

of operational units with investigators when detaining a person on suspicion of committing a crime, it is necessary to clearly distribute and observe powers between operational units and investigators; strict compliance with the requirements of the criminal procedural legislation of Ukraine and its improvement.

Keywords: operative units, interaction, detention of a person, investigator, suspicion, commission of a crime, investigating judge.

UDC 343

DOI 10.31733/2078-3566-2023-5-187-191



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THE SITUATION OF COMMITTING FRAUD UNDER EXTRAORDINARY LEGAL REGIMES

Наталія Павлова. ОБСТАНОВКА ВЧИНЕННЯ ШАХРАЙСТВА В УМОВАХ НАДЗВИЧАЙНИХ ПРАВОВИХ РЕЖИМІВ. У статті на підставі аналізу криміналістичної літератури обстановку вчинення кримінальних правопорушень визначено як систему обраних злочинцем чи об'єктивно його оточуючих фізично-матеріальних та соціальних умов середовища, у яких відбувається кримінальне правопорушення. Відзначено, що кількісний та якісний склад структурних елементів обстановки вчинення кримінальних правопорушень залежать від видів кримінальних правопорушень. Відзначено, що шахраї нерідко пристосовуються до типових факторів у схожій обстановці, внаслідок цього з'являється типовий почерк злочинної діяльності. Щодо обстановки та умов кримінальних правопорушень, вчинених шляхом шахрайства, зауважується, що вони вчиняються під впливом певних економічних, правових, соціальних, політичних, психологічних та інших факторів, що створюють підґрунтя для безперешкодного здійснення обману та сприяють приховуванню протиправних дій.

Наголошено, що від того, як правильно слідчий здійснить аналіз просторово-часових характеристик та умов, в яких діяли шахраї, часто залежить результативність усього розслідування у кримінальному провадженні в цілому. Надзвичайно важливим є врахування особливостей обстановки, що складається в умовах надзвичайних правових режимів (епідемії, пандемії, воєнного стану та ін.), які прямо впливають на механізм вчинення вказаних кримінальних правопорушень і, відповідно, на рівень їх розкриття.

Ключові слова: обстановка вчинення кримінальних правопорушень, вчинених шляхом шахрайства, криміналістична характеристика кримінальних правопорушень, методика, надзвичайні правові режими, епідемія, пандемія.

Relevance of the study. Each criminal offense is always committed and concealed in specific conditions of reality and has its own spatio-temporal characteristics. At the same time, criminals often adapt to typical factors in a similar environment, as a result of which a typical pattern of criminal activity appears. Speaking about the situation and conditions of criminal offenses committed by fraud, it should be noted that they are committed under the influence of certain economic, legal, social, political, psychological and other factors that create the basis for the unhindered implementation of deception and contribute to the concealment of illegal actions. It is extremely important to take into account the specifics of the situation that exists in the conditions of emergency legal regimes (epidemic, pandemic, martial law, etc.), which directly affect the mechanism of committing the specified criminal offenses and, accordingly, the level of their disclosure.

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Conducting a systematic analysis of the objective modern conditions in which criminal acts are committed is very important [1, c. 388]. The effectiveness of the entire investigation in criminal proceedings as a whole often depends on how correctly the investigator analyzes the spatio-temporal characteristics and conditions in which the fraudsters operated.

Recent publications review. Such well-known scientists as V. Bakhin, V. Veselskyi, A. Ishchenko, V. Konovalova, V. Kuzmichev, E. Lukyanchikov, M. Saltevskyi, R. Stepaniuk, K. Chaplinskyi, V. Shepitko and others. However, their works did not consider the setting of the crime as an element of the forensic characteristics of criminal offenses committed by fraud.

The article's objective is to study the situation and conditions of criminal offenses committed by fraud.

Discussion. The analysis of the legal literature showed that scientists put different criteria in the content of the circumstances of the commission of criminal offenses. At the same time, we are inclined to the fact that the specified element of forensic characteristics cannot be reduced to a set of physical (material, objective) conditions in which the criminal acted, but should be considered through a set of factors, both objective and subjective nature in which the subjects of the crime act. Such factors can be: conditions of a political and legal nature, conditions of a socio-psychological nature, conditions of a socio-demographic nature, conditions of a socio-economic nature, conditions of an organizational and management nature, etc.

Instead, absolutely all scientists agree that the main components of the criminal offense are the place and time of its commission. These elements establish the characteristics of the composition of a criminal offense and affect its criminal-legal qualification, determine the moment of the beginning and end of illegal actions.

On the other hand, practitioners who investigated criminal offenses committed by fraud reported that determining a specific place and time in this category of proceedings is difficult. In connection with this, there are certain difficulties associated with proving the circumstances to be proven, associated with the correct definition of the spatio-temporal characteristics of their occurrence.

