

ICEST 2021**II International Conference on Economic and Social Trends for Sustainability of Modern Society****CREDIT RELATIONS AND THEIR CRIMINAL LAW
PROTECTION**

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Abstract

The article contains the analysis results of the types of credit relations and their criminal law protection. The aim of the work is to study the problems of crediting and their criminal law protection. The objectives of the study are to analyze the regulatory framework in relation to modern reality, to identify approaches to improve the criminal law protection of this area, the effectiveness of which will subsequently reduce financial burden on credit institutions and on the budget of the Russian Federation, to analyze the objective and subjective signs of credit crimes. Considering the current state of credit sector in the Russian Federation, you can note its economic processes features, which consist in the possibility of increasing in cases of failures to perform loan obligations, that becomes especially important during a pandemic. The work examines aspects of the global changes taking place in the world due to the coronavirus pandemic, almost all countries were forced to suspend the work of many industries and imposed restrictive measures. All this led to changes in implementation of globalization strategy and increased interdependence and complementarity of national economies based on accelerated movement of goods and services, technologies and capital, which directly affected protection of credit relations.

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1. Introduction

At the present time, stabilization of credit and banking sector is more urgent than ever for the whole society and the state, since the credit system as fundamental foundation for economy development, the condition of which is largely determined by the condition of all economic activity. A similar current situation has developed because of the epidemic in the world and economic stagnation, in particular. The importance of financial basis for the state is formalized in many regulatory legal acts, including the Constitution (Article 8 of the Constitution of the Russian Federation). The relevance of the issue under study lies in the transformation of the parameters of crime types in the field of economic activity. This circumstance allows us to believe that the area under consideration needs analysis and effective protection, including criminal law. In order to protect the property interests of the state from criminal offence, 4 norms of Articles 159.1, 176, 177 of the Criminal Code of the Russian Federation are called upon, providing for liability for credit fraud, illegal obtaining of a loan and malicious evasion from satisfaction of accounts payable, respectively.

The aim of the work is to study the problems of crediting and their criminal law protection. The objectives of the study are to analyze the regulatory framework in relation to modern reality, to identify approaches to improve the criminal law protection of this area, the effectiveness of which will subsequently reduce financial burden on credit institutions and on the budget of the Russian Federation, to analyze the objective and subjective signs of credit crimes. The protection of credit relations is definitely a hot topic that deserves close attention from scientists. Theoretical and applied problems of crime prevention in credit and banking sector were covered in the works of Abramova (1998), Bolotsky (2002), Volzhenkin (2007), Gaukhman and Maksimov (2001), Kruglikov (2012), Kozin et al. (2019). The works of Klepitsky (2021), Shishko (2004), devoted to crimes in the field of economic activity. Foreign authors include: Sarco (2016), Dodd (2005), Frunza (2015), Sutnata and Byrd (2007), Gallagher et al. (2014), Sullivaut (2007), Brown (2016). Of course, these authors to one degree or another touched upon the problems associated with economic crimes, but, despite the scientific elaboration of this topic, many important aspects remained outside the scope of their study.

2. Problem Statement

One of the most radical means that affects society is the criminal law regulation of certain social processes, which include economic, financial and credit ones (Lemercier & Zalc, 2012) So, in the Criminal Code of the Russian Federation there are only three articles that can be attributed to the criminal legal protection of credit legal relations, while the code under consideration does not contain the concepts of these legal relations. Since any interaction of subjects in the economic sphere is associated with legal relations, we will make an attempt to consider precisely credit legal relations in the context of security and protection by criminal legislation. We believe that such articles of the Criminal Code of the Russian Federation include article 176 “Illegal obtaining a loan”, article 177 “Malicious evasion of repayment of accounts payable” and 159.1 “Fraud in the field of crediting”. The grounds for the allocation of these compounds comes from the subject of criminal offence.

The statistics for the last three years (2017-2019, the first half of 2020) indicate an alarming trend.

