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CRIMINOLOGICAL CLASSIFICATION OF CORRUPTION CRIMES

Abstract. Purpose. The purpose of the study is to establish the place and role of the criminological classification of corruption crimes in making group, type and subtype criminological methods and identify the criteria for classifying corruption crimes. **Results.** The article emphasises that in order to facilitate the investigation of corruption crimes and to make not only group but also specific individual criminological methodologies and micro methodologies, a criminological classification of relevant criminal offenses is required. It is proved that criminological classification is a tool for identifying specific features of unlawful acts which are of importance in determining the boundaries and subject matter of proof, choosing the means of proof and organising their pre-trial investigation. It is noted that the criminological classification enables to distinguish certain types of unlawful acts according to certain criteria, allowing for not only the peculiarities of the criminal law regulation of the offense but also its mechanism. It is emphasised that the criminological classification of corruption crimes contributes to the specification, clarification of the peculiarities of their criminological characteristics and the development of flexible and situational criminological methodologies. **Conclusions.** It is found that the criminological classification of corruption crimes combines two criteria: criminal legal and criminological one. It is proposed that in order to streamline the activities of making a methodology for investigating corruption crimes and their varieties, these unlawful acts should be classified according to the following criteria: an actor, the purpose, a subject matter, a situation, the degree of organisation and the scale of criminal unlawful activities. Moreover, the formation of a methodology for investigating corruption crimes, including those combined with obtaining undue advantage, is impossible without a preliminary criminological classification of these criminal offenses. The latter is a tool for identifying specific features of unlawful acts which are of importance in determining the boundaries and subject matter of proof, for choosing the means of proof and organising their pre-trial investigation.

Key words: criminological methodology, corruption, corruption crimes, criminological classification, criterion, investigation methodology, formation of methodology.

1. Introduction

Traditional corruption in its various manifestations and areas remains one of the most acute problems in Ukraine to this day. Corruption adversely affects the exercise of constitutional human and civil rights, social transformations and economic development, causes distrust in state institutions, and creates a negative image of Ukraine in the international arena (Dudorov, Ryzak, 2015). Accordingly, corruption is a negative phenomenon that is constantly being "fought" at the national and international levels. In particular, criminal liability is provided for these unlawful acts.

However, in order to facilitate the investigation of corruption crimes and to make not only group but also specific individual criminologi-

cal methodologies and micro methodologies, a criminological classification of relevant criminal offenses is required.

The issue of criminological classification of criminal offenses and its use in making individual criminological methodologies has been repeatedly studied from various aspects by R.S. Bielkin, A.F. Volobuiev, V.F. Yermolovych, V.A. Zhuravel, O.N. Kolesnychenko, V.O. Konovalova, O.V. Pchelina, R.L. Stepaniuk, V.Y. Shepitko, A.V. Shmonin, M.P. Yablokov, and others.

However, these scientific works define the role and place of the criminological classification of crimes in the structure of criminological methodology, as well as offer a criminological classification of certain groups of criminal

offenses, such as official crimes, budget crimes, economic crimes, etc. In addition, a large number of scientific works consider the criminological classification of corruption criminal offenses, but there are no comprehensive studies of the meaning and criteria for the criminological classification of corruption crimes.

Therefore, the purpose of the study is to establish the place and role of the criminological classification of corruption crimes in making group, type and subtype criminological methods and identify the criteria for classifying corruption crimes.

2. The legal and regulatory framework for the fight against corruption crimes

The law on criminal liability defines the concept of "corruption criminal offenses" and their elements. For example, according to the note to Art. 45 of the Criminal Code of Ukraine, "following the Code, corruption criminal offences are criminal offences under Articles 191, 262, 308, 312, 313, 320, 357, 410, if committed through abuse of office, as well as criminal offences under Articles 210, 354, 364, 364-1, 365-2, 368-369-2 of this Code" (Criminal Code of Ukraine, 2001). However, the legislator does not systematise corruption crimes.

Moreover, criminological science is interested in the criminological classification enabling to distinguish certain types of unlawful acts by specific criteria, allowing for not only the peculiarities of the criminal law regulation of the offense but also its mechanism. Such classification makes it possible to determine the type (group) of criminal offenses, including corruption crimes, in the construction of appropriate criminological methodology. In addition, the criminological classification of corruption crimes allows specifying the content of their criminological characteristics (Kazan'ska, 2014, p. 171). Therefore, undeniably, the criminological classification of criminal offenses is organically included in the structure of criminological methodology, because it is impossible to build a system of individual criminological methodologies without a logically sound classification of crimes (Shchur, 2010, p. 337).

Moreover, the criminological classification of criminal offences, including corruption offences, is aimed at refining and developing methodologies of investigation of specific categories of crimes, contributing to the specification, clarification of the peculiarities of their criminological characteristics and the development of flexible and situational criminological methodologies (Tishchenko, 2003; Lysenko, 2006; Nikitina-Dudikova, 2021). After all, the success of the investigation of any crime usually depends on the investigator's ability

to understand not only the criminal legal but also its criminological essence (Zapototskyi, 2016, p. 35).

It should be noted that the criminological classification of corruption crimes combines two criteria: criminal legal and criminological one. Therefore, we consider it necessary to highlight the positions of scientists on the criminological classification of these unlawful acts.

For example, according to D.H. Mykhaylenko, an important typology of corruption crimes is their division into two fundamentally different groups according to the criterion of the corruption relations mechanism: unilateral and bilateral corruption crimes. Unilateral corruption crimes are those that can be committed by the actor of corruption alone without the mandatory voluntary participation of other persons. Bilateral corruption crimes include such corruption crimes that can be committed only with the mandatory voluntary participation of several actors of corruption (Mykhaileiko, 2013, p. 10).