Since the process of illegal possession of property is often stretched in time and space, fraud in 92 % of cases has a long-term nature, that is, the actions of fraudsters begin in one place and end in another after a certain period of time. Only street frauds can be committed in a short period of time and have clear time limits with a specific location.

In general, the place of commission of the crime is chosen taking into account the possibility of implementing the chosen method of crime, the object of the offense, and the identity of the victim.

So, the places where street frauds are committed are mainly: parks, jewelry stores, shopping centers, cafes, nightclubs and gaming clubs, train stations, public and railway transport, the place of residence of the fraudster or victim, etc. In 12 % of cases, such frauds are committed at night, 24 % – in the evening, 64 % of such frauds occur during the day.

Places of fraud related to the provision of services are mainly: beauty salons; places where visas or passports are issued for traveling abroad; travel companies; insurance companies; office of the "employer"; call centers; shops; medical institutions; pharmacies; banking institutions, etc.

Frauds of this category are also committed mainly during the day, which is connected with the working hours of service facilities.

The place of taking possession of weapons by fraud can be a warehouse, a security firm, institutions that have weapons and ammunition on their balance sheet, etc. And if the weapon is stolen by fraud by a military serviceman, the place of committing such a criminal offense is the place of military service (military unit, military training ground, combat zone, etc.).

Pharmacy warehouses, enterprises, institutions and organizations in which the above-mentioned substances are on the balance sheet, housing of citizens, etc. can be a place of fraudulent acquisition of narcotic drugs, psychotropic substances and their analogues.

Fraudulent extraction of human anatomical materials and blood mainly takes place in medical institutions (most of which operate illegally). Less often, such manipulations are carried out in the homes of citizens, in basements, in abandoned buildings, etc.

As evidenced by judicial and investigative practice and the analysis of scientific works in the researched direction, the most difficult thing is to determine the spatio-temporal characteristics in the investigation of criminal offenses where the subject of fraud was the right to property.

Fraud is even more long-lasting and undefined in time and space, where forged documents are used to acquire the right, an agreement is made with persons related to the accompaniment of civil legal transactions.

In particular, fraudulent activities can last a long period of time and be carried out in different places. At the same time, a large number of persons may be involved in the process of obtaining the right to property.

According to judicial and investigative practice, the places of committing criminal offenses related to fraud aimed at acquiring the right to property can be:

- location of local bodies of state registration of rights;
- the location of local bodies that issue certificates of residence and other documents necessary for the execution of the transaction;
- location of the notary office;
- location of the cadastral department of the land resources authority;
- location of privatization bodies;
- the location of guardianship and guardianship authorities (in case of acquisition of the right to the property of a minor);
- location of territorial bodies for the provision of service services of the Ministry of Internal Affairs;
- location of construction sites;
- location of licensing authorities, etc.

As for the time, it should be said that fraud, which consists in acquiring the right to property, is mainly committed between 10 a.m. and 5 p.m. on weekdays. This can be explained by the mode of operation of state and private institutions, without whose participation it is impossible to conclude civil law agreements related to the transfer of property rights.

Before committing fraud, criminals study the regulatory and legal framework for carrying out transactions or receive consultations from persons related to this, select and collect information about objects, pre-observe the victims, and then enter into their trust. On the path of criminals, there may also be obstacles related to the legal status of the person who owns the property, consisting in the presence of other persons who have certain rights to this property, any conditions set by the donor or testator. In order to achieve the goal, fraudsters often come into contact with corrupt officials from various organizations that have at least some relation to the execution of transactions, establish relations with employees of the migration service, registration services, condominiums, look for fake persons, acquire real ones or make forged documents, the study of which is of great importance [2, p. 25; 3].

From this it follows that the actions of criminals, aimed at the illegal acquisition of property by fraud, can be committed at any stage of the execution of the deed. In particular, they begin with the forgery, collection in various places (in the bodies of the state migration service, guardianship and guardianship authorities, etc.) of the documents necessary for the conclusion of the agreement, and continue with the notarization of the agreement and its registration, and end with the direct possession of property or the right to him. This is also confirmed by generalized data on the study of criminal proceedings, according to which in 86.2 % of cases, the place of commission of criminal offenses committed by fraud is several places. At the same time, the notary's office always appears as the main place of fraud related to taking over the rights of citizens [4, p. 140].

It is even more complicated to determine the time and place of criminal offenses committed by fraud using the Internet.

The era of dynamic development of information and communication technologies, one of which is the Internet, has led to the emergence of virtual space – a special electronic environment of interaction in which any actions with information are carried out using digital signals [5, p. 213].

