

3 Дмитриева Т.Б., Иммерман К.Л., Качаева М. А., Ромасенко Л.В. Криминальная агрессия женщин с психическими расстройствами [Текст]: монография/ Т.Б.Дмитриева, К.Л.Иммерман, М.А. Качаева, Л.В. Ромасенко – Москва. Изд-во Медицина. 2003 ж. - Б. 101.

4 Антонян Ю.М. Педофилия: криминологический диагноз [Текст]: монография/ Ю.М. Антонян - Москва: ВНИИ МВД России, 2010 ж. - Б.94.

5 Гусева О.Н. Педофильная виктимизация и виктимологическая профилактика педофильных преступлений [Текст]: автореф. дис. канд. юрид. наук/ О.Н.Гусева.- Москва: Всерос. науч.-исслед. ин-т МВД, 2011 ж. - Б. 4.

6 Фромм Э. Анатомия человеческой деструктивности [Текст] учеб. для вузов / Э. Фромм. - Москва: Изд-во АСТ. 2006 ж. - Б. 315.

7 Франк С. Многообразие сексуального поведения [Текст]: учеб./ С.Франк. -Москва: Изд-во Артанья. 1995 ж. - Б. 297.

8 Каймульдинов Е.Е., Алпысбаева А.О. Актуальные вопросы квалификации убийства из хулиганских побуждений /Е.Е.Каймульдинов, А.О.Алпысбаева./ Многопрофильный научный журнал "3i: intellect, idea, innovation" 2016ж. № 2, - Б.167.

References:

1 Prezident Respubliki Kazakhstan N.A.Nazarbayev «Put'-2050 v Kazakhstane: obshchaya tsel', obshchiye interesy, obshcheye budushcheye» Nazarbayeva: Obrashcheniye k natsii N.A. Nazarbayev, 17 yanvarya 2014 g.

2 Podoluk M.L. Sem'ya, svyazannaya s det'mi-samoubiytsami [Tekst]: ucheb.dlya vuzov / M.L. Podoluk - Moskva: Poisk Akademii, 2010 - # 3. - B. 85.

3 Dmitriyeva T.B., Immanman K.L., Kachayeva M.V. A., Romasenko L.V. Ugolovnaya agressiya protiv zhenshchiny s psikhicheskimi rasstroystvami [Tekst]: monografiya / TB Dmitriyeva, KL.Immerman, M.A. Kacheva, LV Romasenko - Moskva. Poisk meditsiny. 2003. - B. 101.

4 Antonyan YU.M. Pedofiliya: kriminologicheskiy diagnoz [Tekst]: monografiya / YU.M. Antonyan - Moskva: VNII MVD Rossii, 2010 - Str. 94.

5 Guseva O.N. Pedofiliya, zhertva i viktimologicheskaya profilaktika predskazaniy pedofilii [Tekst]: Avtor (y). jurid. nauka / O.N.Guseva.- Moskva: Verkos. Nawc. issled. V-MVD, 2011 - B. 4.

6 Fromm E. AnATOMiya chelovecheskoy destruktivnosti [Tekst] ucheb.dlya vuzov / E. Fromm. -Moskva: Poisk ACT. 2006. - B. 315.

7 Frank S. Mnogokratnaya seksual'naya ekspluatatsiya [Tekst]: Ucheb / SFrank. -Moskva: Izd vo Artaniya. 1995. - B. 297.

8 Kiimul'dinov Ye.Ye., Alpysbayeva A.O. Aktual'nyye voprosy kvalifikatsii wbiistva ot xwligan-skix pobwjdeniy /E.E.Kaymwldinov, A.O.Alpisbaeva / Mnogoprofilniy nauchnyy zhurnal «3i: Intellect, ideya , innovatsii "2016 goda. № 2, str. 167.

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УДК 10.81.51

CRIMINOLOGICAL CHARACTERISTIC OF CRIMINAL IDENTITY COMMITTING FRAUD IN THE SPHERE OF BANK LEADING

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Based on the analysis of criminological data, a study was conducted on the identity of the offender committing fraud in the field of bank lending. This type of crime is committed by individuals, who have a

special status, which provides correspondingly easier access to obtaining a credit, engagement in a certain type of economic activity, property or personnel management in a commercial organization. One of the components of the characteristics of the criminal identity is the motives of criminal behavior, which provide the necessary information characterizing the moral level of the criminal's personality and degree of acceptance of law rules, which protect state and public interests.

