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ECONOMIC COMPONENT OF CRIME AND WAYS TO PREVENT ILLEGAL ACTIONS

Яна Палешко, Ольга Кубецька, Олександр Неклеса. ЕКОНОМІЧНА СКЛАДОВА ЗЛОЧИННОСТІ ТА ШЛЯХИ ЗАПОБІГАННЯ ПРОТИПРАВНИМ ДІЯННЯМ. Тіньова економіка яскраво відображає стан злочинних діянь в економічній сфері. Злочинність посилюється внаслідок стрімко розвиваючої економічної кризи, яка відображається в низькій заробітній платні та високим рівнем оподаткування. Саме запобігання та подолання економічних злочинів може стати базою для розробки довготривалої стратегії соціально-економічного розвитку суспільства.

Запобігання злочинам – це система заходів економічного, правового, виховного та соціально-культурного характеру, які проводяться органами державної влади. Головною складовою запобігання злочинів в економічній сфері являється практична діяльність правоохоронних органів та справедливе кримінальне покарання.

Перед правоохоронними органами постає завдання створення такого міцного правопорядку, що гарантував би зниження злочинності до мінімуму, з урахуванням особливостей економічних, суспільно-психологічних умов в суспільстві.

Планування розслідувань у справах, які пов'язані з економічною сферою, це багатоетапний процес до якого входять різноманітні структурні елементи. Найголовніші з них доцільно виділити: одержання вихідних даних з їх подальшим опрацюванням та аналізуванням; встановлення завдання розслідування з організацією розшукових дій; встановлення порядку та термінів виконання розслідування. На першій стадії розслідування проводиться прогнозування на основі отриманих даних. Основною функцією розслідування – являється встановлення тенденції руху економічного злочину та розробка розшукових дій в конкретному випадку злочину.

Слід зауважити, що успішне запобігання злочинних діянь це справа не тільки працівників правоохоронних органів, а й суспільства. Стратегія громадського впливу на злочинність має полягати, з одного боку, в залученні, а з іншого – в ініціативній участі окремих громадян, громадських організацій правоохоронної спрямованості тощо до охорони правопорядку, участі у програмах профілактики злочинності, надання інформації про вчинені злочини з обов'язковим матеріальним заохоченням цих напрямів роботи з боку держави і приватного бізнесу.

Ключові слова: склад злочину, злочин у сфері економіки, класифікаційні підходи до поділу злочинів в економічній сфері, адміністративне судочинство, процесуальний розсуд, публічне правонаступництво.

Relevance of the study. Due to the titanic efforts of law enforcement agencies, crime in economic sphere is shifting towards the development of new technologies to commit illegal acts, criminals are penetrating and trying to control segments of the economy and create cor-

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rupt systems for maximum criminal outcome. That is why the fight against economic crime is now becoming so relevant and should be the subject of study.

Recent publications review. The problems of the essence of economic crime and its features are given a lot of attention by such scientists as: M. Bazhanov, I. Bazyaruk, V. Bilous, S. Kravchuk, O. Litvak, O. Yakovlev. Significant contribution to the study of criminological aspect of economic crimes have been made by such scientists as: A. Medentsev, O. Pchelina, E. Sutherland, R. Stepaniuk, D. Kharko.

The article's objective. Crime prevention is an established system of overcoming the objective and subjective preconditions of crime, which is realized through the successful operation of all institutions of society. But in the practical sense, crime prevention is the exclusion of crimes by identifying and eliminating the causes and conditions of their commission.

Discussion. One of the main tasks of the state is to avert, eliminate and prevent crimes. The tools by which the state achieves its goal in crime prevention are:

- General social;
- Special criminological;
- Individual.

Socio-criminological instruments are the sphere of influence and activity of state bodies, social organizations, public groups. It is they who develop and implement measures to avert, eliminate and prevent crime and taking that into account, have direct rights and, accordingly, duties and responsibilities.

