

Insurance crimes in Russia and foreign countries as the subject for criminalistics research

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Abstract. The article considers criminal problems of insurance industry in Russia and other countries. The article sets forth the basis of criminalistic characteristic of crimes in insurance industry, provides a classification of the crimes by subject. The issues addressed in the article are provided in comparative-legal aspect, with the prospect of establishing the foundations for interstate cooperation of Russia and foreign countries to counteract crimes in sphere of insurance.

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Introduction

Insurance fraud occurs every day and in every state. People of all races, incomes and ages are victimized. Insurance fraud costs Americans at least \$80 billion a year or nearly \$950 for each family, the Coalition Against Insurance Fraud estimates [1].

According to Federal Bureau of Investigation of the United States of America, the insurance industry consists of more than 7,000 companies that collect over \$1 trillion in premiums each year. The massive size of the industry contributes significantly to the cost of insurance fraud by providing more opportunities and bigger incentives for committing illegal activities. The total cost of insurance fraud (non-health insurance) is estimated to be more than \$40 billion per year. That means insurance fraud costs the average U.S. family between \$400 and \$700 per year in the form of increased premiums [2]. That's why the insurance fraud is called as one of America's largest crimes.

The study reveals that the problem of the insurance fraud is also extremely relevant in other countries, including Russian Federation.

In Ireland, for example, insurance fraud costs insurance companies an estimated €100 million annually which ends up being paid by honest policyholders [3].

In China, automobile insurance fraud is one of the most widespread crimes [4]. A fresh example of what has been said – 334 established facts of cheating of insurance companies committed since the end of 2010 to May, 2013 by a scammer from Shenzhen. According to the newspaper “South China Morning Post”, criminal fraud was committed by means of staging up the traffic accidents [5]. The following fact demonstrates the high degree of organization of this criminal “business” in China. So, in 2012, the Chinese police disrupted activity of a criminal group consisting of 95 persons. The group

had specialized in staging traffic accidents and illegal receipt of insurance payments on these cases. The damages that the insurance companies had suffered from these criminal activities were estimated at 13 million Yuan, or 2 million US Dollars [6].

According to the Russian experts, from a quarter to half of all the insurance contracts concluded today in the domestic insurance market are related to fictitious transactions. In particular, more than 70% of insurance payments on agricultural risks are the transactions aimed at the severance of budget funds and tax evasion [7]. In cases of cargo insurance, the share of such “schemes” – is more than 40%. The builders cheat with taxes in every fourth insurance case, and the firms protecting themselves from the “fire risk” – once in five cases. In general, according to the most conservative estimates, there are at least 220 billion Rubles passing through the channels of false insurance per year [8].

Insurance fraud is often perceived as being different from other types of crime as it is viewed as a victimless crime no one is hurt. In the overall scheme of things, the making of a false claim or the exaggeration of a genuine claim by a few thousand Euro is seen as the proverbial drop in the ocean of the finances of insurance companies. However, the reality is very different. While most claims are genuine, a small minority of people make fraudulent and exaggerated claims [9]. Insurance fraud “costs” not only in US Dollars, Rubles, Yuan and etc. It has significant social impact.

First – people lose their savings: trusting citizens are bilked out of thousands of dollars, often their entire life savings, by insurance investment schemes. Second – health is endangered: people's health and lives are endangered by swindlers who sell nonexistent health policies or perform quack medical care to illegally inflate health insurance claims. Third – premiums stay high: auto and homeowner

insurance prices stay high because insurance companies must pass the large costs of insurance fraud to policyholders. Fourth – consumer goods cost more: prices of goods at your department or grocery store keep rising when businesses pass higher costs of their health and commercial insurance onto customers. Fifth – honest businesses lose money: businesses lose millions in income annually because fraud increases their costs for employee health coverage and business insurance. Sixth – innocent people are killed and maimed: people die from insurance schemes such as staged auto accidents and arson – including children and entire families. Seventh – employees lose jobs: people lose jobs, careers and health coverage when insurance companies go bankrupt after being looted by fraud thieves [10].

Method

Collection, processing, compilation, analysis, interpretation of research material are carried out using various methods: induction, deduction, comparative legal analysis, statistical and other. In the process of writing the issue used sociological methods: questionnaires, review of documents, expert evaluation.

Body

In any country, including Russia, one of the most effective means of social protection and support of the population is institution of insurance which is capable of minimizing the property losses from unforeseen events different in their nature, causes, scope, effects and other parameters. Herein is the social mission of insurance.

