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THE PROOF OF THE EVENT OF A FINANCIAL RESOURCES FRAUD IN THE BANKING SECTOR: PROBLEMATIC ISSUES

Abstract. Financial resources fraud in the banking sector is a rather socially dangerous crime, as it causes significant damage to a single bank, the entire banking system of the state, and, in general, affects the stability of the state economy. Ukraine's statistical data indicate a low effectiveness of the prosecution of such crimes. Conducted by the authors interviewing and questionnaires of bank employees, borrowers and investigators shows a high latency of these crimes, because in many cases they are committed by organized criminal groups, which often include public individuals of financial institutions, and in some cases also employees of law enforcement and other supervisory bodies. Due to the social danger and prevalence of this crime, its timely detection, investigation and disclosure is one of the priority areas for investigators. The purpose of this article is to identify the problematic issues of proof of the event of a financial resources fraud in the banking sector and to suggest ways to resolve them, which is based on the results of the analysis of the current legislation, materials of practice and scientific sources on the topic of the study. In scientific research were applied general scientific and special methods of researching (system-structural, formal-logical (dogmatic), comparative, sociological, statistical). The criminal offense is a central element of the subject of evidence. In the proof of the events of financial resources fraud, the object and subject of a criminal offense, the method of committing a crime and the circumstances of its commission are important elements, which the authors analyze in the article. As a result of the research, the authors propose a list of twenty circumstances (questions) that should be established during the investigation to prove this crime.

Keywords: seconomic criminality in Ukraine, criminality in the banking sector, financial resources fraud, criminal investigation, proof.

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ДОКАЗУВАННЯ ПОДІЇ ШАХРАЙСТВА З ФІНАНСОВИМИ РЕСУРСАМИ У БАНКІВСЬКОМУ СЕКТОРІ: ПРОБЛЕМНІ ПИТАННЯ

Анотація. Шахрайство з фінансовими ресурсами у банківському секторі є досить суспільно небезпечним злочином, оскільки завдає значної шкоди окремому банку, всій банківській системі держави, та, в цілому, впливає на стабільність державної економіки. Статистичні дані України свідчать про невисоку ефективність розкриття таких злочинів. Проведене авторами опитування працівників банків, позичальників та слідчих свідчить про високу латентність цих злочинів, оскільки в багатьох випадках вони вчиняються організованими злочинними угрупованнями, до складу яких нерідко входять службові особи фінансових установ, а в окремих випадках й працівники правоохоронних та інших контролюючих органів. Зважаючи на суспільну небезпечність та поширеність цього злочину, його своєчасне виявлення, розслідування та розкриття є одним із пріоритетних напрямів діяльності слідчих. Метою цієї статті є на підставі результатів аналізу чинного законодавства, матеріалів практики та наукових джерел за темою дослідження виявити проблемні питання доказування події шахрайства з фінансовими ресурсами у банківському секторі та запропонувати шляхи їх вирішення. У науковому дослідженні застосовувалися загальнонаукові і спеціальні методи дослідження (системно-структурний, формально-логічний (догматичний), компаративістський, соціологічний, статистичний). Подія кримінального правопорушення є центральним елементом предмету доказування. У доказуванні події шахрайства з фінансовими ресурсами важливими елементами є об'єкт та предмет злочинного посягання, спосіб вчинення злочину та обстановка його вчинення, у статті автори аналізують кожен з цих елементів. В результаті проведеного дослідження автори пропонують перелік з двадцяти обставин (питань), які підлягають встановленню під час розслідування за для доказування цього злочину.

Ключові слова: економічна злочинність в Україні, злочинність у банківському секторі, шахрайство з фінансовими ресурсами, кримінальне розслідування, доказування.

