



Crimes in the Sphere of Business Activity: Trends of Impact on Business in the Russian Federation

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Abstract

Purpose: The article defines the main criminal risks associated with certain areas of business activity, discloses statistical indicators characterizing the results of consideration of criminal cases of crimes in the field of business by the courts of the Russian Federation, in particular for such crimes as illegal entrepreneurship, production, acquisition, storage, transportation or sale of goods and products without labeling and (or) application of information provided for by the legislation of the Russian Federation, crimes in the field of labor relations and crimes in the field of taxation, other crimes in certain areas of business activity. **Methodology:** The methodological basis for the study of this problem were the results and methods of previous research, the definition of risks leading to the initiation of criminal cases against entrepreneurs on the basis of the study of criminal case materials, content analysis of the media, the identification of crimes for which the most frequently prosecuted managers and business owners, the analysis of statistical data of the Judicial Department of the Supreme court of the Russian Federation on the results of criminal cases by the courts for 2015-2017. **Result:** Based on the results of Applications: The contents of this article will be useful for understanding the current state of the problems of criminal and legal impact on the business in the Russian Federation, creation of the informational basis for the prediction of entrepreneur's criminal legal consequences of their actions, for carrying out scientific researches on problems of criminal prosecution of entrepreneurs in the Russian Federation. **Novelty/Originality:** The originality of this study lies in the use of a new methodological approach to the analysis of crime in the field of business activity and obtaining new conclusions on the problem of criminal law impact on business in the Russian Federation.

Keywords: business, criminal law risks, criminal law impact, crimes in the sphere of economic activity, crimes in the sphere of business activity.

1 Introduction

Describing the economic development of countries, economists and sociologists, lawyers and political scientists in recent years increasingly pay attention to the growth of various kinds of illegal actions in this area.

According to the results of the global study of economic crime conducted by PwC, which was attended by more than 7,000 respondents from 123 countries, including representatives of 210 Russian companies, it can be stated that, as well as worldwide, in Russia sharply increased indicators in the field of economic crime. This large-scale study, which lasts 20 years, is also devoted to the study of respondents' opinions on economic crimes, their causes, methods of detection and prevention, as well as the consequences of economic crimes. The Russian Federation also participated in the study and 66% of Russian respondents reported that they were victims of economic crimes (20).

We agree that entrepreneurship or business activity attracts the most creative, advanced, but also gambling and adventurous part of citizens, because this sphere of human activity is the most mobile, dynamic, when the result of effective management can sometimes be seen immediately.

The Russian sphere of business activity, which changed dramatically about thirty years ago, is in a constant evolutionary process. On the one hand, there is an improvement of the legal framework of the business sphere, on the other - the socio-cultural norms of doing business are being formed, the legal culture of participants in business activity is being brought up.

The alarming situation with crime in this area has caused a response of the state, aimed at strengthening, expanding and improving the legal framework of the economy. The presented analysis of the legislative framework and its practical application give an objective picture of the interaction between business and the state in the framework of criminal law.

Currently, the criminal legal impact in the most general sense is a purposeful activity of the state, consisting in coercive influence based on the criminal law by depriving or restricting the rights and freedoms of a person who has committed a socially dangerous (7,9,10).

The aim of the study was to analyze the criminal law risks for business activity and to assess the trends of criminal law impact on business in 2015-2017, carried out in the Russian Federation.

2 Literature Review

To present an objective picture of economic crime in our country, it was necessary to establish a list of the main criminal legal risks that lead to the initiation of criminal cases against entrepreneurs. The task required the study of materials of specific criminal cases, materials of judicial practice, the results of previous researches of such scientists as A. Yakovlev (2011), Al-Qayoudhi et al (2017), R.O. Dolotov (2017), Jahan et al, (2016), P.V. Zhesterov (2016), Mulyono et al., (2018), V.A. Kitsing (2018), Ameen et al, (2018), R.O. Logvinchuk (2018), N.Ah. Lopashenko (2006, 2015), N. Pokryshkin (2016), V.D. Postanak (2019), Haghshenas et al, (2015), A.V. Ragulin (2017), R.A. Sabitov and E.Yu. Sabitova (2017), P.V. Esterow (2015), Abayeva, G. (2018), Mendonça & Andrade, (2018), K. Titaev et al. (2017), P.S. Yani (2017), as well as media content analysis (1, 2, 3, 5, 6, 8, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 24, 25, 26, 27).

