

UDC 343.3

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Myrhorodskiy, Oleksandr (2023). Criminological portrait of the committer of fraud through illegal transactions using electronic computing equipment. *Entrepreneurship, Economy and Law*, 6, 83–87, doi <https://doi.org/10.32849/2663-5313/2023.6.15>

CRIMINOLOGICAL PORTRAIT OF THE COMMITTER OF FRAUD THROUGH ILLEGAL TRANSACTIONS USING ELECTRONIC COMPUTING EQUIPMENT

Abstract. *Purpose.* The purpose of the article is to study the criminological portrait of a person who commits a crime in the form of fraud through illegal transactions using electronic computing equipment. *Results.* The article considers the personality of a criminal offender who commits an act of tortious conduct in the form of fraud through illegal transactions using electronic computing equipment. Any criminal offence is the result of an offender's unlawful encroachment on a particular range of social relations. Effective work on prevention of crimes and criminal misconduct is impossible without studying the personality of a criminal offender, since it is the consideration of the latter's characteristic features that allows general and special actors of a criminal offence to develop effective measures aimed at counteracting acts of tortious conduct. *Conclusions.* Based on the analysis of the data of the State Judicial Administration on the composition of those convicted under Part 3 of Article 190 of the Criminal Code of Ukraine for the period from 2018 to 2022 (inclusive), as well as court verdicts in cases related to the commission of a criminal offence of fraud by a person through illegal transactions using electronic computing equipment, the article reveals the socio-demographic, criminal law and social role characteristics of the perpetrator of this tort. The following criminological portrait of a person committing fraud through illegal transactions using electronic computing equipment has been established: a male citizen of Ukraine born in the city, at the time of the criminal offence was in the age range of 30 to 50 years, unmarried, has a complete secondary education (since 2021, the trend has changed slightly to basic secondary education), has no previous convictions, is able-bodied, and does not have an official place of work or study.

Key words: electronic computing equipment, law, crime prevention, Criminal Code of Ukraine, criminological portrait, fraud.

1. Introduction

Article 41 of the Constitution of Ukraine provides that everyone has the right to own, use and dispose of his or her property and the results of his or her intellectual and creative activity. No one may be unlawfully deprived of their property rights (Constitution of Ukraine, 1996).

As of today, Ukraine demonstrates alarming dynamics of the spread of criminal offences under Section VI of the Criminal Code of Ukraine, among which torts in the form of fraud committed through illegal transactions with the use of electronic computing equipment occupy a special place. Statistical reports of the National Police (Official website of the National Police of Ukraine, npu.gov.ua) in general and its structural units in particular (Official website of the cyber police of Ukraine Official website of the cyber police of Ukraine, cyberpolice.gov.ua), data from the Office

of the Prosecutor General (Office of the Prosecutor General: official website, gp.gov.ua), data of the State Judicial Administration (Judicial power of Ukraine: official website, court.gov.ua) and materials of the Unified Register of Court Decisions for the last five years (from 2018 to 2022 inclusive) demonstrate that the number of cases of fraud through illegal transactions using electronic computers in the territory of our country has been steadily increasing since 2020, due to a number of determinants (the coronavirus pandemic, the large-scale war that the Russian Federation insidiously unleashed against Ukraine in February 2022, etc.).

Any criminal offence is the result of an offender's unlawful encroachment on a particular range of social relations. Effective work on prevention of crimes and criminal misconduct is impossible without studying the personality of a criminal offender, since it is the consider-

ation of the latter's characteristic features that allows general and special actors of a criminal offence to develop effective measures aimed at counteracting acts of tortious conduct.

The issue of the criminological portrait of a person who commits fraud was partially addressed in the works of such national scholars as S.I. Afanasenko, I.O. Bandurka, O.Yu. Busol, V.S. Batyrhareieva, V.S. Berezniak, V.M. Beschastnyi, P.D. Bilenchuk, I.H. Bohatyr, V.V. Holina, V.K. Hryshchuk, O.M. Dzhuzha, Yu.A. Dorokhina, P.M. Kovalenko, O.M. Komar, I.M. Kopotun, L.F. Lefterov, V.V. Markov, S.I. Minchenko, S.A. Mozol, V.V. Pakhomov, M.S. Puzyrov, D.O. Rychka, O.V. Taran, T. H. Taran, O.V. Tarasova, P.L. Fris, H.M. Chernyshov, S.S. Cherniavskiy, V.V. Shablysty, O.Yu. Shostko, O.S. Yunin, and others. However, the criminological portrait of a person who commits a tort in the form of fraud through illegal transactions with the use of electronic computing equipment remains insufficiently analysed at the scientific level.