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ДОКАЗЫВАНИЕ СОБЫТИЯ МОШЕННИЧЕСТВА С ФИНАНСОВЫМИ РЕСУРСАМИ В БАНКОВСКОМ СЕКТОРЕ: ПРОБЛЕМНЫЕ ВОПРОСЫ

Аннотация. Мошенничество с финансовыми ресурсами в банковском секторе является общественно опасным преступлением, поскольку наносит существенный ущерб не только отдельному банку, а всей банковской системе и в целом влияет на стабильность государственной экономики. Учитывая это, своевременное выявление, расследование и раскрытие этого преступления является одной из приоритетных задач деятельности следователей. Целью этой статьи является на основании анализа действующего законодательства, материалов практики, научных источников по теме исследования

выявление проблемных вопросов доказывания события мошенничества с финансовыми ресурсами в банковском секторе и поиск способов их разрешения.

Событие уголовного преступления является центральным элементом предмета доказывания. В результате проведенного исследования авторы предлагают перечень из двадцати обстоятельств (вопросов), подлежащих установлению при расследовании для доказывания события этого преступления.

Ключевые слова: экономическая преступность в Украине, преступность в банковском секторе, мошенничество с финансовыми ресурсами, уголовное расследование, доказывание.

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Introduction. Developed and stable credit and banking system is a pledge and one of the main conditions for the sustainable development of the economy of any state and the growth of the welfare of its people. At the same time, the credit and banking system is also the object of criminal offenses committed by persons who seek easy and quick gain, including through financial resources fraud (Article 222 of the Criminal Code of Ukraine - further the CC of Ukraine)[1].

The statistics of the General Prosecutor's Office of Ukraine for the period 2015-2018 indicate a tendency towards a decrease in the total number of financial resources frauds provided under Art. 222 of the CC of Ukraine (see Figure 1), however, the level of successful investigation is rather low, as only half of the cases under investigation are reported to the court (see Figure 2).

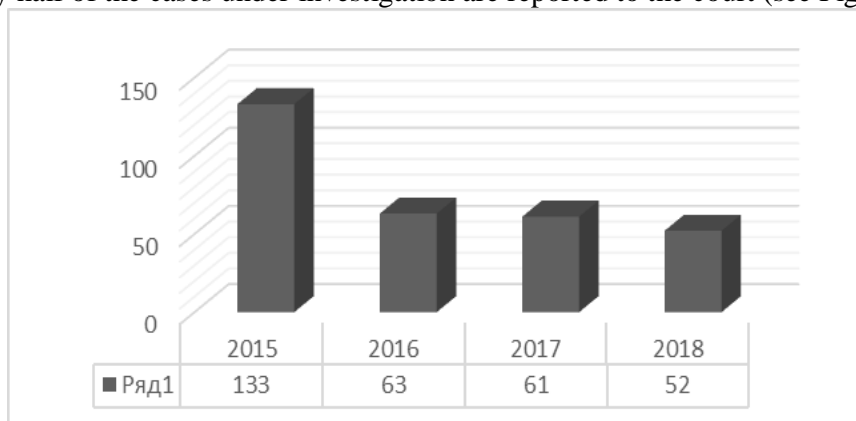


Fig.1. Number of registered criminal offenses under Art. 222 of the CC of Ukraine
Source: Uniform Reports of the General Prosecutor's Office of Ukraine on criminal offenses in the state.