At the same time, in every country the insurance industry represents rather profitable area of commercial activity for the law-defined circle of professional participants. As such, the insurance business attracts interest not only of individual criminals and small criminal groups, but of highly organized criminal organizations as well.

Criminal threats in this sphere are extremely common.

In Russia, the law enforcement authorities have continuously registered the “insurance” crimes of trans-border nature, where accomplices are citizens of Russia and other countries, and the mechanism of criminal activity is functioning on the territories of several countries. In this connection, it is of paramount importance to amplify cooperation between law enforcement authorities of Russia and other countries to counteract crimes in this sphere. Therefore, it is imperative to intensify joint research of problems of counteraction of crimes in the

insurance industry, including comparative-legal studies.

To solve the latter problem it appears only rational to offer the colleagues from other countries the creation of a joint project to work out relevant scientific principles and practical recommendations (suggest your contacting me at the e-mail address: borovskih80@gmail.com). The initial hypothesis for development of such guidelines can and should be based upon the perception that the crimes in the insurance industry in our countries are being committed in similar or even identical ways leaving similar traces, by the subjects that are usually engaged in cross-border criminal activities. From the viewpoint of scientific research, it seems that the key thesis here is that the problem of counteraction of these crimes cannot be examined just by one science of anti-criminal cycle. It is believed that criminologists, criminalists, as well as experts in the field of criminal law and operational-investigative activities of both countries must pay very close attention to the need of developing the industry-specific and cross-industrial recommendations to combat criminal threats in the insurance industry.

At the core of corresponding studies, if they are held to develop not just theoretical conceptions, but also applicative and practical, in-demand recommendations for law enforcement authorities, one should put not only and not just criminological, but, in our opinion, particularly criminalistic characteristic of the type of crime which is being considered.

The criminalistic characteristic of crimes, as a probabilistic model of typical events and a result of generalization of actual law enforcement practice, solves the tasks, in particular, of creating and checking of investigative leads, especially in cases with the crimes that are relatively new to practicing lawyers: investigators, prosecutors, operational officers – the subjects of operational-investigative activities (further on – the investigators). The information offered in criminalistic characteristic is of suppositional, probabilistic nature in relation to circumstances of a specific case. But during a preliminary check, at initial phase of the investigation, in conditions of informational uncertainty, especially in criminalistic situations where crime is not evident, as it is often the case in investigations of “insurance” crimes, any information is valuable, even of probabilistic nature.

The practical significance of a criminal characteristic lies in the fact that its examination allows to make correct diagnosis of investigative situations developing at the initial and subsequent stages of the investigation, to identify directions for investigation, to create investigative leads, to define

the most effective way of their verification and to adopt correct tactical decisions [11].

In this article, due to space limitations, it is impossible to lay out the complete criminalistic characteristic of criminal trespasses in the sphere of insurance. Let's lay down only the basics.

First of all, the offenses should be classified according to such a criterion as the subject of criminal activity. Under this classification, crimes in the insurance industry are subdivided into:

1) Criminal offences of the insurers, insured persons, beneficiaries;

2) Criminal offences of employees of insurance companies, insurance agents and other intermediaries in the insurance industry;

3) Criminal offences of the executives and other high-level employees of insurance companies.

This classification corresponds to national and foreign practice of the insurance crimes counteraction.

For example, according to the data of the official site of London police department, the Insurance Fraud Department distinguishes next the most common types of insurance fraud: motor insurance fraud (this type of fraud is estimated to cost the UK insurance market over £1 billion annually); contrived accidents; induced road traffic accidents; phantom passengers claims; staged accidents; application fraud; fronting; opportunistic fraud; commercial liability fraud; illegal intermediaries (ghost brokers); professional enablers; internal fraud; data theft [12].

As you can see, the subject of fraudulent actions can be insurers, insured persons, beneficiaries, employees of insurance companies, insurance agents and other intermediaries, and even law enforcement.

In criminalistic literature, each of the above-mentioned groups of criminal offences is often denoted by the generic term "fraud". Based on this, the corresponding types (groups) of fraudulent offences in the insurance industry are defined [13].

Let's note that there is a certain degree of conditionality in the presented classification. Thus, the above-said example can cover the crimes of the first as well as the second groups.

The second group of offenses is characterized by the fact that insurers, as a rule, fall victim to fraudulent attacks of employees of insurance companies, insurance agents and other intermediaries in the insurance industry. The examples of this – are the infamous insurance "financial pyramids". The practice shows that "hotbeds" of such scams have consistently occurred in insurance market in any country.