The criminal's identity serves as an object of a criminological research. Many typological data on criminal's identity are an element of the criminological characteristic of crimes. Definition of the exact characteristic of the personality gives the chance to narrow a circle of the suspected persons among whom the criminal can be. It allows giving versions about motive and criminal intent, about a way of commission and concealment of crime, about the location of required objects, etc.

Key words: criminal, identity of the criminal, fraud, bank lending, way of the fraud, criminological characteristic.

КРИМИНОЛОГИЧЕСКАЯ ХАРАКТЕРИСТИКА ЛИЧНОСТИ ПРЕСТУПНИКА, СОВЕРШАЮЩЕГО МОШЕННИЧЕСТВО В СФЕРЕ БАНКОВСКОГО КРЕДИТОВАНИЯ

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На основании анализа криминологических данных было проведено исследование личности преступника, совершающего мошенничество в сфере банковского кредитования. Данный вид преступления чаще всего совершается лицами, имеющими специальный статус, обеспечивающий соответственно облегченный доступ к получению кредита, занятие определенным видом экономической, в том числе предпринимательской деятельности, управление имуществом или персоналом в коммерческой или иной организации. Одной из составляющих характеристики личности преступника являются мотивы и цели преступного поведения. Мотивы корыстных преступлений важно знать и потому, что они дают необходимую информацию, характеризующую нравственный уровень личности преступника и степень восприятия им норм права, охраняющих государственные и общественные интересы.

Личность преступника служит объектом криминологического исследования, и многие типологические данные о ней являются элементом криминологической характеристики преступлений. Определение точной характеристики личности дает возможность сузить круг подозреваемых лиц, среди которых может находиться преступник. Кроме того, это позволяет выдвинуть версии о мотиве и цели преступления, о способе совершения и сокрытия преступления, о месте нахождения искомых объектов и т.д.

Ключевые слова: преступник, личность преступника, мошенничество, банковское кредитование, способ мошенничества, криминалистическая характеристика.

БАНКТІК НЕСИЕЛЕУ САЛАСЫНДА АЛАЯҚТЫҚ ЖАСАЙТЫН ҚЫЛМЫСКЕРДІҢ ЖЕКЕ БАСЫН КРИМИНОЛОГИЯЛЫҚ СИПАТТАУ

Хакимова Г.Е. - А.Байтұрсынов атындағы Қостанай мемлекеттік университеті, заң ғылымдарының кандидаты, доцент, азаматтық құқық және процесс кафедрасының меңгерушісі

Криминологиялық деректерді талдау негізінде қылмыскерді банктік несиелендіру саласындағы алаяқтықты анықтау бойынша зерттеу жүргізілді. Бұл қылмыс түрі көбінесе арнайы мәртебесі бар тұлғалармен жүзеге асырылады, бұл несие алудың жеңілдетілген қолжетімділігін қамтамасыз етеді, экономикалық қызметтің белгілі бір түріне, оның ішінде кәсіпкерлік қызметке, мүлікті басқаруға немесе коммерциялық немесе басқа ұйымдағы қызметкерлерге қатысты. Құқық бұзушының жеке қасиеттерінің құрамдас бөліктерінің бірі қылмыстық әрекеттің себептері мен мақсаттары болып табылады. Сондай-ақ, қылмыскердің моральдық деңгейін сипаттайтын қажетті ақпаратты, сондай-ақ мемлекеттік және қоғамдық мүдделерді қорғайтын заң нормаларын қабылдайтын дәрежеде ақшалай қылмыстың себептерін білу маңызды.

Тыйым салынған адамның жеке басы криминологиялық зерттеулердің нысаны болып табылады және ол туралы көптеген типологиялық деректер қылмыстың криминологиялық сипаттамаларының элементі болып табылады. Жеке тұлғаның нақты сипаттамаларын анықтау қылмыскердің арасында болуы мүмкін күдіктілердің шеңберін тарылтуға мүмкіндік береді. Бұған қоса, ол қылмыстың себептері мен мақсатын, қылмысты жасыру және жасыру әдісін, іздестірілген объектілердің орналасуын және т.б. ұсынуға мүмкіндік береді.

Түйінді сөздер: қылмыстық, қылмыстық сәйкестік, алаяқтық, банктік кредиттеу, алаяқтық әдісі, сот-сараптамалық сипаттамалары.

Introduction.

In order to study the subject of fraud, it seems necessary to consider the personal characteristics of a person, which determine his susceptibility (propensity) to a fraudulent method of redistribution of property or rights to it.