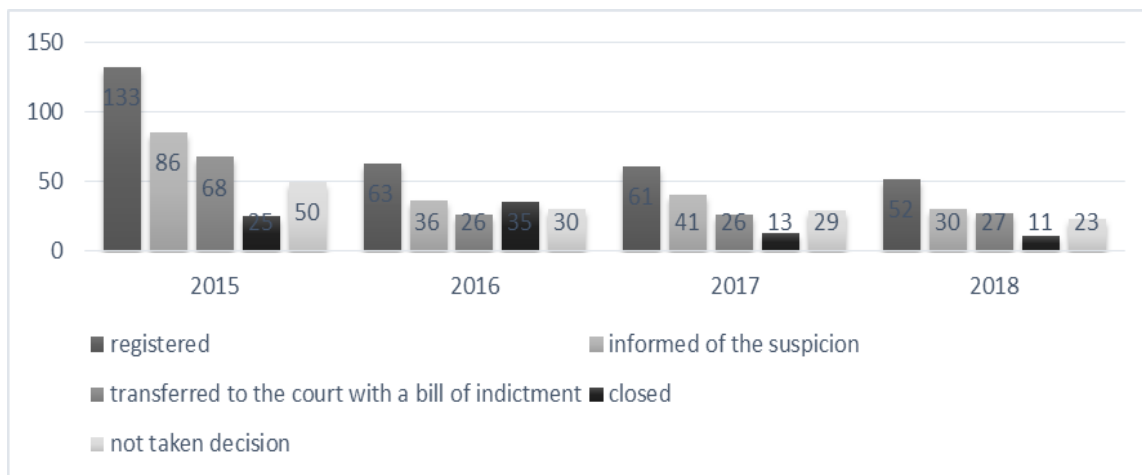


Fig. 2. Results of investigation of financial resources fraud
Source: Uniform Reports of the General Prosecutor's Office of Ukraine on criminal offenses in the state.

Thus, in 2018 there were 52 crimes under Art. 222 of the CC of Ukraine, 30 individuals were informed of the suspicion, 27 cases were transferred to the court with a bill of indictment, 11 cases were closed, 23 decisions were not taken. For 2017, 61 cases were registered, in 41 cases the person was informed about suspicion, 26 cases were filed with the court with a bill of indictment, 29 cases at the end of the year decisions were not taken, 13 proceedings closed. For 2016, 63 crimes were registered, 36 cases were reported on suspicion, 26 were transferred to a court with a bill of indictment, 35 cases were closed, 30 decisions were not taken. For 2015, 133 cases were registered, 86 cases were reported to individuals, 68 cases were transferred to the court with a bill of indictment, 25 cases were closed, 50 decisions were not taken [2].

A representative example of the disclosure of crimes in the banking sector is the information of the Deposit Guarantee Fund. Thus, according to the results of the work in 2016, the Fund announced that it sent 1113 appeals to the law enforcement agencies for committing criminal offenses, according to the results of consideration of which 492 criminal proceedings were initiated, of which 9 were directed to the indictment in court. Thus, less than 1% of all applications submitted by the Fund have been brought to court. At the same time, the total amount of damages, estimated by the Fund, at the beginning of 2016 amounted to 115 billion UAH [3]. Unfortunately, such indicators testify to the ineffectiveness of cooperation between banks and law enforcement agencies.

Taking into account the social danger and prevalence of this crime, its timely detection, investigation and disclosure is one of the priority areas for the activities of police investigations and investigative bodies exercising control over the compliance with tax legislation to which this crime is prosecuted in accordance with Part 1 and 3 items 216 of the Criminal Procedural Code of Ukraine (hereinafter referred to as the CPC of Ukraine) [4].

Research analysis. Considering the social danger of financial resources fraud for the Ukrainian economy and its credit and banking system, in particular, as well as the prevalence of this crime, various aspects of counteraction to it were the subject of research of domestic experts. In particular, S. S. Chernyavsky (2001) [5] investigated methods for investigating crimes in the field of bank loans, O. Kurman (2002) [6], the method of investigating financial resources fraud, V. R. Moysik (2002) [7], the problem of criminal liability for financial resources fraud, D. S. Palamar (2010) [8] subject of evidence in criminal cases of financial resources fraud, O.O. Sukhachov and O.O. Suharaada (2012) [9], respectively, the problem of documenting crimes in the area of bank loans by operational units and counteracting crimes in the field of bank loans by operational units, and within these studies are separate issues of methods for committing crimes in the field of bank loans as one of the elements of their events, A.M. Baboshin (2015) [10] prosecutorial supervision of documenting offenses in the field of bank loans by operational units and others. At the same time, the event of financial resources fraud as an element of the subject of proof (paragraph 1 of Article 91 of the CPC of Ukraine) after the introduction of amendments and additions to Art. 222 of the CC of Ukraine in 2011 and after the adoption of the CPC of Ukraine in 2012 was not properly investigated.