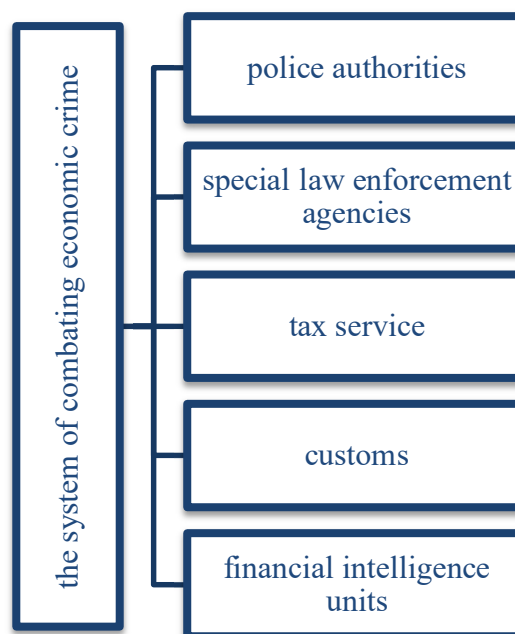


Fig. 1. The system of combating economic crime of the state

The main cause of crime lies in the negative phenomena of society, social, political, especially economic and spiritual problems inherent in community. We note that in the long run, in terms of reducing crime, measures to stabilize and boost the level of economy (namely, increase in employment, development of programs to improve living standards in the country) come to the fore.

It is the increase in the level of economic condition of the state that leads society to reduce in the number of crimes. It is purposeful measures of the state that are able to minimize criminal actions. It should be noted that crime prevention is also a key point. Criminologists distinguish several types of crime prevention, specifically: general, special and individual crime prevention.

The measures of general prevention include the creation of a system of public administration transparent to public control, which inhibits the emergence and operation of corruption schemes.

Basically, the general prevention of crime is aimed at ensuring of the dignified human existence in society, creating conditions for meeting normal needs (housing, wealth, work, leisure and recreation) by legal means.

Table 1

Classification of economic crimes

Economic crimes	crimes in property relations (Articles 190–191 of the Criminal Code of Ukraine)
	crimes in the financial sphere (Articles 199–200, 207–212 ¹ , 215–224 of the Criminal Code of Ukraine)
	crimes in entrepreneurship, competitive relations and other activities of economic entities (Articles 202–206, 213–214 of the Criminal Code of Ukraine)
	crimes in the sphere of protection against monopoly and unfair competition (Articles 228, 231–232 ¹ of the Criminal Code of Ukraine)
	crimes in the sphere of consumer rights realisation and public services (Articles 225–227, 229 of the Criminal Code of Ukraine)
	crimes in the sphere of privatization of state or communal property (Articles 233–235 of the Criminal Code of Ukraine);
	crimes in customs regulation (Article 201 of the Criminal Code of Ukraine)
	crimes against property – misappropriation, embezzlement of property or taking it by abuse of official position (Articles 185, 186, 188–192 of the Criminal Code of Ukraine);
	crimes in the sphere of economic activity (Articles 199–235 of the Criminal Code of Ukraine)
	crimes in the sphere of electronic computing machines (computers), systems and computer networks usage (Articles 361–363 of the Criminal Code of Ukraine)
	crimes in the sphere of employment activity (Articles 364–370 of the Criminal Code of Ukraine)

The development and implementation of general prevention measures is carried out by all state bodies with the involvement of specialists in various fields: economists, sociologists, politicians, managers, psychologists, etc. Criminologists are also involved in this process, providing analytical reviews of statistics, forecasting the effectiveness of the proposed measures in terms of their impact on crime and conducting criminological examination of regulatory enactments and socio-economic programs.

Economic crimes are a type of crime committed in the course of professional activity within and under the guise of lawful economic activity with the use of legal economic institutions.

Illegal actions in the field of economy and finance are called economic crimes.

Crime in the economic sphere is the basis of the shadow economy and is aimed at property and production relations.

The shadow economy is an economic activity, the subjects of which avoid official accounting and payment of taxes.

