REASONS AND CONDITIONS OF WHITE COLLAR CRIMES IN THE SPHERE OF PUBLIC SERVICES

There are reviewed certain reasons and conditions of white collar crimes in the sphere of public services of economic, political, legal, social, psychological and organizational nature, which cause or facilitates such crimes commitment at the same time being effective measure for development of efficient counter actions in the area of official activity.

Keywords: reasons; conditions; determinants; white collar crimes in the sphere of public services; counter measures; criminality.

Problem formulation. The study of the determinants of any type of crime, including in the field of performance management and professional activities related to the provision of public services is of great scientific and practical importance.

Analysis of recent studies and publications. Determinants of crime have become a subject of research of many scientists and criminologists, including relevant issues have been the subject of study A.P. Zakalyuka, O.H. Kalman, N.F. Kuznetsova, A.M. Litvak, M.I. Melnyk and other scientists.

Combating corruption and crime in general in the service activities and professional activities related to the provision of public services, is recognized as one of the priorities of the state in light of the United Nations Convention against Corruption, the Council of Europe Criminal Law Convention on Corruption, Laws Ukraine «On principles of Prevention and Combating Corruption», «On Prosecutor’s Office». Separation and characterization of the causes and conditions of crime in the area of performance management and professional activities related to the provision of public services is the key to creating a proper system to counter these crimes in the state.
It should be noted that despite some problems to the attention of scientists fighting crime in performance management and professional activities related to the provision of public services, the characteristics of the determinant given insufficient attention. Even in cases where they are analyzed, there are different views about the appropriate allocation of causes and conditions and substance.

The purpose of this Article (objective) – describe the causes and conditions of crime in the area of performance management and professional activities related to the provision of public services.

Description of basic research material. First, we note that in criminology is no single conceptual device on the identification of determinants of crime. In the works of various researchers can be found using terms such as «reason», «subject», «factor», «criminogenic factors», «determinants», «causal complex», «conditions» of crime. This is due to the fact that the theory of the determination is extremely complex philosophical issues where a tense debate to this day.

Thus, N.F. Kuznetsova, who developed the modern theory of criminological determination identifies the causes, conditions and korelyanty crime [1, 11]. It also supports A.P. Zakalyuk. It states that the cause of the phenomenon called the (system) that generate, produce phenomena (system) – the consequences; condition – a variety of phenomena, processes and circumstances that facilitate or create the potential causes and manifestations, which generates a result; korelyanty – is a connection between the events, phenomena and processes in which change is accompanied some phenomena (not caused or conditioned) change others [2, 186, 188, 189].

In our opinion, it is necessary to distinguish between the causes and conditions of crime in performance management and professional activities related to the provision of public services (hereinafter – Crime in service activities). Thus the reason you need to understand a set of objective negative criminogenic phenomena and processes which directly determine the crime in performance management as a natural consequence and condition – objective and subjective criminogenic facts of reality that enables (creates a cause contributes or not hinder) this type of crime.

The causes and conditions of crime in performance management are extremely complex, which relates primarily to the complexity of the structure of social relations as the object of criminal law protection of Section XVII of the Criminal code of Ukraine, the special status of the perpetrator who commits crimes in the sphere of service activities, the emergence of new types of special economic crime, including persons engaged in professional activities related to the provision of public services, the officials of the legal entity of private law, regardless of the legal form of criminal behavior motivated, high latency crime field service activities and more.

Among the causes and conditions of crime in the area of performance management can be divided into economic, political, legal, social, psychological and organizational.

The economic causes and conditions of crime in performance, in particular, include the following.

The lack of a stable economic situation in Ukraine, which has a direct impact on the processes that occur in service activities and professional activities related to the provision of public services. The impact of the global economic crisis on the Ukrainian
economy is obvious, as inflation continues to rise in our country, lower incomes and increased unemployment, etc. All this leads to depreciation cash and the need to search for officers and persons who perform professional activities related to the provision of public services and other ways to increase their profits (including illegally). An important role of the determining factors such as low wages of certain categories of civil servants, the irregularity of payments, financial insecurity of officers of lower and middle management.

The emergence of property polarization of the population that had led to such categories of people who have the highest incomes and, as a consequence – free money that can be used to commit certain crimes in performance. However, as the M.I. Miller, there are some public officials vested with significant authority in economics, which themselves often do not have at least the minimum required level of abundance [3, 245].

The lack of effective tools for protecting the interests of business officers. Corruption thrives where officials have the authority to dispose of any scarce goods. This is especially noticeable in transition and developing countries, but manifested in developed countries. For example, in the U.S.A. there are a large number of corruption in the implementation of preferential programs providing housing to families in need [4, 64].

The politico-legal reasons and circumstances of crime in the area of performance management can, in particular, include the following.

Declarative and formality of individual values enshrined in Ukraine. In particular, the fact that in our country the highest social value recognized by a person established the rule of law and ideological pluralism, and guaranteed human rights, including access to public services, to participate in the management of public affairs and more. However, given the declarative nature of most of these legislative provisions, there is the actual demarcation of society and the power of man, the weakness of the existing institutions of civil society, etc. [5, 34].

The instability of democratic political traditions. By the penetration of corruption in politics contributing factors such as the lack of formation of political culture, lack of party system where parties are not able to take responsibility for the preparation and promotion of its staff, imperfection elective legislation that provokes irregularities in the financing of election campaigns. Thus, further corruption of representative government laid at the stage of the election.

