

CONCERNING THE NEED FOR IMPROVEMENT OF THE METHODOLOGY OF INVESTIGATING FRAUDS AND DEVELOPMENT OF METHODS OF INVESTIGATION OF ITS INDIVIDUAL TYPES

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Abstract. Nowadays in a difficult economic situation, frauds have become widespread in Ukraine in various spheres of human life. Increase in the number and quality of such crimes leads to significant losses of financial resources not only of citizens but of the state as a whole. Therefore, an important issue for our nowadays is the study of the mechanism of rapid, complete, and effective investigation and prevention of such crimes. In Ukraine, there is an active awareness of the population about the ways of committing such crimes and creating measures to protect confidential information. However, official statistics show a significant amount of fraud and an insufficient level of their disclosure. One of the reasons is the obsolete methods of investigating fraud and the lack of methods for investigating certain types of it. *The aim* of the article is to analyse scientific research in order to establish a level of methodological support for law enforcement agencies in investigating fraud. Due to the fact that methodological provision of practical divisions plays the leading role in the fast, full, and effective investigation of frauds, therefore, the studied question deserves a special attention. *Methodology.* The author substantiates the need to improve the existing methodological recommendations because since over time they lose their content. Besides, there is the necessity to create new techniques that are not reflected in the writings of scientists in investigating various types of fraud. Based on the analysis of forensic literature, we can make a conclusion that most of the scientific works are devoted to the investigation of fraud with financial resources. Therefore, the author proposes to pay attention to other types of fraud and to formulate methodological recommendations for practical units to young and experienced scientists on the basis of their own research. *Results.* The concepts and types of fraud are defined in the article. Besides, the works of criminologists, which are devoted to the peculiarities of investigating such types of crimes, are analysed. The official statistics, which impresses with data on undisclosed fraud, are presented here. This once again confirms the necessity for scientific development of the mentioned problem. A particular attention is paid to the lack of proper methodological support for practical units during the investigation of such types of crimes. In this regard, the author provides corresponding suggestions that will help to improve the investigation. *Practical impact.* Since the fraud investigation technique helps to the most successful achievement of the objectives of criminal justice, then in order to reduce the number of undisclosed crimes, it is necessary to develop and provide practical guidance to the methodical recommendations in a timely manner. *Correlation/originality.* The urgent issue of nowadays is a complete, effective investigation of criminal offenses, and fraud is no exception. The improvement of the methodology for fraud investigations and the development of methods for investigating certain types of fraud is a necessary step for it.

Key words: fraud, deception, abuse of trust, fraud investigation technique, thesis researches, methodology for investigating certain types of fraud.

JEL Classification: K39, K49

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1. Introduction

Recently, fraud in Ukraine has become widespread and can be characterized by a change in forms, types, and methods. The penetration of fraud in the sphere of entrepreneurial activity, particularly, investment, trust, insurance, banking is connected with economic transformations in the country, and the development of market relations (Shepitko, 1998; Piaskovskyi, Chornous, Ishchenko, Aliksiev, 2015). Thus, according to statistics of the Prosecutor General's Office of Ukraine for 2016, 45,764 fraud cases were registered – of which only 7844 persons were notified of suspicion and 783 with a statement of indictment; for 2017, there were 36,650 such crimes – of which only 10147 persons were notified of suspicion and 8567 with a criminal record. And during 9 months of 2018, there were 28,194 fraud cases – of which only 6964 were notified of suspicion and 5558 were with a criminal record (Statystychni dani Heneralnoi prokuratury). The effectiveness of the investigation of such types of crimes is affected by many factors of subjective and objective nature; and one of which is the degree of development of criminalistics techniques. The purpose of the last one is assistance to the most successful achievement of problems of criminal proceedings. In order to talk about the state of scientific development of this issue, we should analyse all existing techniques and scientific developments of criminologists.

2. Statement of the basic material

According to Art. 190 of the Criminal Code of Ukraine, fraud is the taking possession of someone else's property or the acquisition of the right to property by deception or breach of confidence. The existence of deception or breach of confidence is the main point here. And information, which was published by participating firms of the PwC network, which conducted the ninth Global Economic Crime and Fraud Survey, is rather interesting. Such information is based on responses received from more than 7,000 respondents from 123 countries of the world. Thus, according to a 2018 survey, 48% of Ukrainian organizations suffered from economic crime and fraud over the past two years, compared with 43% in 2016. Corruption remains one of the main types of economic crimes, the negative impact of which is experienced by Ukrainian organizations. It is interesting that 73% of respondents answered that their organizations have been victims of corruption over the past two years. The most common five forms of economic crime and fraud also include: misappropriation of property, fraud in the field of procurement, fraud in the field of personnel management and cybercrime (Vsesvitnie doslidzhennia ekonomichnykh zlochyniv ta shakhraistva 2018 roku).