Table 1. Dynamics of the number of convicts for credit legal relations violation

No. of the article in the Russian Federation Criminal Code	2017	2018	2019	2020
article 159.1	1891	2114	1956	870
article 176	71	55	39	7
article 177	140	137	94	25

Thus, based on the data presented in the Table 1, we can conclude that under article 159.1 of the Criminal Code of the Russian Federation, there are about 2000 convicts in the basic composition (2017 – 1891, 2018 – 2114, 2019 – 1956, 2020 – 870). Under article 176 of the Criminal Code of the Russian Federation, there are about 70 convicts (2017 – 71, 2018 – 55, 2019 – 39, 2020 – 7) and under article 177 of the Criminal Code of the Russian Federation, there are about 100 convicts (2017 – 140, 2018 – 137, 2019 – 94, 2020 – 25) (The share of persons previously convicted of crimes, 2021). Attention is drawn to the last two components of crime, of course in general statistics they look very modest, but we must not forget that they are quite complex in design and very difficult in terms of proof. At the same time, we cannot fail to note the alarming trend in the number and growth of registered crimes committed using the Internet, the share of which is fraud (Brief description of the crime state in the Russian Federation in January-December 2020, 2020). Since the crediting system is also moving to the Internet, there is some concern about the problems of applying the articles rules and solving the effectiveness issue of protecting credit relations, in connection with the development of “global lending” through the Internet and telephony (Yurgens, 2021). It is also necessary to understand that the given data do not reflect the true picture of the crimes committed, since their latency is very high, due to the disinterest of the subjects of credit legal relations.

3. Research Questions

Credit relations are established between two entities: the lender who uses the loan and the borrower who receives the loan. The driving motive for granting a loan for temporary use is the income in the form of loan interest. The lender's goal is to make a profit (interest); the purpose of the borrower is to meet the need for additional monetary resources. The object of credit relations is the value that is lent for the purpose of making a profit. Since the times of the command economy, two objects and, accordingly, lending methods have been distinguished: 1) by the turnover 2) and by the remaining balance (Brown Consumer, 2016). In the process of lending by the turnover, a loan is provided to pay for material values that come to the buyer and his expenses. When lending based on the remaining balance, the loans are provided to cover temporary balances of material assets and unrecovered costs. In the first case, the object of credit relations is the circulation of value (material values and costs that are credited), in the second case – the remaining value at a certain date (Zachosova, 2018).

In this regard, it seems to us that credit relations in the narrow sense are a part of monetary relations, closely related to financial relations. If we consider credit relations as an object of criminal law protection, we will face big problems.

Firstly, in the science of criminal law, to this day, there are heated discussions about the definition of the crime object and systematization.

Secondly, there is no clear definition to which particular object credit relations can be attributed in the theory of criminal law, if we consider the generally accepted system of classifying objects into general, generic, specific, direct.

And, thirdly, there is no definition of credit relations in the theory of criminal law as an object of criminal law protection.

4. Purpose of the Study

The purpose of the study is to characterize credit relations and their criminal law protection in the time of a pandemic, to propose solutions to the identified problems.

5. Research Methods

The authors used various methods of cognition, such as general scientific and special.

6. Findings

Thus, we can say that credit relations are functioning in the system of economic relations and based on loan capital movement. In the modern economy, the boundaries of credit relations are significantly expanding. Credit serves an increasing proportion of commodity flows, replacing the traditional commodity-money exchange relations, which are no longer relevant. It must be remembered that these credit relationships have two subsystems that reflect their essence. These subsystems include:

- credit and monetary relations;
- credit and commodity relations.

You can get both cash and goods on credit. In the economic theory, one should distinguish between monetary relations, financial relations and credit relations. Monetary relations are the broadest concept, since in a market economy money (in cash and non-cash form) they mean the movement of the entire system of economic relations, the turnover of all types of capital, reproduction process of the national product. Financial relations are a part of monetary relations that is associated with formation, distribution and use of funds in order to meet the needs of the state, enterprises, organizations and citizens. In the process of reproduction, financial relations express, first of all, distribution relations. The nature and content of financial relations in basic terms is always determined by the nature of monetary relations. Credit relations have a specific nature, since these relations are associated with the reproduction of loan capital, and can be of a mixed nature, as mentioned above.

The relationship and interdependence between monetary, financial and credit relations are contradictory and complex. Sometimes credit resources can turn into a kind of public finance (when the debt is written off), and only in a market economy, credit resources become a full-fledged object of purchase and sale, isolating themselves from financial resources.

