

ECONOMIC CRIME AS A THREAT TO UKRAINE'S ECONOMIC SECURITY

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Abstract *The article analyzes the scientific and normative definitions of a number of concepts in the field of economic security, the problem of defining the scientific definition of "economic crime" and the issue of criminal liability for economic crimes. Based on the components of economic security, the types of crimes that can be classified as economic are identified.*

Key words: *economic security, national security, economic relations, crimes, crime, economic crime, criminal liability.*

Introduction. An important role in the national security system of any country is given to economic security as the basis of material well-being of the nation [1, p. 151]. The Constitution of Ukraine states that ensuring economic security is one of the most important functions of the state, along with protecting the sovereignty and territorial integrity of the country and the cause of the entire Ukrainian people.

Discussion. Results. The issues of ensuring economic security were studied by L.I. Abalkin, Y. B. Bazyliuk, I.F. Binko, Z.S. Varnaliy, V.M. Geets, V.P. Gobulin, A.M. Humeniuk, Y.A. Zhalilo, E.M. Lisitsyn, V.I. Muntiyani, G.A. Pasternak 'Taranushchenko, O.V. Skoruk, A.I. Sukhorukov, Y.M. Kharazishvili and others.

As noted by O.V. Skoruk, in foreign and domestic literature there are many approaches to the interpretation of the concept of economic security of the state using the following characteristics [2]:

- **resilience and stability, counteraction to internal and external threats**, by which we mean the strength and reliability of ties between all elements of the economic system, stability of economic development of the state, resistance to deterrence and neutralization of destabilizing threats;

- **economic independence**, which characterizes, first of all, the ability for any subject of economic security to independently make and implement strategic economic and political decisions for development, the ability to use national competitive advantages to ensure stability and development;
- **self-reproduction and self-development**. This characteristic involves the creation of the necessary conditions for effective economic policy and expanded self-reproduction, ensuring the competitiveness of the national economy on the world stage;
- **national interests**. This characteristic determines the ability of the national economy to protect national economic interests. World experience shows that without an active regulatory role of the state there can be no effective, socially oriented market economy, not to mention the effectiveness of economic security. There is no country with a highly developed economy, where the state would move away from regulating key socio-economic processes [3].

At the regulatory level, the National Security and Defense Strategy of Ukraine identifies an increase in

crime among threats to national security and identifies threats to economic security, including: high level of "shadowing" and criminalization of the national economy, criminal-clan system of public resources, distorted state regulation and corruption pressure for business; excessive dependence of the national economy on foreign markets, etc.

The direction of the state policy of national security of Ukraine is to ensure economic security, which, among other things, provides for systematic counteraction to organized economic crime and "shadowing" of the economy based on the benefits of legal economic activity and consolidation of financial, tax, customs and law enforcement organizations, the discovery of financial assets of organized criminal groups and their confiscation [4].

These provisions reveal the main characteristics of economic security as a holistic system, the conditions of its provision, the importance for national security in general and the key role of the state in its provision. In view of this, economic security occupies an important place in the system of social values and interests protected by the law on criminal liability.

Analysis of the provisions of the Criminal Code of Ukraine, scientific papers, statistical and analytical sources provides grounds for concluding that there are a number of problems in defining the concept of crimes in the field of economics and related definitions needed for a systematic understanding of this phenomenon and separation as an independent scientific and legal category. Various constructions are used in scientific circulation to define such crimes: "crimes in the sphere of economy", "economic crimes", "crimes in the sphere of economic (economic) activity", "crimes of economic orientation", "crimes of economic character" and others.

The Criminal Code of Ukraine contains a section "Crimes in the sphere of economic activity", the attitude to the name of which, as researchers note, cannot be unambiguous. On the one hand, the legislator can be accused that this name, not reflecting the generic object of the relevant crimes as the basis for the construction of the Special Part of the Criminal Code, does not clearly show what relations are protected by criminal law combined in the specified section of the Criminal Code. The failure of the name of the latter is exacerbated by the fact that in the sphere of economic activity can be committed crimes that are not actually economic (for example, commercial bribery, forgery, fraud, misappropriation or misappropriation of property). On the other hand, the title of Section VII of the Special Part of the Criminal Code can be justified to some extent, given that quite a variety of encroachments were combined into one whole in this section. The considered section is a very artificial and eclectic formation, and therefore it is very difficult to offer a successful and unambiguous classification of economic crimes (not to say impossible) [5, p. 448].

