



CRIMINAL DESCRIPTION OF FALSE TESTIMONY

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The object of the crime of false testimony is the normal activities of the inquiry, preliminary investigation, prosecutor's office and judicial bodies, as well as the rights and interests of citizens, enterprises, institutions and organizations protected by law.

The objective aspect of the crime provided for in Part 1 of Article 238 of the Criminal Code is expressed in the performance of one of the following actions: a witness knowingly gives false testimony, a victim knowingly gives false testimony, an expert knowingly gives a false conclusion, a translator knowingly makes a false translation from one language to another. All of these actions can be performed in court or during the inquiry or preliminary investigation.

Testimony is the provision of information about circumstances that are important for a criminal or civil case, circumstances that need to be clarified. Article 238 of the Criminal Code does not take into account circumstances that are irrelevant to the case (for example, changing the reasons for the witness's appearance at the crime scene). Intentional distortion of circumstances of evidentiary importance by a witness or victim during the inquiry, preliminary investigation and trial is considered perjury. Reporting untrue or distorted facts of the case, or denying existing facts or failing to testify about these facts is also considered perjury. (See the commentary to Article 235 of the Criminal Code on the concepts of "witness" and "victim").

Repetition of testimony by a witness or victim during a court session or during the preliminary investigation cannot be considered a new crime. In this case, the act committed is a continuation of the previous crime.

Knowingly false information by a witness or victim is considered to have been given from the moment of the end of the interrogation of the witness or victim in court, during the inquiry or preliminary investigation (i.e., from the moment the interrogation protocol is signed).

Expert - any person who has the necessary knowledge to issue an opinion on scientific, technical and other special issues arising in criminal, administrative, civil and economic cases. Using his special knowledge, he draws up an opinion on his own behalf on the basis of an objective and comprehensive investigation and is responsible for the opinion he presents (Article 67 of the Code of Criminal Procedure).



Expert opinion - an opinion presented by an authorized person on the basis of special knowledge on any aspect of the case submitted for investigation. The opinion may be presented only by an authorized person.

Incorrect expert opinion - an incorrect assessment of the case materials (documents, evidence) by an expert. Also, distortion of facts on the circumstances identified during the examination, failure to indicate these facts in the conclusion, giving an incorrect explanation are also considered incorrect conclusions. According to the Criminal Procedure Code of the Republic of Uzbekistan, an expert of a state or non-state institution, an employee of another enterprise, institution, organization (part 1) or an individual may participate as an expert (Article 174 of the Criminal Procedure Code)

The crime is considered to be completed when the expert gives an incorrect conclusion.

Translation is an activity aimed at expressing any information, data in one language in another language. By language, not only a spoken ("sound") language can be understood, but also a widely used and used sign language that does not require special knowledge (for example, the language of the Carpathians) (including the ancient Egyptian language, some kind of code). Translation can be carried out from one language to another, both written and oral, by one or several translators. It should be noted that only persons who are involved in a specific case as translators can be held liable for knowingly making an incorrect translation.

Incorrect translation is expressed in the incorrect translation of a written or oral speech from one language to another, distorting its content. Incorrect translation also includes maintaining silence in certain circumstances depending on the circumstances of the case. 12. If the translator signs the written translation or the translation is an oral translation, the crime is considered to be completed after the translation is completed. 13. The subjective aspect of the crime is expressed in the correct intent. The listed persons understand that the testimony, conclusion or translation they are giving does not correspond to the truth and try to provide them to the court or other bodies administering justice as incorrect information. The sign of prior knowledge distinguishes the behavior that is being interpreted as punishable from reckless behavior for which no punishment is prescribed. This may be, for example, the victim or witness giving false testimony due to forgetfulness or distraction, or an incorrect conclusion or translation by an uneducated expert or translator. The motive for the crime



(prejudice, revenge, personal negative relations) does not affect the qualification of the act.

The subject of the crime is a specific person who, according to the law, may participate in the case as a witness, victim, expert or translator.

Part 2 of the article under consideration establishes liability for the following acts: a) persuasion in exchange for a bribe to give false testimony.

"Mental pressure and psychological influence are expressed in the demand by the perpetrator to commit the crime in question by threatening to cause harm to health or property. Forced to give false testimony by means of mental pressure is considered complete from the moment of manifestation of the use of force, regardless of the consequences determined by the perpetrator.

Physical pressure is expressed in inflicting minor bodily injury on the victim by hitting him. When inflicting moderate or severe bodily injury on the victim, the perpetrator's actions must be qualified as a set of crimes in accordance with the articles establishing criminal liability for causing harm to health (Articles 104, 105 of the Criminal Code). Threatening to kill must be qualified as a set of crimes along with giving false testimony (Articles 112 and 238 of the Criminal Code).

From the subjective side, the crime manifests itself in the form of direct intent. Its implementation The motive may be different, but they are not significant in qualifying the crime.

The subject of the crime provided for in Part 2 of Article 238 of the Criminal Code may be any person who has reached the age of sixteen.

Part 3 of the article in question provides for liability for giving false testimony in the interests of an organized group (see the commentary to Article 164 of the Criminal Code on the concept of the interests of an organized group) or in the commission of a grave and especially grave crime (see the commentary to Article 15 of the Criminal Code on the concept of grave and especially grave crimes).

Taking into account the increase in the number of this crime in recent years, as well as the extremely high level of latency of these crimes, it is necessary to improve the activities of the primary investigation bodies and the court to prevent these acts.

External criminogenic factors of perjury include various forms of influence on victims and witnesses by interested parties; kinship or other close relationships with the accused; personal interest in the outcome of the case; service connection to the accused in the case; the existence of enmity between





the person who gave false testimony and the accused or victim; illegal or immoral behavior of the victim and witnesses; the connection of the subjects of perjury to the main crime; pity for the accused or defendant, the aim of mitigating his guilt; criminogenic factors related to the personality of the accused; greed; reluctance to fulfill the duty of witness, considering it an act that undermines the honor and dignity of the person; sympathy, compassion, pity for the accused or his family; Revenge against the accused is a criminogenic factor.

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- leading to the commission of false testimony.

