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THREAT AS A WAY OF COMMITTING CRIMES AGAINST PROPERTY

Specialty 5.1.4 – Criminal Law Sciences

ABSTRACT OF THE DISSERTATION

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The relevance of the dissertation research topic. The Constitution of the Russian Federation guarantees everyone's right to personal inviolability (art. 22), and also establishes that the right to private property is protected by current legislation (art. 35). In pursuance of these constitutional guarantees, the criminal legislation of the Russian Federation contains norms on liability for crimes against property committed through physical and mental effects on personal integrity.

The relevance of the chosen topic of the dissertation research is determined by the following.

First. The criminal legislation of the Russian Federation and the doctrine of criminal law do not have a unified approach to understanding threats as a criminal legal category. There is no uniform understanding of the essential properties of threats as a method of committing crimes, including crimes against property. There is no focus on the issue of distinguishing threats from related criminal law categories.

Second. In the context of the rapid development of information and telecommunication technologies, there is a need to form new scientifically based approaches to defining the criminal category of "threat".

The third. Modern criminal realities require systematization and analysis, expressed in the emergence of new forms of expression and the realization of threats as a way of committing crimes against property. (so-called cyber extortion, blackmail hacker attacks, illegal activities of telegram channel administrators, manifestations of corporate blackmail, etc.). A comprehensive criminal and legal assessment of these criminal manifestations is necessary.

Fourth. It is necessary to update existing and newly emerging problematic issues of qualifying threats as a method of committing crimes against property, and threats both in their "traditional forms" (threats of murder, injury to health, other violence, slander, etc.) and in modern forms of expression related to the development of information and telecommunication technologies.

The state of scientific development of the research topic. The issues of violence in criminal law and criminology have been studied in sufficient detail.

Such scientists as S.N. Abeltsev, Yu.M. Antonyan, R.A. Bazarov, V.V. Veklenko, L.D. Gaukhman, D.Y. Zhdanukhin, O.R. Ruzevich, L.N. Klochenko, R.A. Levertova, N.A. Neklyudov devoted their works to the study of the categories of "violence" and "threat". R.D. Sabirov, L.V. Serdyuk, V.I. Simonov, N.V. Sterekhov, N.S. Tagantsev, A.V. Tyumenev, I.Ya. Foynitsky, A.D. Chernyavsky, A.D. Chelyabova, R.D. Sharapov and others.

Despite the indisputable value of these works in the field of research on violence in general and its individual types, it must be stated that the results of consideration of a number of aspects are often contradictory, there are problems that require reflection and further study, as well as new problems related to the development of information and telecommunication technologies.

The purpose of the study is to determine, taking into account the existing prerequisites, the main provisions of the author's conceptual approach for further study of the criminal law category "threat" as a method of committing crimes against property, as well as to propose scientifically sound approaches to improving criminal law means of countering these crimes.

The purpose of the study determined the formulation of the following tasks:

- 1) to analyze the concept and content of the criminal law category "threat" in normative and doctrinal discourses;
- 2) to propose an original conceptual idea for understanding the criminal law category of "threat" as a way of committing crimes against property;
- 3) to characterize the criminal legal content of various types of threats as a way of committing crimes against property, taking into account modern criminal realities;
- 4) to consider certain issues of threat qualification as a method of committing crimes against property, including those caused by the development of information and telecommunication technologies at the present stage;
- 5) formulate practical recommendations for solving the above-mentioned qualification issues.

The object of the dissertation research is public relations arising in connection with the commission of crimes against property, where the threat is a way of committing a socially dangerous act, including when this threat is expressed and implemented using information and telecommunication technologies.

The subject of the study was the norms of the current criminal legislation on liability for crimes against property, where the threat is the method of committing these crimes, as well as the practice of their application.

Methodology and research methods. In the course of the research, general scientific methods of cognition (analysis, synthesis, induction, deduction, etc.), as well as special legal methods (system-legal, formal-legal) and other special research methods (statistical method, method of content analysis of documents, etc.) were used to solve the tasks set.

The theoretical basis of the research was the works of well-known domestic and foreign scientists on criminal law, criminology and other branches of law, as well as psychology, psychiatry, philology, such as Yu.M. Antonyan, S.N. Abeltsev, R.A. Bazarov, A.G. Bezverkhov, E.V. Blagov, A.I. Boytsov, Ya.M. Brainin, L.D. Gaukhman, V.I. Gladkikh, F.B. Grebenkin, N.V. Ivantsova, A.Y. Kizilov, O.I. Korostyleva, O.N. Kravchenko, L.L. Kruglikov, V.N. Kudryavtsev, V.V. Maltsev, A.A. Meliksetyan, P.A. Osmina, L.M. Prosumentov, O.R. Ruzevich, V.I. Simonov, N.V. Sterekhov, T.R. Tagiev, K.G. Ushakov, P.A. Fefelov, I.Ya. Foynitsky, M.A. Fomicheva, A.D. Chelyabova, Z.M. Chernyavsky, R.D. Sharapov, A.V. Shesler and others.

