DOI: 10.32370/IA_2023_03_6

The Genesis of the Implementation of Forensically Significant Information (by Operative Units of the National Police and Bank Security Services) Obtained During the Preliminary Expert Forensic Investigation of Plastic Means of Payment

Nesen Olha
Professor of the Department of Criminalistics and Forensic Medicine
National Academy of Internal Affairs, Kyiv, Ukraine
Candidate of Medical Sciences, Associate Professor
ORCID ID 0000-0001-9340-815X *katynesen@gmail.com*

Chuprina Olena
Professor of the Department of Criminalistics and Forensic Medicine National Academy of Internal Affairs, Kyiv, Ukraine
Candidate of Medical Sciences, Associate Professor
ORCID ID 0000-0001-6349-9361 *ev_65@ukr.net*

Pavlovska Nataliia
PhD of Juridical Sciences, Associate Professor, Associate Professor of Theory and History of Law, Kyiv National Economic University, Kiev, Ukraine
ORCID ID 0000-0003-3311-0364 *wwwpav@gmail.com*

Soroka Iryna
Lecturer of the Department of Criminalistics and Forensic Medicine National Academy of Internal Affairs, Kyiv, Ukraine Candidate of Legal Sciences
ORCID ID 0000-0003-1536-6745 *ira_07_09@ukr.net*

Kharchenko Serhii
Senior Teacher at the Department of Criminal Procedure of the National Academy Internal Affairs, Kyiv, Ukraine
ORCID ID 0000-0001-5603-8030 *F500@i.ua*

Abstract

The development of market relations made for appearance of new practice in Ukraine. Bank operations, commerce agreements and mutual payments are conducted by means of plastic charge means (hereinafter PCM). Nowadays it is PC Market, which is developing dynamically in Ukrainian economy. It is to advantage of initiators, who introduce plastic cards (hereinafter PC) into practice, in particular, banks, to obtain commission, expand business spheres on different scale, broad consumer services and attract more clients. The cited above makes business of commercial structures promising and profitable. In their turn PC holders have some advantages. They need not have a huge sum of cash on them, fulfill some ceremonial functions characteristic of other ways of cashless

settlement. PC facilitates obtaining goods and services on credit automatically without drawing up operations in a bank directly. Very soon settlements through PC can take leading stand among Cashel payments due to their universality and advantages.
Key words: plastic cards, hereinafter PC, bank operations, economic, criminal, organized crime.

Introduction Struggle against laundering of illegally acquired proceeds is closely connected with counteracting shadowing of social and economic relations. Moreover under criminal shadowing of economy such criminology notions as "shadow economy", "organized criminal groups capital", "laundering proceeds illegally acquired" and such economic notions as "taxable and other proceeds", "national budget", "real GDP", "status of economic revival processes" including economic, moral and psychological atmosphere of current criminalized social and economic relations are interdependent categories. When shadowing of economy and relationships reaches the highest degradation point in all economic process components and impact of crime on moral and psychological situation the cited above relayions begin self-rising.

That's why counteracting expansion of criminal shadow economic relations is no longer the task solved by mobilizing tax and other budget revenues only. Address of the cited above problem transgresses the bounds of merely economic or law jurisdiction. In the causal and technological view this is an integral economic and criminal problem growing into a global social one. Disguised as legal ones anti-social shadow financial transactions and economic operations are developing into criminal, but not criminalized (CC does not stipulates the former) economic relations directly. The distinction is erasing between pseudo enterprise activities, legitimization (laundering), accumulation of illegally acquired capital and legal financial and economic activities. At the same time criminal shadow capital turnover causes corruption penetrating into all administrative, economic and law infrastructures.

The following complicates the problem. From the angle of the background and time and caused by mistakes made under reforming social and economic spheres the destructive body of criminal economic relationships appeared instantly and continues booming. Appropriate a science- grounded law, admi-nistrative, technique and technological infrastructure is developed slowly to de-shadow the relationships.

Proceeding from the academic development of the international combat against illegally acquired proceeds the researchers identified the structure and main schemes of relationships connected with laundering illegally acquired proceeds, established features of the phenomena in Ukraine and gaps in the legislation regulating the combat against the phenomena and developed the complex of propositions as to improving organizational, administrative and legislative mechanism for counteracting laundering of illegally acquired proceeds.