The absence of a legislative definition of certain concepts that make up the conceptual framework of the article, which provides for criminal responsibility for crimes related to performance. In particular, they are subject named person who performs professional activities related to the provision of public services. However, under the law of Ukraine no definition of the basic (core) concepts that form the legal wording of the specific perpetrator «professional activity>, «public service». Only the concept of the system of administrative services by the approved by the Cabinet of Ministers of Ukraine dated February 15, 2006 № 90-p states that «services provided by public authorities, local authorities, enterprises, institutions and organizations that are under management, are areas of public services». However, the status of the Concept is not required, and therefore the relevant provisions are not required to apply in practice [6]. Some researchers attempt to define the term «public service» In particular, according to M.I. Havronyuk, public services – a «services provided by the public sector (ie, government bodies,
local authorities, enterprises, institutions and organizations of state and municipal property) and a separate IIR cases – the private sector under the responsibility of the public sector (public administration) and by public funds (that the state and local budgets)» [7, 43].

Collision legislation of Ukraine, contradictions in the laws and by-legal acts. Absence and sometimes excessive contrast detailing authority officials, persons engaged in professional activities related to the provision of public services, promote tyranny, bureaucracy and hamper efforts to combat crime in the area of performance. I would also like to note the following regulations imperfection combating corruption as untimely adoption of relevant legal acts.

Exemption of certain categories of public officials (such as judges, People’s Deputies), the establishment of a highly complex procedure of bringing them to justice.

Socio-psychological causes and conditions of crime in official activities can, in particular, include:

The historical conditioning. An estimated O.G. Kulik, given the ranking of offenses provided for in twenty sections of the Criminal Code of Ukraine, crimes related service activities occupy sixth place [8, 189]. Despite that, historically, the population of Ukraine tolerant of those who commit crimes in performance. Corruption – the social norm. The degree of social danger of the crime in the eyes of the public is low.

Welcome an attitude of citizens, especially entrepreneurs, to the undue advantage of the transfer as a method of resolving certain issues, defending their own interests.

The low level of legal awareness of citizens. Today witnessing a situation where much of the population that is directly or indirectly involved in the shadow economy, used to receive wages in envelopes and evade taxes, duties and other obligatory payments. Having witnessed numerous abuses by officials, persons engaged in professional activities related to the provision of public services, population refers to the law as something optional, especially if it is not a general criminal offenses.

Legal nihilism large part of public officials, and persons engaged in professional activities and provide public services. This determinant is closely related to the fact that the lack of decent official salary individuals perceived as an incentive to commit crimes in service activities and professional activities related to the provision of public services.

The feeling of impunity of officials and individuals engaged in professional activities related to the provision of public services in connection with disinterest entities to disclose such conflict. This indicates a high level of crime in latency performance. Typically, in such criminal proceedings there is no victim, who could declare committed a crime against him. The parties most are «satisfied» illicit relations arising between them.

The causes and conditions of crime in organizational performance management, in particular, is as follows.

Insufficiently effective monitoring system of civil servants, over «closed» and sometimes unjustified corporate solidarity of most state and commercial structures, lack of openness and transparency in their operations, weak internal institutional control. This creates a fertile environment for organized crime in performance. The majority of the population tolerates corruption that explains why in promoting positions of corruption in society. As noted by the famous Russian scholar V.V. Lunyeyev corruption in our country has become the norm rather than the exception, which means that the

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police themselves impressed by it and have no strength to fight institutional corruption. The mighty conglomerate (bureaucracy – business – organized crime), which are called «iron triangle» lives only by their own laws. We have a global paradox: everyone talks about the destructive force of corruption and official criminal, judicial and penal statistics (both global and national) show the individual facts of corruption proved [9, 523–524].

The low level of training of law enforcement officers to combat crime in performance. This is due, in part, by the fact that higher education institutions, providing training law enforcement officers, no due attention to the problem of criminal offenses and legal skills in performance, detection and investigation of this type of crime.

Lack of efficient organization of the analytical units of law enforcement agencies, the lack of staff who are engaged in this activity. In this regard, we have errors in predicting the criminological situation as at the regional level, and in Ukraine in general, in the planning and implementation of the relevant type of fighting crime.

Lack of scientific support for law enforcement. In particular, the weak scientific study of some problems of crime in performance management and professional activities related to the provision of public services, a small number of guidelines practical direction, ignoring the available scientific developments, and not an effective mechanism for the implementation of research into practical enforcement activities.

Uncertainty procedures for decision-making and implementation authority, which often allows them to use against the interests of the service.

Excessive concentration authoritative managerial authority in a public servant.
Low executive discipline.
Bureaucratization bureaucracy.
Inadequate facilities for the performance of power that prevent strict adherence to the interests of the service.

Non-transparent personnel policy, employees fill positions not on the basis of professional skills and moral qualities; formalism competitions, appraisals and other HR technologies; absence of rotation and horizontal displacement of employees.

Conclusions. Undertaken a study allowed to distinguish separate reasons and terms of crimes in the field of official activity and professional activity, related to the grant of public services of economic, political-legal, socio-economic and organizational character, that stipulate or cause the feasance of these crimes and are an effective criterion for development of the proper events of counteraction to the crimes in the field of official activity. Their selection and description, offer in the articles far incomplete and indefinite, and that is why need further scientific researches this direction.

REFERENCE LIST:


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