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Economic Crime and Problem of Complicity Understanding

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Abstract:

In the articles expediency and performance of the penal statute can and must be caused first of all by social nature factors which in interaction with criminal precepts of law can yield positive result in counteraction to economic crimes are viewed.

The essential factor of increased criminality is violation of balance of interests: public, institutional and personal.

It is known that domination in economic and other spheres of life of group interests of society and concentration of fixed assets of production in hands of rather small amount of people doesn't promote forming mass sense of justice and law abiding at all.
These reasons generate counteraction to the current criminal legal norms.

Key Words: *Economic crime, economic security, complicity, accomplice, the crisis, criminal law, criminal statute, corruption, national security.*

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1. Introduction

The high unemployment rate leading to lack of constant earnings, unsatisfactory material security entail irreversible social and psychological consequences, which promote further significant growth of economic crime, and can act as the major factors generating emergence and development of extremist movements in his various forms and options (Kalenitsky and Semchenkov, 2014). The injustice expressed in unequal income distribution, in "unfair" competition for jobs cultivate feeling of hatred, aggression to all system of state administration among the population. In mass consciousness the corruption which has turned into a kind of business activity looks quite justified, expedient and even prestigious (Aliyev, 1990). In 1998 scientists claimed that economic crime poses a threat of a homeland security (Volzhenkin, 2002). Criminalization of an economic field of activity of the state is represented to us the unfortunate trend requiring complex counteraction. The chairman of Investigative committee A. I. Bastrykin also speaks about it and he speaking in the Federation Council 23.12.2014, declared that there is a need to concentrate efforts precisely on counteraction to economic crimes (Bagmet, 2015).

2. Theoretical, Informational and Empirical, and Methodological Grounds of the Research

First of all, certainly, the Criminal code responds to an appeal and abounding with a large number of articles and the infinite amendments made to them providing responsibility for this or that act. At the same time the legislator doesn't analyze conditionality and feasibility of the changes made to the penal statute from really existing line item of regularity of the regulated economic relations. In a number of researches it is fairly noticed in this regard that often the aspiration to increase efficiency of the law is based on intuitive perception of existing law precepts quality or the superficial analysis of results of their action, and the so-called effect of the adopted regulatory legal act is presented by authors' purely conjectural political considerations (Aliyev, 1990).

Expediency and performance of the penal statute can and must be caused first of all by social nature factors which in interaction with criminal precepts of law can yield positive result in counteraction to economic crimes. Today the social medium has hard times - crisis of the major social and legal institutions, the economic sanctions inflicted on Russia by the foreign states, the termination of many industries' productive activity, society stratification on the rich and the poor, loss of valuable reference points of the nation in general, disappointment in government and society, legal and moral degradation, depreciation of human life – all these social processes lead to inefficiency of the penal legislation. The essential factor of increased criminality is violation of balance of interests: public, institutional and personal. It is known that domination in economic and other spheres of life of group interests of society and concentration of fixed assets of production in hands of rather small amount of people doesn't promote forming mass sense of justice and law abiding at

all. These reasons generate counteraction to the current criminal legal norms (Aliyev, 1990). It is obvious that having only determined a regulatory framework of economic crime it is possible to speak about ensuring an economic safety, and also about determination of social conditionality of this phenomenon and development of measures for counteraction to her (Hilyuta, 2013; Athanasenas *et al.*, 2015).

The analyzed sources result us in opinion that today there is no single determination of economic crime; a framework of this phenomenon isn't outlined. This situation entails essential difficulties on studying and the analysis of this phenomenon and adjacent situations to it. There are two main line items allowing treating economic crime in narrow and in a broad sense, at the same time everything is also obvious lack of a reality. Each author, for the scientific research treats this concept in its own way, without relying on the strong methodological base. The purpose of our research isn't in adding the impressive list of determinations of economic crime. Our task is to formulate a problem which lies in the parallel concepts therefore we will come from broad proper sense of economic crime, which, for example. V.V. Hilyuta determines as all crimes encroaching on economy, the rights, freedoms, needs of participants of the economic relations and breaking normal functioning of economic mechanisms, doing considerable harm to social values and the common goods (Ulezko, 1998). From this definition it is possible to note that economic crimes cannot, actually, be united in one section or chapter of the Criminal Code of the Russian Federation as subject to attacks is expressed also in the property relations, and in the relations encroaching on the rights and personal freedoms (Ivanova and Bikeeva, 2016).