According to the existing criminal legislation, the individual person of sound mind, aged 16-years, can be the subject of fraud.

Ye. Zharikov in interpretation of the fraudster on the basis of "successful" may be, such person, who is allocated a certain set of intellectual and psychological and ethical properties. "Successful" means the kind of person, whom needs to be afraid.

The model of such properties contains 6 elements in the most general form:

1. Aspiration to be enriched quickly without usual labor efforts.
2. Attractiveness, as attraction given by the nature, believing to this person.
3. Powerful combinatory intellection, allowing building behavior models of people under the influence of external influences, to predict their behavior and to provide measures for maintenance of the direction and the nature of their actions corresponding to fraudulent intentions.

4. Empathy as ability to feel, think and want as the people, who planned to a role of the victims of fraudster, feel, think and want.

5. Highly developed sense of superiority, allowing to work confidently in relation to people, who, according to the subject of fraud, "certainly", stand in the intellectual relation much below than the fraudster and therefore allow to deceive themselves.

6. Attitude on laws violation, which provides an opportunity to avoid disclosure and punishment [1, p.13].

Main part.

The most important element of the criminological characteristic of crime are circumstances of it commission. Often the criminal gets to rigid dependence on circumstances. But it only demonstrates features of this personality capable to get to such dependence.

The situation, developing or created by criminals for commission of crimes in the sphere of the credit and financial relations, first of all, is formed under the influence of different disagreements, contradictory, undeveloped provisions of the financial legislation, crudity of separate decisions and not readiness of the mechanism of implementation of decisions in the sphere of financial activity, etc. Committing acts, criminals use objectively developed conditions, favorable for them more often, than which are specially created by them. Therefore, even unreasoned organizational and administrative decisions can promote such crimes.

Financial crimes are most often committed by organized criminal group and therefore to number of elements of a situation of its commission, it is expedient to classify data on specifics of that region, in which this group are acted. Such features influence the choice of a basic type of financial crime, at commission of which the criminal group are aimed, and points to the most available and effective ways of it commission. For example, in the large cities with a large number of banks and their branches, crimes are committed, as a rule, with use of securities and by means of computer technologies, i.e. the most attractive for organized groups are the banks possessing big monetary resources and huge number of investors. In less large industrial cities, financial crimes are more often connected with illegal bank activity and illegal entrepreneurship. It is easier for banks and firms to work without license in the small cities.

Among components of identity characteristic of the typical criminal, a special role is played by motivations and goal-setting of criminal behavior. It is important to know the motives of acquisitive crimes also because they provide the necessary information characterizing the moral level of the criminal's personality and degree of acceptance of law rules, which protect state and public interests. The most of subjects have such features as cupidity, pursuit of material welfare, to the fast accumulation of wealth by any means, without thinking about the fact that their acts can cause serious damage of national economy, neglect the interests of other people in order to satisfy own personal ambitions, aspiration to approach the western standards of consumption, to reach a high steady position in society.

In criminology, are distinguished: accidental criminals, who have stolen under the influence of particular life circumstances, individuals with entrenched habits of social parasitizing, capable to adapt shortcomings of an economic mechanism for extraction of a profit (which use more often, than create the situation suitable for withdrawal of property from state, public foundations); organizers of crimes – individuals with wide experience of illegal activity, cynical and skillful, professing corporate morals and not reckoning with the standard rules of behavior. The composure, restraint in emotional expressions, prudence, self-possession are characterized for fraudsters.

Individuals, who are engaged in fraudulent, possess a number of specific characteristics. Unlike thieves, robbers and other criminals of "mercenary orientation", fraudsters "are more intellectual", as a rule,

good psychologists, possess elements of peculiar "virtuosity", have higher educational level, egoistical moral principles.

Frauds in the sphere of crediting are committed only by the individuals, who have the special status, providing respectively the facilitated access to receiving the credit, occupation with a certain type of economic, including entrepreneurial activity, management of property or personnel in commercial or other organization.