The purpose of the article is, based on the results of the analysis of the current legislation, practices and scientific sources on the topic of the study, to reveal the problematic issues of proof of events of financial resources fraud in the banking sector and to suggest ways to resolve them.

In scientific research are applied general scientific and special methods of research (system-structural, formal-logical (dogmatic), comparative, sociological, statistical). The use of the statistical method allowed the authors to analyze the statistics of the General Prosecutor's Office of Ukraine and to show the lack of efficiency in the disclosure and investigation of financial resources fraud. Using the sociological method of investigation, the authors conducted interviewing and questionnaires of practical workers, the results of which showed that the official statistics do not reflect the real picture of crime in the banking sector. Using the comparative method, the authors identified and resolved the problem of distinguishing financial resources fraud from property crimes.

Research results. The value of the financial system for the life of any state is fairly compared with the value of the blood circulatory system for a living organism. Therefore, any state, including Ukraine, creates a system of mechanisms for protecting its financial system from criminal invasion. One of the important elements of such system is the establishment of a criminal liability for financial resources fraud (Article 222 of the CC of Ukraine), which is one of the most common crimes in Ukraine in the field of bank loans. Thus, according to the Chairman of the Council of the Independent Association of Ukrainian Banks Roman Shpek, the most common types of crimes in the credit process are fraud (Article 190 of the CC of Ukraine), financial resources fraud (Article 222 of the CC of Ukraine), falsification of related documents with these types of fraud (Article 358 of the CC of Ukraine), illegal actions with mortgaged property (Article 388 of the CC of Ukraine) and intentional non-enforcement or obstruction of execution of court decisions (Article 382 of the CC of Ukraine) [3].

S. S. Cherniavsky (2001) [5] suggests to divide crimes in the field of bank loans into certain four groups depending on the object and subject of a criminal offense: "Basic" crimes; crimes of economic direction, which imply responsibility for causing indirect damage to creditors or act as means of preparation, execution or concealment of the first; other crimes that contribute to the achievement of the main criminal result; Offenses related to illegal activities of officials. Financial resources fraud is basic crime.

The objects of criminal activity in financial resources fraud are usually banking institutions, local authorities, credit unions, insurance companies, financial companies, pawnshops, other financial institutions. The subject of a criminal offense is a banking loan - 88.2%; granting, subsidy or awards - 8.1%; tax exemptions - 3.6% (Cherniavsky S. S., Bondar S.V. (2012)) [11]. It should be noted that during the last decade, the dynamics of financial resources fraud is changing. This is also due to the decrease in the number of banks in Ukraine and the change in the country's credit and financial policy, since fraud as a means of obtaining illegal loans amounts to more than 80% of the total number of crimes committed in the banking sector (S.S. Chernyavsky (2010)) [12] The fraudulent receipts and non-repayment of loans involve the largest loss of domestic banks and a decrease in the number of banks in Ukraine (see Figure 3).