In general, in the science of criminal law, a fairly significant number of methods of fraud are identified. Analysis of criminal science literature (Shepitko, 1998;

Shulha, Plakhotina, Balaniuk, 2013) made it possible to distinguish the following types:

- 1) depending on the direction of the fraudulent encroachment: in order to seize state or collective property (by obtaining this property with the help of fake documents at the bases, warehouses, and other objects using the omissions of the corresponding officials; by illegal receiving the state pensions or other payments from social security authorities by means of counterfeit documents on work experience, or salary or any other data, which are necessary for receiving pensions; by purchasing certain goods in credit for counterfeit documents and avoiding payment of the remaining amount; assignment of the property which is mistakenly released in a large number or the best quality; receiving an advance on a promise to perform certain work or for the supply of goods with subsequent evasion from the fulfilment of obligations under the contract; supply of goods in a smaller quantity and of lower quality than stipulated by the contract); supply of goods in a smaller quantity and of lower quality than stipulated by the contract); in order to seize the individual property of citizens (substitution of items of sale, exchange and money, which should be in order to pass to the counterparty, the sale of products that are of lower quality than it is written in the agreement, carrying out lotteries, divination or empiricism as a form of lending, borrowing money without the intention to return a debt, marital fraud, collection of "donations", sale of inalienable property, fraud with payment cards, etc.);
- 2) depending on the sphere of social and economic activity: social assistance, domestic services, insurance, tourism, removal of workforce abroad, etc.;
- 3) depending on the nature of "relationships" that arise between enterprises or economic partnerships: fictitious representation, fictitious mediation, borrowing under fictitious projects.

The mentioned number of methods of fraud is simply impressive and they are not exhaustive. Any sphere of human life connected with the circulation of finance can serve as a field for fraudulent actions. Despite a variety of ways of fraud, investigation of such crimes has its peculiarities. For example, the algorithm of actions at an initial stage of investigation of fictitious business will differ from the algorithm of actions at the investigation of marriage fraud and so on. Therefore, the development of separate investigative techniques is required.

As S. S. Cherniavskyi states, for the investigation of financial fraud, it is necessary to develop a complex methodology that will have two components: general provisions (foundations) that will reveal criminalistics characteristics of various fraud and special (separate) investigative techniques, which will be distributed according to different criminological significant features (for example, in the field of financial activity, depending on the specifics of individual operations, etc.).

The reason for developing a comprehensive methodology for investigating financial fraud is the need for law enforcement practice since the individual features of these crimes are closely connected with the process of proof, which determines the specifics of nomination and verification of versions, planning of the investigation, conducting investigatory (search) operations, operational search activities, their complexes, etc. (Cherniavskiy, 2009).

Considering all the mentioned above, it is necessary to study and analyse the state of scientific development of techniques for investigating various types of fraud. Also, it is necessary to evaluate the possibility and effectiveness of providing them with practical units for the prompt, complete, comprehensive disclosure and investigation of such crimes.

The conducted monitoring made it possible to form a candidate's dissertation research in chronological order, which was conducted and passed its Ph.D. defence in Ukraine and devoted to the problems of investigation of fraud. Particularly, we are talking about such theses as: Kurman O. V. Methods of investigation of fraud with financial resources (Kharkiv, 2002); Musienko O. L. Theoretical principles of investigation of fraud in modern conditions (Kharkiv, 2007); Pazinich T. A. Forensic characteristics of fraud and main provisions of their investigation (Kharkiv, 2007); Golovkin S. V. Forensic characteristic of fraud against the property of the person and its use at the initial stage of the investigation (Odesa, 2008); Anapolska A. I. Investigation of fraud and related crimes committed in the field of electronic payments (Kharkiv, 2010); Ishchuk I. V. Initial stage of investigation of fraud in motor vehicle insurance (Kyiv, 2010); Dekhtiarov Ye. V. Peculiarities of investigation of fraud committed in the field of performance of economic and contractual obligations (Kyiv, 2011); Okhrimchuk T. V. Forensic characteristics of fraud with financial resources and main directions of investigation (Kyiv, 2011); Popova I. M. Investigation of fraud involving the attraction of citizens' funds for housing construction (Kyiv, 2011); Teriokhin D. G. The initial stage of the investigation of fraud committed through the illicit obtainment of a targeted consumer loan (Kyiv, 2011); Knyazev S. M. Investigation of fraud committed by a financial pyramid (Kyiv, 2012); Kruzhevskiy A. V. Forensic characteristics of fraud in the field of mobile communications (Kyiv, 2012); Andriiv D. M. Investigation of crimes aimed at taking possession of housing (Kyiv, 2012); Kurulenko N. Yu. Methods of investigation of fraud in the sphere of household relations (Odesa, 2013); Mudriak T. O. The criminal investigation of fraud with financial resources (Irpin, 2013). Along with this, we should also mention the thesis for a Doctor's degree – Theoretical and practical principles of the methodology for investigating financial fraud (Kyiv, 2010) by Cherniavskui S. C.

