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General characteristics of compensation for damage caused by fraud crimes

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Abstract: The article substantiates the general characteristics of compensation for damage caused as a result of fraud crimes, based on scientific analysis in accordance with current national legislation, develops conclusions and proposals on the general characteristics of compensation for damage caused as a result of fraud crimes.

Keywords: Fraud, compensation, damage to the object and subject of fraud, deception, breach of trust.

Introduction: No society can exist without people and without property. Property and property rights exist on the basis of any society. Therefore, it would not be an exaggeration to say that the individual and property are the fundamental elements that form the basis of society. The protection of the person and property is one of the priority tasks of criminal law. The widespread prevalence of theft of property through fraud and the fact that it causes significant damage to society necessitate its prevention.

In accordance with Article 54 of the Constitution of the Republic of Uzbekistan, the right to own, use, and dispose of property belongs only to the owner of this property. Therefore, any unlawful interference in the exercise of property rights entails a serious violation of this right and entails criminal liability. [1]

The adopted laws have increased the effectiveness of measures aimed at ensuring the proportionality of punishment for fraud crimes to the committed crime and preventing such acts. In particular, the maximum term of punishment for committing fraud has been increased.

According to Article 168 of the Criminal Code of the Republic of Uzbekistan, fraud, that is, the acquisition of another's property or the right to another's property through deception or abuse of trust, committed by prior conspiracy by a group of persons, is punishable by

imprisonment from three to five years, committed repeatedly or by a dangerous recidivist, from five to eight years, committed on an especially large scale, by a particularly dangerous recidivist, by an organized group, or in its interests, from eight to ten years. [2] The direct object of a crime is social relations aimed at protecting another's property or property rights.

The subject of fraud, in addition to property, as a legal category, is the right to another's property, special powers to property (for example, the guilty party may acquire the right to live in the house). These rights can be enshrined in various documents, such as wills, insurance policies, powers of attorney for obtaining certain assets, and various securities.

Objectively, fraud consists of the seizure of another's property or property rights through deception or abuse of trust. The peculiarity of this crime lies in the fact that from the external side, the property is "voluntarily" transferred by the owner or alienated and transferred to the perpetrator. It is deception or abuse of trust that gives rise to the idea of transferring property or property rights to the criminal in the owner or other legal owner of the property. In this way, by influencing the consciousness and will of the victim or abusing their trust, the fraudster achieves the goal of transferring property for their own benefit or for the benefit of other persons. Here, deception or abuse of trust is embodied as a necessary method of robbery.

Deception is understood as the distortion by the guilty party of any fact or concealment of the truth or the reporting of knowingly false information in order to mislead the victim in order to obtain the owner of the property or the person to whom the property was entrusted to voluntarily transfer it to the fraudster.

Deception is primarily expressed in the conscious dissemination of false information by a person to others. Deception as a method of fraudulent embezzlement may relate to the true intentions of the guilty party (for example, borrowing property for the purpose of non-repayment); to the object, its price, quantity and quality (production of various items as gold items using non-ferrous metals, sale of incomplete goods at full price). Deception can also depend on the identity of the fraudster, his position and social status, and profession (for example, a person introduces himself as a tax inspector and receives funds as tax payments).

If the perpetrator uses forged documents in the commission of fraud, their act is covered by the elements of fraud and does not require additional qualification under Article 209 (Professional forgery) or Article 228 of the Criminal Code. However, if the perpetrator, for the purpose of committing fraudulent

acts, prepares documents, stamps, seals, forms, or counterfeits them, their actions should be qualified under Articles 168 and 228 of the Criminal Code (Production, forgery, sale, or use of documents, stamps, seals, forms). It should be noted that if a forged document (disease certificate, driver's license, certificate, etc.) was not prepared by a fraudster, but was prepared by another person who knew that this person would use the document for theft, then this person will be held liable not only for forgery of documents, but also as an accomplice in theft through fraud.

In the commission of fraudulent acts, the perpetrator may obtain another's property by pretending to be another person (wearing the uniform of an official representative of a state body of power or forging a certificate of a representative of power).

Abuse of trust should be understood as the use by the guilty person of separate, trust-based relations between himself and the owner of the property or the person in whose possession it is located, for the illegal acquisition of another's property in his favor. Usually, trust-based relationships can arise between the fraudster and the victim in a contract of rental, lease, sale, assignment, etc. A fraudster can also use service, kinship, and friendship relationships to achieve their intentions.

