

AS TO THE NECESSITY TO DEFINE THE CAUSAL COMPLEX OF THE BANKING SPHERE CRIMINALIZATION IN UKRAINE¹

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The existing crimes in the sphere of banking activity of Ukraine cause significant losses both to banking institutions and the state as a whole, undermining the stability of the functioning of the entire banking system of the country. Identifying the key causes for the activation of criminal activities in the banking sector will contribute to their minimization and elimination.

The issues of the reasons, conditions and general characteristics of the commission of criminal offenses in the sphere of credit-financial and banking activities were the subjects of research of the Ukrainian scientists and at the international level. However, lack of attention in the researches of the scientists is devoted to the issues of the causal complex of the commission of the above mentioned crimes as well as to the influence of these socially dangerous actions to the level of criminalization of sphere of banking activity of Ukraine.

In general, the causes of crime are the factors that cause its displays. Forecasting, identifying and eliminating the causes of crimes in the banking sector is the basis for timely prognostication of their commission as well as for the effective preventive mechanism.

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According to V. T. Belous, the reasons contributing to the commission of crimes in one of the components of the credit and financial sector, namely the banking system, can be divided into the socio-economic, organizational, managerial and regulatory reasons. The scientist defines these reasons as the factors [1].

Ensuring accelerated economic growth and a fundamental restructuring of the economy, strengthening of the banking system of Ukraine is possible due to its safe functioning, supported by a high level of normative legal regulation of the sphere of banking activities [2].

Therefore, the reasons and conditions of a normative-legal content deserve the special attention. These are some of them: imperfection of normative legal acts regulating the activities of the banking institutions, as well as the activity of law enforcement and controlling institutions authorized to provide inspections and documentation of criminal activity as well as to the proceedings in the cases of the criminal offenses committed in the sphere of the banking activity.

At the same time, in the recent years, the following socially dangerous actions were criminalized and incorporated in the structure of the Criminal Code of Ukraine: "Bringing the Bank to Insolvency" (Article 218-1 of the Criminal Code of Ukraine) and "Violation of the Order of Maintaining the Depositors Database or Formation of Reporting" (Article 220-1 of the Criminal Code of Ukraine). Unlike the criminal legislation of Ukraine, the criminal law of a number of the foreign countries, including EU countries, provides for a set of measures aimed at securing the interests of the creditors, which are the banking institutions [3, p. 69].

It should be emphasized that the formation of the separate institute of the criminal legal protection of the sphere of banking activity of Ukraine in the form of a chapter of the Special Part of the Criminal Code of Ukraine will more accurately reflect the features of the specific object of the socially dangerous actions of this group, will allow to establish the degree of the social danger of these actions. Such legislative innovations will contribute to the proper qualification and individualization of punishment in every specific case [4, p.138].

Unfortunately, the criminalization of the sphere of banking activity in Ukraine is obvious from the analysis of widespread crimes in the sphere of banking activity committed on the territory of the state over the last 2 years.

Thus, according to the selective information provided from the official website of the General Prosecutor's Office of Ukraine, there were fixed the criminal indications in the sphere of banking activity of Ukraine.

For example, a criminal group from the number of ex-employees of Privatbank, who fraudulently seized the bank funds was identified in Kiev. During the pre-trial investigation it was found that the group members purchased a number of fictitious companies. The banking institution provided these companies with the POS terminals for execution of the payments by the payment cards. The criminals carried out the fake transactions for the sale of various goods through these terminals. After the funds were credited, they took them through the key-account card at cash machines. By the results of the investigation, 3 members of the group were arrested.

Let's consider another example. Employees of the Khreschatyk Bank were identified in stealing of the deposits in excess of 81 million UAH. It was found out that the bank's officers, acting as part of an organized criminal group, by falsifying the deposit agreements and documents for issuing cash, seized money of 54 depositors with a total amount of more than 81 million UAH during the period of February, 2010 until March, 2014. In the case the former head and ex-employees of regional branch of PJSC "Kievan Rus Bank" was given to court for theft of 14 million UAN.

The Kyiv local prosecutor's office sent an indictment to the court in relation to the former head of the Kyiv Central Branch of the public joint-stock company Bank "Kyivska Rus" and two of his former subordinates for misappropriation, embezzlement or conversion of property by malversation in particularly large amounts and for the forgery in office (Part 5 of Article 191 of the Criminal Code of Ukraine, Part 2 of Article 366 of the Criminal Code of Ukraine). It was found that the head of the department, having entered into a conspiracy with the head of the cash department and the head of the department, organized a scheme of illegal enrichment

by forging documents for issuing cash from card accounts of 421 clients. It was also found that the head of the Payment Systems Department of the National Bank of Ukraine, acting intentionally, for mercenary motives, developed a criminal scheme.

The scheme was aimed at extortion and receipt through intermediaries, which served as the chief economist of the mentioned government agency and two individuals, of an unlawful benefit for a total amount of 35 thousand dollars in two stages from the director of one of the limited liability companies for registration in the National Bank of the domestic payment systems for realization of cash and non-cash transfers within Ukraine and the issuance to the said company of the relevant certificate [5].

The above-mentioned crimes in the sphere of banking activity were committed on the basis of an existing causal complex that served as a basis for a criminal microclimate. Therefore, clarification and further consideration of the influence of the causal complex of offenses in the sphere of banking activity will contribute to the identification of priority areas for the prevention and combating of the criminal offenses. This is necessary for the stable functioning of the banking sector as a basis for the progressive development of the Ukrainian economy.

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