In this regard, it should be noted that traditionally, relations between people are carried out through their direct communication, which takes place in their specific interaction in real time and at a real point in physical space. At the same time, in the electronic environment there are technical possibilities for social contacts, regardless of the person's location, with the possibility of avoiding direct contact. Thanks to electronic devices of various levels of complexity connected to a global or local network, a virtual environment emerges [6, p. 39].

In the case of cyber fraud, the place of direct commission of the illegal act (the location of the criminal, the means of committing the crime) never coincides with the location of the victim and the occurrence of the consequences of the crime, which is connected with the use of

electronic technical means and the Internet. Usually, the place where Internet fraud is committed can be the criminal's place of residence, work or study. That is, the criminal has the opportunity to take possession of the victim's property using only technical means, without having personal contact with him, although telephone calls to the victim may be made. Therefore, it can be noted that the location of the electronic technical means is the place where the crime was committed. At the same time, the peculiarity of crimes of this group is that they can be committed in various spheres of social life, in particular, in everyday life, business activities, etc., but the situation in which fraud is committed is most often characterized by the absence of witnesses [7, p. 53].

The majority of scientists agree that the crime scene should be investigated from the point of view of the geographical distribution of the criminal offence. So, when considering this problem, let's turn to the results obtained by T. Kalyuga, who studied the problems of the methodology of fraud investigation in the field of tourism. Therefore, the scientist emphasized that the peculiarity of the place of commission of such frauds in the narrow sense is that the complex of actions for the preparation, commission and concealment of the crime often takes place in several places. Thus, the place of sale (realization) of tourist services can be one country, and the place where these services are directly provided – another. At the same time, the situation of the crime is determined not only by the place, but also by the time and duration of the criminal act, which depends on what kind of tourist product the tourist wants to receive, in which region or part of the world. During domestic tourism, the southern regions (Odesa, Kherson, Mykolaiv regions) are in demand in the summer, and the western regions, on the contrary, in the winter (Lviv, Zakarpattia, Ivano-Frankivsk regions). During outbound tourism, a number of circumstances depend on the geographical location of the country to which the trip is planned and its climatic features. Seasonality is also affected by the type of tourism and the purpose of the trip. For example, Turkey is in demand in the period from May to September, which is associated with favorable climatic conditions. The largest number of excursion trips to European countries takes place in the autumn and spring period. Arab countries (UAE, Bahrain, Egypt) are located in a dry climate zone, so consumers of tourist services turn to tourism operators at any time. In addition, choosing the time of the planned trip may depend on the preferences of tourists and the period of the planned vacations [8, p. 7].

However, in this regard, it should be noted that since the beginning of the full-scale invasion of the Russian Federation on the territory of Ukraine, the southern regions (Odesa, Kherson, Mykolaiv regions) very rarely appear as places of fraud related to tourism. On the other hand, the rate of fraud in the field of tourism rose sharply in the western regions of Ukraine (accounting for 76 % of frauds related to tourism).

The socio-political situation in the country also affects the level of other criminal offenses committed by fraud. Thus, since the beginning of the full-scale invasion of the Russian Federation on the territory of Ukraine, the number of frauds related to volunteer activities has increased; fraud related to the allocation of funds and means for military needs; fraud related to the provision of social assistance to displaced persons, participants in hostilities and persons affected by the war, etc.

Conclusions. Therefore, criminal offenses committed by fraud are always committed in certain conditions of reality and have their own spatio-temporal characteristics. However, there is a direct influence of the socio-political situation in the country on the level of fraud and the adaptation of fraudsters to today's conditions, and these factors must be taken into account when investigating criminal offenses of this category.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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Submitted 26.09.2023

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Abstract

In the article, based on the analysis of forensic literature, the situation of committing criminal offenses is defined as a system of physical, material and social conditions of the environment chosen by the criminal or objectively surrounding him, in which the criminal offense occurs. It was noted that the quantitative and qualitative composition of the structural elements of the situation of committing criminal offenses depend on the types of criminal offenses. It is noted that fraudsters often adapt to typical factors in a similar environment, as a result of which a typical pattern of criminal activity appears. Regarding the situation and conditions of criminal offenses committed by fraud, it is noted that they are committed under the influence of certain economic, legal, social, political, psychological and other factors that create the basis for the unimpeded implementation of deception and contribute to the concealment of illegal actions.

It was emphasized that the effectiveness of the entire investigation in the criminal proceedings as a whole often depends on how the investigator correctly analyzes the spatio-temporal characteristics and conditions in which the fraudsters operated.

Keywords: *situation of committing criminal offenses committed by fraud, forensic characteristics of criminal offenses, methodology.*