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Modern Determinants of Crimes Against Financial Security

Current geopolitical problems have aggravated the financial security ensuring issues of every country in the world. The most dangerous financial security encroachments are criminal acts committed in the financial sector. Therefore, there was a vital need to eliminate all the dangers in this area. One of the threats, needed to be addressed to, is the criminal one. Public relations violation in the financial sphere leads to the state's inability to perform its functions at the appropriate level. The determinants' definition is quite actual in the modern society, contributing to crime perpetration against financial security in Ukraine. Different classifications of these determinants are distinguished in the science, but the most relevant by the nature of occurrence are: economic, social, socio-psychological, social-managerial, and legal. The peculiarities of crimes committed in the financial sphere lie in the fact that the overwhelming majority of them are intentional, so anti-social setting of their commitment is decisive. It means that the legal nihilism and guidance on the violating the law possibility in order to satisfy personal interests, in particular financial are spread in the society. The abovementioned determines one of the decisive determinants – state's activity. After all, if the state roughly despises the individual interests in favor of allegedly public interest, citizens respond just the same – ignore the state interests and rules it sets. Due to this fact, financial crimes inherent a deliberate nature of both causes and conditions of their perpetration, the subjective character dominates and this fact is to be decisive while developing programs of combating financial crime in modern Ukrainian society.

Keywords: crime; financial crime; determinants of crime; crime causes and conditions; financial security; the fight against crime.

Problem statement. The essential role, played by the financial component in the state economic system, is beyond doubt. It is necessary to agree upon the opinion that the finance has become the main economy driving force, being a simple mechanism for servicing economic processes earlier [1]. At the same time, nowadays there are tendencies to the number of unlawful encroachments committed in this area increase. Although these crimes are characterized by a fairly high level of latency, we regularly receive information about them from various sources (media, politicians' speeches, everyday conversations). All these indicate the

spread of the above performed phenomenon, as a result of which substantial damage is caused to the economy, preventing the state from effective functioning and creating appropriate conditions for stable development and self-preservation.

As the detection of this group of crimes is relatively active, including the government officials' initiative, so much less attention is paid to the prevention issues. Nevertheless, it has long been known that it is much easier to prevent a crime than to detect, document, disclose, investigate and compensate for the damage caused by it further. Therefore, the clear understanding of all the determinants, contributing to these anti-social manifestations for effective crimes prevention committed in the financial sphere of the state is necessary.

Analysis of recent research and publications. Such lawyers as Y. Antonian, I. Danshin, A. Dzhuzha, A. Dolgova, A. Zakaliuuk, A. Zelinskyi, N. Kuznetsova, V. Kudriavtsev and others in their researches paid attention to the separate aspects of crimes' determination. Specific issues of economic crimes' determination were worked out in the works of M. Buchko, M. Davydenko, A. Kalman, A. Korystin, N. Melnyk, V. Pyvovarov, V. Popovych and others. Nevertheless, in the native sources only a small amount of researches concerns the problems of the crime determinants which exist in the financial sphere. Taking into account the specificity of public relations' sphere, determinants of the malicious acts in the sphere of the public-law relationship will allow to take into account their characteristic features and benefit clear setting of the tasks as to the provision of financial security.

The purpose of the article is clearing of the contemporary crimes which encroach the state financial security's determinants

Presenting the main material. The term «determination» arose in the depths of logic science, and even during the Middle Ages it meant a kind of concept logical definition: addition of certain characteristics to the generic concept in order to formulate a limited scope of a specific concept [2, p. 84]. This term is also used in other sciences, for example, ethics, determining the moral choice conditionality, which is caused by external circumstances in human behavior.

The «determination» definition comes from the Latin «determiniere», conditionality meaning phenomena and their interrelation. Actually, «determination» is a process of interrelations, including the conditionality of all the phenomena, events in both objective and subjective reality [2, p. 86]. One of the social determination types is criminological (criminogenic) determination, being understood as a set of factors causing crime emergence, spread and transformation [3, p. 277].

Nowadays the next groups can be distinguished in the science:

- crime causes and conditions as to the relatively mass social phenomenon – the main crime causes and conditions;

- causes and conditions of certain crime types (groups), that are, certain crime components – the common causes and conditions of certain crime types (groups);

- causes and conditions of a separate crime (individual criminal behavior) – direct causes and conditions of a separate crime [4, p. 90].

Thus, each crime type (group) corresponds, so to say, to its own «set» of negative social phenomena and processes, determining them.

Researching crime causes and conditions, encroaching on the state financial security, we are talking about common determinants, giving an idea of the characteristic phenomena, which cause criminal threats to the state financial security and the conditions, according to which it is possible to transform potential threats into real ones. Dwelling on common reasons, we join the point of view of the leading Ukrainian scientist in the sphere of both criminal law and criminology, I. Danshyn, that the function of the general reasons (and conditions) is to answer the question of the reason of the certain crime types (groups) in particular, financial, commitment in the society [5, p. 91].

