

УДК 343

A. Soloviova

CRIMES AGAINST PROPERTY UNDER THE PENAL CODE OF FRANCE

A.M. Соловійова

*кандидат юридичних наук, доцент,
ВНЗ «Національна академія управління»
м. Київ*

ЗЛОЧИНИ ПРОТИ ВЛАСНОСТІ ЗА КРИМІНАЛЬНИМ КОДЕКСОМ ФРАНЦІЇ

Formulation of the problem. France is a relatively safe country. Most crimes are non-violent, but criminal offences against property is a significant problem.

Property crime covers a range of criminal activities where the aim is to acquire property by illegal means or to cause damage to property. It includes offences of burglary, vehicle-related thefts, robbery and other personal thefts, fraud, and vandalism.

Property crime is defined as incidents where individuals, households or corporate bodies are deprived of their property by illegal means or where their property is damaged. It includes offences of burglary, offences against vehicles, theft offences, fraud, forgery and criminal damage. For the purposes of this report, robbery is also included as a property crime [1].

The Napoleonic Penal Code of France dating back to 1810 – but partially updated by a series of laws – was replaced in March 1994 by a New Penal. The New Code has been officially published in French. Further information can be supplied by the French Ministry of Justice.

The 1994 Code has already been modified by statute: for example a law enacted 10 July 2000 (called “loi Fauchon”: Mr Fauchon is the senator who drafted the initial bill) has restricted the scope of criminal liability in cases of unintentional manslaughter and injuries committed by public officials [2]. Code According to the Article 111-1 of the Criminal Code in France adopted a three-stage classification of criminal acts, depending on their severity [3].

Analysis of recent research and publications. It should be noted that our research is based on the works of P.P. Andrushko, MI Bazhanov, Yu.V. Baulin, O.I. Boytsov, O.O. Dudorov, V.K. Matviichuk, V.V. Stachis and others.

The purpose of the paper is to clarify the features of the system of crimes against property under the French Penal Code.

Main results of the study. Criminal offences are categorised as according to their seriousness as felonies, misdemeanours or petty offences. Statute defines felonies and misdemeanours and determines the penalties applicable to their

perpetrators. Regulations define petty offences and determine the penalties applicable to those who commit them, within the limits and according to the distinctions established by law.

No one may be punished for a felony or for a misdemeanour whose ingredients are not defined by statute, nor for a petty offence whose ingredients are not defined by a regulation.

No one may be punished by a penalty which is not provided for by the statute, if the offence is a felony or a misdemeanour, or by a regulation, if the offence is a petty offence [3]. Thus, criminal offences in France are broken down into three distinct classes: Contraventions – (cf. petty offences) – which would include parking and speeding tickets for example are dealt with, if they were to come before a French Court, by the Tribunal de Police.

Délits – (cf. misdemeanours) – more serious offences, which might include for example theft, actual bodily harm etc, are dealt with by the Tribunal Correctionnel.

Crimes – (cf. felonies) – the most serious types of offence such as murder, rape etc. are heard by the Cour d'Assises.

It should be noted that the French word 'crime' is not the translation of 'crime' in English [4; 5, p. 13].

Thus, the material criterion is the basis for the differentiation of crimes. For French lawyers a 'crime' only means a certain class of offence and would be misunderstood if it were used generally to indicate an offence. The generic word 'crime' in English would normally be translated by the French word "infraction".

More serious, jailable offenses are of two types, delit and crime. The "middle" category of delit accounts for almost all of the remaining court-imposed sentences; it includes many offenses which would be misdemeanors under American law (such as minor thefts), as well as most of the cases which would be felonies, including aggravated assault, burglary, grand larceny, and most drug crimes.

Delits are punishable with one or more of the following: imprisonment (up to ten years, for the most serious delits); fines or day-fines"; up to 240 hours of community service; forfeiture of objects or privileges (for longer periods than the forfeitures allowed in contravention cases); closing of defendant's business; publicity of the sentence; and, if specifically authorized, loss of rights (such as the right to vote) [6, p. 276].

Known since the classical era of Roman law concept of theft, *furtum* was defined as the taking of another's thing, with the intention of winning (Hanga V., Jacotă M., 1964, pp. 334). Under Title II of the Romanian Criminal Code, entitled "Offenses against the patrimony" through a group of similar crimes Romanian Penal Code of 1936, the first chapter deals with the offense of theft, the main act of the category aimed at theft of goods [7, p. 99]. And other European criminal codes stipulate the offense of theft, included in different categories as diverse classification criteria are used, for example in the French Criminal Code, adopted by Law no. 92-683 of 22 July 1992 and entered into force on 1 March 1994, with subsequent amendments, is in Book III entitled "Crimes and offenses against property" title "Misappropriation of goods"; Italian Penal Code is contained in Title XIII entitled