As a rule, there are three types of shadow economy, which are presented in the following table

Table 2

Informal economy	legalized (permitted) economic activity, the subjects of which avoid official registration and motivate their actions by the situational need for physical survival. This is the largest segment of the shadow economy, represented by various types of small-scale production of goods and services (for example, music or photography services at wedding celebrations, transportation of passengers or cargo on a space-available basis, tutoring, repair and construction work by agreement with individuals, sales of home-grown production from homesteads on the unregulated street market). Today one more type of activity is added to these ones, that is due to the latest information technology advances and does not yet fall under the current legislation, which is too difficult to assess for taxation because of its virtual nature (for example, the so-called home office, i.e. you can earn on a computer, without leaving your own home);
Hidden economy	legal economic activity, the subjects of which are usually entrepreneurs who resort to various organizational and financial manipulations in order to obtain extra profits (for example, artificial fragmentation of big business in order to obtain tax preferences set by the state for small business; use of barter agreements for profit, unofficial payments for employees. This economy is also called "gray" economy, because the costs in it are still legal and the income is illegal.
Criminal economy	illegal (criminal) activity in the form of financial fraud, theft, smuggling, bribery, drug trafficking, pimping, racketeering, human trafficking, etc. Such an economy is called "black" economy because it has both illegal income and expenses.

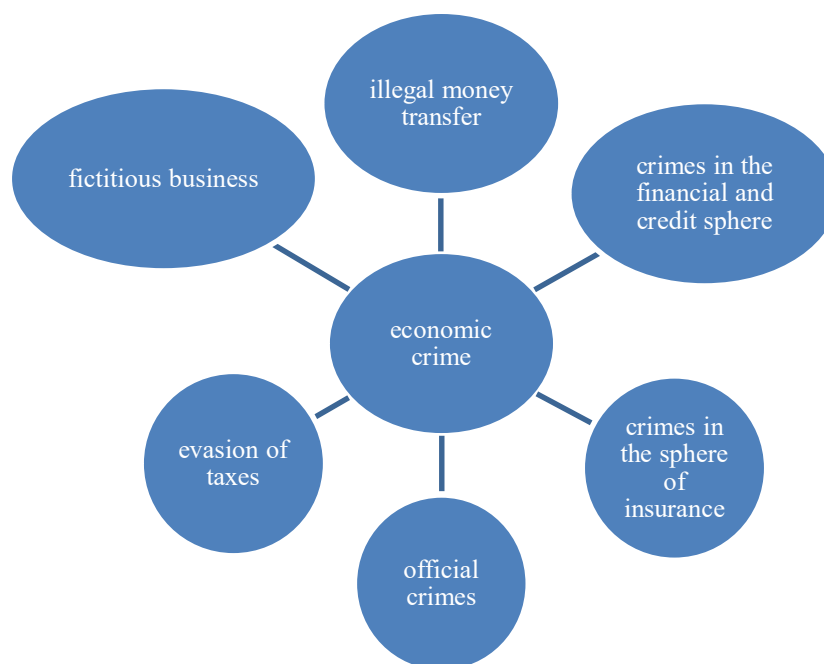


Fig. 2. The most common types of economic crime

According to statistics, a significant part of the created economic structures are liquidated by the founders, not having started their entrepreneurial activity. In many cases, the main reason is the objective difficulties: lack of start-up capital, production facilities, experience, qualified performers, etc. However, many enterprises are registered by their owners without an intention to carry out statutory activities.

Fictitious business.

The motives for creating a fictitious business structure can be various: obtaining loans for purposes, not provided by the statute; misappropriation of funds received; renting premises, property, land plots for non-statutory purposes; legalization of proceeds, obtained by unlawful means; illegal termination of competitors' activity; market monopolization, etc.

Illegal money transfer.

Enterprises use economic crime such as cashing out for a number of following reasons:

- purchase by enterprises of materials and raw materials needed in production for cash. This is beneficial to both the buyer, as the materials are slightly cheaper, and the seller;
- legalization of goods smuggled in or bought for "black" cash, as well as goods made illegally. It is impossible to bring such goods on charge in a warehouse and pay by non-cash payment;
- reduction of expenses for salary payments to employees of the enterprise.

