

UDK 343.1

DOI: 10.54649/2077-9860-2024-2-64-71

N.D. Tleshaliev¹
¹D.PhD, Associate Professor,
Caspian Public University,
Republic of Kazakhstan, Almaty
E-mail: nurlan.tleshaliev@mail.ru

N.M. Batyrbay²
²master of law, senior lecturer
Caspian Public University,
Republic of Kazakhstan, Almaty
E-mail: nurbol_kz@mail.ru

A.N. Tsoy³
³D.PhD, Associate Professor,
Caspian Public University,
Republic of Kazakhstan, Almaty
E-mail: anzhelika-coi@mail.ru

CRIMINOGENIC DETERMINANTS OF ECONOMIC CRIME AND PREVENTION

Annotation

The article is devoted to the study of the features of crimes committed in the modern period in the socio-budgetary sphere of society. The article discusses issues related to the study and analysis of the origin of crime in specific conditions in all its diversity, the impossibility of removing the state from public law regulation of economic relations in the context of the formation of the market, and the shortcomings in the existing system of state control.

Based on the conducted research, the features of criminogenic determinants of crime committed in the social and budgetary sphere are summarized.

The scientific and methodological basis is based on the works of famous criminologists from Kazakhstan and foreign countries.

The article is presented within the framework of the competition for grant funding for scientific and (or) scientific and technical projects for 2024-2026 (EOM RK) «IRN: AP23485634 Modern transformation of Kazakhstan's penitentiary system through the mechanism of public-private partnership».

Keywords: criminogenic determinants, crime factor, circumstances of crime, crime control, mercenary crime, social and budgetary sphere, corruption crime, crime latency, economic crime, republican budget.

Н.Д. Тлешалиев¹

¹ Ph.D, қауымдастырылған профессор,
Каспий қоғамдық университеті
Қазақстан Республикасы, Алматы қ.
E-mail: nurlan.tleshaliev@mail.ru

Н.М. Батырбай²

²з.ғ.м., сеньор-лектор,
Каспий қоғамдық университеті
Қазақстан Республикасы, Алматы қ.
E-mail: nurbol_kz@mail.ru

А.Н. Цой³

³з.ғ.к., қауымдастырылған профессор,
Каспий қоғамдық университеті
E-mail: anzhelika-coi@mail.ru

**ЭКОНОМИКАЛЫҚ ҚЫЛМЫСТЫҚТЫҢ КРИМИНОГЕНДІК АНЫҚТАУШЫЛАРЫ
ЖӘНЕ ОНЫ АЛДЫН АЛУ****Аңдатпа**

Мақала қазіргі кезеңде қоғамның әлеуметтік-бюджеттік саласында жасалған қылмыстардың ерекшеліктерін зерттеуге арналған. Мақалада қылмыстың барлық алуан түрлілігінде нақты жағдайларда пайда болуын зерттеу және талдаумен байланысты мәселелер талқыланады, нарықтың қалыптасуы жағдайында экономикалық қатынастарды реттеуді жария-құқықтық реттеуден мемлекеттің алшақтанудың мүмкін еместігі, сондай-ақ мемлекеттік бақылаудың қолданыстағы жүйесінде кемшіліктер қарастырылады.

Жүргізілген зерттеулердің негізінде әлеуметтік-бюджеттік салада жасалған қылмыстың криминогендік детерминанттарының ерекшеліктері жинақталған.

Ғылыми-әдістемелік негізін Қазақстанның және шет елдердің белгілі криминалистерінің еңбектері құрады.

Мақала 2024 -2026 жылға арналған ғылыми және (немесе) ғылыми-техникалық жобаларды гранттық қаржыландыру конкурсы (ҚР СБМ) аясында « ИРН: AP23485634 Мемлекеттік-жекешелік әріптестік механизмі арқылы қазақстандық пенитенциарлық жүйенің қазіргі заманғы трансформациясы» зерттеуі аясында ұсынылды.