Outlining the crime determinants in the financial sphere, we focus on the fact that, in general, determinants inherent both subjective and objective characters. That is, those that are due to the «human» factor belong to one group, and those which belong to objective phenomena – to the other. Indeed, some determinants are formed by human behavior while others are influenced by objective factors which do not dependent on it.

At the same time, when it comes to factors, determining criminal threats, in most cases they are subjective. These are human actions, giving rise to both causes and conditions that contribute to the crime commission in the financial sphere. There are law changes, which are both initiated and adopted by people, and the inappropriate activities' organization of financial institutions employees, and the ineffective activity of law enforcement officers, etc. Although, it should be noted that objective factors can also influence the decision to commit a criminal act in the financial sphere, but such phenomena are much less spread. In particular, such factors can be attributed to negative processes, occurred in the global financial market according to the economic laws (currency fluctuations due to changes in market conditions influence). Although this fact can also be objected as any event in the world occurs with the human participation, even if it is not explicit, but hidden, (creating appropriate conditions for obtaining the desired consequences, for

example, artificially reducing or increasing certain financial instruments value as a result of the market collusion).

In any case, both subjective and objective factors can be considered in a parallel within a certain classification group. It should be encountered that there is no determinant in its pure form, and the overwhelming majority of them have an objective-subjective character with a predominance of either an objective aspect or a subjective one. In particular, if these processes and phenomena do not depend on a particular human activity, the factors of objective nature dominate, and vice versa, if phenomena and processes depend on a person, subjective nature factors prevail.

Now there are a significant number of the crime determinants' classifications. As it is stated in the scientific literature «scientific classification is a set of subordinate scientific notions of the definite branch of knowledge which is used in order to establish relations between these notions and to organize their unity» [4]. Namely the crime determinants' classification, which is common to the financial system, will give the opportunity to group different causes and conditions, to define their peculiarities benefiting further rational creation of a policy, which will prevent the threats to the state financial system.

The classification of crime determinants by the nature of their occurrence is one of the most widely spread. Determinants are divided into six types:

- economic;
- social;
- socio-psychological;
- social-managerial;
- legal;
- tolerance of the society to the separate illegal manifestations [5, p. 95].

The study of the crimes against the state financial security' determinants according to this classification will allow to determine the special causes and conditions which are common to the modern society, to operate in the financial sector, to affect it directly and to produce the criminal acts' commission against its individual components. At the same time, it is difficult not to agree with the statement that the connection between the financial crime and the determinants, creating it, is double-sided [6]. Indeed, on the one hand, certain factors contribute to its both emergence and existence. On the other hand, the crime contributes to the development of the situation when such factors are increasingly spreading in the society, as awareness of the committing crimes in the financial sphere's

possibility and their significant economic effect lead to the fact, that the person himself creates the appropriate conditions of such illegal acts' commission possibility.

Exploring the criminal threats to the state financial security's determinants, we agree with the point of view that there is no the common and the main reason, which could exhaustingly explain the crime in specific conditions' origin in all its diversity [7]. Therefore, special attention is paid to the most common of them, especially economic, social, socio-psychological, socio-managerial and legal determinants.

Economic causes and conditions are those which prevent the creation of material conditions, necessary for the state normal functioning as a whole and the vital activity of each concrete person creation. Namely they are: deep crisis phenomena in the economy, financial instability, a high level of the shadow economy, etc. The economic situation cyclical fluctuations and the economic crime growth rate dynamics indicate the presence of a direct connection between them. Cyclic fluctuations in the economy affect the criminogenic factors' emergence and their implementation in changing the economic crime dynamics [6, p. 35]. Some of the group factors, directly generating financial crime and supporting its functioning at the macro level, are certain organizational and economic decisions, implementing the main financial policy's directions [6, p. 138].

Social determinants are associated with the overall security level and the individual structure in both everyday life and society, as social processes change consciousness and determine human behavior. The feature, characterizing it, is that some social processes can be stopped, others can be slowed down, the rest can be both initiated or accelerated [8, p. 219]. Such determinants include the low level of welfare of the majority of citizens, the presence and further increase of property contrast among the population, etc. [5, p. 95–96].

Socio-psychological determinants are those thoughts and ideas, which arise in the human mind under the influence of the individual moral principles and the society general attitude to separate situations. These factors are determined by the self-identification nature, which is «coded» by both the psycho-spiritual nature of self-identification and the society institutional structure, its spiritual and cultural condition. It means, that the self-identification contains positive social feelings in its normal form and a desire to such values as justice, generosity, care, desire for truth, etc. At the other «pole», opposite nature emotions, such as: aggressiveness, greed, self-

deception, etc. are «coded» [9]. Considering the abovementioned information, we can say that depending on the consideration what action of which «pole» in individual self-identification wins, the corresponding decision will be made in favor of such behavior of the individual. Unfavorable tendencies in the public consciousness sphere: the substantial spread of both moral and legal nihilism are inherent in modern society.