The cited approach to the research on laundering illegally acquired proceeds is conditioned by the circumstances that a technological structure of various illegal sources in shadow economy including organized crime considerably coincides with technological procedures of laundering illegally acquired proceeds. However, under globalization of illegal shadow activity the ‘illegally acquired proceeds’ laundering is becoming more independent source of accumulating shadow capital, i.e. shadow economy is turning a professional activity. At the same time the structure and schemes of laundering illegally acquired proceeds mainly coincide with the structure and forms of shadow capital turnover and means of organized economic crime. If considered the monitoring and combating of laundering illegally acquired proceeds in the light of interrelation between the cited phenomena and shadow economy and organized crime such consideration will approximately show a technological, subjective and casual composition of laundering illegally acquired proceeds [1].

By expert judgment the rejection limit for shadow capital turnover is 30 - 35% of GDP. According to calculations by different expert’s shadow economy foot up to 50 - 55% of GDP.

At the same time because of universality the cited payment tools more often become the object of crimes. These crimes are characterized by high-degree latency, “internationalism”, definite difficulties under collecting evidence by the established facts and proving the like criminal actions in the court, specificity of individuals committing these crimes and huge losses even in a single case. The cited above data are evident that these crimes present a new pressing threat to social and financial stability. Moreover, these crimes are extremely dangerous not only because of direct losses suffered by participants of PCM market but as they can destroy the Ukrainian banking system as a whole [2].

Co-operation between the Ministry of Interior strike forces and banks’ security services is of paramount importance for preventing, eliciting, disclosing and investigating crimes related to the use of PCM. Under collaborating it is of primary concern to disclose criminal encroachments timely, search money stolen and organize the protection of banks’ property and private investments [3].

As far as the Ministry of Interior agencies concern the cited interaction is called forth by the following objective reasons:

- banks' security services to fulfill their functions purposefully, successively and professionally to prevent damage in attacks. The cited above is of great importance, for example to get necessary opinions;
- security services carry out activities to provide technical protection to PCM and banks' communication nets;
- security services implement measures to prevent information outflow from subdivisions dealing with PCM. The chief requirement is strict allocation of responsibilities among bank employees to limit access to secret information to the minimum, necessary for work. The cited measures eliminate a risk and possibility of a conspiracy between criminals and bank's personnel;
- the electronic payment systems publish information on security including office materials and statistics of crimes related to PCM, descriptions of criminals and signs of raised PCM, which illegally put into use;
- as to preventive measures it is of great importance for security services to cooperate with clients that, in its turn, should be directed at improving the use of "plastic cash" [4].

The cooperation with law enforcement agencies is of great necessity for banks' security services as under the Ukrainian legislation no one of security services is entitled to carry out any activities on the ground of a crime committed. The cited activities are under the jurisdiction of the law enforcement [5].

Thus, proceeding from all cited above it is of urgent concern to establish the coordination between the law enforcement and banks' security services in the following directions:

- timely disclosing criminal encroachments related to the use of PCM [6];
- operative and effective response to crimes disclosed;
- quick and easy obtaining necessary information in international payment systems;
- mutual expert assistance in compliance with powers [7];
- information exchange, except keeping joined records [8];
- assistance in collecting evidence;
- developing analyses, methodological base, training professional staff, improving the legislation;
- carrying out coordinate preventive activities.

To prevent crimes related to the use of PCM it is of priority to develop and implement complex and multifunctional PCM security system [9].

Below I analyze some of factors contributing vulnerabilities, attacks and threats as to PCM security systems. The main reasons for machination related to the uses of PCM are:

- inadequate saving on PCM security systems; to prevent machination with cards “stop-letters” are not used timely and appropriately;
- to prevent crimes related to the use of PCM organizations accepting cards need for information about numbers of the cards nullified including stolen, lost, raised and false;
- as it has been discussed above such information is presented in the list of the cards nullified (“stop-letters”).

Conclusions Inappropriate coordinate efforts by banks and law enforcement agencies also make for crimes committed. Banks primarily focus on attracting clients as they turn considerable profit from using clients’ money. That is why the cited circumstance and some others cause that some banks don’t conduct thorough examination of future PCM users. It often happens so that to improve image banks conceal the facts related to machination with PCM by settling conflicts with clients in cash. Some banks employees are mistrustful and afraid of their incompetence or failures disclosed. The cited circumstance hinders the law enforcement from implementing preventive measures that makes criminals confident of their impunity [10].

To tell the truth law enforcement officers are not fully aware of threats posed by these crimes to the society. Under searching individuals in any crime policemen fail to put on the stolen cards the list of the stolen things that’s why they often disregard the former.

Bank employees’ negligence to the keeping office information and PCM make banks’ systems vulnerable to attacks. Let alone that in agreement with criminals insiders are a principal source of the cited crimes for many banks suffering significant financial loss.

Another negative fact is that some banks implement strict accounting rules to fill in deposit slips in that way creating easy access to their systems for criminals [11].