I.M. Danshin defines economic crime as a complex integration system consisting of intentional mer-

cenary crimes against economic property relations, intentional mercenary economic crimes, crimes of officials that cause significant damage in the field of economic activity, crimes committed by organized groups and criminal communities. economic property relations, as well as commercial, financial, banking and other economic activities [6].

O.E. Koristin defines economic crime as a set of various types of intentional encroachments on economic relations, protected by the state, regardless of ownership and activities of entities that perform certain functions in the field of production, exchange, maintenance, and persons involved in regulating this activities [7].

O.G. Kalman believes that economic crime should be understood as a socio-economic destructive phenomenon for the economy of the state, which is manifested in the commission of intentional mercenary crimes in the field of legal and illegal economic activities, the main direct object of which are property relations, relations in production, exchange, distribution and consumption of goods and services, as well as the established procedure for moving the relevant items across the customs border of the state in order to generate income. The main features of crime in the economic sphere are that: first, they are committed in the sphere of legal and illegal economic activity; secondly, the subjects of these crimes can be both entrepreneurs and other persons who facilitate the implementation of economic activities; third, they cause economic, political, moral damage to society and the state; fifth, they are committed only intentionally; sixth, they can be carried out by various means provided by the current criminal legislation [8, p. 11–12].

It is seen that in classifying certain crimes as economic, one should be guided by the system-forming concepts of "economy", as well as "economic security", "economic interest", "economic relations", "crime", as the concept of economic crime is obviously intersectoral.

The economic dictionary states that the economy (English *esopotis*) - **1.** a set of social relations in both productive and non-productive spheres, ie the economic basis of a particular social order. **2.** the national economy of a country or its industry. **3.** the term economics refers to the sciences that study the specifics of industrial relations in a particular industry or sphere of social production (transport economics, labor economics, etc.) [9, p. 79].

Understanding security as a condition of the economy provided by the state is essential. In the special literature, the structural components of security, on which the methodological approaches to guaranteeing national economic security are based, include:

- characteristics of national economic interests, which corresponds to the state of national economic security;
- identification and classification of threats to national interests and economic security;

- determination of quantitative and qualitative parameters (indicators) that characterize the state of national economic security / danger;
- formation of a mechanism to prevent the emergence and exacerbation of threats to national economic security with the creation of a system that would eliminate or mitigate the factors that undermine the stability of the economic security system [10, p. 21].

Thus, in a broad sense, economic crime, as a threat to economic security - is an illegal act that encroaches on economic relations, the signs of these actions are defined in the legislation on criminal liability.

Relevant norms are placed in different sections of the Criminal Code of Ukraine, and therefore for classification it is advisable to focus on the structural elements of economic security, namely:

banking: bringing the bank to insolvency (Article 218-1), violation of the procedure for maintaining a database of depositors or the procedure for reporting (Article 220-1);

budget: misuse of budget funds, budget expenditures or loans from the budget without established budget allocations or with their excess (Article 210), the issuance of regulations that reduce budget revenues or increase budget expenditures contrary to law (Article 211);

monetary: manufacture, storage, purchase, transportation, shipment, import to Ukraine for use in the sale of goods, sale or sale of counterfeit money, government securities, state lottery tickets, excise stamps or holographic security features (Article 199);

credit: illegal actions with documents for transfer, payment cards and other means of access to bank accounts, electronic money, equipment for their production (Article 200), fraud with financial resources (Article 222);

tax: illegal manufacture, storage, sale or transportation for sale of excisable goods (Article 204), tax evasion, fees (mandatory payments) (Article 212), illegal manufacture, counterfeiting, use or sale of illegally manufactured, obtained or counterfeit control marks (Article 216);