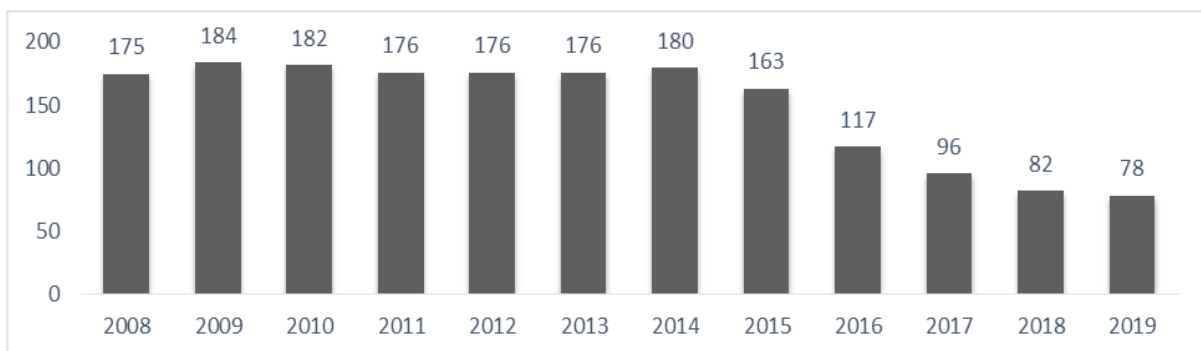


Fig. 3. The number of banks in Ukraine as of January 1 of each year

Source: National Bank of Ukraine

The analysis of the survey of bank employees, business entities and operational staff of law enforcement agencies and investigators¹ shows that the official statistics of the Ministry of Internal Affairs of Ukraine and the General Prosecutor's Office do not reflect the totally real number of crimes committed in this category. One of the reasons for this is that, according to the 68% of investigators, 62% of bank employees and 57% of business entities – borrowers, who were interviewed, this category of crimes is characterized by a high level of latency. Such crimes, as evidenced by the results of the analysis of the materials of practice, in many cases are taught by organized criminal groups, which often include officials of financial institutions, and in some cases

¹During the research 295 respondents (80 employees of banks involved in the issuance of loans, 95 borrowers of business entities and 120 investigators who were investigating criminal proceedings under Article 222 of the Criminal Code of Ukraine) by a specially designed questionnaire) were interviewed.

also employees of law enforcement and other controlling bodies, in connection with which significant the number of crimes in this category remains unidentified, and in those crimes that are being used, modern methods of counteracting professional organized criminal gangs with their disclosure and investigation, which causes considerable losses to the financial system of the state. A striking example of this is that none of the fraudulent financial resources involved in the Unified Criminal Investigation Registry, made by the National Bank of Ukraine of domestic banks of the domestic banks, is not disclosed, investigated, and not directed to the court.

The banking system monitors certain inactivity of law enforcement agencies. According to Chairman of the Council of the Independent Association of Ukrainian Banks Roman Shpek (2018): We have fraud, forgery of documents, illegal alienation of mortgage items, but not all of these cases are investigated properly throughout typical problems that banks encounter when cooperating with law enforcement [3].

Therefore, for the well-timed detection of such crimes, the comprehensive and complete disclosure and investigation of such crimes, as well as establishing the circumstances of the subject of their proving and, first of all, the events of financial resources fraud, there is a need for the study of the above-described problem issues.

Considerable attention is paid to fraudsters in the financial sector in the countries that are also foreign countries. Thus, the Criminal Code of the Federal Republic of Germany (hereinafter referred to as the Criminal Code of FRG), in addition to the general definition of fraud (§ 263), specifies, in particular, the receipt of a sub-seat by fraud (§ 264), investment fraud (§ 264a), insurance abuse (§ 265), receiving services by fraud (§ 265a), credit fraud (§ 265b), fraud with checks and credit cards (§ 266b). Also, the division into separate articles as in the Criminal Code of the FRG, fraud in the field of subsidies, loans, insurance makes it possible to determine different types of punishment for each of the crimes. The Criminal Code of Italy, among other things, provides for the punishment of computer fraud, insurance fraud and fraud in the emigration sphere (respectively, Articles 640, 642, 645). In the Penal Code of Estonia, alongside with usual fraud, there is fraud in the obtaining of privileges (Article 210), investment fraud (Article 211 of the Criminal Code), insurance fraud (Article 212 of the Criminal Code) and computer fraud (Article 213). Isolates the rule on insurance fraud and the Criminal Code of Latvia (Article 178 of the Criminal Code) [13].

As for Ukraine, the criminal offense is a central element of the subject of evidence, as defined in paragraph 1 part 1. of Art. 91 CPC of Ukraine. Simultaneously, pre-trial investigation bodies often have problems determining the range of issues involved in proving a criminal offense, taking into account the norms of the CC of Ukraine and the CPC of Ukraine, as well as the circumstances of a particular criminal offense.