Considering that the predominant majority of crimes, committed in the financial sphere are deliberate, the anti-social attitude is decisive. That means the spread of the legal nihilism in society and the orientation toward the law possibility violating in order to satisfy personal interests, in particular, of a financial nature. One of the group determinant's conditions is the state activity. According to the words of scientists, which one cannot but agree: «If the state grossly neglects the individual's interests in favor of mythical public interest, the citizens (society) answers the just the same – they ignore state interests and rules, established in the sphere of economic activity» [10, p. 142].

Social and managerial (or organizational and managerial) determinants are those, which are caused by the public consciousness's impact on individual decisions made by the state representatives or by their actions under certain conditions. Such determinants include a sharp decline in the economy's controllability, to which the economy criminalization as a whole leads as a result of the certain types or groups of crimes' massive commission in the economic activity sphere; disadvantages in the economic entities' management by both regulatory and law enforcement agencies, etc.

Legal determinants are generated by the legal regulation peculiarities of social relations' individual spheres. These determinants include the current legislation imperfection and inconsistency, included in the fact that it does not fully provide an integral, interconnected system of measures to counter crime. Moreover, it is characterized by declarativeness and the lack of a clear mechanism for its usage.

For other criminal threats of criminogenic determinants to the financial security we can attribute one of the subjective nature dominant determinants– a significant excess of the «law execution price» (law-abiding behavior) over the «illegality price» and «the evading punishment price» (for example, giving a bribe) [11, p. 297]. Such a thesis is explained by the fact that a person becomes a criminal not because his motivation differs from other people's motivation, but as, after analyzing both losses and benefits of his actions, he draws certain conclusions, which influence decision-

making. A person, within the framework of his informational possibilities, evaluates all the chances and chooses such an action that will provide him with the least losses and, especially, with the least risk of punishment and the greatest personal benefit [12, p. 98].

The state can level out the above-mentioned social deformations only in the way of creating such conditions, according to which the illegal behavior would be inconvenient or less economically profitable than legal. We fully agree with the famous criminologist S. Inshakov that the above discussed can be achieved in two ways: by creating opportunities for a normal (and even attractive) way of life within the framework of lawful behavior, and by establishing moral and legal prohibitions, and, accordingly to them, by the punishment threat [8, p. 250].

Considering the fact, that there are enough already established modern society prohibitions, especially legal ones, it is necessary to pay particular attention to the lawful behavior attractiveness and the public rejection of violations in the financial sphere's education. It is also necessary to add another, third way – ensuring strict compliance with the law requirements by all the population segments. Namely, the unity of all three components will guarantee a person's unreadiness for criminal behavior, at least on a non-professional basis.

Conclusions. The abovementioned materials let define a relatively complete set of causes and conditions producing the crime commission in the financial sphere. The deliberate nature of financial crimes determines mainly subjective nature of the considered causes and conditions. Namely this feature is to be guided upon while developing measures both for combating and for preventing this category of socially dangerous acts.

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Сучасні детермінанти злочинів проти фінансової безпеки

Сучасні геополітичні проблеми актуалізували питання забезпечення фінансової безпеки різних країн світу. Акцентовано увагу на кримінальних загрозах, адже порушення суспільних відносин у фінансовій сфері унеможливує виконання державою функцій на належному рівні. Визначено детермінанти, притаманні сучасному суспільству, які сприяють учиненню злочинів проти фінансової безпеки в Україні. Констатовано, що в науці представлено різні класифікації зазначених детермінант, однак найактуальнішим є поділ їх за показником виникнення на економічні, соціальні, суспільно-психологічні, суспільно-управлінські, правові. Особливість злочинів, учинених у фінансовій сфері, полягає в тому, що переважна більшість з них є умисними, тому вирішальною є антигромадська установка,

тобто поширення в суспільстві правового нігілізму й можливості порушувати закон для задоволення власних інтересів, зокрема фінансового спрямування. Якщо держава зневажає інтереси окремої людини на користь нібито публічного інтересу, громадяни ігнорують інтереси держави й ті правила, які вона встановлює. Оскільки фінансовим злочинам притаманний умисний характер, серед причин та умов їх учинення домінують суб'єктивні, на що й необхідно орієнтуватися під час розроблення програм з протидії фінансовій злочинності в сучасному українському суспільстві.

Ключові слова: злочинність; фінансова злочинність; детермінанти злочинності; причини й умови злочинності; фінансова безпека; протидія злочинності.