Fraud is considered a completed crime from the moment of seizure of another's property and the opportunity arises for the guilty party to dispose of the plundered property at their own discretion.

If a person, through deception or abuse of trust, acquires the property of a mentally incompetent person or a child who does not understand the nature of the actions committed against him, the guilty party should be held criminally liable not for fraud, but for theft.

From the subjective side, fraud is committed with direct intent, the presence of a malicious intent is a necessary sign of fraud.

In the Resolution of the Plenum of the Supreme Court "On Judicial Practice in Cases of Embezzlement of Another's Property by Theft, Robbery, and Robbery," it is stated that "theft of property by persons who are incapable of understanding the events being committed by the guilty party (for example, very young persons, mentally incompetent persons, those who are in a state of alcoholic or narcotic intoxication, or those who have fallen asleep) should be qualified as covert embezzlement of another's property.[3]

The guilty party understands that they are misleading the victim in order to seize another's property or knowingly abuse their trust and wants this to happen. Also, this criminal act is committed by the guilty party

for the purpose of obtaining property benefits and enrichment, the presence of a selfish motive is a necessary sign of fraud, however, if the property was acquired by deception without selfish intent (for example, receiving a monthly salary on behalf of another person for the purpose of transferring it to him), the act cannot be qualified as fraud.

"It should be borne in mind that the goal of acquiring another's property may arise not only before the execution of property transactions, but also in the process of their execution. Based on the foregoing, the actions of a person who, for valid reasons, did not repay the debt on time and did not have the goal of acquiring another's property for free cannot be considered fraud." [4]

The subject of the fraud crime can be any sane individual who has reached the age of 16.

In judicial and investigative practice, there are some difficulties in distinguishing fraud from theft. When committing fraud, deception or abuse of trust serves as a method of seizing another's property, and when committing theft, the use of deception is a means of facilitating the seizure of the stolen item. In the case of fraud, the victim voluntarily surrenders the property or property right to the fraudster, while in theft, the guilty party secretly plunders it without the permission of the owner or the person in whose possession the property was located. Only someone else's property can be the subject of theft, and the subject of fraud can also be someone else's property or right to property.

Part 2 of Article 168 of the Criminal Code establishes liability for committing fraud:

- a) in significant quantities;
- b) by prior conspiracy by a group of persons;
- c) using computer equipment.

Part 3 of the commented article establishes liability for the commission of fraud:

- a) in large quantities;
- b) repeatedly or by a dangerous recidivist;
- c) committed using official position.

Part 4 of the commented article establishes liability for the commission of fraud:

- a) in a very large amount;
- b) by a particularly dangerous recidivist;
- c) by an organized group or in its interests.

Part 5 of Article 168 of the Criminal Code provides for an incentive norm, according to which, if the accused compensates for the material damage caused, punishments in the form of restriction of liberty and imprisonment are not applied. The Criminal Code does

not specify the amount of compensation for material damage, but it follows from the essence that material damage is compensated in full.

Recently, various cases of fraud have become more frequent among the population. Such fraud leads not only to the violation of material assets of individuals, but also to the violation of the rights and legitimate interests and freedoms of citizens.

The biggest weapon we all have in the fight against fraud is knowledge.

The most effective method of combating any crime is crime prevention. The increase and diversification of fraud crimes in recent years has led to numerous negative consequences. It is known that, along with internal affairs bodies, all public organizations are equally responsible for identifying the causes of fraud, studying the conditions that contributed to it, and preventing crimes.

The most effective method of combating any crime is crime prevention. In recent years, the increase in fraud crimes, taking on various forms, has led to many negative consequences. It is known that, along with the National Guard and internal affairs bodies, all public organizations are equally responsible for identifying the causes of fraud, studying the conditions that contributed to it, and preventing crimes.

CONCLUSION

In conclusion, in order to prevent this type of crime, together with representatives of all state bodies, it is advisable to intensify awareness-raising work on the prevention of fraudulent crimes by mahalla citizens' assemblies and prevention inspectors in the regions, at enterprises, organizations and institutions, educational institutions located in the administrative territory, among the population and the general public.

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