3. Classification of corruption crimes

According to A.V. Savchenko's study on the problems of criminal legal understanding of corruption crimes, corruption crimes can be classified according to several criteria:

- by the sequence of grouping corruption crimes in the Note to Art. 45 of the Criminal Code of Ukraine and by the fact whether or not they have been committed through abuse of office (corruption crimes committed through abuse of office; certain corruption crimes in the field of economic activities, against the authority of state authorities, local governments and associations of citizens, as well as in the field of official and professional performance related to the provision of public services);

- by the generic object of the offense (corruption crime against property; corruption crime in the field of economic activities; corruption crimes in the field of trafficking in narcotic drugs, psychotropic substances, their analogues or precursors; corruption crimes against the authority of state authorities, local self-government bodies and associations of citizens; corruption crimes in the field of official and professional performance related to the provision of public services; corruption crime against the established order of military service/corruption military crime;

- by actors (those committed by: officials of legal entities of public law; officials of legal entities of private law; persons who are not public officials, local self-government officials, but perform professional activities related to public services; employees of an enterprise, institution or organisation who are not officials or persons working for the benefit of an enterprise, insti-

tution or organisation; general actors; military officials);

– by subject matter (with and without subject matter);

– by purpose (those that are aimed at obtaining any undue advantage and those that are not) (Savchenko, 2015, pp. 19-20).

We fully support the above criminological classification of corruption crimes. At the same time, we believe that it can be supplemented with the following criteria:

a) by the setting of commission, corruption crimes can be committed in agriculture, hunting and related services; forestry and logging; fisheries; mining and quarrying; processing industry; supply of electricity, gas, steam and air conditioning; water supply, sewerage, waste management; construction; wholesale and retail trade, repair of motor vehicles and motorcycles; transport, warehousing, postal and courier activities; temporary accommodation and catering; information and telecommunications; financial and insurance activities; real estate transactions; law, accounting, architecture and engineering, technical testing and research; administrative and support services; public administration and defence, compulsory social insurance; education; health care and social assistance; art, sports, entertainment and recreation; etc;

b) by the degree of organisation of criminal unlawful activities, corruption crimes can be committed by an individual, a group of persons, an organised group or a criminal organisation;

c) by the actor, corruption crimes are divided into those committed by officials; officials holding a responsible position; officials holding a particularly responsible position; persons authorised to perform the functions of the state or local self-government.

Moreover, we believe that corruption crimes should be classified according to the following criterion: the scale of criminal unlawful activities. According to this criterion, criminal technologies and individual crimes should be distinguished. In addition, the technologies of criminal enrichment include the main and subordinate crimes (Pchelina, 2014, p. 270).

4. Conclusions

Therefore, the formation of a methodology for investigating corruption crimes, including those combined with obtaining undue advantage, is impossible without a preliminary criminological classification of these criminal offenses. The latter is a tool for identifying specific features of unlawful acts which are of importance in determining the boundaries and subject matter of proof, for choosing the means of proof and organising their pre-trial investigation. In order to streamline the activities of making a methodology for investigating corruption crimes and their varieties, these unlawful acts should be classified according to the following criteria: an actor, the purpose, a subject matter, a situation, the degree of organisation and the scale of criminal unlawful activities.

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КРИМІНАЛІСТИЧНА КЛАСИФІКАЦІЯ КОРУПЦІЙНИХ ЗЛОЧИНІВ

Анотація. Мета. Метою дослідження є встановлення місця та ролі криміналістичної класифікації корупційних злочинів у разі формування групових, видових і підвидових криміналістичних методик, виокремлення критеріїв класифікації корупційних злочинів. **Результати.** У статті наголошено, що для полегшення діяльності з розслідування корупційних злочинів і формування не тільки групових, а й видових окремих криміналістичних методик і мікрометодик потрібно здійснити криміналістичну класифікацію вказаної категорії кримінальних правопорушень. Обґрунтовано, що криміналістична класифікація є інструментом виокремлення специфічних рис протиправних діянь, які відіграють важливу роль у разі визначення меж і предмета доказування, обранні засобів доказування й організації їх досудового розслідування. Зазначено, що криміналістична класифікація дозволяє за певними критеріями виокремити певні види протиправних діянь з урахуванням не тільки особливостей кримінально-правової регламентації правопорушення, а і його механізму. Підкреслено, що криміналістична класифікація корупційних злочинів сприяє деталізації, з'ясуванню особливостей їх криміналістичної характеристики та розробленню гнучких і ситуативно пристосованих криміналістичних методик. **Висновки.** Встановлено, що кримінальні правопорушення, скоєні стосовно дитини, відзначаються специфічним механізмом учинення та діяльністю з їх виявлення, розкриття та розслідування. З'ясовано, що криміналістична класифікація корупційних злочинів поєднує у собі два критерії – кримінально-правовий і криміналістичний. Запропоновано з метою упорядкування діяльності з побудови методики розслідування корупційних злочинів і їх різновидів здійснювати класифікацію згаданих протиправних діянь за такими критеріями: суб'єктом, метою, предметом, обставинкою, ступенем організації та масштабом кримінальної протиправної діяльності. Також формування методики розслідування корупційних злочинів, зокрема поєднаних із отриманням неправомірної вигоди, неможливе без попередньої криміналістичної класифікації вказаних кримінальних правопорушень. Остання є інструментом виокремлення специфічних рис протиправних діянь, які відіграють важливу роль у разі визначення меж і предмета доказування, обранні засобів доказування й організації їх досудового розслідування.

Ключові слова: криміналістична методика, корупція, корупційні злочини, криміналістична класифікація, критерій, методика розслідування, формування методики.

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