The special feature of the people, who are connected with large, well organized and disguised frauds, is their social "normality" in comparison with general criminals. They have personal traits and features typical for the businessman. From other business people, they are distinguished only that they "get caught". These are quite normal people, usually clever, but insufficiently cultural and educated. Intellectual level is higher than an average. Imagination is a very productive and even creative, but only in one direction - the invention of new tricks, avoiding of control, maneuver around obstacles and use of gaps in the regulatory system. They break the law consciously, induced by thirst of money. Material values are very significant for them; the only recognized purpose is a money power. Most often they have the high social status, on maintaining and increasing of which, they pay great attention even if it is reached by illegal means. These criminals are very dynamic, they have and like to keep in touch with people, have persuasion skills, well adapt to social conditions. Their ability to manipulate people and circumstances allows implementing very smart projects. Most often they strive not to be a rich, but rather to the real power. Usually, there are people, who "made themselves", without having inherited a fortune, or a high social status [2,p.74].

At the same time among participants of criminal group of fraudsters can be also the random people involved in the crime by temptation of easy enrichment, who aren't thinking of consequences and doesn't know about all details of criminal operation, secretaries, small employees, to whom suggest to sign any documents, to receive funds in the bank or in cash department, etc. and also the unemployed, retirees and other low-paid categories, marginalized segments of the population, who are used as figureheads.

In the psychological plan this category of persons is characterized by aspiration to "easy money", an opportunity to enrich without special work. Along with it, they have credulity, non-critical thinking, negligence, impudence and inconsideration of acts. The set of these qualities doesn't allow them to assess soberly a doubtful situation and pushes on commission of risky acts without it danger or with it underestimation.

Among people, committing crimes in the bank sphere, education level is rather high. Everyone two of three offenders have not only secondary, but also secondary professional and higher education. Most of them directly participate in financial and commercial activity of different functional level (heads, other workers of commercial structures, banks and others). Among them there are always people, possessing information on activity of credit and financial structures, knowing defects in the activity.

Young people dominate among the criminals, using modern computer technologies and means of telecommunication for fraud commission. These young people have the higher education or they are students in the highest and secondary professional educational institutions, as a rule, not lacking money and having wealthy parents.

From social and demographic characteristics of fraudsters' identity, the most specific is a gender. So, frauds in most cases are made by men, though the number of female offenders, on these affairs are much higher, than on others. Characterizing the identity of the criminal, it is necessary to notice approximately equal ratio of men and women (59,3% of men and 40,7% of women), that corresponds to the general distribution of the population on the gender (men - 50,8%, women – 49,2%). The observed balance of genders in the economic crime is caused by the fact that women is traditionally more often than men hold the positions, connected with registration, accounting functions, service of inventory items in the trade, in the sphere of consumer services, etc.

Among fraudsters, the greatest intensity of criminal behavior is the share of a group of people at the age of 25-40 years. People at the age of 18-19 years make about ¼ in the total number of the identified individuals, who committed fraud. The main age group is formed by persons of 25 years and over (75%) The analysis showed that the identity of fraudsters is characterized by considerable specificity; they are peculiar intellectuals of the criminal world, possessing certain knowledge in human psychology and the ability to use the peculiarities of mental structure and behavior of people in certain life situations [3,p.44]. At the present, the individuals previously convicted for fraud, and committing this crime repeatedly make only 7% of the total number of the individuals, committing a similar crime, while the percent of people with no criminal background is quite high (93%). In our opinion, one of the reasons of this indicator is the latency of this crime, when primary episodes of criminal activity of the person, who is professionally engaged in fraud, simply aren't known to law enforcement agencies. For comparison: in the 70-80th years of the last century, the research of a ratio of the individuals, who commit the fraud, not having and having criminal record, was expressed respectively in 62% and 37% [3,p.44]. The comparative analysis of the present and former data on commission of frauds by previously convicted and people with no criminal background, confirms prevalence of fraud in not criminal world.

Most of the fraud in the provision of various services is due to trusting relationships between previously familiar people. At the same time, fraudsters pretend to be individuals who allegedly have the ability to perform certain actions in favor of the victims, thus citizens are easily deceived and trust their money and property to criminals [4, p.388].

The analysis of degree of criminal activity of the studied contingent of persons has shown that the majority of cases (more than 40%) organizers of crimes became the people, who are engaged in different registration of pseudo-firms and their accomplices, heads of various commercial structures, including, the firms, which are specially created for this purpose.

A peculiar cover and guides of financial frauds were quite often employees of various institutions of a banking system of the Republic of Kazakhstan, its branches and payment processing centers of second-tier banks. However, their percent among others is rather small. A considerable part among accomplices of criminal communities is made by the people, acted as performers of tasks on the main sections of criminal activity: couriers, carriers of the stolen money, and false heads of finance companies.