Aware all the diversity, the whole palette of criminal acts in the field of business, we have, however, identified the elements of crimes, which are most often brought to criminal responsibility managers and business owners, as well as paid attention to the elements of crimes that for various reasons have not been used in the practice of the preliminary investigation and the court.

The reliability of the conclusions discussed in the article is based on a detailed analysis of the statistical data presented on the official website of the Judicial Department of the Supreme Court of the Russian Federation, containing information on the results of criminal cases by the courts for 2015-2017 (4,22,23).

3 Result and Discussions

In this article we will focus only on the general problems of doing business, overstepping the frameworks of the criminal law.

The following deeds committed by the managers or business owners should be associated with the main criminal-legal risks in the certain areas of business activity:

- carrying without a permit activities requiring a permit;
- violation of special rules of business;
- violation of a special regulatory procedure for the handling of substances and objects.

An entrepreneur, businessman, business manager, of course, a creative person, but, unfortunately, his activities often go beyond the law. As can be seen from the above table 1, the situation with illegal entrepreneurship has remained "stably difficult" in recent years. One and a half hundred people engaged in business, from leaders and creators allowed themselves, ignoring the rules of law, to harm society and the state. At the same time, the number of persons for illegal business who received punishment in the form of real imprisonment and the persons justified on the rehabilitating bases decreased. However, this is only a general article. A slightly different, more alarming trend is noted by the results of the consideration of criminal cases on the nuances of doing business under article 171.1 of the Criminal Code (2019) the number of convicts by 2017 has more than doubled! This group of crimes is characterized by the following quantitative indicators. Pay attention to the fact that only one in four lost his freedom because of the crime: the court found it appropriate to punish the offenders to a fine (in the amount of one hundred thousand to seven hundred thousand rubles). This indicator should please taxpayers, at whose expense convicts serve their sentences. One of the "easy" and "obvious" ways of continuous enrichment of heads of business structures, of course, are violations of the rights of employees. The main criminal risks associated with labor relations should include the following actions committed by managers or business owners:

- incorrect unjustified refusal of employment;
- incorrect dismissal of employees;
- unpaid wages;
- violations of the requirements of regulations on labor protection.

As can be seen from the above data, the criminal acts of managers or business owners in the field of labor relations associated with the non-payment of monetary rewards, unfortunately, are not reduced, and even tend to increase. At the same time, this steady increase in the number of cases under Art. 145.1 of the Criminal Code, sent to the court, are terminated on non-rehabilitation grounds. And thus, punishment in the form of real imprisonment under this article is applied extremely seldom, it is possible to tell is not applied at all.

Table 1: Illegal business: information on the results of criminal proceedings before the courts

Composition crimes	Number convicted under the main article			Punishment in the form of real imprisonment			Justified and terminated by rehabilitating grounds			Terminated by not rehabilitating grounds		
	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
Article 171 Illegal entrepreneurship	148	160	146	7	4	1	4	6	10	49	42	43

Table 2: Production, acquisition, storage, transportation or sale of goods and production without marking and (or) drawing of the information provided by the legislation of the Russian Federation: data on results of consideration of criminal cases by courts

Composition crimes	Number convicted under the main article			Punishment in the form of real imprisonment			Justified and terminated by rehabilitating grounds			Terminated by not rehabilitating grounds		
	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
Article 171.1. Production, acquisition, storage, transportation or sale of goods and products without marking and (or) application of information provided by the legislation of the Russian Federation	69	245	544	4	43	132	0	2	1	5	7	26

Table 3: Crimes in the field of labor relations: information on the results of criminal cases by the courts

Composition crimes	Number convicted under the main article			Punishment in the form of real imprisonment			Justified and terminated by rehabilitating grounds			Terminated by not rehabilitating grounds		
	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
Article 143. Violation of labor protection requirements	127	134	130	3	3	6	3	3	4	205	212	256
Article 145. Unjustified refusal of employment or unjustified dismissal of a pregnant woman or a woman with children under the age of three	0	1	2	0	0	0	0	0	0	5	2	1
Article 145.1. Non-payment of wages, pensions, scholarships, allowances and other payments	146	225	272	0	0	1	0	1	4	195	291	693

Relatively stable situation with the number of crimes classified under Art. 143 of the Criminal Code - violation of labor protection requirements. However, even in this case, managers or business owners "get away with it", because under this article the punishment in the form of real

imprisonment is used very rarely: a high percentage of termination of criminal cases on non-rehabilitating grounds.