The use of chip PC with microcircuit essentially complicates commission of crimes. The point is that in the light of high technology it is practically impossible to make an exact copy of a chip card. Not numerous firms-vendors closely guard their know-how as to the building of a crystal. The battlefield is computer communications and the weapon is software, algorithms of servicing and global security systems.

References

1. Popovych V.M. *Problemy protydii' legalizacii' (vidmyvannju) groshovyh koshtiv ta inshogo majna nezakonnogo pohodzhennja: kryminologichnyj i normatyvno-pravovyj aspekt.* [Problems of counteracting the legalization (laundering) of money and other property of illegal origin: criminological and legal aspects.] Materials of the final conference of the Ukrainian-American scientific and academic programs of the Academy of Legal Sciences of Ukraine and the National Institute of Justice for the US Justice Department. Kharkiv, Ukraine. 2001, pp. 42, 45.

2. Vertuzajev M.S., Il'nyc'kyj A.Ju., Jurchenko O.M. *Poperedzhennja kryminal'nogo vykorystannja plastykovyh platizhnyh zasobiv: Metodychni rekomendacii'* [Prevention of criminal use of plastic means of payment: Methodological recommendations]/ *Vidp. red. S.Je. Pugachov. – K.: NDI problem borot'by zi zlochynnistju Nacional'noi' akademii' vnutrishnih sprav Ukrai'ny* [Resp. ed. S.E. Pugachev. - K.: Research Institute of Crime Fighting Problems of the National Academy of Internal Affairs of Ukraine]1999. – 85 p.

3. *Kontrol' podlynnosty plastykovыh pla¬tezhnыh sredstv mezhdunarodnogo obrazca* [Control of the authenticity of plastic payment means of the international sample] / M.S. Vertuzajev, Y.F. Chunys, A.V. Tarasov, A.Y. Jurchenko // *Fizychni metody ta zasoby kontrolju seredovyshh, materialiv ta vyrobiv: 36. nauk, pr. – Kyi'v-L'viv: Nacional'na akademija nauk Ukrai'ny* [Physical methods and means of control of environments, materials and products: 36. Nauk, pr. – Kyiv-Lviv: National Academy of Sciences of Ukraine], 1999. – Pp. 195-197.

4. *Sposobы sovershenyja prestuplenyj s yspol'zovanyem bankovskyh platezhnыh kart* [Ways to commit crimes using bank payment cards] / M.S. Vertuzaev, Ja.Ju. Kondrat'ev, S.E. Pugachev, A.M. Jurchenko // *Informacijni tehnology ta zahyst informacii': 36. nauk, prac'. – Zaporizhzhja: Jurydychnyj in-t MVS Ukrai'ny* [Information technologies and information protection: 36. science, work. – Zaporizhzhia: Legal Institute of the Ministry of Internal Affairs of Ukraine] , 1999. – Vyp 3. - №1. – Pp. 50-67.

5. *Rozsliduvannja kryminal'nyh pravoporushen', pov'jazanyh z dijal'nistju konvertacijnyh centriv* [Investigation of criminal offenses related to the activities of conversion centers.] Investigation of criminal offenses related to the activities of conversion centers. URL: http://elar.naiau.kiev.ua/jspui/handle/123456789/14721

6. *Osoblyvosti okremyh vydiv pidroblennja dokumentiv za dopomogoju komp'juternyh tehnologij* [Features of certain types of forgery of documents using computer technologies] URL: http://surl.li/fttgq

7. *Termosublimacija jak novyj sposib pidrobky dokumentiv na plastykovij osnovi.* [Thermo-sublimation as a new way of forging documents on a plastic basis] URL: https://dnuvs.in.ua/wp-content/uploads/2022/08/zbirnyk_kndekcz_24.06.22.pdf#page=235

8. *Mozhlyvist' provedennja kryminalistychnyh doslidzhen' v umovah vojennogo stanu.* [The possibility of conducting forensic investigations under martial law] URL: http://surl.li/ftzke

9. *Suchasni tehnologii' tehnichnogo doslidzhennja dokumentiv* [Modern technologies for technical follow-up of documents.] URL: http://elar.naiau.kiev.ua/jspui/handle/123456789/23016

10. *Osnovy metodyky sudovoi' ekspertyzy vstanovlennja davnyny vygotovlennja dokumenta*. [Fundamentals of methods of forensic expertise of the establishment of the age of the document] URL: http://elar.naiau.kiev.ua/jspui/handle/123456789/21457

11. *Tehniko-kryminalistychne doslidzhennja dokumentiv*. [Technical and forensic examination of documents.] URL: https://scholar.google.com/scholar?cluster=991882343741233798&hl=en&oi=scholarr