7. Conclusion

Thus, we believe that for the effective security and protection of the considered legal relations, it is necessary to introduce the concept of these relations in the Criminal Code of the Russian Federation, while combining them in a separate chapter and considering the possibility of introducing a separate norm of the crime components related to fraud in the field of crediting through the Internet, by constructing the composition on the formal type, which will allow more effective security and protection of credit legal relations, on the one hand, and preventive impact on people who want to commit such an act, on the other hand.

References

- Abramov, V. Yu. (1998). *Crimes in the sphere of crediting: legislation and practice*, 10, 49.
- Bolotsky, B. S. (2002). *Educational and methodological complex on the discipline "Problems of qualification of crimes"*. Publishing and book-selling center "Marketing".
- Brief description of the crime state in the Russian Federation in January-December 2020. (2020). *Official website of the Ministry of Internal Affairs of the Russian Federation, 2013*. <https://xn--b1aew.xn--p1ai/reports/item/22678184> (date of the application: 6.03.2021).
- Brown, S. (2016). Consumer credit relationships—protection, self-interest/reliance and dilemmas in the fight against unfairness: the unfair credit relationship test and the underlying rationale of consumer credit law. *Legal Studies*, 36(2), 230-257. <https://n6mqrdsui7m4vquvdqgvu2oyha-hw4pqoxzcs7yk-www-cambridge-org.translate.google/core/journals/legal-studies/issue/51358523B3A4F51158D569B5768E9E74>
- Dodd, N. (2005). Laundering «money»: on the need for conceptual clarity within the sociology of money. *European Journal of Sociology*, 46(3), 387-411.
- Frunza, M. (2015). *Uncovering Modern Crime in Financial Markets: Analytics and Case Studies*. (First Edition). https://www.researchgate.net/publication/298823240_Solving_Modern_Crime_In_Financial_Markets_Analytics_and_Case_Studies_First_Edition
- Gallagher, H., McMahon, W., & Morrow, R. (2014). Cybersecurity: Protecting the sustainability of Canada's financial system. *The system. Bank of Canada Financial System Review*, 47-53.
- Gaukhman, L. D., & Maksimov, S. V. (2001). *Responsibility for crimes against property*, 2. JSC "Center Yurinform".
- Klepitsky, I. A. (2021). *New economic criminal law*. Prospekt.
- Kozin, M., Pyrchenkova, G., & Radchenko, E. (2019). The role of public-private partnership in ensuring the economic security of the state. *Innovative Technologies in Environmental Science and Education ITESE-2019 E3S Web of Conferences*, 135(01101). <https://doi.org/10.1051/e3sconf/201913501101>
- Kruglikov, L. L. (2012). *Criminal Law of Russia*. Part General: textbook. Prospekt.
- Lemercier, C., & Zalc, C. (2012). For a New Approach to Credit Relations in Modern History. Translated from the French by Lisa Damon In *Annales. Histoire, Sciences Sociales*, 67(4), 661-691.
- Sarco, V. (2016). Risk monitoring of banks" participation in the process of money laundering. *Economie si Sociologie: Revista Teoretico-Stiintifica*, 4, 93-99.
- Shishko, I. V. (2004). *Economic Offenses — Legal Issues. assessments and responsibilities*. Yurid. tsentr Press.
- Sullivaut, S. (2007). *Strategies to protect national critical infrastructure assets: focus on Problem Solving*. Wiley.
- Sutnata, D., & Byrd, D. M. (2007). *Computational Models of Risks to Infrastructure*. Amsterdam.
- The share of persons previously convicted of crimes. (2021). In the total number of persons, convicted on the basis of final convictions for 2017. Judicial Department at the Supreme Court of the Russian Federation, 2019-2021. <http://www.cdep.ru/index.php?id=79>

- Volzhenkin, B. V. (2007). *Crimes in the sphere of economic activity under the Criminal Law of Russia*. Law Center Press.
- Yurgens, I. (2021). From the bag and from the prison. *Rossiyskaya Gazeta – Federal*, 201(5280). <http://www.rg.ru/2010/05/20/reg-ural/bankroty.html>
- Zachosova, N. (2018). Identification of threats to financial institutions' economic security as an element of the state financial security regulation. *Baltic Journal of Economic Studies*, 4(3), 80-87. <https://doi.org/10.30525/2256-0742/2018-4-3-80-87>