First of all, the crime having an economic gain as direct motive has to belong to economic crime, she has to have the lasting character, be carried out systematically and within legal economic activities from which criminal actions evolve (Petrosyan, 2010). In this case the subjective party of criminal behavior where the motive of criminal behavior acts as criterion of association of economic crimes moves to the forefront. In our opinion such position can cause difficulties as the subjective party represents the process hidden from public eyes. It is very difficult to give an exact qualification assessment to them. And in confirmation of our reflections O. S. Petrosyan, giving definition to economic crime, in a definition doesn't mention motive as an obligatory sign of this phenomenon: economic crime is a system of socially dangerous infringement of law, legal order and economic security of the state, society and the personality. In one of textbooks of criminology the broad understanding of economic crime is reflected with emphasis on socially dangerous consequences, from committed act, namely: all this the crimes, encroaching on economy, the rights, freedoms, needs of participants of the economic relations and that distort normal functioning of economic mechanisms. This situation is considerable harmful to social values and the benefits (Klochkova, 2015). Here we face the problem of estimated categories which in law-enforcement practice often lead to discrepancy. The need of allocation of the subject of economic crimes is indicated by V. N. Kudryavtsev and V. E. Eminov who note that the integrating sign of economic crime is infliction of harm to interests of society and citizens who are

protected by the law, owing to commission of plunder, economic and mercenary malfeasances by special subjects, but not by unknown persons (Kolesnikov and Stepashin, 2000; Budik and Schlossberger, 2015; Thalassinos *et al.,* 2013).

Thus, we see that a basic difference in definitions of economic crime in accentuation of attention to different elements of corpus delicti to introduce a novelty aspect in definition. But not one of the definitions specified by us has any universal character. Further development of this definition, with the purpose to reveal and record the main signs and concepts of this manifestation of criminal behavior in the law is necessary for theorists for needs of practice. Many authors call her organization as one of signs of economic criminal activity (Hilyuta, 2013). Dadalko and Protasov have formulated definition of a concept economic organized crime. In a general view it is possible to understand the crime as socially dangerous social phenomenon consisting in creation of steady criminal system for the purpose of making criminal acts directed to establishment of control over different areas of life of society for extraction of the illegal income and regulation of public processes in own interests (Dadalko and Protasov, 2015; Thalassinos, 2008).

So, for 2015 the total of the registered economic and corruption crimes is 111244 cases, from those 69158 crimes are investigated, the percentage of mentioned crimes committed in complicity, what in a percentage ratio is 14, 80%. 6,2% - organized group or criminal community. Having analyzed similar statistics for 2011-2014 we see the same tendency – the bigger quantity of crimes of an economic and corruption orientation is committed by composed band of persons or by a group of persons in conspiracy. The figures specified in this article could be others, however a tendency of a conclusion of institute of complicity in independent structures of the Special part of the Criminal Code of the Russian Federation, involves distortion of statistical data. So, for example, mediation in bribery, according to Art. 291.1 of the Criminal Code of the Russian Federation is expressed in any contribution for the briber and (or) the bribetaker in achievement of criminal result, i.e. characterizes functions of the accomplice, the co-conspirator who plays a complementary role in a crime under "usual conditions". Taking into account some accessory character of complicity, at not bringing a crime by the performer to an ended stage, it is impossible to make responsible for the ended crime of other accomplices, even in case, their elements of a criminal chain are executed in full, i.e., the co-conspirator has executed all volume of the criminal activity necessary for successful commission of the crime by the performer of a crime.

3. Results

It is represented, the term "contribution", extremely wide on contents; the legislator has captured all possible forms of complicity in giving or taking of a bribe, and also the "successful" complicity in preparation and attempt at giving or taking of a bribe. Respectively, when the person didn't manage to achieve from one of the potential parties of consent to the conclusion of the corruption agreement, unfortunate

intellectual mediation in bribery can't be considered as unfortunate incitement to giving or taking of a bribe. Considering that the objective party of intellectual mediation as especially formal structure, which has begun to perform itself, so what you did must be characterized as the ended crime under parts 1 -4 article 291.1 of the Criminal Code of the Russian Federation, whether that occurred of the fact that the physical mediation taking along with it place was not finished on the circumstances which aren't depending on the guilty person (Yanni, 2014). Really, the accomplice has executed elements of a criminal chain in full, has made everything that from him was required, and now waits for the subsequent steps of the criminal mechanism which for some reason haven't occurred. His activity is subject to assessment by rules about assignment of punishment for the unfinished crime committed in complicity.