According to Art. 222 of the CC of Ukraine financial resources fraud is the provision of designedly inveracious information to public authorities, authorities of the Autonomous Republic of Crimea or local self-government bodies, banks or other creditors for the purpose of obtaining subsidies, subsidies, subsidies, credits or tax benefits in the absence of signs crime against property [1]. Accordingly, the problematic issues of evidence of financial resources fraud themselves are, first of all, its separation from property crimes (Articles 185, 186, 190, 192 of the CC of Ukraine), as well as outline the range of issues to be addressed by the investigation. to establish a fraudulent event with financial resources.

One of the key elements that allows you to distinguish financial resources fraud is the subject of a criminal offense. For crimes against property, this is any property. The criminal activity in the case of financial resources fraud is aimed at the illegal obtaining of the following credit and financial resources: grants, subsidies, awards, loans or privileges in respect of filings.

The grants is a monetary or in-kind assistance provided by the state to local authorities, natural persons or legal entities, including state entities, and is aimed at financing specific activities, directions of economic and social activities.

The subsidies is a kind of cash aid, which is aimed at financing a particular event, project, program and is subject to return in case of misuse of funds. Usually these funds are allocated from the central budget to lower-level budgets for specific target budget programs.

An awards should be understood as a type of cash aid provided, as a rule, to loss-making enterprises on the part of the state to cover costs not covered by the proceeds from the sale of manufactured products, entrepreneurship, scheduled costs for production of products or provision of services which exceeds revenue from the sale of manufactured products and services rendered. A grant may also be provided by the central budget to lower-level budgets for running costs under irrevocability and gratuitous terms. Such funds, in contrast to subventions, do not have a specific purpose.

A loan is the provision by a single entity (creditor) of a loan in cash or in kind to another entity (the borrower) on the terms of its return in due time and, in general, combined with payment of interest. Given the provisions of the current legislation, it is necessary to distinguish between the following forms of credit: financial, including banking, interbank, commercial (commodity), state, consumer, leasing, mortgage, blank, consortium, credit for securities.

The subject of a criminal offense under Art. 222 of the CC of Ukraine is also a tax privilege. Tax privileges are the total or partial exemption from tax on the basis of the characteristics of the taxpayer or the nature of its activities. Tax privileges are an alternative to grants, subsidies, other options for budget financing and preferential credit. Tax benefits cannot be changed or established by other laws of Ukraine, except for tax laws.

The method of committing a crime is the main thing in proving a criminal offense. It should be noted that in any case, the methods of committing financial resources fraud are related to the provision of designedly inveracious information. According to Art. 222 of the CC of Ukraine, the method of committing financial resources fraud is expressed in actions consisting in providing designedly inveracious information to state bodies, banks or other creditors. The uncertainty of such information lies in the fact that on its basis the creditor makes incorrect conclusions about the true financial or economic condition of the potential borrower. If the creditor had truthful information, he would not provide the loan at all or substantially adjust the terms of its provision. Such unwelcome information should be contained in certain documents that are provided for obtaining a loan or tax exemption.

Preparing for committing this crime is usually reduced to falsifying documents submitted to a financial institution. In particular, falsified customer's personal data, foundation and registration documents, accounting reports (annual, quarterly and monthly), a plan for forecasting the receipt of funds into the borrower's accounts, a feasibility study on the use of credit (subsidies, subventions, grants), bribing bank employees or representatives of other creditors, etc.

At the stage of preparation for the commission of this crime, the study of financial institutions that provide certain services on the market that are of interest to criminals is conducted in order to identify the conditions favorable to the crime - "weaknesses" in the work of a financial institution that can be used to commit financial resources fraud.