If we consider article 145 of the Criminal Code, we should agree with the practitioners and with their statement about the almost "non-working" article: in a multimillion country in recent years, a small number (less than 10) of

criminal cases are sent to court annually, and the number of convicts on it from 2015 to 2017 did not exceed 5 people.

Thus, analyzing the employment relationship "manager/business owner" - "employee", which has grown into a criminal law relationship, it should be recognized the tendency to increase crimes in this area and a high percentage of termination of criminal cases on non-rehabilitating grounds, as well as the payment of large amounts of fines.

It should also to consider another area of business activity - taxation, where the main criminal risks should include the commission of managers or business owners of the following actions:

- understatement of profit through the increase of costs;
- non-payment or incomplete payment of mandatory payments to the budget;
- organizational fragmentation of business;
- unjustified application of tax benefits, preferential tax rates;
- settlements with contractors through other organizations;
- work with one-day firms;
- entering of the imaginary and feigned transactions;
- accounting irregularities.

As one can see, the field in the sphere of taxation of business activity for the commission of criminal acts is extensive. Analyzing the results of consideration of criminal cases on this group of crimes, despite the high quantitative

indicators, it should be recognized that there is a tendency of a slight decrease.

At the same time, the situation with the violation of criminal law by individuals-entrepreneurs by 2017 has deteriorated almost twice. The measure of criminal punishment under Art. 198 of the Criminal code in the form of real imprisonment was practically not applied and in fact was and is a "frightening" limit of punishment. Practice today is fairly focused on the payment of debt and a fairly large amount of the fine (from one hundred thousand rubles and above), as well as forced labor for up to a year. At the same time, we note that every second case is terminated on non-rehabilitation grounds.

According to Art. 199 of the Criminal Code of the Russian Federation on non-payment of taxes by organizations in places of imprisonment every tenth accused is serving a sentence, a little more than a third of cases are terminated on non-rehabilitating grounds. The percentage of acquittal and termination of cases on rehabilitative grounds is high. It should be noted that there is a tendency to reduce these crimes themselves. Recently, entrepreneurs/business owners still believe that the concealment of funds or property of the organization or individual entrepreneur will go unnoticed, and therefore, indulging their greed, go to the crime: in 2017, a sharp increase in such acts was recorded.

Table 4: Crimes in the field of taxation: information on the results of criminal cases by the courts

Composition crimes	Number convicted under the main article			Punishment in the form of real imprisonment			Justified and terminated by rehabilitating grounds			Terminated by not rehabilitating grounds		
	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
Article 198. Evasion of an individual from payment of taxes, fees and (or) an individual - payer of insurance premiums from payment of insurance premiums	78	48	87	1	0	1	1	6	0	76	58	58
Article 199. Evasion of taxes, fees payable by the organization, and (or) insurance premiums payable by the organization - payer of insurance premiums	276	343	294	34	40	28	4	21	5	123	164	134
Article 199.1. Failure to perform the duties of a tax agent	71	65	42	2	3	0	1	12	2	61	60	34
Article 199.2. Concealment of funds or property of the organization or individual entrepreneur, at the expense of which the collection of taxes, fees, insurance premiums should be made	112	86	123	1	4	2	3	6	3	39	28	97

Table 5: Crimes in certain areas of business activity: information on the results of criminal cases by the courts

<i>Composition crimes</i>	<i>Number convicted under the main article</i>			<i>Punishment in the form of real imprisonment</i>			<i>Justified and terminated by rehabilitating grounds</i>			<i>Terminated by not rehabilitating grounds</i>		
	2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
Article 266. Substandard repair of vehicles and release in operation with technical malfunctions	0	1	1	0	0	0	0	0	0	2	1	0
Article 192. Violation of the rules of delivery of precious metals and precious stones to the state	0	0	0	0	0	0	0	0	0	0	0	0

Table 6: Results of consideration of criminal cases on crimes committed in the field of business

<i>Number convicted under the main article</i>			<i>Punishment in the form of real imprisonment</i>			<i>Justified and terminated by rehabilitating grounds</i>			<i>Terminated by not rehabilitating grounds</i>		
2015	2016	2017	2015	2016	2017	2015	2016	2017	2015	2016	2017
22891	22481	22899	2067	2180	2252	118	224	169	5223	4203	5975

But in places of imprisonment there is practically no criminals sentenced according to art. 199.2 of the Criminal Code, because more than two-thirds of cases are terminated on non-rehabilitating grounds. The pursuit of profit pushes entrepreneurs/business owners to save on the repair costs of various kinds of technical means of business by using technically faulty equipment/vehicle, often leading to tragic consequences.

