herself or third persons directly or indirectly, personally or through the intermediary of third persons, with the purpose of exerting an improper influence over the decision-making of an official using his/her real or assumed possibilities of influence shall be punished by a fine of 1,000 to 2,000 Manat or 2 to 5 years imprisonment and confiscation of property.

Section 313. Service Forgery

Service forgery, that is introduction of obviously false data to an official document, as well as making of the amendments to specified documents distorting their valid content, committed for gain or other personal interest by an official shall be punished by 500 to one 1,000 Manats; or corrective works for 1 to 2 years; or imprisonment up to 2 years with deprivation of the right to hold the certain posts or to engage in the certain activities up to 2 years and confiscation of property.

Section 314. Criminal Negligence

314.1. The negligence, that is failure or inadequate performance by official of the duties owing to unfair or negligent attitude(relation) to the service, entailed essential harm to rights and legitimate interests of citizens or organizations or to interests protected by law of state or a society shall be punished by the penalty at a rate from 5 hundred up to one thousand manats, or public works for the term up to 230 hours, or corrective works for the term up to 2 years, or imprisonment for the term about 6 months.

314.2. The same act committed by negligence, if caused the death of the victim or other heavy consequences shall be punished by imprisonment up to 5 years.

Section 314-1. Making decision on the land plots that are in the exclusive ownership of the state and banned for alienation by law

Making decision on transferring the of land plots, that are in the exclusive ownership of the state and banned for alienation by law, to the ownership, usage and lease of the municipalities, natural and legal persons shall be punished by imprisonment for the term of 2 to 5 years along with the deprivation of the right to hold the certain posts or to engage in the certain activities up to 3 years.

Section 314-2. Allotment of land and authorization of construction and erection works through the violation of the statutory order

314-2.1 Authorization of construction and erection works through violation of the statutory order by official shall be punished by corrective works for the term up to 1 year or imprisonment for the term up to 3 years with/without the deprivation of the right to hold the certain posts or to engage in the certain activities up to 3 years.

314-2.2. Allotment of land or authorization of construction and erection works through violation of the statutory order by official in the areas locating trunk pipes, electric supply ne2rks of above 1000 Voltage, subway and railway facilities, defence objects, watter supply and sewerage systems, technical facilities, oil wells and auto routes and water reservoir protection zones shall be punished by corrective works for the term up to 2 year or imprisonment for the term of 2 to 4 years with/without the deprivation of the right to hold the certain posts or to engage in the certain activities up to 3 years.

314-2.3. If resulted in grave consequences, the actions specified in Sections 314-2.1 and 314-2.2 shall be punished by imprisonment for the term of 4 to 8 years with/without the deprivation of the right to hold the certain posts or to engage in the certain activities up to 3 years.

Section 314-3. Obstruction of construction works through the violation of the statutory order

314-3.1. Failure to prevent occurrence of actions specified in sections 222.1, 222-1.1 and 222-2.1 of the present Code as a result of the negligent attitude of the official of the appropriate state institutions to his/her official duties shall be punished by or corrective works for the term up to 1 year or imprisonment for the term up to 2 years with/without the deprivation of the right to hold the certain posts or to engage in the certain activities up to 2 years.

314-3.2. The same actions, if caused the great bodily harm or less grave bodily harm of the victim shall be punished by imprisonment for the term of 2 to 4 years with/without the deprivation of the right to hold the certain posts or to engage in the certain activities up to 3 years.

314-3.2. The same actions, if caused the death of the victim or resulted in other serious consequence shall be punished by imprisonment for the term of 4 to 6 years with/without the deprivation of the right to hold the certain posts or to engage in the certain activities up to 3 years.