“Offenses against the patrimony” in the category with violence against property or persons; the German Penal Code of 1871, as amended, is contained in Section 19 — “Theft and taking of goods”; the Spanish Penal Code, adopted in 1995, by Law no.10/1995, published in the Spanish Official Gazette no. 281 of 24/11/1995, is contained in Title XIII “Offenses against patrimony and against the socioeconomic order”; Netherlands Penal Code, under Chapter XXII “Theft and robbery” ; the Belgian Criminal Code adopted in 1867, with subsequent amendments, under Title IX “Offenses and delicts against property”; Criminal Code of Kosovo, entered into force in 2004, under Chapter XXIII “Crimes against property” [8, p. 99–100].

The different types of thefts in criminal law of France: they are very numerous. Article 311-1 of the Penal Code defines theft as the illegal removal of the property of others. We note that the offense of theft has been the subject of many variations, here is a list of the main ones.

Offenses involving property valued at less than \$1,000 or so are usually treated as misdemeanors. These crimes are commonly referred to as petty or petite larceny. Thefts of more valuable property are referred to as grand larceny and treated as felonies. Besides the value of the property taken, theft crimes are categorized by the type of property taken and the method used by the perpetrator to acquire it.

Some instances of robbery are easy to recognize, such as mugging, bank heists, and carjacking. Other times robbery charges can come as a surprise, especially to those accused of conduct that might seem less serious at first blush. For example, a person apprehended for shoplifting who attempts to flee with the merchandise by physically breaking free of a security guard’s grasp may very well be guilty of robbery.

Another category of theft involves financial crimes, such as embezzlement, insurance fraud, and forgery. Also known as white collar crime, these offenses are often committed by people who hold positions of trust within the business community. Through various forms of dishonest conduct, perpetrators of financial crimes find ways to steal from victims using trickery, rather than force. Some of the largest and most notorious thefts ever carried out fall within this category [9].

Thefts are soaring (around half of crimes involve theft) and burglary has reached epidemic proportions in some areas (holiday or second homes are a popular target). Many people keep dogs as a protection or deterrent against burglars and fit triple-locked and steel-reinforced doors.

Robbery is when someone takes something you own from you by force or by threatening you. Because of the use or threat of force, robbery is considered a violent crime (even if you are not physically hurt in the act) [10].

The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.

Robbery is a vicious type of theft in that it is committed in the presence of the victim. The victim, who usually is the owner or person having custody of the property, is directly confronted by the perpetrator and is threatened with force or is put in fear that force will be used. Robbery involves a theft or larceny but is aggravated by the element of force or threat of force.

Because some type of assault is an element of the crime of robbery, an assault must not be reported as a separate crime as long as it was performed in furtherance of the robbery. However, if the injury results in death, a homicide offense must be reported [11].

However, crime in rural areas remains relatively low and it's still common for people in villages and small towns not to lock their homes or cars. Car theft and theft from cars is rife in Paris and other cities. Foreign-registered cars are a popular target, particularly expensive models, which are often stolen to order and spirited abroad. Car burning has become a popular 'sport' among urban youth gangs. An average of 200 cars are set alight in various cities (especially Mulhouse and Strasbourg) every weekend. Other 'games' include driving without lights at night and shooting at the first car to flash its headlights [12].

In France, a common crime is pocket theft (pickpocketing). Pick pocketing (*Vol à la tire*) used in case of theft of an object (cash, wallet, jewelry, phone) which is in a pocket or bag [13]. The majority of crimes directed against foreign visitors involve pick-pocketing, residential break-ins, bicycle theft, and other forms of theft with minimal violence. However, as in any big city, robberies involving physical assault do occur in Paris and other major urban areas. Visitors to congested areas and known tourist sites (e.g., museums, monuments, train stations, airports, and subways) should be particularly attentive to their surroundings. Crimes against visitors are generally crimes of opportunity, though these crimes are more likely to involve violence on the street late at night or when the victim detects the theft and resists the criminal [14].

Pickpockets and bag-snatchers have long been a plague in Paris, where the 'charming' street urchins (often gypsies) are a highly organised and trained bunch of pickpockets. They try to surround and distract you, and when your attention is diverted pick you clean without your noticing. Keep them at arm's length, if necessary by force, and keep a firm grip on your valuables. Always remain vigilant in tourist haunts, queues and on the métro. Never tempt fate with an exposed wallet or purse or by flashing your money around and hang on tight to your bags. One of the most effective methods of protecting your passport, money, travellers' cheques and credit cards, is with a money belt. Tourists and travellers are the targets of some of France's most enterprising criminals, including highwaymen and train robbers [15].