Economic crime in the financial and economic sphere.

One more type of crime is related to obtaining bank loans by fraud. To do this, a network of commercial structures is created, in which, as a rule, the same people occupy key positions. For example, someone who is, say, a director in one firm, is a founder in another, and a chief accountant in the third one and so on. These companies do not produce anything and in fact do nothing, but only conduct various fictitious commercial transactions with each other ("air" trading). Their main task is to take loans from banks. By keeping up the façade of a form of trading with each other, these firms receive credit, for instance, under a contract for the supply of fuels and lubricants, metal, etc. The money received is then transferred from one commercial entity to another until its trail finally goes cold. The funds obtained in this way are immediately converted either right here in Ukraine or transferred abroad, from where it is then impossible to return them. Such loans are usually taken from commercial banks. As for the mechanism for obtaining loans, bribes to officials play a role here. And the size of these bribes can be quite large.

Evasion of taxes.

Today companies are forced to give the state in the form of various taxes and fees about 70-80% of their profits. Therefore, it is not surprising that many legal entities refuse to perform their duties as taxpayers.

Tax evasion is carried out by failure to file an income declaration, inclusion into the declaration of inaccurate data, non-accounting or improper accounting of income and expenses, for which a mandatory form of accounting is specified.

The following illegal actions in order to evade taxes are as follows:

- ◆ working only with cash;
- ◆ creating a company for a short time (three or four months), when the tax inspection does not have time to check economic activity;
- ◆ conducting their operations using the current account of another firm;
- ◆ concluding a contract for the supply of products, works (services) with a tax-free enterprise (public organizations of the disabled and Chernobyl victims, offshore companies, etc.);
- ◆ formalizing the import of excise goods as transit, but selling them within the country;
- ◆ after selling the documented goods, supply the new ones in their place;
- ◆ applying the so-called "payoff" while buying and selling, etc.

All these operations can be thought over to the last detail by competent experts. In this case, the accounting documentation will be in order and will not give any reason for questions from the tax inspection.

Crimes in the sphere of insurance.

Another area of economic crime is insurance. The insurance mechanism is widely used to redistribute financial flows, evasion of taxes and other mandatory payments, money laundering, etc. However, the most common here is insurance forgery.

In Ukraine, where the market of insurance services and relations between insurance entities are still being formed, the scale of insurance forgeries is incomparable. However, in the field of financial risk insurance and, above all, the borrower's liability insurance, this problem is already quite acute today.

Official crimes.

A special group of crimes are the so-called official crimes, i.e. crimes committed by officials.

The main official crimes are:

- ◆ bribery;
- ◆ official forgery;
- ◆ abuse of office.

Among official crimes, bribery is the most common.

Bribery is the provision of any material values to an official in person or through intermediaries instead of committing illegal actions or actions in violation of established procedures in the interests of the bribe-giver or in the interests of the third party.

The public danger of such crimes lies in the fact that the official, receiving a bribe, subordinates the national interests to their personal, turning their official activities into a source of personal enrichment. Bribes can be expressed in any form: cash, property, property-related or other benefits.

Conclusions. This article examines the main causes of crime and their link to the economy. Thus, we have come to the conclusion that while investigating crimes in the sphere of economy there is a need to involve economic specialists to conduct inspections of financial and economic activity, provide advisory interpretations in the category, to which the transaction is related.

Also, in order to conduct interrogation properly and avoid concealing or providing false information by individuals related to the offense, it is advisable for investigators to involve specialists of a certain category.