The purpose of the article is to study the criminological portrait of a person who commits a crime in the form of fraud through illegal transactions using electronic computing equipment.

2. Criminological portrait of the perpetrator of fraud

When revealing the identity of a criminal offender, scholars usually analyse their socio-demographic, criminal law, and social role characteristics (Shablystii, 2012, p. 109). The following are considered in more detail.

Socio-demographic characteristics are gender, age, education, place of birth and residence, citizenship and other demographic information. These characteristics are inherent in any person and have no criminological significance in themselves. However, in the statistical totality of persons who have committed crimes, socio-demographic characteristics provide important information, without which a complete criminological characterisation of the offender is impossible (Dzhuzha, Vasylevych, Cherniei, Cherniavskiy, 2020, p. 107).

The analysis of the statistical data of the State Judicial Administration (on the composition of those convicted under Part 3 of Art. 190 of the Criminal Code of Ukraine in general in the period from 2018 to 2022) (408 persons were convicted during this period) (Judicial power of Ukraine: official website, court.gov.ua) has provided the following results of differentiation of convicts according to the relevant criteria related to the socio-demographic characteristics of the criminal offender:

1. Citizenship: 1) citizen of Ukraine – 403 people (99%); 2) citizen ('national') of another state – 5 people (1%);

2. Gender differentiation: 1) men – 282 people (69%); 2) women – 126 people (31%);

3. Age at the time of the crime: 1) from 30 to 50 years old – 181 people (44%); 2) from 18 to 25 years old – 98 convicts (24%); 3) from 25 to 30 years old – 94 people (23%); 4) from 50 to 65 years old – 28 convicts (7%); 5) from 16 to 18 years old (1%); 6) from 65 years old – 3 people (1%).

4. Education: 1) complete secondary education – 120 people (29%); 2) complete higher education – 39 convicts (23%); 3) basic secondary education – 89 people (22%); 4) vocational education – 74 convicts (18%); 5) basic higher education – 25 people (6%); 6) no education – 4 convicts (1%); 7) primary education – 3 people (1%).

Criminal law features are not only data on the composition of the crime committed, but also on the orientation and motivation of criminal conduct, the individual or group nature of criminal activity, types of complicity (executor, organiser, instigator, aider and abettor), the intensity of criminal manifestations, criminal record, etc.

This information gives an idea of the person who committed the offence from a criminal law perspective and covers the qualities inherent in the offender, not any other person, such as an immoral person or a violator of labour discipline, not to mention law-abiding citizens (Dzhuzha, Vasylevych, Cherniei, Cherniavskiy, 2020, p. 108).

The review of the statistical data of the State Judicial Administration (on the composition of those convicted under Part 3 of Article 190 of the Criminal Code of Ukraine in general in the period from 2018 to 2022) (408 persons were convicted during the specified period) (Judicial power of Ukraine: official website, court.gov.ua) enables to obtain the following results of differentiation of convicts according to the relevant criteria related to the criminal law characteristics of a criminal offender:

1. The crime under Part 3 of Article 190 of the Criminal Code of Ukraine was committed by: 1) a single perpetrator – 312 people (76%); 2) a member of an organised group – 95 people (23%); 3) a member of a criminal organisation – 1 convict (less than 1%).

2. Criminal record in the past: 1) no criminal record – 341 people (84%); 2) at the time of the crime, the offender had an unexpunged and unspent criminal record – 67 people (16%).

The number of previous convictions among persons with a criminal record is as follows: 1) one – 32 persons (48%); 2) three or more (36%); 3) two (16%). Moreover, this category of convicts had convictions for: 1) criminal offences against property – 49 persons (73%);

2) criminal offences against life or health – 6 persons (9%); 3) crimes and misdemeanours related to drugs – 6 convicts (9%); 4) ‘other criminal offences’ (i.e. those not disclosed in the statistical data of the State Judicial Administration) – 4 persons (6%); 5) criminal offences against sexual freedom or sexual inviolability of a person – 1 perpetrator (1%); 6) crimes and misdemeanours against traffic safety and operation of transport – 1 convict (1%).

The social and role characteristics of the offender reveal the functions of the individual, determined by his or her position in the system of existing social relations, belonging to a particular social group, interaction with other people and organisations in various spheres of public life (worker or employee, ordinary performer or manager, able-bodied or disabled, unemployed, etc.) This information characterises and determines the place and significance of a person in society, which social roles they prefer and which they ignore, and reveals their social or anti-social orientation (Dzhuzha, Vasylevych, Cherniei, Cherniavskiy, 2020, p. 108).