As can be seen from the mentioned above, many types of frauds were not at all a subject of scientific research, and this greatly affects the process of their investigation. We can state that most of these studies are devoted to the investigation of fraud with financial resources but, unfortunately, other types of committing frauds remain rather unexplored.

As a positive moment, we can highlight that along with the dissertation research, there are also monographs devoted to the investigation of fraud. Particularly, we should mention the monograph of N. V. Pavlova. Investigation of fraud during signing civil-law agreements on alienation of housing, 2007. In this research, a forensic description of fraud in the housing sector and the algorithms of investigator's actions in typical investigative situations for the investigation of such crimes are given. Besides, the features and tactical methods of conducting separate investigative actions during the investigation of the mentioned frauds (Pavlova, 2007) are described.

In 2009, S. S. Chernyavskiy in his monograph conducted a comprehensive analysis of the phenomenon of financial fraud and its manifestations in Ukraine. The author examines the basics of the methodology for investigating such frauds: in the sphere of distribution and use of budgetary funds, in the credit and banking sphere, in the field of insurance, in the sphere of activity of non-bank financial and credit institutions, in the sphere of securities circulation and in the stock market, in the sphere of using computer networks. The scientific and practical principles of forming a complex method of investigation are defined there as well (Cherniavskiy, 2009).

In the same year, under the editorship of Professor V. Yu. Shepitka, O. L. Musienko also publishes a monograph "Theoretical principles of investigation of fraud in modern conditions". In this work, he describes either the theoretical basis of fraud (the concept, the psychological mechanism for the implementation of a criminal act (activities), types and forms of fraud) or the content of forensic characteristics of fraud and the actual issues of the investigation. Particularly, the types and methods of commissioning were determined, the investigation situations and the main directions of the investigation were typified, the investigative versions were proposed, features of the tactics of conducting investigative actions and operational-search measures were considered (Musienko, 2009) in this monograph.

For the practice of investigating such crimes, it is necessary to provide methodological support. These recommendations contain a clear algorithm for an investigator regarding the initial and subsequent stages of the investigation of various types of fraud. But for today we have found only a small number of them.

So, in 2010, the methodical recommendations "Features of the investigation of fraud committed in the field of electronic payments" were published. They are devoted to the issues of disclosure and investigation of

such a fraud. Particularly, typical investigative situations of the initial stage of investigation of such types of fraud, planning and organizing the interaction of participants in the investigation and the peculiarities of the preparation and conduction of separate investigative actions (interrogation, review of the scene, search, examination) (Anapolska, Kovalenko, Koriakin, Sumtsov, 2010) are given there.

In 2011 O. V. Pchelina and V. V. Kornienko published methodological recommendations "Peculiarities of investigation of crimes caused by credit and financial operations". There you can find a forensic description of crimes committed through credit and financial transactions, practical advice on their effective disclosure and investigation. Especially, the features of the initial stage of the investigation, typical investigative situations and their respective tactical tasks of investigation, especially the conduct of individual investigative actions and tactical operations, the features of the investigating and operational group operations in the premises of the commercial bank, as well as the interaction of the investigator with state supervisors and supervisors are defined in this research (Pchelina, Kornienko, 2011).

3. Conclusion

As can be seen from the information above, today there is a significant number of scientific works devoted to the investigation of certain types of fraud, which are obsolete and need to be improved over time. It is positive that they are still able to fulfil the methodical recommendations on investigating such crimes in a certain way and with necessary information. At the same time, most types of fraud still remain methodically not developed and require some scientific attention, and the practice of investigating such types of crime nevertheless requires methodological support based on scientific developments. Unfortunately, the quantity of the last mentioned is small, and this is one of the reasons for the amount of undisclosed fraud at the beginning of the article. Therefore, there is a need for the creation of new techniques that have not been reflected in the writings of scientists regarding the investigation of various types of fraud. It is offered young and experienced scientists to pay attention to other types of fraud and to formulate on the basis of their own research methodical recommendations for practical units.

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