O. A. Kalenitsky and I. P. Semchenkov pay attention that the law enforcement official meets difficulties, in connection with the account with assignment of punishment for an unfinished crime of circumstances owing to which the crime hasn't been finished (p.1 Art. 66 of the Criminal Code of the Russian Federation). The stated statement on pages of scientific research that it is necessary to consider existence of persistence in commission of criminal action also doesn't solve a problem since it is unclear how it is necessary to consider this condition at assignment of punishment (Dadalko and Protasov, 2015; Tcvetkov *et al.*, 2015).

In our opinion it is possible to speak about "judicial conversion of the accomplice into the perpetrator" in support of this contention by the following arguments: in item 10 of the Resolution of the Plenum of the Supreme Court of the Russian Federation "About jurisprudence on cases of theft, a heist and assault " from 12.27.2002 No. 29 in edition of Resolutions of the Plenum of the Supreme Court of the Russian Federation from 2.6.2007 No. 7 and from 12.23.2010 No. 31 is said that in case other accomplices of a crime (not the perpetrator) perpetrated a concerted actions aimed at assisting direct assistance to the perpetrator in commission of crime according to definition of roles. What they have done is called a joint participation. It is obvious that if it is about direct assistance it means only help, but not implementing the full volume of "works". Here we see no other than aiding, but not a a joint participation, to substantiate this information, it is possible to give also the example specified in the same Resolution of the Plenum – direct assistance (for example, the person didn't get into the dwelling, but participated in breaking of doors, locks, lattices according of prior agreement. He got out stolen property, was hedging other accomplices from possible detection of the committed crime). All provisions specified in an example in the p. 5 of Art. 33 of the Criminal Code of the Russian Federation are determinate as aiding and abetting actions (Petrasheva, 2015). Thus, quality of the given criminal precepts of law requires a serious assessment. Since a stage of rule-making and adoption of the criminal law, criminal precept of law has to correspond to rules of legal technic, at the head of which corner it is necessary to consider reflection of regularities of the relations regulated by this norm. Only scientific forecasting, the comprehensive investigation of features of a

circle of these regularities will allow social medium to perceive properly criminal precept of law as a necessary condition of her observance. The revealed phenomenon of the indifferent attitude of society towards economic crime and economic tortfeasors, leads to fact that now in the sphere of economy the criminal subjects of economic activity have widely expanded and dominated (Kalenitsky and Semchenkov, 2014). For vast majority of these persons the line between lawful and criminal activity carries very and very conditional character, and the so-called "paid" administrative resource became prevailing in business relations and is even more often perceived by businessmen as the ordinary phenomenon (Aliyev, 1990). The mutual responsibility, association of the capital and the power form qualitatively other forms of complicity behavior. Basic provisions of the traditional institute of complicity have been formulated long before adoption of the Criminal code of 1996. But unfortunately now institute demands adaptation to modern conditions of combating against group forms of criminal behavior and in the sphere of economic crimes. But in the aspiration to adapt the Criminal law to modern realities the legislator often loses sight of the fact that legislative drafting is the important regulator of these relations, but not only.

B. V. Volzhenkin fairly notes that the solution of criminal and legal, criminological, etc. tasks in the economic sphere require the integrated approach uniting three aspects: legislative, departmental and scientific (Dolgova, 1977). Educational and correctional processes in various spheres of social activity, the sociological researches allowing studying the valid requirements of real life and a positive, benevolent spirit of law-enforcement system to law-abiding businessmen will allow to outline accurately a circle of the relations requiring regulation by standards of the criminal law. Often the aspiration to increase efficiency of the law is based on intuitive perception of quality of the existing precepts of law or on the superficial analysis of results of their action. And the so-called effect of the adopted regulatory legal act is portrayed by his authors on the basis of especially short-term political considerations (Aliyev, 1990; Dolgova, 1977; Allegret, *et al.,* 2016).

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