Insignificant and null indicators of results of consideration of criminal cases in the courts for the offences foreseen by art. 266 and art. 192 of the Criminal Code of the Russian Federation (2019) give opportunity to attribute these articles of the Special part of the Criminal Code as the so-called “non-working” delicts. However, the absence of convicts under these articles raises many questions (4). For example, according to official statistics, the number of accidents involving taxis due to their malfunction, has increased recently by 5 times, often fatal. The analysis of the results of consideration of criminal cases for all crimes committed in the field of business in 2015-2017 gives opportunity to affirm that:

- the number of persons convicted under the main article for business crimes in 2015-2017 remains at approximately the same level, but tends to increase;
- the number of persons who are appointed punishment in the form of real imprisonment in 2015-2017 remains at the same level, it should be noted the tendency to growth;
- the number of persons who have been acquitted or the criminal proceedings were terminated on exonerating grounds decreased significantly in the 2015-2017;
- for the period under review, there has been a significant increase in the number of persons for whom the criminal case was dismissed on non-rehabilitative grounds at the trial stage.

5 Conclusions

Of course, all these criminal acts considered by us take place in business. However, we have analyzed only the most common crimes committed by entrepreneurs/business owners

in our country. We have not described the facts of fraud and crimes related to assets, Bank fraud, raider attacks, etc. We will analyze the results of criminal cases on crimes committed in other areas of business in 2015-2017 in the following material.

In addition, we note that in 2017, the legislator introduced new crimes that can be attributed to crimes committed in the field of business:

- Article 171.3 Illegal production and (or) circulation of ethyl alcohol, alcoholic and alcohol-containing products;
- Article 171.4 Illegal retail sale of alcoholic and alcohol-containing food products;
- Article 199.3 Evasion of the policyholder - an individual from payment of insurance premiums for compulsory social insurance against industrial accidents and occupational diseases to the state extra-budgetary Fund;
- Article 199.4 Evasion of the insured organization from payment of insurance premiums for compulsory social insurance against industrial accidents and occupational diseases to the state extra-budgetary Fund;
- Article 200.4 Abuse in the procurement of goods, works and services for state or municipal needs;
- Article 200.5 Bribery of a contract service employee, contract Manager, member of the procurement Commission.

Article 201.1 Abuse of authority in the performance of a state defense order.

This expansion of the legal framework indicates the need for the State to define a fairly rigid framework of business activity, as socio-cultural norms of business do not cope with the task of legitimate behavior of participants in business relations.

However, now we can note the trend of a small increase in abuses in the sphere of business activity.

And today part of articles of criminal law of Russia should be considered as a norm of a limit of punishment which can be applied; however penalties and compulsory works give the chance to violators, remaining on freedom, to comprehend the events not at the expense of taxpayers.

It is safe to say that there are problems with the formation of business ethics, moral principles and values of entrepreneurs, the importance and value of partnerships in the field of entrepreneurship. In addition, the results of the study indicate a gradual increase in criminal law risks for managers and business owners and the gradual strengthening of the criminal law impact on business by the state.