Түйінді сөздер: криминогендік детерминанттар, қылмыс факторы, қылмыстың жасалу жағдайлары, қылмыспен күрес, пайдакүнемдік қылмыс, әлеуметтік-бюджеттік сала, сыбайлас жемқорлық қылмысы, қылмыстың жасырын болуы, экономикалық қылмыс, республикалық бюджет.

Н.Д.Тлешалиев¹

¹ PhD, ассоциированный профессор,
Каспийский общественный университет,
Республика Казахстан, г. Алматы
E-mail: nurlan.tleshaliev@mail.ru

Н.М.Батырбай²

²м.ю.н., сеньор-лектор
Каспийский общественный университет,
Республика Казахстан, г. Алматы
E-mail: nurbol_kz@mail.ru

А.Н.Цой³

³к.ю.н., ассоциированный профессор,
Каспийский общественный университет,
E-mail: anzhelika-coi@mail.ru

КРИМИНОГЕННЫЕ ДЕТЕРМИНАНТЫ ЭКОНОМИЧЕСКОЙ ПРЕСТУПНОСТИ И ЕЕ ПРОФИЛАКТИКА

Аннотация

Статья посвящена изучению особенностей преступлений, совершаемых в современный период в социально-бюджетной сфере общества. В статье рассматриваются вопросы, связанные с изучением и анализом зарождения преступности в конкретных условиях во всем ее многообразии, невозможности устранения государства от публично-правового регулирования экономических отношений в условиях становления рынка, а также недостатки в существующей системе государственного контроля.

На основе проведенного исследования обобщены особенности криминогенных детерминант преступности, совершаемой в социально-бюджетной сфере.

Научно-методическую основу составляют труды известных криминологов Казахстана и зарубежных стран.

Статья представлена в рамках исследования «ИРН: «AP23485634 Современная трансформация казахстанской пенитенциарной системы через механизм государственно-частного партнерства» в рамках конкурса на грантовое финансирование научных и (или) научно-технических проектов на 2024-2026 годы (ЭОМ РК)

Ключевые слова: криминогенные детерминанты, фактор преступности, обстоятельства совершения преступления, борьба с преступностью, корыстная преступность, социально-бюджетная сфера, коррупционная преступность, латентность преступлений, экономическая преступность, республиканский бюджет.

The complexity, ambiguity of the processes of determination and the difficult nature of identifying causal relationships, as already noted, have given rise to the opinion of a considerable part of criminologists that it is impossible and useless to isolate causal relationships. Hence the widespread use of the term "crime factor" or "circumstances of crime."

Crimes committed in social and budgetary activities have a high degree of public danger, as they are often associated with embezzlement of public funds, which means they entail a global reduction in payments provided for by the laws of the Republic of Kazakhstan to all those who are entitled to it.

In any society, there are people who are dissatisfied with their financial and financial situation, ready to break the laws in order to improve their situation.

The purpose of this article is to study the features of criminogenic determinants that contribute to crimes in the social and budgetary sphere and to further develop recommendations for the effective implementation of preventive measures to eliminate them.

Currently, in the context of the transition to market relations, some scientists, for example,

Ya.I. Gilinsky, believe that the motivating force of human activity is needs, and the possibility of satisfying them is determined by social relations, the place of individuals in the system of social production, including distribution and consumption, the contradiction between people's conscious needs and opportunities. Their satisfaction is one of the main sources of crime [1, 67 p.].

We think that Y.I. Gilinsky is right, since in most cases, property inequality plays a decisive role in determining, for example, mercenary crime, which generates self-interest as a socio-psychological phenomenon [1, 68 p.].

S.E. Kairzhanova, however, it should be recognized that in the criminological literature there is no general, basic, main cause of crime that would comprehensively explain the origin of crime in specific conditions in all its diversity [2, 30 p.].

A.I. Dolgovoy Therefore, we, the authors of the textbook "Criminology", believe that: "... there is no single form of crime for all times and peoples. Therefore, it is impossible to count on the creation of any universal catalog of causes." [3, 128 p.].