References

1. Майстро Р. Г., Полозова Т. В. Напрями вдосконалення державного герулювання економічної безпеки України. 2019. URL : http://pev.kpu.zp.ua/journals/2019/1_12_uk/9.pdf
2. Риндюк В. І. Удосконалення законодавства як правотворча діяльність. 2015. URL : http://www.visnyk-juris.uzhnu.uz.ua/file/No.34/part_1/11.pdf.
3. Савченко А. В. Склад злочину: проблеми визначення конструктивних елементів та ознак. *Тези наукової конференції «Склад злочину: проблемні питання»*. Вісник Академії адвокатури України. 2009. Число 1. С. 261-263.
4. Шестаков О. В. Теневая экономика: учеб. пособие. М. : Изд. Дом «Дашков и Ко», 2000. 178 с.
5. Литвак О. В. Державний контроль за злочинністю (кримінологічний аспект) : дис. ... д-ра юрид. наук : 12.00.08 / Нац. ун-т внутр. справ. Харків, 2002. 414 с.

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1. Maistro, R. H., Polozova, T.V. (2019) Napriamy vdoskonalennia derzhavnoho rehuliuвання ekonomichnoi bezpeky Ukrainy [Areas of improvement of state regulation of economic security of Ukraine]. URL : http://pev.kpu.zp.ua/journals/2019/1_12_uk/9.pdf. [in Ukr.]

2. Ryndiuk, V.I. (2015) Udoshkonalennia zakonodavstva yak pravotvorcha diialnist [Improvement of legislation as a law-making activity]. URL : http://www.visnyk-juris.uzhnu.uz.ua/file/No.34/part_1/11.pdf. [in Ukr.]
3. Savchenko, A. V. (2009) Sklad zlochynu: problemy vyznachennia konstruktyvnykh elementiv ta oznak [Corpus delicti: problems of defining of constructive elements and signs]. *Tezy naukovoyi konferentsiyi "Sklad zlochynu: problemni pytannia"*. *Visnyk Akademiyi advokatury Ukrainy*. Chyslo 1. S. 261-263. [in Ukr.]
4. Shestakov, O. V. (2000) Tenyevaya ekonomika [Shadow economy] : ucheb. posobiye. M. : Izd. Dom "Dashkov I Ko". 178 s. [in Russ.]
5. Lytvak O. M. (2002) Derzhavnyi kontrol za zlochynnistiu (kryminolohichniy aspekt) [State control over crime (criminological aspect) : avhoref. dys. ... d-ra yuryd. nauk ; 12.00.08. / Nats. Un-n vnutr. Sprav. Kharkiv. 414 s. [in Ukr.]

Abstract

The authors have noted that the successful prevention of crime is a matter not only of law enforcement officers, but also of society. The strategy of public influence on crime should consist, on the one hand, in involving, and on the other – in the initiative participation of individual citizens, public law enforcement organizations, etc. in law enforcement, participation in crime prevention programs, providing information on committed crimes with mandatory material encouragement of these areas of work by the state and private business.

Keywords: *corpus delicti, crime in the sphere of economy, classification approaches to division of crimes in the economic sphere, administrative proceedings, procedural discretion, public legal succession.*

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ORGANIZATIONAL AND LEGAL ASPECTS OF TOURIST FORMALITIES IN THE CONTEXT OF THE IMPACT OF THE COVID-19 PANDEMIC ON THE ECONOMIC SECURITY OF MICRO-ENTERPRISES

Сергій Цвілій, Дар'я Гуро́ва, Світлана Никоненко. ОРГАНІЗАЦІЙНО-ПРАВОВІ АСПЕКТИ ТУРИСТИЧНИХ ФОРМАЛЬНОСТЕЙ В КОНТЕКСТІ ВПЛИВУ ПАНДЕМІЇ COVID-19 НА ЕКОНОМІЧНУ БЕЗПЕКУ МІКРОПІДПРИЄМСТВ. Ключовою проблемою сфери туризму є те, що регіональні мікрокомпанії зазнають необґрунтованих збитків та потребують правової допомоги, додаткових знань щодо нормативного регулювання специфіки ведення бізнесу за умов дії COVID-19, отримання консультацій відносно новітніх туристичних формальностей.

Стаття присвячена пошуку шляхів підвищення рівня економічної безпеки вітчизняних

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