Marcus Felson, a criminologist at Texas State University who has spent decades studying low-level crime, calls pick pocketing a "lost art". Last year, a New York City subway detective told the Daily News that the only pickpockets left working the trains anymore were middle-aged or older, and even those are few and far between. "You don't find young picks anymore", the cop told the paper. "It's going to die out". A transit detective in the Massachusetts Bay Transit Authority, which operates the Boston area's bus, commuter rail, and subway system, concurred via e-mail. "Pickpockets are a dying breed", he wrote. "The only known pickpockets we encounter are older, middle-aged men; however, they are rarely seen on the system anymore" [16].

Conclusions. Thus, the most serious theft crimes involve the use or threatened use of force. Most notable among these is the crime of robbery.

REFERENCES

1. Chapter 1: Property Crime – Overview // Office for National Statistics. – 09 May 2013: url // https://www.ons.gov.uk/ons/dcp171776_309648.pdf
2. The Different Systems of Penal Codes in Europe – Library of Congress : url // www.loc.gov/rr/frd/Military_Law/Lieber_Collection/pdf/PenalCodes-in-Europe.pdf
3. Penal Code: url // https://www.legifrance.gouv.fr/content/download/1957/13715/.../Code_33.pdf
4. French Criminal Law: url // http://www.frenchlaw.com/criminal_law.htm
5. The Different Systems of Penal Codes in Europe : url // www.loc.gov/rr/frd/Military_Law/Lieber_Collection/pdf/PenalCodes-in-Europe.pdf
6. Federal Sentencing Reporter. Vol. 7, No. 6, May / June 1995 : url // https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1524&context=faculty_articles
7. Considerations on the theft offense in regulation of new Criminal Code and aspects of comparative law // Journal of Public Administration, Finance and Law. – Issue 7. – 2015. – P. 99–104.
8. Considerations on the theft offense in regulation of new Criminal Code and aspects of comparative law // Journal of Public Administration, Finance and Law. – Issue 7. – 2015. – P. 99–104.
9. Categories of Theft Crimes : url // <https://www.hg.org/theft-law.html>
10. Robbery and Property Crime – National Center for Victims of Crime : url // <http://victimsofcrime.org/help-for-crime-victims/get-help-bulletins-for-crime-victims/bulletins-for-teens/robbery-and-property-crime>
11. Criminal Law Robbery : Justia : url // www.justia.com/criminal/docs/uniform-crime-reporting-handbook/robbery.html
12. Crime in France : url // <https://www.justlanded.com/english/France/Articles/Culture/Crime-in-France>
13. Glossaire de termes juridiques Convention-cadre pour la sécurisation : url // https://www.prefecturedepolice.interieur.gouv.fr/.../termes_e...
14. Crime and the legal system in France : url // https://www.expatica.com/fr/about/Crime-and-the-legal-system-in-France_106436.html
15. Crime in France : url // <https://www.justlanded.com/english/France/Articles/Culture/Crime-in-France>
16. Pickpocketing. The venerable crime has all but disappeared in the United States. What happened, and should we miss it? : url // http://www.slate.com/articles/arts/culturebox/2011/02/the_lost_art_of_pickpocketing.html

Соловійова А.М Злочини проти власності за Кримінальним кодексом Франції

У цій статті злочини проти власності визначаються як діяння, які спрямовані на позбавлення майна окремих осіб, сімей або корпоративних органів незаконними засобами або пошкодження такого майна. Вони включають такі злочини як крадіжки зі зломом, злочини проти транспортних засобів, розкрадання, шахрайство, підроблення та кримінальний збиток. Для цілей цієї статті грабіж також включений в групу злочинів проти власності.

Ключові слова: злочини проти власності, крадіжка, грабіж, насильство, таємне викрадення.

Соловьева А.Н. Преступления против собственности по Уголовному кодексу Франции

В этой статье преступления против собственности определяются как деяния, которые направлены на лишение имущества отдельных лиц, семей или корпоративных органов незаконными средствами или повреждение такого имущества. Они включают такие преступления как кражи со взломом, преступления против транспортных средств, хищения, мошенничество, подлог и уголовный ущерб. Для целей настоящей статьи грабеж также включен в группу преступлений против собственности.

Ключевые слова: преступления против собственности, кража, грабеж, насилие, тайное похищение.

Soloviova A. Crimes against Property under the Penal Code of France

In this article, crimes against property are defined as incidents where individuals, households or corporate bodies are deprived of their property by illegal means or where their property is damaged. It includes offences of burglary, offences against vehicles, theft offences, fraud, forgery, and criminal damage. For the purposes of this article, robbery is also included in the group of crimes against property.

Keywords: Crimes against Property; Theft; Robbery; Violence; Secret Abduction

Стаття надійшла до редакції: 15.12. 2017.