For example, B.V. Volzhenkin believes that among the general circumstances that determine modern economic crime, one can single out:

- the costs and gross miscalculations of the economic policy of the transition period, economically and socially unmotivated radicalism, and inconsistency in the implementation of reforms;

- unjustified and premature removal of the state from the public legal regulation of economic relations in the context of the formation of the market; shortcomings of the existing system of state control;

- unjustified liberalization of legal regulation, lagging behind the legal provision of economic activity;

- organizational, economic and socio-economic unpreparedness of business entities and the population, lack of skills of economic behavior in the new conditions among the majority of citizens;

- deformation of value orientations in a significant part of the population;

- shortcomings in the activities of law enforcement agencies [4, 101 p.].

An analysis of the work of criminologists shows that simplifying the analysis of the causes of crime leads in practice to the development of simple recommendations for combating crime. For example, eliminate unemployment, ensure low prices for goods, establish financial equality for all citizens, and eliminate sharp differences in their financial security.

A.I. Dolgova, this will not be enough in the fight against crime. It is the identification of causal complexes that is the basis for building serious and effective crime control programs [5, 16 p.].

In this regard, the three-level classification of the causes of criminal behavior is successfully combined with their classification according to the main spheres of social activity. This approach to the causes allows us to identify the criminologically most significant social contradictions for a particular historical moment, in particular, concerning politics,

economics, the regulatory sphere, social structure, the spiritual and moral sphere, the sphere of the criminal environment, etc.

The economic sphere of social relations is fundamental, consisting of relations and the field of management, production and distribution of productive goods. The predominance of selfish motivation, which determines illegal behavior, is clearly evidenced by the structure of crimes committed, where property crimes constitute the bulk of all crimes. The reasons lie in the contradictions of economic relations, the imbalance of the economic mechanism, the vices and shortcomings of economic planning, as well as in the system of

distributive relations. Economic relations are the primary thing that generates crime in general.

The market economy has proven its viability, but high crime, including in economically prosperous countries, is a reality. This is explained by the fact that market relations are based on the suppression of competitors, and often not in "gentlemanly" ways, on programmed unemployment, on the equally programmed property and social stratification of people.

Property inequality also causes the existence of another contradiction – between material needs and the legal possibilities of their satisfaction.

D.A. Shestakov, the need for a material order is formed under the influence of the affluence of the wealthiest segments of the population, and the possibility of legal satisfaction is determined by the income of the social group to which individuals belong [6, 35 p.].

Criminologist I.I. Karpets wrote about this in 1992: "The present period of our development is a period of transition, a period of economic instability and chaos, anarchic management of the national economy, rejection of the "old", and even justified forms of management, ambiguity in property relations, the assertion of the "independence" of regions, economic sectors, enterprises without any connection with the interests of others, etc. There is no need to prove that such periods in the life of any society are fraught with an increase in crime..." [7, 43 p.].

We share the point of view expressed by the famous Russian criminologist Professor E.I. Kairzhanov on this issue: "Insecurity or inadequate protection of the economy, legitimate economic relations through the legal system, its norms, legal regulations is one of the serious causes of criminal processes in the economy. In such conditions, the growth rate and scale of economic crime can become an important factor that greatly hinders economic development." [8, 36 p.].

It should be noted that Professor A. Mindagulov (and we agree with him) believes that: "An attempt at a systematic approach to analyzing the causes of crime, including economic ones, seems more promising.

Crisis situations in the economy are, perhaps, the main and main reason for the surge and persistence of a high crime rate in this area, based on the idea of the economy as a certain way organized system of industrial relations. ... In the field of finance, negative phenomena related to criminal

activity include: the destabilization of monetary circulation in the country; the persistence of inflationary processes; budget deficits; uncontrolled and rapid growth of monetary incomes among a certain part of the population; problems with the failure of the monetary unit to fulfill its main function – the measure of value, and overcoming the consequences of lack of monetary exchange, as well as the termination of operations with settlements in foreign currency. ...In the field of economic planning, expensive, scarce resources continue to be squandered for the construction of gigantic, expensive "projects of the century", useless objects called the "Samoyedic economy". To this should also be added the imbalance of the plans of various sectors of the economy. ... One of the main reasons for the persistence of negative phenomena and processes in the economic sphere should be recognized as its subordination to politics and ideology." [9, 48-49 pp.].