An analysis of the statistical data of the State Judicial Administration (on the composition of those convicted under Part 3 of Article 190 of the Criminal Code of Ukraine in general in the period from 2018 to 2022) (408 persons were convicted during this period) (Judicial power of Ukraine: official website, *court.gov.ua*) has provided the following results of differentiation of convicts according to the relevant criteria related to the social and role characteristics of a criminal offender:

1. The occupation of the convicted person at the time of committing the criminal offence under Part 3 of Article 190 of the CC of Ukraine:

1) able-bodied persons who did not have an official place of employment and did not study in any educational institution – 285 persons (70 %)

2) workers – 33 convicts (8%);

3) persons classified by the State Judicial Administration as ‘engaged in other occupations’ – 23 perpetrators (6%);

4) private entrepreneurs – 14 convicts (3%);

5) pensioners (including persons with disabilities) – 13 perpetrators (3%);

6) persons held in penitentiary institutions or in custody – 11 convicts (3%);

7) persons classified by the State Judicial Administration as ‘other employees’ – 9 persons (2%);

8) unemployed – 6 convicts (1%);

9) civil servants – 4 persons (1%);

10) employees of economic companies – 4 persons (1%);

11) military personnel – 3 persons (less than 1%);

12) students of educational institutions – 2 convicts (less than 1 %);

13) teachers, academic staff – 1 perpetrator (less than 1%).

It should be noted that the overwhelming majority of the convicts committed the crime under part 3 of article 190 of the Criminal Code of Ukraine while sober – 394 persons (97% of the total number of convicts).

Based on the above, we can formulate the following criminological profile of a person committing fraud on a large scale or through illegal transactions using electronic computing equipment: a male citizen of Ukraine aged 30 to 50 years, who has a complete secondary education, has no previous convictions, is recognised as able-bodied at the time of the crime, and is not officially employed or enrolled in school. The act of delinquent conduct is committed alone, in a sober state.

It should be reminded that the results obtained enable to form a unified portrait of a criminal offender who commits one of the following socially dangerous acts:

1) fraud committed on a large scale;

2) fraud committed through illegal transactions with the use of electronic computers.

In order to identify the person who commits the latter act of delinquent behaviour, we have studied 110 court verdicts delivered between 2020 and 2022 against persons who committed fraud through illegal transactions using electronic computing equipment.

Obviously, based on statistical data, a person committing fraud through illegal transactions using electronic computing equipment is usually a priori a Ukrainian citizen aged 30 to 50 (these trends are clearly visible, as, for example, only 5 citizens of other states or stateless persons committed a criminal offence under part 3 of Article 190 of the Criminal Law out of 408).

With regard to gender, the results of the analysis of court verdicts reveal that in most cases, the perpetrators of fraud committed through illegal operations with the use of electronic computing equipment are men. Women commit this act of delinquent behaviour almost three times less frequently, which is generally in line with the results obtained from the analysis of official statistics on the commission of crimes under Part 3 of Article 190 of the Criminal Code of Ukraine.

The results of the analysis of court verdicts demonstrate that the majority of perpetrators of the crime under study had a basic secondary or specialised secondary education.

It should be noted that these results also fully coincide with the data provided in official statistical reports. As noted above, over the past five years, the majority of people who

committed fraud through illegal transactions using electronic computers had a complete secondary education, but since 2021 this trend has changed somewhat – most criminal offenders have a basic secondary education.

It should be emphasised that the analysis of court decisions also reveals a socio-demographic feature of the offender committing fraud through illegal transactions with the use of electronic computing equipment, such as the place of birth of the perpetrator. In particular, it has been established that most of those convicted of this act of tortious conduct were natives of cities.

3. Criminal and legal characteristics of an offender committing fraud

As for the criminal law characteristics of an offender who commits fraud through illegal transactions using electronic computers, we note that the results obtained from the analysis of court decisions also coincide with the statistical data analysed above. In particular, most of the perpetrators of criminal offences had no criminal record at the time of committing the offence and acted alone.

In order to commit fraud, the offender should have certain artistic abilities, since the success of the criminal intent depends on the ability of the offender to convince the victim of the correctness of his/her behaviour and to create trust.

According to L.V. Lefterov, cyber fraud is a special category of crime that has changed the concept and some principles of deception and breach of trust. For example, a modern cyber fraudster may lack acting skills, may not show his/her behaviour at all, and may not have developed verbal communication skills. Given that the leading place among the stable psychological characteristics of a personality belongs to motives, fraudsters, like cyber fraudsters, are characterised by the desire for self-affirmation at the socio-psychological level (associated with the need to achieve recognition from the immediate environment – family, friends, colleagues at work, friends, acquaintances, work colleagues) and at the individual level (related to the desire to increase self-esteem and self-respect by performing actions that, in the individual's opinion, contribute to overcoming any psychological weaknesses). No less typical for cybercriminals are gaming motives inherent in persons who commit crimes not only and not so much for material gain, but rather for the sake of play and risk, for the thrill of it. These motives are quite evident in situations involving intellectual confrontation and dexterity competitions, where ingenuity, the ability to make the most of favourable circumstances and to make quick decisions are required (Lefterov, 2018, p. 67).