Thus, in early 2009, in the Russian media it was reported that yet another regular pyramid "collapsed" which had passed itself off as a mutual insurance community. The pyramid scheme called "Hope" had offered to financially support the pensioners and to help young people with employment. To get a job in this community, for potential candidates it was enough to bring along their friends and relatives. To the "Hope" they went to insure life and health at a large percentage. According to the investigation, the citizens of Mari El, Chuvashia, Kirov region, Moscow and other regions of Russia became victims of the pyramid [14].

The scheme of building up the "financial pyramids" in form of mutual insurance societies often includes such an element as the network marketing. Criminal insurance schemes of this type have been described in detail in the forensic literature [15].

It should be noted that the network sales in sphere of insurance are found unacceptable in most Western countries and considered as the feature of the insurance "financial" pyramids. However, foreign insurers operating in Russia, CIS and Eastern European countries (Hungary, Czech Republic, Poland) claim that the network marketing just complements conventional sales system. For example, in Ukraine the network sales method is used by virtually all major insurers, – the American company "AIG-Life" and "Grawe-Ukraine", "ECCO", "Jupiter" and several others.

Notorious for its work in Russia and Eastern Europe is a company "SI Save-Invest" (SSI), which since the 1990s has been engaged in advertising and selling of universal life insurance policies of foreign insurers, such as "Fortune" (Switzerland), "Grawe" (Austria), "Medlife" (Cyprus), "Clerical Medical International" (UK), "Alico" (USA) and "American Security Life" (Liechtenstein). The sales of policies are carried out by the SSI through the network marketing. According to experts, under the mediation of this insurance "pyramid", between 2,5 and 4 billion of US Dollars have "flowed out" of Russia [16].

The third group of crimes named above as "criminal offences of executives and other high-level employees of insurance companies" is characterized by immensity, multiplicity of cases and high level of organization of the crimes committed.

For instance, in 2012, the Russian Federal Financial Markets Service (FFMS) received 38 400 complaints, 86% of which related to the work of insurance companies [17]. In most cases, the FFMS imposes sanctions on insurers in form of suspension or revocation of a license, but rarely does it come to the initiation of criminal prosecution. However, the

FFMS is in possession of significant capabilities to detect and identify cases of criminal fraud in the insurance market.

Thus, in 2010, the insurance supervisory authority in Russia, upon results of analysis of the data at the reinsurance market, found out that a quarter of all premiums ceded abroad last year, had accounted for two states – Kyrgyzstan and Uruguay [18]. This fact turned out to be much unexpected, because reinsurance operations are aimed at transfer of risk from one insurer to another, larger one, and, therefore, more reliable. For this reason, it causes doubts if it is actually reasonable to transfer the risks for reinsurance to the countries with extremely low level of development of insurance industry. It is obvious that such operations are used to withdraw money abroad, causing enormous damages not only to insurers, but also to the state.

It is assumed that the provision of information in form of official reports from supervisory authority over this sort of operations is indeed performed and serve as the ground, at least, for conduct of the pre-investigation checks by the internal affairs authorities of the country.

In literature, it has been noted that the typical characteristic of a group of crimes includes the following elements:

- 1) Description of an object (subject) of a criminal offence;
- 2) Circumstances of commission of a crime;
- 3) Characteristics of an offender;
- 4) Personal characteristics of the victim;
- 5) Typical ways of committing a crime;
- 6) Typical traces of the offense;
- 7) Consequences of commission of the crime [19].

Within frames of the proposed interaction between Russian and foreign colleagues, the author of the article hereby appeals for joint work – to academics and teachers, representatives of anti-crime cycle of sciences, as well as to the management and officers of law enforcement agencies.

In our disposal, there are summarized results of the Russian and a number of foreign studies in the field of counteraction of offences in the insurance sector. To adapt those to specific conditions of a country, it is necessary to supplement the data from the criminalistic characteristics of the crimes in the insurance industry by the standard data of a regional character:

- About the circumstances of commission of crimes, including the peculiarities of national legislation in relation to the matters of counteraction of above-said offences;
- Traces, the trace patterns of the crimes committed;

- Typical examples of law enforcement practices;
- And other data, at the choice of an investigator.

Conclusion

On this basis, the newly created international team of authors could undertake the elaboration of a “national” criminalistic methodology for investigation of crimes in the insurance industry, where the recommendations of a regional character could effectively be complemented by available data of more generalized character and by the data from other countries, for example, from Russia, since the measures of counteracting these offences appear similar. In any case, their joint development and realization will enrich the sciences of anti-crime cycle of our countries, will give additional impulse to joint comparative-legal studies and will contribute hugely to further strengthening of cooperation between our countries in the field of law enforcement.

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