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THE ISSUES OF CORRUPTION OFFENCES
IN ECONOMIC ACTIVITY

The article considers different interpretations of corruption offences in economic activities. The notion of economic crime is a new criterion in criminal legislation and is not widely studied by criminal law, criminological and forensic sciences. Lack of the generally accepted notion "economic crime" surely limits the opportunities for a constructive dialogue in order to improve and harmonize the current legislation on fighting this type of crime.

Keywords: economy; corruption; combating crime; economic activity.

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ПИТАННЯ КОРУПЦІЙНИХ ПРАВОПОРУШЕНЬ
У СФЕРІ ЕКОНОМІЧНОЇ ДІЯЛЬНОСТІ

У статті розглянуто різні трактування поняття корупційних правопорушень у сфері економічної діяльності. Само поняття економічного злочину як таке є новим критерієм кримінального законодавства і не повною мірою досліджено кримінально-правовою, кримінологічною і криміналістичною науками. Визначено, що відсутність загальноприйнятого кримінально-правовою наукою і кримінологією поняття «економічна злочинність», безумовно, обмежує можливості конструктивного діалогу з метою вдосконалення й уніфікації законодавства по боротьбі з цим явищем.

Ключові слова: економіка; корупція; боротьба зі злочинністю; економічна діяльність.

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ВОПРОСЫ КОРРУПЦИОННЫХ ПРАВОНАРУШЕНИЙ
В СФЕРЕ ЭКОНОМИЧЕСКОЙ ДЕЯТЕЛЬНОСТИ

В статье рассматриваются различные трактовки понятия коррупционных правонарушений в сфере экономической деятельности. Понятие экономического преступления как таковое является новым критерием уголовного законодательства и не в полной мере исследовано уголовно-правовой, криминологической и криминалистической науками. Определено, что отсутствие общепринятого уголовно-правового и криминологического понятия «экономическая преступность», безусловно, ограничивает возможности конструктивного диалога с целью совершенствования и унификации законодательства по борьбе с данным явлением.

Ключевые слова: экономика; коррупция; борьба с преступностью; экономическая деятельность.

Introduction. Poverty, illnesses, short life expectancy, unequal distribution of revenues and wealth are the issues spread everywhere in the world. Many countries have very low, sometimes even negative index of economic growth. Moreover, the countries rich in natural resources sometimes have unsatisfactory indices of economic growth and low income level per capita. Some states of the former Soviet bloc have low economic indices despite the availability of qualified work force.

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The contradictions between the capacities of developing countries and strict requirements of international organizations, providing economic and financial assistance have sources of different nature such as history and culture of the partner-countries. Some critics believe that international organizations do not account for peculiarities of local customs and institutions and therefore are not able to adopt own programs to the specific conditions of a certain country. It is true in some cases, however, not always. In fact, in some countries the state and public institutions are not compatible with the economic development goals set.

Latest research and publications analysis. The issues of corruption offences in the field of economics draw attention of many foreign and national scholars, such as A.A. Belyayev (2001), E.E. Dementiyeva (1992), E.M. Korotkov (2001), G.A. Kurganbayeva (2002), A.K. Kazhuratova (2002), N.F. Kuznetsova (1993), V.V. Luneev (1997), G.K. Mishin (1994), Y.A. Savin (1997), B. Swenson (1987) and others. At the same time, the above problems have not been studied enough. These problems are considered in the works of such Kazakh scholars as N.A. Nazarbayev (2005), R. Tashkinbaev (2012) and others.

The object of this research is the notion of corruption offences in the field of economic activity, namely the concept of economic crime.

The research goal is to investigate the theoretical fundamentals and classification of the issues of corruption offences in the field of economic activity.

The methods of the research are systematic and comparative analysis of scientific literature and statistical information.

Some scholars criticize the goals of international community believing that economic growth is a very narrow and not sufficient measurement of social welfare. But even if one agrees with this criticism, it is necessary to admit that there are tremendous differences between the countries on the level of healthcare, education, economic opportunities and environment quality. Universal values whether that is per capita income, longer life expectancy or lower children mortality vary in different countries of the globe and have different rates of change (Korotkov and Belyayev 2001: 58).

Indeed we see slight differences in the culture and basic values across different nations. But there is a universal and main motivator of human activity, which can explain the differences in social and cultural experience of different nations. This motivator, which is called self-serving interest, includes the craving to ensure welfare of one's family and one's social unit. The critics call it greed, economists call it utility maximization. Whatever we call this property, the societies differ in the way they channel their self-serving interests. Endemic corruption is a sign of total inability to use this interest for productive purposes (Kuznetsova, 1993: 12).

Economic crimes is a powerful negative factor threatening economic and other types of security. As any other types of crime it is a mass phenomenon, composed of the aggregation of the economic crimes committed in the country or certain region.

The notion of economic crime in itself is a relatively new criterion and is not widely studied by the criminal law, criminological and forensic sciences. The object of the scientific study and definition are the particular types of economic crimes: crimes against property, crimes in the field of economic activity (economic offences); acquisitive crimes etc. Lack of generally accepted notions of "economic crime" sure-

ly limits the opportunities for a constructive dialogue in order to improve and harmonize the current legislation on combating crime (Luneev, 1997: 257).

