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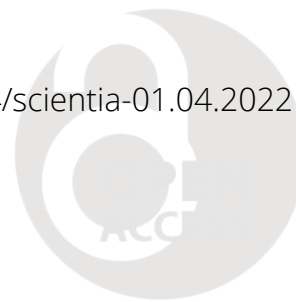
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Мітін Ю.О.114

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QUALIFICATION FEATURES OF CRIMINAL OFFENCES IN THE SPHERE OF ECONOMIC ACTIVITY IN UKRAINE

In the conditions of formation and development of market economy the most important factor of stability in a society is ability of economic system to provide to all citizens of Ukraine a worthy quality of life, possibility of realisation by them of the abilities and creative potential. In order to implement such security, it is necessary to provide adequate legal protection of public relations in the field of economic activity, by timely response to illegal acts and the imposition of proportionate punishment. This is already possible through the implementation of the correct criminal law qualification of economic criminal offences.

Criminal offences in the sphere of economic activity are provided by the norms of Section VII of the Special Part of the Criminal Code of Ukraine encroachment on the circulation of money, securities and other documents, taxation, budget and currency regulation, rights and legitimate interests of creditors and consumers, fair competition and antitrust activities, as well as the order of privatisation [1, p. 24]. Economic crimes often have a cross-border element: criminals move their assets to other countries to try to avoid freezing or confiscation orders [2].

In many types of criminal offences in the field of economic activity, it is important for their qualification to correctly establish the characteristics of the subject (funds, goods, documents, information, etc.), including its significant, large or particularly large size. These amounts, as well as the amount of damage caused in all types of criminal offences in the sphere of economic activity are determined in the tax-free minimum incomes of citizens. Definitions of these sizes and volumes are contained in the notes to the articles, which provide for liability for various types of actions or omissions contained in Chapter VII of the Criminal Code of Ukraine. This means that there is no single calculation criterion, and therefore may cause difficulties in qualifying some criminal offences in the field of economic activity. The only common condition for calculating the amount and amount of damage and the value of the object of encroachment is that the qualification of investigated criminal offences is the non-tax minimum income of citizens that existed at the time of the criminal offence (act or omission), regardless of when it was disclosed.

In characterising criminal offences in the sphere of economic activity, one should take into account the tendency of modern economic crime to spread not only in the economy, but also in power and politics, which involves the state apparatus, deepens in the sphere of power and self-government. However, the damage to these relations is not caused by every commission of these criminal offences, and therefore the authority of public authorities and local governments is an optional direct object and in the case of combination with the main direct object, the offence requires additional qualifications [3, p. 172].

The peculiarity of the correct criminal-legal qualification of criminal offences in the sphere of economic activity is the definition of the subject of encroachment. They can be recognised as those individuals who are directly engaged in economic activities, represent the interests of economic entities or the state in the field of economic activity. In particular, the subjects of these criminal offences, depending on the mandatory and additional properties, the range of rights and obligations imposed on them by legal requirements can be divided into two categories: 1) special

entities (for example, official, entrepreneur, owner, founder, participant, authorised person, non-owner, etc.); 2) any person endowed with the characteristics of the subject of a criminal offence, who violates or fails to fulfil certain economic obligations and requirements. Signs of the subjects of these criminal offences are established by laws and regulations, instructions, orders, directives, standard and departmental functional responsibilities, civil law transactions, etc. [3, p. 173]. Thus, not in all compositions it is only a common subject (a person who has reached 16 years of age). There are situations when in the same article the subject of the act is not only a general but also a special subject (for example, an entrepreneur, official or founder (participant) of a business entity, etc.).

Summing up, we want to highlight what you need to pay special attention to when qualifying criminal offences in the field of economic activity. Firstly, when determining the characteristics of the subject of criminal offences in the field of economic activity should be set in each case its size: in different articles differs and contained in the notes, but has a single unit — the tax-free minimum income. Secondly, the formality of the dispositions of these articles also significantly complicates the classification of criminal offences in the field of economic activity, as to establish all the objective and subjective features of the criminal offence must refer to a number of different laws governing these relations. Thirdly, the subject of the acts under investigation is not always general, but may be another person with a special legal status. Some articles, however, in different parts, suggest that both persons who have reached the age of 16 (ie general) and special persons may be guilty of it; bank official; a person engaged in entrepreneurial activity; person liable to pay taxes, fees (mandatory payments), etc.). Taking into account these features will be useful in the implementation of the appropriate criminal law qualification of criminal offences in the field of economic activity.

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