The results of the analysis of criminal proceedings of this category, which are considered by the courts of Ukraine, show that financially favorable conditions for crimes were often created by the officials of banks themselves (creditors). This is evidenced by the results of generalizations of materials of criminal proceedings, in which the following factors that commit financial resources fraud: - violation of the established procedure for the conclusion of credit agreements; - lack of awareness of bank employees in the legal regulation of loan guarantees (bail, guarantees, pledges, insurance); - not conducting by banks audits of documents submitted by the entity about its financial status and solvency; - the loan which is provided without a conditionality; - insufficient control over the targeted use of funds provided by credit and others (M.A. Pogoretsky, O. O. Vakulyk, D. B. Sergeyeva (2015)) [14, p. 37].

The direct commission of a crime is carried out by providing inaccurate information to the authorities or institutions specified in Art. 222 of the CC of Ukraine. Providing information is the sending or other transmission (delivery) of the documentation to the relevant unit of the bank or its authorized officer, the state body in any way: by mail, telegraph, authorized, etc., and the fixation of the fax of legal receipt of such documents (V.Yu. Shepitko, V.O. Konovalova, V.A. Zhuravel (2006)) [15, p. 286]. Providing such information in most cases is accompanied by tampering of documents (material or intellectual), in connection with which there is a need for additional qualification under Art. 358 or 366 of the CC of Ukraine. For example, in the case №753/18479/16-к, proceedings №51-520кМ18, the guilty made a fake official document - a certificate of income on behalf of the company, although the company

officially did not work: at home made a reference, self-fake signature the director and got access to the seal of the company. Subsequently, the fake certificate was transferred to two banks in order to obtain a loan, but in one of the banks fake workers. The actions of the person were additionally qualified in parts 1 and 4. 358 of the CC of Ukraine (Resolution of the Supreme Court dated May 22, 2018 in case №753/18479/16-к) [16].

In the mechanism of financial resources fraud, the use of a loan is not important for its purpose. First of all, it is necessary to establish conditions for the provision of funds (loans), focusing on their target value. After that, it is necessary to trace the movement of funds and find out what they used to be. The "Witness" of such information, first of all, is the documentation, the study of which specialists will solve the questions. If the loan is secured by collateral, it is necessary to establish all possible information on the subject of the pledge: who owns, is not in a pledge in another credit institution, is not an integral part of the object and its self-functioning is not possible, real market cost.

For example, in the case № 740/2745/13-к, proceedings №51-920кМ18 convicted, working as director of the company, provided the bank with a loan to purchase a fictitious purchase agreement for agricultural machinery without the intention of acquiring it, and with the aim of to further receive from the state budget a partial compensation of interest rates on borrowed from the bank by a short-term loan for the purchase of new agricultural machinery. On the basis of the submitted documents, the offender received funds from the company in the total amount of 24 854 678.19 UAH. Subsequently, these funds were transferred to the accounts of other companies, and then to the card accounts of individuals as financial assistance by fake amounts. According to the same document, the defendant received additional funds from the state budget in the amount of UAH 993 534.68. (Resolution of the Supreme Court dated April 19, 2018 in the case № 740/2745/13-к) [17].

Of great importance in proving the event of financial resources fraud themselves is the establishment of time and place and other circumstances of the commission of this crime, in other words – his situation.