The normative legal basis of the study was the provisions of the Constitution of the Russian Federation, the Criminal Code of the Russian Federation, federal laws of the Russian Federation and other regulatory legal acts.

The empirical basis of the study is presented by:

- the results of a statistical analysis of the data of the GIAC of the Ministry of Internal Affairs of Russia on crimes committed against property involving a threat;

- data from the Judicial Department of the Supreme Court of the Russian Federation for 2015-2023 on the number of persons convicted of this type of crime, the terms and types of penalties imposed;

- materials of 346 court decisions selectively studied on crimes against property (Articles 161, 162, 163, 166 of the Criminal Code of the Russian Federation), reviewed by courts of various subjects of the Russian Federation (Primorsky Krai, Stavropol Krai, Perm Krai, Altai Krai, Novosibirsk Region, Kemerovo Region, Krasnoyarsk Region, Komi Republic, etc.) for 2008-2023;

- materials from 78 appellate rulings of the Supreme Court of the Russian Federation, courts of appeal of general jurisdiction, and named subjects of the Russian Federation issued in 2010-2023;

- data from a survey conducted between March 2018 and January 2022 by 171 experts (32 of them were district court judges, 57 were employees of the internal affairs bodies of the Russian Federation, 82 — lawyers).

The volume of empirical data analyzed made it possible to ensure the representativeness of the dissertation research.

The scientific novelty of the dissertation research lies in the fact that the paper formulates the main provisions of the author's conceptual approach for further study of the criminal law category of "threat" as a method of committing crimes against property. The provisions of this approach are defined in the dissertation as the concept of "sensitive" information.

The main advantages of the proposed concept are:

- a) the approach adequately reflects the modern criminal realities of the information society;

- b) the concept is promising for overcoming the difficulties that persist in the science of criminal law in explaining the essence of a threat as a method of committing crimes, including crimes against property;

- c) the concept of "sensitive" information can be considered as an integrative essential characteristic of the threat as a method of committing these crimes;

d) The approach makes it possible to identify a full range of relevant criminally relevant threats, including those generated using restricted access information, as well as any publicly available information.

The proposed concept made it possible to characterize the features of threats in the commission of crimes against property, as well as to formulate recommendations for addressing the issues of qualification of these crimes.

The scientific novelty is reflected in the following main provisions submitted for defense:

1. The phenomenon of the criminal law category "threat" requires new conceptual approaches for further study, which is conditioned by a number of objective prerequisites:

a) dissonance in the criminal law understanding of the category "threat" in normative and doctrinal discourses;

b) criminal law risks of digitalization of public relations;

c) the acquisition of a threat in its modern digital forms of a new quality and a higher degree of public danger;

d) the widespread occurrence of new types of threats in the context of the development of information and telecommunication technologies, etc.

Regulation No. 1, submitted for defense, corresponds to paragraph 1, 3 of the Passport of the scientific specialty 5.1.4. "Criminal Law Sciences"

2. Any information that is "sensitive" to its owner can acquire the quality of a threat when committing crimes against property.

Regulation No. 2, submitted for defense, corresponds to paragraph 1, 3 of the Passport of the scientific specialty 5.1.4. "Criminal Law Sciences"

3. "Sensitive" information is information of a negative, socially neutral or, in some cases, socially positive nature, which, depending on the context of its transmission to the addressee and his subjective perception of this information during its dissemination and other illegal actions with it, poses a threat to the rights and legitimate interests of the addressee, his relatives or others. persons, as well as capable of causing moral harm and (or) property damage to these persons.

Regulation No. 3, submitted for defense, corresponds to paragraph 1, 3 of the Passport of the scientific specialty 5.1.4. "Criminal Law Sciences"

4. The relevant types of threats as a way of committing crimes against property are:

a) in the aspect of violent information, a threat expressed in a variety of deviant online behavior (cyberbullying, cyber trolling, harassment by spam messages, expression of online ostracism against the victim and other similar traumatic acts), as well as the threat of violent information in immersive reality conditions;

b) in terms of proprietary information, the threat of illegal possession of "sensitive" information, as well as the threat of a wide range of illegal actions with "sensitive" information (illegal copying, modification, decompilation, etc.), the threat of cyber vandalism;

c) in terms of information of a compromising nature, threats manifested in unfair practices of online blogging, the provision of pseudo-services for refining the media image of public figures, as well as corporate blackmail.