A number of authors identify a causal complex of mercenary crime, which includes the following phenomena:

First, it is caused by the introduction of market-type socio-economic relations, which are organically inherent in the root causes of crime...

Secondly, it is determined by the existence of the former system of socio-economic relations with its inherent causes and conditions of mercenary criminality.

Thirdly, the failure to take necessary measures during the introduction of market relations that would be able to counteract mercenary crime.

Common problems that cause encroachments in economic activity have not spared the social and budgetary sphere, since each sphere of economic activity has its own unique features. It is precisely such features that are used by criminals in carrying out criminal attacks on relations that develop in a certain sector of the economy.

With the changes taking place in public life, the motivation of the individual also changes, which is a subjective reflection of objective reasons. As you know, the main spheres of society's life are economic, social, political, and spiritual (moral).

A.N. Agybaev, O.V. Verbovaya, E.O. Alaukhanov, let us consider in more detail, in our opinion, the causes of criminal processes that contribute to both crime in the social and budgetary sphere and its criminalization in close relationship with the main spheres of public life.:

1) The presence of large financial flows circulating in the state budget, which, of course, could not fail to interest individual citizens and criminal

groups. It should be borne in mind that the integration of the domestic market into the global market, as well as the development of transnational crime, allow criminals to gain access to large financial resources of our state.

2) The ability of intruders to use their criminal intentions in a timely manner for budgetary relations, most often using their official position and connections. And there are already examples of this – when large amounts of funds were transferred.

from the budget for events of national importance, in particular, the population census of the Republic of Kazakhstan; when huge funds are allocated from the budget for the purchase of medicines, which our citizens cannot wait for later through state hospitals and polyclinics; for the construction of schools, kindergartens, roads, etc. To stop such crimes at an early stage it is practically impossible, since all the actions of persons who actively participated in these crimes are committed within the framework of the law, legally. We will return to this issue soon. Further.

3) The presence of corruption in government structures and law enforcement agencies. Gilinsky Ya.I. is right in believing that corruption is a complex social phenomenon, a product of a society of public relations as one of the manifestations of venality.

It is time to realize the totality of these facts as a social problem.

4) Lack of competition in the social and budgetary sphere, promotion of unfair competition in order to monopolize the market. In other words, those directly responsible for carrying out and organizing specific tasks and events of national or local importance in the social and budgetary sphere, funded from the national or local budgets, neglecting competition methods as an essential condition of a market economy, "help" to receive an order. As a result, we get, if possible, let's call it a "product" for a lot of money, and the quality of which does not correspond to the "excellent" mark.

5) The year-on-year increase in the deformation of value orientations among a significant part of those who participated in the commission of socio-budgetary crimes. And it manifests itself, first of all, in the non-observance by this category of persons of the naturally elementary rules of good faith and trust. Society, the state, and the people have entrusted them with responsible roles.

in the social and budgetary sphere, realizing

that the temptation is great, but still trusting them, not doubting their reliability and professionalism. And only a few are not able to withstand such life checks.

6) The latency of crimes in the social and budgetary sphere. The available figures actually reflect approximate estimates of the damage caused to the state.

Since social and budgetary crime, as well as economic crime, as mentioned earlier, has a characteristic feature – a high latency of these crimes. As a result of careless, frivolous attitude towards social and budgetary crime, favorable conditions are created for its growth.

7) The existence of formally existing state control in the social and budgetary sphere, which allows stealing money from the people with impunity. First of all, we are talking about budget control as one of the forms of financial activity of the state. The state must radically change its approach and view of what is happening in this area, and not wait for social and budgetary crime to cause irreparable damage to the entire financial system.