The circumstances that need to be established in proving a criminal offense in case of detecting signs of financial rescues fraud are: 1) a description of the subject of economic activity (name, location, type of activity, structure); 2) the grounds and observance of the established procedure of state registration of a citizen-entrepreneur or other economic entity; 3) compliance with the charter of the activity being carried out; 4) information about the property of the subject of economic activity, the availability of settlement accounts in institutions of banks and circulation of funds; 5) the nature and content of financial and business operations; validity of financial and economic documents; 6) the tax payer is the subject of entrepreneurship; does the taxpayer have a tax-deductible tax exemption and what regulatory acts they are providing? 7) which documents were submitted to the credit institution, state bodies or other creditors for the purpose of obtaining loans, grants, subsidies, awards, tax breaks; 8) the compliance of the indicators of the balance sheets of the borrower and other documents that were provided to the creditor in that of the territorial body of the State Fiscal Service of Ukraine (SFS); 9) the authenticity of the warranty documents provided; 10) the justification of the credit project (feasibility studies for obtaining grants, institution, awards); 11) compliance with the purpose of the loan, subsidy, grants and awards of the borrower's account profile; 12) absence or availability of privileges from the borrower; 13) which accounts of the borrower and to which banking institutions were transferred from the creditor funds; 14) the purpose of the costs of the received funds, the circumstances of their return to cash and factual expenses, the share of loans acquired on credit funds; 15) the method of illegally obtaining a loan, subsidy, grants and awards or tax exemption; 16) the existence of a causal connection between the actions of the perpetrators and the consequences; 17) determination of the nature and amount of losses incurred by the creditor; 18) the amount of hidden profits (income) and unpaid taxes, other payments for individual reporting periods, the total amount of material damage caused to the state; 19) the nature and content of normative acts, provisions of which were violated in the commission of a crime; 20) whether there are signs of other acts in the actions of the persons (service negligence, official forgery, tax evasion, etc.).

Regarding the problematic issues of distinguishing financial resources fraud from property crimes, one should pay attention to the following main differences: 1) the object of the offense: in the commission of an offense against property, an offense is committed on the property of any person, whereas in the case

of financial resources fraud, an attack is committed on the state authorities, local self-government bodies, banks or other lenders (pawnbrokers, credit unions); 2) the subject of a criminal offense against property is a specifically specified property owned by the owner, and which is illegally seized in him and turns in favor of the offender. The subject of a fraudulent attack on a fraudster with financial resources is the financial resources identified in the disposition of the article: subsidies, grants and awards, loans or tax incentives. 3) financial resources fraud often has the character of criminal technologies — systematic prolonged criminal activity, and preparation for its commission is usually accompanied by committing other crimes of an economic nature, while crimes against property of this nature do not have. 4) property offenses are deemed to have been terminated since the victim's property has been acquired, and financial resources fraud is an end to the crime since the submission of false information, regardless of whether the financial resource was received. In case if the results of committing financial resources fraud resulted in the seizure of financial resources to a certain extent, additional qualifications required under certain provisions of the CC of Ukraine, which stipulate liability for committing a crime against property, are required. 5) financial resources fraud in the majority is studied by economic entities (although after the changes in the CC of Ukraine in 2011, the crime cannot be excluded by the general subject), since it is attributed to offenders in the sphere of economic activity, crimes against property are committed by the general subject.

Conclusions. Applying the system-structural method, the authors identified four groups of crimes that are most often committed in the banking sector and the place of financial resources fraud in this system. The use of the statistical method enabled the authors to analyze the statistics of the General Prosecutor's Office of Ukraine and to show the lack of efficiency in the disclosure and investigation of financial resources fraud. Using the sociological method of research, the authors conducted a survey of practitioners, whose results showed that the official statistics do not reflect the real picture of crime in the banking sector.

Problems in proving the occurrence of financial resources fraud consist first of all of its separation from property crimes (Articles 185, 186, 190, 192 of the CC of Ukraine), as well as the outline of the issues to be answered by the investigator to establish the event of this crime. Using the comparative method, the authors discovered and solved the problems of separating the event of financial resources fraud from property crimes: various objects of the crime, the object and subject of a criminal encroachment, the features of the mechanism of the financial resources fraud in the banking sector, different moment of the termination of criminal activity, various actors of commission. The proposed criteria for differentiation are the basic (grounds) features that can be used as a basis and detailed in subsequent scientific research of these problems.

According to the results of the research, the authors identified and proposed a list of twenty circumstances that are to be established in the course of proof the event financial resources fraud in the banking sector. The proposed list of issues will facilitate the work of practical workers, since it will allow planning an investigation based on deployed issues, which generally allow to establish the crime, in fact, substantively fill in paragraph 1 part 1 of Art. 91 CPC of Ukraine for financial resources fraud.

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