Regulation No. 4, submitted for defense, corresponds to paragraph 1, 3 of the Passport of the scientific specialty 5.1.4. "Criminal Law Sciences"

5. In the light of the concept of "sensitive" information, the threat as a way of committing crimes against property has the following features:

a) the public danger of modern threats of violent information is largely related to the purposeful use by criminals of a certain information background (context) to exert a greater intimidating effect (for example, the use of information about emergencies, terrorist acts, armed attacks, epidemics, epizootics, mass panic, as well as various socially significant misinformation);

b) the threat of proprietary information may be the very fact that a person has lost control over the possession and safety of "sensitive" information, or the illegal possession of it by an outsider;

c) the criminal and legal characteristics of compromising information are beyond discredit, and "sensitive" information can be related to any facts of a

particular person's life (place of residence, habits, circle of acquaintances, pedigree, career characteristics, business contacts, image, etc.);

d) modern types of property and compromising threats mimic civil law-legal relations.

Regulation No. 5, submitted for defense, corresponds to paragraph 1, 3 of the Passport of the scientific specialty 5.1.4. "Criminal Law Sciences"

6. Based on the concept of "sensitive" information, recommendations are proposed for addressing certain issues of criminal qualification of threats as a method of committing crimes against property:

a) when determining the nature and intensity of a threat with vague (implicit) information, it is necessary to take into account the information background (context) of the expression of such a threat;

b) when criminalizing a combined threat (combining the threat of violence and the use of violence as such), situations are not excluded when this threat cannot be absorbed by a sign of violence.;

c) the extortionate threat of spreading certain information is a concept of ongoing crime;

d) pseudo-services for refining the media image of public figures are not of a civil nature, they are extortion;

e) the qualification of the threat of compromising information of the expressed judgments is possible both in the case of a statement of fact and when expressing a personal opinion.;

f) the threat of compromising information in corporate blackmail is an extortionate threat of spreading information that can cause significant harm and is not absorbed by the threat to business reputation.

Regulation No. 6, submitted for defense, corresponds to paragraph 1, 3 of the Passport of the scientific specialty 5.1.4. "Criminal Law Sciences"

The theoretical significance of the study lies in the fact that the practical recommendations obtained as a result of the conducted research can be used in the development of criminal legislation in the field of regulating criminal liability for

the use of threats as a method of committing crimes against property. Problems in the field of improving the conceptual framework of criminal law science have been identified and directions for further scientific research on improving criminal law norms and preventing errors in the qualification of these acts have been identified.

The practical significance of the research results lies in the fact that the conclusions and suggestions set out in the dissertation can be used as recommendations in law-making activities regarding the regulation of criminal liability for a threat that acts as a method of committing crimes against property; in law enforcement activities when solving issues of crime qualification; in scientific research on criminal law; in educational in legal and other educational institutions, when teaching courses in criminal law, the theory of the qualification of crimes, as well as in advanced training courses for practitioners.

The degree of reliability of the research results is provided by methodological validity, analysis of regulatory legal acts of the Russian Federation, works of domestic and foreign scientists devoted to the problem under study; interpretation of the criminal law norms contained in Chapter 21 of the Criminal Code of the Russian Federation, providing for a threat as a method of committing a crime; results of analysis of published statistical data of the Judicial Department at the Supreme Court of the Russian Federation, the Federal State Statistics Service, GIAC of the Ministry of Internal Affairs of Russia; the results of an expert survey on issues related to the research topic.

Approbation of the research results. The main provisions, conclusions and recommendations formulated in the dissertation research were tested in speeches at international, All-Russian and interuniversity scientific and practical conferences.

The theoretical provisions of the thesis are introduced into the educational process of the Siberian University of Consumer Cooperation (Novosibirsk) and are used in lectures and seminars. The main theoretical conclusions based on the results of the dissertation research are reflected in 29 publications, 7 of which are in journals included in the List of leading peer—reviewed scientific journals and

publications recommended by the Higher Attestation Commission of Russia for publishing the main provisions of dissertation research.

The structure of the dissertation is determined by the object, subject, as well as the purpose and objectives of the research and consists of an introduction, three chapters, including seven paragraphs, conclusions, bibliographic list and appendices. The work was carried out to the extent prescribed by the Higher Attestation Commission under the Ministry of Science and Higher Education of the Russian Federation for dissertation research.