We partially agree with the above statement. Indeed, as noted above, cyber fraudsters are often motivated by gaming. However, in our opinion, the presence of acting skills for persons committing fraud through illegal transactions using electronic computing equipment is as important in achieving a criminal result as for criminals committing other forms of fraud. For example, if the criminal offender does not have such qualities, it will be extremely difficult for him/her to convince the victim of the need to commit certain acts (the offender needs to convince the victim that it is he/she who is interested in their communication, and not vice versa) (Shablystii, 2016, p. 114).

In terms of the social role of a criminal who commits fraud through illegal operations with the use of electronic computers, the results of the analysis of court decisions show that most criminal offenders did not have an official place of employment at the time of committing this socially dangerous act, which, again, fully coincides with the trend obtained from the analysis of statistical data (as a rule, the offender under Part 3 of Art. 190 of the Criminal Code of Ukraine has no official place of employment or study at the time of the crime).

In the context of the study of the social role of the offender, we would also add that most of the persons convicted of committing a fraud offence through illegal transactions using electronic computing equipment were unmarried.

4. Conclusions

Therefore, relying on the analysis of the data of the State Judicial Administration (on the composition of those convicted under Part 3 of Article 190 of the Criminal Code of Ukraine for the period from 2018 to 2022), as well as materials of court decisions entered into the Unified State Register of Court Decisions (110 verdicts in cases related to the commission of fraud by a person through illegal transactions using electronic computing equipment in the period from 2020 to 2022), the following criminological portrait of a person committing fraud through illegal transactions using electronic computing equipment has been established: a male citizen of Ukraine born in the city, at the time of the criminal offence was in the age range of 30 to 50 years, unmarried, has a complete secondary education (since 2021, the trend has changed slightly to basic secondary education), has no previous convictions, is able-bodied, and does not have an official place of work or study.

We consider the analysis of the main trends in preventing fraud committed through illegal transactions with the use of electronic computing equipment to be a promising area for further research.

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КРИМІНОЛОГІЧНИЙ ПОРТРЕТ ВИННОГО У ВЧИНЕННІ ШАХРАЙСТВА ШЛЯХОМ НЕЗАКОННИХ ОПЕРАЦІЙ З ВИКОРИСТАННЯМ ЕЛЕКТРОННО-ОБЧИСЛЮВАЛЬНОЇ ТЕХНІКИ

Анотація. Метою статті є дослідження кримінологічного портрету особи, яка вчиняє злочин у вигляді шахрайства шляхом незаконних операцій з використанням електронно-обчислювальної техніки. У статті розглядається особа кримінального правопорушника, який вчиняє акт деліктної поведінки у вигляді шахрайства шляхом незаконних операцій з використанням електронно-обчислювальної техніки. **Результати.** Будь-яке кримінальне правопорушення – це результат протиправного посягання злочинця на той чи інший спектр суспільних відносин. Ефективна робота із запобігання злочинам та кримінальним проступкам неможлива без дослідження особи кримінального правопорушника, адже саме врахування характерних ознак останнього дозволяє загальним та спеціальним суб'єктам кримінального правопорушення виробити ефективні заходи, спрямовані на протидію актам деліктної поведінки. **Висновки.** На підставі аналізу даних Державної судової адміністрації щодо складу засуджених за ч. 3 ст. 190 Кримінального кодексу України за період з 2018 по 2022 рр. (включно) а також судових вироків щодо справ, пов'язаних із вчиненням особою кримінального правопорушення у вигляді шахрайства шляхом незаконних операцій з використанням електронно-обчислювальної техніки, розкриваються соціально-демографічні, кримінально-правові та соціально-рольові ознаки винного у вчиненні даного делікту. Встановлено наступний кримінологічний портрет особи, яка вчиняє шахрайство шляхом незаконних операцій з використанням електронно-обчислювальної техніки: громадянин України чоловічої статі, що народився у місті, на момент вчинення кримінального правопорушення перебував у віковому діапазоні від 30 до 50 років, неодружений, має повну загальну середню освіту (з 2021 р. тенденція дещо змінилась – базову загальну середню освіту), раніше не судимий, працездатний, який не має офіційного місця роботи або навчання.

Ключові слова: електронно-обчислювальна техніка, закон, запобігання злочинності, Кримінальний кодекс України, кримінологічний портрет, шахрайство.

The article was submitted 17.10.2023

The article was revised 07.11.2023

The article was accepted 28.11.2023