References

- Abayeva, G. Modern teacher role for increasing the students' competence in pedagogical specialty. *Opción*. 2018; 34(85-2): 415-440.
- Al-Qayoudhi, S. A. S., Hussain, D. S., & Khan, D. M. F. R. APPLICATION OF TOTAL QUALITY MANAGEMENT (TQM) IN HIGHER EDUCATION INSTITUTION (HEI) IN OMAN: SHINAS COLLEGE OF TECHNOLOGY- A CASE STUDY. *Humanities & Social Sciences Reviews*. 2017; 5(1): 21-32. <https://doi.org/10.18510/hssr.2017.512>
- Ameen, A. M., Ahmed, M. F., & Hafez, M. A. A. The Impact of Management Accounting and How It Can Be Implemented into the Organizational Culture. *Dutch Journal of Finance and Management*. 2018; 2(1): 02.
- Criminal Code of the Russian Federation 1996 in the current version. 2019. URL: www.garant.ru/hotlawfederal/1266091/,
- Dolotov, R.O. Criminal liability of shareholders/participants of business companies for theft of property of their companies. *Criminal law*. 2017; 1: 60-66.
- Esterow, P.V. The Criminal repression in the sphere of economic activity in Russia. *Eurasian advocacy*. 2015; 6(19): 69-75;
- Firsova, A.P.. Criminal law impact: the essence and content. *Actual problems of Russian law*. 2018; 2: 158-165;
- Haghshenas, S., Iravani, M. R., & Nasrabadi, H. A. B. Study Of Effective Factors On Job Satisfaction Of Omid Hospital Staff In Isfahan City. *UCT Journal of Management and Accounting Studies*. 2015; 3(1): 15-17.
- Jahani, A., Rostami, V., & Shabanzadeh, M. The Impact of management duty duration on the Operational Cycle duration of the Companies Listed in Tehran Stock Exchange. *UCT Journal of Social Sciences and Humanities Research*. 2016; 4(1): 15-24.
- Karakoyun Ö, Erol MF, Kariksız M. Treatment of congenital radial head dislocation with a computer-assisted hexapod external fixator: A case report. *J Clin Exp Invest*. 2015;6(3):301-5. <https://doi.org/10.5799/ahinjs.01.2015.03.0537>.
- Kitsing, V.A. Criminal risks of business: how to avoid responsibility of the head. *Arbitration practice for lawyers*. 2018; 6(34): 42-49.
- Logvinchuk, R.O. Features of criminal prosecution of top managers and heads of organizations. *Eurasian advocacy*. 2018; 4(35): 43-45.
- Lopashenko, N.Ah. Economic crimes: Author's commentary on the criminal law (section VIII of the criminal code). Moscow: Walters Kluver. 2006.
- Lopashenko, N.Ah. Crimes in the sphere of economic activity: theoretical and applied analysis. Moscow: Yurлитinform. 2015.
- Mendonça, C. M. C. D., & Andrade, A. M. V. D. Elements of Digital Transformation in Dynamic Capabilities in a Brazilian Capital. *Journal of Information Systems Engineering & Management*. 2018; 3(3): 18.
- Mulyono, D., Asmawi, M., & Nuriah, T. The Effect of Reciprocal Teaching, Student Facilitator and Explaining and Learning Independence on Mathematical Learning Results by Controlling the Initial Ability of Students. *International Electronic Journal of Mathematics Education*. 2018; 13(3): 199-205.
- Pokryshkin, N. Unscrupulous control of bankruptcy: circuits and counter. *LegalInsight*. 2016; 7(53): 26 – 35.
- Postanak, V.D. Features of responsibility for illegal entrepreneurship in Russian and foreign legislation. *Eurasian advocacy*. 2019; 1(38): 79-81.
- Ragulin, A.V. Illegal persecution of business representatives in modern Russia: causes, trends and prospects of counteraction. Interview with lawyer Vladimir Dmitriyevich Postanka. *Eurasian advocacy*. 2017; 6(31): 7-10.
- Russian economic crime survey 2018 (PwC). Study of economic crime in Russia in 2018 (PwC). URL: www.pwc.ru.
- Sabitov, R.A., and Sabitova, E.Yu. Responsibility for tax offenses and crimes. Moscow: Yurлитinform. 2017.
- Source of statistical data - the website of the juridical department of the Supreme Court of the Russian Federation. 2018. URL: <http://www.cdep.ru>
- The list of content analysis media. 2019. URL: <http://bizmanual.ru>, <http://legalpress.ru>, <http://rapsinews.ru>, <http://www.forbes.ru>, <https://legal.report>, <https://rg.ru>, <https://russian.rt.com>, <https://www.kommersant.ru>, <https://www.rbc.ru>, <https://www.vesti.ru>, <https://zen.yandex.ru>.
- Titaev, K., Chetverikova, I., Shepeleva, O., and Shklyaruk, M. The problem of law enforcement pressure on business: false assumptions and unpromising proposals. Moscow: CSR. 2017.
- Yakovlev, A. State-Business Relations in Russia after 2011: 'New Deal or Imitation of Changes? The Challenges for Russia's Politicized Economic System. Oxford: Routledge. 2015.
- Yani, P.S. Entrepreneurial crimes against property. *Legality*. 2017; 1: 46-51.
- Zhesterov, P.V. The effects of an increase of criminal repression: the value of criminological expertise for their prediction. *Eurasian advocacy*. 2016; 1(20): 73-79.