economic activity: illicit trafficking of disks for laser reading systems, matrices, equipment and raw materials for their production (Article 203-1), gambling (Article 203-2), fictitious entrepreneurship (Article 205), forgery of documents that submitted for state registration of a legal entity and natural persons - entrepreneurs (Article 205-1), counteraction to lawful economic activity (Article 206), illegal seizure of property of an enterprise, institution, organization (Article 206-2), legalization (laundering) proceeds of crime (Article 209), intentional violation of the law on prevention and counteraction to legalization (laundering) of proceeds from crime or terrorist financing (Article 209-1), violation of the procedure for operations with scrap metal (Article 213), bankruptcy (Article 219), falsification of financial documents and

reports of the financial organization, concealment of insolvency of the financial institution or grounds for revocation (cancellation) of licenses financial institution (Art. 220-2), the use of funds obtained from the illicit trafficking of narcotic drugs, psychotropic substances, their analogues, precursors, poisonous or potent substances or poisonous or potent drugs (Article 306); bribery of an employee of an enterprise, institution or organization (Article 354);

customs: smuggling (Article 201), movement across the customs border of Ukraine out of customs control or with concealment from customs control of timber or lumber of valuable and rare species of trees, unprocessed timber, as well as other timber prohibited for export outside the customs territory of Ukraine (Article 201-1); smuggling of narcotic drugs, psychotropic substances, their analogues or precursors or falsified medicines (Article 305);

security of the non-banking financial sector (insurance, stock market): evasion of payment of a single contribution to the obligatory state social insurance and insurance contributions to the obligatory state pension insurance (Article 212-1), manipulation of the stock market (Article 222-1), forgery of documents submitted for registration of the issue of securities (Article 223-1), violation of the procedure for maintaining the register of owners of registered securities (Article 223-2), production, sale and use of counterfeit non-government securities (Article 224), illegal use of insider information (Article 232-1), concealment of information about the issuer's activities (Article 232-2);

social: gross violation of labor legislation (Article 172), gross violation of the employment agreement (Article 173), non-payment of wages, scholarships, pensions or other statutory benefits (Article 175);

food: deliberate introduction into circulation on the market of Ukraine (release on the market of Ukraine) of dangerous products (Article 227);

principles of fair competition: illegal use of a mark for goods and services, brand name, qualified indication of origin of goods (Article 229), illegal collection for the purpose of use or use of information constituting a commercial or banking secret (Article 231), disclosure of commercial or banking secrets (Article 232).

On the grounds considered and on the possible use of economic mechanisms or their elements in criminal activity, the category of "economic crimes" should also include:

financing of actions committed for the purpose of forcible change or overthrow of the constitutional order or seizure of state power, change of borders of the territory or state border of Ukraine (Article 110-2) (crimes against the foundations of national security of Ukraine);

misappropriation, misappropriation of property or taking it by abuse of office (Article 191) (crimes against property);

illegal privatization of state and communal prop-

erty (Article 233) (crimes in the sphere of economic activity);

terrorist financing (Articles 258-5) (crimes against public safety);

abuse of power or official position (Article 364), abuse of power by an official of a legal entity of private law, regardless of organizational and legal form (Article 364-1), abuse of power by persons providing public services (Article 365-2), adoption offers, promises or receipt of illegal benefit by an official (Article 368), illegal enrichment (Article 368-2), bribery of an official of a legal entity of private law regardless of the organizational and legal form (Article 368-3), bribery of a person who provides public services (art. 368-4), offer, promise or provision of illegal benefit to an official (art. 369), abuse of influence (art. 369-2) (crimes in the sphere of official activity and professional activity related to the provision public services that belong to corruption).

The proposed classification can be used to improve a number of concepts in the field of economic security, taking into account the threats and risks posed by the growth and transformation of economic crime, as well as the scientific definition of "economic crime" and is one of the attempts to justify the definition of these crimes. We do not consider the above provisions to be an exhaustive list of economic crimes, their system is finally formed, and the proposed classification criteria are the only possible ones. It is seen that the basis for classification can be a variety of criteria that meet the ideas of researchers about the problem and how to solve it. In our opinion, the main ones are the characteristics of illegal activities related to the encroachment on economic relations and the use / possibility of using economic mechanisms or their elements in illegal activities.

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