The problems of economic crimes have attracted attention of the researchers during the whole history of the phenomenon development. Some western forensic scientists define the essential elements of economic crime in a very narrow sense leaving it only to economic offences. Russian experts are the supporters of a broader approach to the understanding of the economic crime. In particular E.E. Dementiyeva, generalizing the definition, proposed by the criminology experts of the USA and Germany, believes that economic crime is an illegal act infringing the interests of state economy in general, and also the private entrepreneurship and interests of certain groups of citizens, constantly and systematically performed for the purpose of gaining profit within the framework and under cover of legal economic activities by a natural person or a legal entity (Dementeva, 1992: 27).

Criminal law of the country partially discloses the approach used towards the crimes identified as economic. In particular, the Criminal code of the Republic of Kazakhstan (CC RK) includes 4 chapters related in some way to economic crimes – chapter 6 "Crimes against property" (art. 175–188 CC RK); chapter 7 "Crimes in the sphere of economic activity" (art. 189–227 CC RK); chapter 8 "Crimes against the interests of the service in commercial or other organizations" (art. 228–232 CC RK); chapter 13 "Corruption and other crimes against the interests of public service and state governance" (art. 307–316 CC RK).

The acts of a criminal in these offences are often characterized by the striving to get material profit. So self-interest is a mandatory sign of embezzlement; theft, illegal entrepreneurial and banking activity, tax evasion, smuggling, commercial bribery, and other acts are done by a person for gaining material profit for himself and other people (Mishin, 1994: 39–40).

Other crimes from the group of offences in the field of economics do not have such an explicit material character, but can also be considered as economic crimes because they lead to the material damage to the owner (such as destruction or damage of property), or are committed in the sphere of economic activity, damage its principles.

Criminology experts traditionally identify the crimes of economic orientation. They include almost the full spectrum of crimes of officials (primarily misuse of authority, bribery, illegal participation in entrepreneurial activity); crimes related to drug and weapons trafficking, resulting in tremendous profits for the individuals; some other offences (for instance, ecological crimes, contract murders etc.).

Generalizing what has been stated above and using a classical definition of a crime let us define the main characteristics of economic crimes:

- 1) it is *actus reus*, an act dangerous for society;
- 2) it is provided as such in the CC RK and is prohibited by the latter under the threat of punishment;
- 3) it has an explicit economic nature, which could be seen in either the striving to get material profits from the crime or in the wish to inflict damage to the protected property interests or in breaking the procedures and principles of economic activity (Savin, 1997: 12).

The above mentioned is the essence of motivation for the committed acts and mechanism of the offensive behavior, although the damage resulted from it could be inflicted and is inflicted on the other legally protected interests (the objects of the crime).

Going back to the notion of economic crimes let us emphasize that it is the aggregation of all economic crimes in the above mentioned understanding, committed in a certain period of time on a certain territory.

One of the most topical issues for modern Kazakhstan is combating corruption. The urgency of this problem is obvious. That is why a section of the Address of the President of the Republic of Kazakhstan N.A. Nazarbayev of 18 February 2005 "Kazakhstan on the way of accelerated economic, social and political modernization" was devoted to it. The President emphasized that Kazakhstan was the first among the post Soviet union countries, which has adopted the anticorruption law, but life goes on and it is necessary to continue to work towards the improvement of legislation, work on strengthening and improving mechanisms of influence and activate cooperation with international organizations (Nazarbayev, 2005).

Economic crimes have become expressively intellectual. The crimes committed are characterized by flexible adaptation of the criminals to the new forms and methods of economic security which now becomes an acute and urgent social problem. Today we need immediate measures to eliminate serious threat for establishing civilized market relations in the country (Swenson, 1987: 74).

It is enough to remember 1991, when Chechnya mafia invented a new way to get profit. They created shell companies, which used falsified letters (payment documents), and received the money that did not belong to them. Massive theft with falsified letters shocked the Russian financial system, affecting Kazakhstan as well (Kurganbayeva and Kazhmuratova, 2002: 68).

Currently the financial and monetary system of the country is undergoing serious structural changes – in the conditions of transition from the administratively managed highly monopolized state bank structure to the dynamic system of credit institutions based on private and collective ownership. There emerge new types of credit and financial institutions and operations, instruments and methods of service; the system of relationship between the National bank and financial and credit institutions is modified. There is a search for optimal forms of credit system functioning, mechanisms, working efficiently in the capital market, new service methods for commercial structures (Tashkinbaev, 2012).

Conclusions. The offences in the field of insolvency including the liability in this sphere have specific features, allowing us to talk about new special type of legal liability, having specific character. In case of insolvency certain sanctions are used: suspending insolvency administrator from managing the affairs and property of the debtor, actions to revise the rehabilitation plan or to stop the rehabilitation procedure; prohibiting the assignment and temporary transfer of property of the debtor since the time of liquidation etc. Special significance have the refusal or continuation of ex post facto justification of certain actions of the subjects of the offence; refusal to approve settlement agreement; refusal to register the termination of activities of a legal body in case of its illegitimate liquidation from the position of legal requirements for the bankruptcy procedure etc.

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