8) The presence of large gaps, shortcomings, sometimes the lack of interaction, coherence in the activities of law enforcement agencies in the fight against crime in the social and budgetary sphere [10, 23-24 pp.].

Ya.I. Gilinsky, thus, the reasons for the current situation include, for example, gaps in budget, tax and other legislation, deficiencies in budget planning, a low level of accounting and other factors have led to a decrease in the level of financial discipline in the public sector, as well as imperfections the current system of state financial control. In particular, systemic problems in the execution of the revenue side of the budget can be called:

1) the low efficiency of the current procedure for paying advance payments of large types of taxes, which leads to uneven income during the financial year;

2) low performance indicators of tax audits, confirmed by a decrease in the level of tax collection (the amount of republican budget revenues in relation to GDP, taking into account transfers to the National Fund of the Republic of Kazakhstan, decreased from 21.2% in 2006 to 20.9% in 2007), the level of recoverability of additional accrued payments to the budget (the proportion of collected amounts from additional accrued tax payments with penalties and mandatory pension contributions based on the results of tax audits decreased from 16.7% in 2006 to 9.5% in 2007),

as well as the retention of significant amounts of arrears in taxes and payments to the budget (46.6 billion tenge as of January 1, 2008) [11, 51-52 pp.].

For example, the increase in budget expenditures in 2009 was mainly related to the implementation of the measures of the address of the President of the Republic of Kazakhstan this year aimed at improving the welfare of citizens of the republic and the implementation of breakthrough investment projects with a social orientation, as well as the measures outlined in the election platform of the People's Democratic Party "Nur Otan".

In general, the pension program provides for expenditures in the amount of 1,712.7 billion tenge, including: in 2009 – 446.5 billion tenge, in 2010 - 545 billion tenge, in 2011 – 721 billion tenge. Taking into account the increase, the average pension amount in 2009 will amount to 17,105 tenge, in 2010 – 21,381 tenge, in 2011 – 27,796 tenge. It is planned to increase the average size of pensions by 25%, in 2010 by 25%, and in 2011 by 30%.

It provides for an increase in wages for public sector employees with its gradual approach to a 2-fold level by 2012, including: in 2009 by 25% in the amount of 68.0 billion tenge, in 2010 – by 25% (85.0 billion tenge) and in 2011 – by 30%.

In order to improve the system of providing social services, providing for a significant expansion of the list and improvement of the quality of social services, the expenditure part of the bill includes articles aimed at the implementation of the bill "On social Services", in the amount of about 30.4 billion tenge, including: in 2013 - 5.7 billion tenge, in 2014 – 8.6 billion tenge. billion tenge, in 2015 – 16.1 billion tenge.

It provides for an increase in the amount of state social benefits and special state benefits by an average of 9%.

On December 4, 2019, President of the Republic of Kazakhstan Kassym-Jomart Tokayev signed the Law of the Republic of Kazakhstan "On the Republican Budget for 2020-2022", which will be introduced on January 1, 2020.

Starting from January 1, 2020, the solidarity pension will be increased by 7%, while its minimum amount will be 38,636 tenge. The state basic pension payment will increase by 5%, its minimum amount will be 16,839 tenge.

The revenues of the republican budget for 2020-2022 will amount to 11.2 trillion tenge:

- tax revenues – 7.9 trillion tenge;

- non-tax revenues - 121.3 billion tenge;
- proceeds from the sale of fixed assets – 4.4 billion tenge;

- transfer receipts of 3.1 trillion tenge.

Budget expenditures amount to 12.4 trillion tenge. Therefore, the budget deficit will amount to minus 1.5 trillion tenge. This is approximately 2.1% of the country's gross domestic product (GDP). [12]

Transfers from the national budget will be allocated to the regions for the implementation of 36 areas, including:

- subsidizing the agro-industrial complex;
- payment of the TSA;
- Financing of chemical castration of pedophiles;
- material and technical equipment of medical institutions;
- Provision of cochlear implants for the disabled;

- Purchase of vaccines;
- promotion of healthy lifestyle;
- increase in salaries of teachers and cultural workers;

- Financing of projects under the Auyal – el Besigi program;

- Purchase of housing for low-income families and working youth.