It was noted in criminological literature that among plunderers, the percent of the people, having family is large enough. For this category of the people, committing crimes in the bank sphere, the criminal activity on this time interval passes into system, into categories of trade and tradition.

In the analysis of a number of criminal and expeditious cases, and also other available information on studying of the personality, committing crimes in the sphere of the credit and financial relations, it has been noticed that following to the checked standards of criminal behavior is characterized for offenders with permanent antisocial orientation.

Criminal traditions and customs as the antisocial phenomena, not only influence crime and its separate types, but, first of all, stimulate commission of concrete crimes. Systematic commission of similar crimes for satisfaction of these or those requirements develops a certain standard of behavior at the criminal. This norm becomes tradition of illegal behavior of the personality. And, as it is fairly noted in a number of researches, it demands systematically of crimes commission, each new act of which causes growth of criminal qualification, defines the direction of specialization of criminal activity [5,p.98].

Conclusion.

The conducted studying of the individuals, who have committed directly in the fraud or participated in a varying degree in financial roguish actions with use of false bank documents, has shown, how difficult practically and theoretically to give one definition to a concept of the identity of the financial fraudsters, having revealed unconditional relevance of the research of the identity of the criminal of credit and financial system for the purpose of prevention of offenses.

Crime can't be considered detected, if it isn't established by whom it is committed. The characteristic of the typical for this group of crimes identity of the possible criminal has an important criminological meaning. Knowledge of features of subjects of plunder allows to narrow a circle of people among whom the criminal can be and also it allows giving versions about motive and criminal intent, about a way of commission and concealment of crime, about the location of required objects, etc.

It is known that the identity of the criminal serves as an object of a criminological research, and many typological data on it is an element of the criminological characteristic of crimes. However a framework of criminological studying of the identity of the criminal is limited, mainly, by those personal features, which are necessary for use for criminal prevention and prevention of crimes. Research of these problems is paid enough attention in criminological literature [6,p.118]. At the same time a number of personal features of the criminal remains outside the criminological characteristic. First of all, it is about "professional" skills of criminals, which are shown in certain ways of commission and concealment of crimes. Therefore on the place of commission of crime, it is possible to find typical the criminal's trace, which provides the information on his social and psychological qualities, criminal experience, professions.

Thus, the study of the characteristics of a person typical for this type of crime makes it possible to narrow the circle of persons among whom a criminal may be. Such characteristic allows giving versions about motive and criminal intent, about a way of commission and concealment of crime, about the location of required objects, etc.

Reference:

1. **Zharikov E. Moshennichestvo v biznese** [Tekst]: zhurnal «Upravlenie personalom» – M., 2000. - #13. – S.75.
2. **Yani P.S. Ekonomicheskie i sluzhebnyie prestupleniya** [Tekst]: uchebnik. – M., Intel-Sintez.- M.,1997g. – S.208.
3. **Analiz sudebnoy praktiki po voprosam kvalifikatsii moshennichestva i problemy primeneniya zakonodatelstva** - <http://kodeks-advocate.kz/ru/891>
4. **Hakimova G.E., Kaïrgaliev A.N. Struktura, sostoyanie i dinamika moshennichestva v sfere oborota nedvizhimogo imuschestva** [Tekst]: Mnogoprofilnyiy nauchnyiy zhurnal ««3i: intellect, idea, innovation – intellekt, ideya, innovatsiya». – 2017. - #4. – S.401.
5. **Lebed S.Ya. Traditsii, obychai I prestupnost** [Tekst]: uchebnoe posobie. – M., 1995. –S.320.

6. Satuyev R.S., Shrayer D.A., Yaskova N.Yu. *Ekonomicheskay prestupnost v finansovo-kreditnoy sisteme*. [Tekst]: nauchnoe izdanie.– M., Tsentr ekonomiki i marketinga 2000. – S.272.
7. *Normativnoe postanovlenie Verhovnogo Suda Respubliki Kazahstan ot 29 iyunya 2017 goda # 6 «O sudebnoy praktike po delam o moshennichestve»*. https://online.zakon.kz/doc_id=37192456
8. Agyibaev, A.N. *Otvetstvennost za moshennichestvo* [Tekst]: // zhurnal «Vestnik KazNU. Seriya yuridicheskaya». – 2015. -№ 4 (72). – S. 272-277.
9. Ermakova O.V. *Problemyi kvalifikatsii moshennichestva v sfere kreditovaniya* [Tekst]: // «Vestnik Tomskogo gosudarstvennogo universiteta». 2016. №406. S. 197–201.

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