Thus, in our opinion, the causes of criminal processes that contribute to both crime in the social and budgetary sphere and its criminalization in close relationship with the main spheres of public life, naturally do not constitute a definitive list. We have tried to identify and describe the most significant, from our point of view, of the patterns that develop in the interaction of economics and crime in the social and budgetary sphere.

Bibliography:

1. Gilinsky Ya.I. The problem of causality in criminological science. // Soviet State and Law.1986, No. 8. P. 67.
2. Kairzhanova S.E. Problems of preventing illegal receipt and misuse of credit. – Almaty, 2001.p.20-57
3. Textbook "Criminology" // under general ed. Dolgovoy A.I.– Moscow: 1994. – 1180 p.
4. V.V. Volzhenkin Criminology: Textbook for universities/ Edited by V.N.Burlakov, N.M.Kropachev. St. Petersburg: St. Petersburg State University, St. Petersburg, 2003. – 254 p.
5. Criminology. Textbook for universities/ Under the general editorship of A.I.Dolgova. – 3rd ed., revised M.: Norma, 2007. – 266 p.
6. Shestakov D.A. Mercenary orientation and its formation in a criminal family // Vestn.Leningr. un-ta. 1983, No. 5, P.10- 41.
7. Karpets I.I. Crime: illusions and reality. Moscow, 1992. – 146 p.
8. Kairzhanov E.I. Selected works: in 2 volumes. Vol. 2. Almaty: Ekonomika, 2008. – 217 p.
9. Mindagulov A.H. Crime prevention: The textbook. Almaty: HAS, 2005. – 295 p.
10. A.N. Agybaev, O.V. Verbovaya, E.O. Alaukhanov – Criminology: Textbook. Kazygurt Baspasy LLP, 2006, pp. 26-27.
11. Gilinsky Ya.I. Deviantology: sociology of crime, drug addiction, prostitution, suicide and other "deviations". – St. Petersburg, 2004. – 258 p.
12. Informburo.kz ; zakon.kz

References:

1. Gilinsky Ya.I. The problem of causality in criminological science. // Soviet State and Law.1986, No. 8. P. 67.
2. Kairzhanova S.E. Problems of preventing illegal receipt and misuse of credit. – Almaty, 2001.p.20-57
3. Textbook "Criminology" // under general ed. Dolgovoy A.I.– Moscow: 1994. – 1180 p.
4. V.V. Volzhenkin Criminology: Textbook for universities/ Edited by V.N.Burlakov, N.M.Kropachev. St. Petersburg: St. Petersburg State University, St. Petersburg, 2003. – 254 p.
5. Criminology. Textbook for universities/ Under the general editorship of A.I.Dolgova. – 3rd ed., revised M.: Norma, 2007. – 266 p.
6. Shestakov D.A. Mercenary orientation and its formation in a criminal family // Vestn.Leningr. un-ta. 1983, No. 5, P.10- 41.

7. Karpets I.I. Crime: illusions and reality. Moscow, 1992. – 146 p.
8. Kairzhanov E.I. Selected works: in 2 volumes. Vol. 2. Almaty: Ekonomika, 2008. – 217 p.
9. Mindagulov A.H. Crime prevention: The textbook. Almaty: HAS, 2005. – 295 p.
10. A.N. Agybaev, O.V. Verbovaya, E.O. Alaukhanov – Criminology: Textbook. Kazygurt Baspasy LLP, 2006, pp. 26-27.
11. Gilinsky Ya.I. Deviantology: sociology of crime, drug addiction, prostitution, suicide and other "deviations". – St. Petersburg, 2004. – 258 p.
12. Informburo.kz ; zakon.kz